

CITY OF MIDLAND, TEXAS
BRIEFING SESSION AGENDA
November 26, 2013 - 9:00 A.M.
BASEMENT CONFERENCE ROOM
300 North Loraine
Midland, Texas

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

1. Receive an update from Code Administration regarding the City's Inmate Work Program.
2. Receive an update from United Way regarding transitional housing.

AGENDA FOR CITY COUNCIL MEETING

November 26, 2013 – 10:00 AM

Council Chamber - City Hall

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

OPENING ITEMS

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

PRESENTATIONS

3. Presentation of special events, organizations, individuals, or periods of time including, but not limited to:
 - a. Presentation from the Parks & Recreation Division regarding the 2013 Lighted Christmas Parade.

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 November 12, 2013.
 - b. Special meeting of November 14, 2013.
6. Consider a resolution approving and authorizing publication of Notice of Intention to issue series 2014 Certificates of Obligation in an amount not to exceed twenty-nine million and no/100 dollars (\$29,000,000.00). (FINANCE) (2013 -

421)

7. Consider a resolution declaring expectation to reimburse expenditures with proceeds of future debt; and the City of Midland reasonably expects to reimburse capital expenditures with proceeds of debt hereafter to be incurred by the City; and appropriating \$9,971,080.00 to the Radio System Upgrade Project (9018). (FINANCE) (2013 - 422)
8. Consider a resolution authorizing the execution of a Professional Services Agreement with Halff Associates, Incorporated, of Austin, Texas, for professional architectural and engineering services for the Hike and Bike Trail Plan and Phase I Development Project at a cost of \$400,000.00; and appropriating and allocating funds. (PURCHASING) (2013 - 423)
9. Consider a resolution approving the purchase of a Caterpillar D8TXL Waste Dozer through the Buyboard at a total cost of \$765,300.00; and this item was not bid but purchased through a Council of Governments. (PURCHASING) (2013 - 424)
10. Consider a resolution authorizing an Oil and Gas Lease Agreement with Diamondback E&P, LLC, to lease land at the Midland International Airport, within portions of Sections 4 and 9, Block 40, T-2-S, T&P RY. Co. Survey, Midland County, Texas, for the purposes and with the exclusive right of exploring, drilling, and operating for, and producing oil and gas; the Council previously authorized advertisement for proposals to lease land at the Midland International Airport for the purposes and with the exclusive right of exploring, drilling, and operating for, and producing oil and gas; the leased premises consists of approximately 304 acres. (AIRPORTS) (2013 - 425)
11. Consider a resolution authorizing the execution of a contract between the Midland-Odessa Urban Transit District and McDonald Transit Associates, Incorporated; this contract is a management contract for the motorbus transportation system located in Midland County and Ector County, Texas. (CITY MANAGER'S OFFICE) (2013 - 426)
12. Consider a resolution authorizing the City of Midland to accept grant funds from the Midland County Hospital District dba Midland Memorial Hospital, a political subdivision of the State of Texas in the amount of \$66,000.00; said grant funds are to assist the Health and Senior Services Division with the delivery of diabetes screening services; authorizing the execution of acceptance documents; and appropriating funds. (COMMUNITY SERVICES) (2013 - 427)
13. Consider a resolution authorizing the execution of a Public Improvement Development Agreement with Real Property Resources, Inc. for development of Legends Park Addition, Section 8, City and County of Midland, Texas (Generally located along Avalon Drive, approximately 2,400 feet south of Deauville

Boulevard); and appropriating funds in the amount of \$124,784.00 therefor; said agreement being authorized by Section 395.081 of the Texas Local Government Code. (ENGINEERING SERVICES) (2013 - 428)

14. Consider a resolution authorizing a right-of-way license between the City of Midland, Texas and Saltwater Partners SWD, LLC; said right-of-way license is for entering the City of Midland's right-of-way for the purpose of placing, constructing, operating, repairing, maintaining, replacing and removing a pipeline not to exceed six (6) inches in diameter for the transportation of produced water and to have the right of ingress and egress at convenient points for such purpose; the pipelines are located within the City of Midland right-of-way, Section 9, Block 38, T-2-S, T&P RR Co. Survey, Midland County, Texas; the license term is for five (5) years, commencing with the date of this license and shall automatically renew at the end of the term for one additional five (5) year term upon 120 days written request prior to expiration. (ENGINEERING SERVICES) (2013 - 429)
15. Consider a resolution authorizing the acceptance of a 1.186-acre Temporary Drainage Easement located in Section 47, Block 40, T-1-S, T&P RR Co. Survey, Midland, Midland County, Texas; and ordering recordation by the City Secretary. (ENGINEERING SERVICES) (2013 - 430)
16. Consider a resolution approving plans and specifications and authorizing advertisement for competitive bids for the "Water System Improvements; Rehabilitation & Lead Abatement of the Edgewood Elevated Water Storage Tank and the Wadley Elevated Storage Tank Project"; and the plans and specifications were prepared by Parkhill, Smith and Cooper. (UTILITIES) (2013 - 431)

SECOND READINGS

17. Consider an ordinance on second reading changing the zoning classification by amending Chapter One, Title XI, of the City Code of Midland, Texas, by permitting a 4.57-acre tract of land out of Lots 1-3, and the vacated rights-of-way of Arapahoe Road and State Highway 349, Block 17, and Lots 1 and 2, Block 18, all out of 349 Ranch Estates, Section 3, City and County of Midland, Texas, which is presently zoned PD, Planned District for an Industrial District, in part, and LR-2, Local Retail District, in part, to be used as an Amended Planned District for an Industrial District (Generally located on the east side of Highway 349 on both sides of Arapahoe Road); providing for such use to be subject to certain special conditions and restrictions as set out herein; containing a cumulative clause; containing a savings and severability clause; providing for a maximum penalty or fine of two thousand dollars (\$2,000.00); and ordering publication. (DEVELOPMENT SERVICES)(First reading held on November 12, 2013.)(9202)

18. Consider an ordinance on second reading changing the zoning classification by amending Chapter One, Title XI, of the City Code of Midland, Texas, by permitting a 54.487-acre tract of land out of Section 12, Block "X", H.P. Hilliard Survey, City and County of Midland, Texas, which is presently zoned AE, Agriculture Estate District, to be used as a PD, Planned District for a Housing Development (Generally located on the east side of State Highway 349, approximately 1,200 feet north of Mockingbird Lane); containing a cumulative clause; containing a savings and severability clause; providing for a maximum penalty or fine of two thousand dollars (\$2,000.00); and ordering publication. (DEVELOPMENT SERVICES)(First reading held on November 12, 2013.)(9203)
19. Consider an ordinance on second reading changing the zoning use classification of the property described as 0.553-acre portion of Tract 1, Town & Country Annex, City and County of Midland, Texas (Generally located on the south side of Andrews Highway, approximately 730 feet northeast of West Cuthbert Avenue), which is presently zoned LR-2, Local Retail District, by permitting said property to be used under a Specific Use Permit with Term for a billboard; making said permit subject to certain conditions and restrictions contained herein; containing a cumulative clause; containing a savings and severability clause; providing for a maximum penalty or fine of two thousand dollars (\$2,000.00); and ordering publication. (DEVELOPMENT SERVICES)(First reading held on November 12, 2013.)(9204)
20. Consider an ordinance on second reading changing the zoning classification by amending Chapter One, Title XI, of the City Code of Midland, Texas, by permitting a 3.98-acre tract of land and a 36.81-acre tract of land, all out of Section 25, Block 40, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas, which is presently zoned TH, Townhouse Dwelling District, in part, and 1F-3, One-Family Dwelling District, in part, to be used as a PD, Planned District for a Housing Development (Generally located on the west side of Holiday Hill Road, approximately 470 feet south of Briarwood Avenue); providing for such use to be subject to certain special conditions and restrictions as set out herein; containing a cumulative clause; containing a savings and severability clause; providing for a maximum penalty or fine of two thousand dollars (\$2,000.00); and ordering publication. (DEVELOPMENT SERVICES)(First reading held on November 12, 2013.)(9206)
21. Consider an ordinance on second reading changing the zoning classification by amending Chapter One, Title XI, of the City Code of Midland, Texas, by permitting Lots 4 and 5, Block 10, Northwood Addition, Section 7, 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 north side of Mamies Circle, approximately 290 feet north of West Wadley Avenue); providing for such use to be subject to certain special conditions and restrictions as set out herein; containing a cumulative clause; containing a savings and severability clause; providing for a maximum penalty or fine of two

thousand dollars (\$2,000.00); and ordering publication. (DEVELOPMENT SERVICES)(First reading held on November 12, 2013.)(9207)

22. Consider an ordinance on second reading changing the zoning classification by amending Chapter One, Title XI, of the City Code of Midland, Texas, by permitting Lot 3, Block 2, Westridge Park Addition, Section 3, City and County of Midland, Texas, which is presently zoned PD, Planned District for a Shopping Center, to be used as an LR-2, Local Retail District (Generally located on the southwest corner of the intersection of Andrews Highway and North Loop 250 West); containing a cumulative clause; containing a savings and severability clause; providing for a maximum penalty or fine of two thousand dollars (\$2,000.00); and ordering publication. (DEVELOPMENT SERVICES)(First reading held on November 12, 2013.)(9208)
23. Consider an ordinance on second reading establishing intersection stops at various locations within the City of Midland, Texas; requiring and authorizing the posting of appropriate signs at intersections; containing a cumulative clause; containing a savings and severability clause; providing for a maximum penalty or fine of two hundred dollars (\$200.00); and ordering publication. (ENGINEERING SERVICES)(First reading held on November 12, 2013.)(9209)

PUBLIC HEARINGS

24. At approximately 10:30 A.M. hold a public hearing and consider an ordinance changing the zoning classification by amending Chapter One, Title XI, of the City Code of Midland, Texas, by permitting a 40.498-acre tract of land out of Sections 37, 38 and 48, Block 40, T-1-S, T&P RR Co. Survey, a 5.954-acre tract of land out of Section 37, Block 40, T-1-S, T&P RR Co. Survey, and a 0.270-acre tract of land out of Section 37, Block 40, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas, which is presently zoned FD, Future Development District, in part, and PD, Planned District for a Housing Development, in part, to be used as an Amended Planned District for a Housing Development (Generally located on the east side of the south extension of Avalon Drive, approximately 700 feet south of Hall of Fame Boulevard); 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) (9210)
25. At approximately 10:33 A.M. hold a public hearing and consider an ordinance changing the zoning classification by amending Chapter One, Title XI, of the City Code of Midland, Texas, by permitting a 0.287-acre tract of land out of Section 18, Block 39, T-1-S, T&P RR Co. Survey, and Lot 2A, Block 45, Fairmont Park Addition, Section 23, City and County of Midland, Texas, which is presently zoned PD, Planned District for a Shopping Center, to be used as an O-1, Office District (Generally located on the west side of North Midland Drive,

approximately 780 feet south of West Loop 250 North; containing a cumulative clause; containing a savings and severability clause; providing for a maximum penalty or fine of two thousand dollars (\$2,000.00); and ordering publication. (DEVELOPMENT SERVICES) (9211)

26. At approximately 10:39 A.M. hold a public hearing and consider an ordinance changing the zoning use classification of the property described as a 6,369 square foot portion of the west 24.25 feet of Lot 9 and all of Lots 10-12, Block 65, Original Town, City and County of Midland, Texas (Generally located on the southeast corner of the intersection of West Wall Street and South Colorado Street), which is presently zoned C-1, Central Area District, by permitting said property to be used under a Specific Use Permit with Term for the sale of all alcoholic beverages in a restaurant for on-premises consumption; making said permit subject to certain conditions and restrictions contained herein; containing a cumulative clause; containing a savings and severability clause; providing for a maximum penalty or fine of two thousand dollars (\$2,000.00); and ordering publication. (DEVELOPMENT SERVICES) (9212)
27. At approximately 10:42 A.M. hold a public hearing and consider a resolution granting a variance for the east 79.14 feet of Lot 17 and the west 15.7 feet of Lot 18, Block 2, West Way, City and County of Midland, Texas (Generally located on the north side of Humble Avenue, approximately 400 feet west of Lanham Street), by permitting access to said property from an unpaved alley that does not conform to City of Midland standard specifications. (DEVELOPMENT SERVICES) (2013 - 432)

DEVELOPMENT SERVICES

28. Consider a resolution approving the 2012 International Building Code, with amendments; the 2012 International Mechanical Code, with amendments; the 2012 International Plumbing Code, with amendments; the 2012 International Fuel Gas Code, with amendments; the 2012 International Residential Code, with amendments; and providing that all codes shall be put on file in the office of the City Secretary for a minimum of thirty (30) days before any action is taken by the City Council. (DEVELOPMENT SERVICES) (2013 - 433)
29. Consider a resolution authorizing the issuance of a Temporary Sign Permit to Fotovybes Inc. ("Applicant") for the placement of a temporary sign on property within the City of Midland; said permit was denied by the Building Official and this resolution is an appeal to the Midland City Council. (DEVELOPMENT SERVICES) (2013 - 434)

MISCELLANEOUS

30. Continue consideration of an ordinance changing the zoning use classification of a 15.00-acre tract of land out of Section 1, Block 39, T-2-S, T&P RR Co. Survey,

City and County of Midland, Texas (Generally located on the north side of East Interstate Highway 20, approximately 1,300 feet west of South Fairgrounds Road), which is presently zoned BP, I-20 Business Park District, by permitting said property to be used under a Specific Use Permit without Term for a recreational vehicle (RV) park; making said permit subject to certain conditions and restrictions contained herein; containing a cumulative clause; containing a savings and severability clause; providing for a maximum penalty or fine of two thousand dollars (\$2,000.00); and ordering publication. (DEVELOPMENT SERVICES) (Deferred from November 12, 2013.) (9205)

31. Consider an ordinance vacating and abandoning a 0.05-acre portion of South Calhoun Street and East Washington Avenue rights-of-way adjacent to Lot 12, Block 22, Greenwood Addition, Third, Fourth and Fifth Sections, City and County of Midland, Texas (Generally located on the southeast corner of the intersection of South Calhoun Street and East Washington Avenue); adopting the appraisal by the City Manager of \$3,962.50; waiving the fee for the cost of the right-of-way; and ordering recordation by the City Secretary. (DEVELOPMENT SERVICES) (9213)
32. Consider a motion on a request for the annexation of Lot 3, Block 5, Pecan Acres Addition, Section 5, and of Lots 4A and 4B Block 5, Pecan Acres Addition, Section 7, Midland County, Texas. (Generally located on the north side of Trenton Drive, approximately 550 feet east of Trobaugh Boulevard.) (DEVELOPMENT SERVICES)
33. Consider a resolution authorizing the execution of a contract for the implementation of a P25 800 MHZ Simulcast Trunked Land Mobile Radio System with Dailey & Wells Communications, Incorporated, of San Antonio, Texas, at a total cost of \$9,149,719.00; and the contract is for a City-wide public safety and public works radio system and related systems. (PURCHASING) (2013 - 435)
34. Consider a resolution approving an agreement with RCC Consultants, Incorporated, to provide consulting services to conduct Phase 3 of the Radio Replacement Project at a cost of \$248,905.50; and the consultants will implement, and test a new P25 800 MHZ Simulcast Trunked Land Mobile Radio System. (PURCHASING) (2013 - 436)
35. Consider an ordinance amending Title III, "Departments", Chapter 1, "Water Department", Section 2, "Rates," of the City Code of Midland, Texas, so as to change the rates charged for water and sewer services; containing a cumulative clause; containing a savings and severability clause; and ordering publication; and the City Manager shall notify all customers outside the City limits as required by state law. (UTILITIES) (9214)
36. Consider a motion making appointments to various boards and commissions.

EXECUTIVE SESSION

37. 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:

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.



City Council Agenda

Approved for Agenda:
THudson
City Manager's Office

MEETING DATE: 11/26/2013

TO: City Council / City Manager

FROM: Tina Jauz / Community Services Director

SUBJECT: Presentation from the Parks & Recreation Division regarding the 2013 Lighted Christmas Parade.

Purpose:

Recommended City Council Action

☐ Approve ☐ Deny ☐ Directional / Informational

Fiscal Impact:

Discussion:

**MIDLAND CITY COUNCIL
MINUTES
November 12, 2013**

BRIEFING SESSION

The City Council convened in a Briefing Session in the basement conference room, City Hall, Midland, Texas, at 9:30 a.m. on November 12, 2013.

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

Staff members present: City Manager Courtney Sharp, City Attorney Keith Stretcher, Deputy City Manager Tommy Hudson, Assistant City Manager Jim Nichols, Assistant to the City Manager Robert Patrick, City Secretary Amy Turner, Engineering Director Jose Ortiz, Downtown Development Director Genora Young, Planning Division Manager Jim Compton, Transportation Manager Gary Saunders, and Public Information Officer Sara Higgins.

1. Receive information regarding the activities of the Downtown Solutions Committee.

Downtown Development Director Genora Young introduced members of the Downtown Solutions Committee noting they were originally formed to look at how to be more user friendly and help development in the downtown. She shared a map of downtown pointing out proposed construction/development sites, sites currently under construction and a proposed route for EZ Rider through the downtown. She briefly discussed how construction could impact downtown and how shuttles would be used to help alleviate congestion and traffic. She briefly reviewed some of the projects, discussed parking garages being built and parking meters. She discussed the importance of keeping existing downtown businesses updated as well as outdoor event right holders apprised of how construction may impact their events.

The foregoing agenda items were discussed by the City Council with no formal action taken.

The Briefing Session was adjourned at 9:58 a.m.

REGULAR SESSION

The City Council convened in regular session in the Council Chamber, City Hall, Midland, Texas, at 10:04 a.m., November 12, 2013.

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

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

The Agenda Items were heard in the following order: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 18, 19, 20, 21, 22, 23, 24, 26, 27, 28, 29, 31, 32, 33, 34, 15, 16, 17, 25, 30, 35, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 53, 54, 55, 57, (recess for lunch), 52, 36, 37, 38, 56.

OPENING ITEMS

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

PRESENTATIONS

3. Presentation of special events, organizations, individuals, or periods of time including, but not limited to:
 - a. Mayor Perry received a plaque naming Midland as the 2nd Securest Small City Award from Farmers Insurance.
 - b. Mayor Perry presented retirement commendations to Flora Ann Long and Ronnie R. Wilson.

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.

Doug Page, 611 W. Estes, reported he received a code violation letter for tall grass in a vacant lot he owns. He is allowing native vegetation to grow and feels it looks better than just simply mowing the lot. Mayor Perry asked him to work with staff and to have staff make a recommendation as to how to handle the issue.

CONSENT AGENDA

Council Member Dufford moved to approve Consent Agenda items 5 - 34 excluding 15, 16, 17, 25, 30; seconded by Council Member Morales. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

5. Approved a motion approving the following minutes:
 - a. Regular Meeting of October 22, 2013.
6. Approved a motion to receive for Information and possibly discuss third and fourth quarter Fiscal Year 2013 investment reports. (FINANCE)
7. Approved a resolution approving the City of Midland's Fiscal Year 2014 Investment

Policy. (FINANCE)

RESOLUTION NO. 2013 - 390

RESOLUTION APPROVING THE CITY OF MIDLAND'S FISCAL YEAR 2014 INVESTMENT POLICY

8. Approved a resolution casting the City of Midland's votes for Directors of the Midland Central Appraisal District and directing the City Manager to file the appropriate documents. (FINANCE)

RESOLUTION NO. 2013 - 391

RESOLUTION CASTING THE CITY OF MIDLAND'S VOTES FOR DIRECTORS OF THE MIDLAND CENTRAL APPRAISAL DISTRICT FOR W. WESLEY PERRY AND DIRECTING THE CITY MANAGER TO FILE THE APPROPRIATE DOCUMENTS

9. Approved a resolution authorizing the City Treasurer to write off as uncollectible certain delinquent accounts for water, sewer and garbage collection services. (FINANCE)

RESOLUTION NO. 2013 - 392

RESOLUTION AUTHORIZING THE CITY TREASURER TO WRITE OFF AS UNCOLLECTIBLE CERTAIN DELINQUENT ACCOUNTS FOR WATER, SEWER, AND GARBAGE COLLECTION SERVICES

10. Approved a resolution authorizing the City Treasurer to write off as uncollectible certain delinquent accounts for miscellaneous accounts receivable and insufficient funds checks. (FINANCE)

RESOLUTION NO. 2013 - 393

RESOLUTION AUTHORIZING THE CITY TREASURER TO WRITE OFF AS UNCOLLECTIBLE CERTAIN DELINQUENT ACCOUNTS FOR MISCELLANEOUS ACCOUNTS RECEIVABLE AND INSUFFICIENT FUNDS CHECKS

11. Approved a resolution authorizing the City Treasurer to write off as uncollectible certain delinquent accounts for emergency medical services receivable. (FINANCE)

RESOLUTION NO. 2013 - 394

RESOLUTION AUTHORIZING THE CITY TREASURER TO WRITE OFF AS UNCOLLECTIBLE CERTAIN DELINQUENT ACCOUNTS FOR EMERGENCY MEDICAL SERVICES RECEIVABLES

12. Approved a resolution approving a contract for the renovation of the Animal Services building for the Community Services Department. (PURCHASING)

RESOLUTION NO. 2013 - 395

RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT FOR THE RENOVATION OF THE ANIMAL SERVICES BUILDING WITH CAMPBELL CONSTRUCTION COMPANY, OF MIDLAND, TEXAS, AT A TOTAL COST OF \$318,977.00; AND APPROPRIATING FUNDS

13. Approved a resolution approving the purchase of 431,500 rounds of ammunition for the Police Department. (PURCHASING)

RESOLUTION NO. 2013 - 396

RESOLUTION AUTHORIZING THE PURCHASE OF AMMUNITION OF ASSORTED TYPES AND IN ASSORTED QUANTITIES FOR THE MIDLAND POLICE DEPARTMENT FROM THE RESPECTIVE LOW BIDDERS, PRECISION DELTA CORPORATION, BAILEY'S HOUSE OF GUNS, GT DISTRIBUTORS, INCORPORATED, DEFENDER SUPPLY, L.L.C., AND SIMMONS GUN SPECIALTIES, AT AN ESTIMATED TOTAL COST OF \$127,942.99

14. Approved a resolution approving annual master agreements for 100 – 5/8" water meters with encoder registers, 500 - 1" water meters with encoder registers, 50 – 1 ½" water meters with encoder registers and 50 – 2" water meters with encoder registers for the Municipal Warehouse. (PURCHASING)

RESOLUTION NO. 2013 - 397

RESOLUTION APPROVING THE PURCHASE OF SEVEN HUNDRED (700) WATER METERS WITH ENCODER REGISTERS, IN VARIOUS SIZES, AT A TOTAL COST OF \$111,961.50; AND SIX HUNDRED (600) OF THE WATER METERS ARE PURCHASED FROM THE BIDDERS PROVIDING SAID WATER METERS AT THE BEST VALUE TO THE CITY OF MIDLAND INSTEAD OF THE LOW BIDDERS, PURSUANT TO TEXAS LOCAL GOVERNMENT CODE SECTION 252.043; AND THE CITY COUNCIL ACCEPTS THE CITY MANAGER'S RECOMMENDATION NOT TO AWARD THE BID TO THE LOW BIDDER

18. Approved a resolution approving an Interlocal Agreement with Midland County. (CITY MANAGER'S OFFICE)

RESOLUTION NO. 2013 - 401

RESOLUTION AUTHORIZING THE EXECUTION OF AN INTERLOCAL AGREEMENT BETWEEN THE CITY OF MIDLAND, TEXAS, AND MIDLAND COUNTY, TEXAS, REGARDING VARIOUS SHARED SERVICES SUCH AS AMBULANCE, FIRE, JAIL, EMERGENCY DISPATCH, MUNICIPAL COURT, HEALTH DEPARTMENT, CITY ELECTIONS, MAINTENANCE OF CITY STREETS, MUNICIPAL LANDFILL, LIBRARY AND OTHER SERVICES, AS AUTHORIZED BY CHAPTER 791 OF THE TEXAS LOCAL GOVERNMENT CODE

19. Approved a resolution approving a Letter of Understanding between Abilene, San Angelo and Midland for the purpose of defining water initiatives. (CITY MANAGER'S OFFICE)

RESOLUTION NO. 2013 - 402

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIDLAND, TEXAS AUTHORIZING THE MAYOR TO NEGOTIATE AND EXECUTE A LETTER OF INTENT AMONG THE CITIES OF ABILENE, MIDLAND, AND SAN ANGELO, TEXAS FOR WATER SUPPLY DEVELOPMENT AND DELIVERY

20. Approved a resolution to suspend the effective date of an Atmos West Texas proposed rate increase. (CITY MANAGER'S OFFICE)

RESOLUTION NO. 2013 - 403

RESOLUTION OF THE CITY OF MIDLAND, TEXAS, SUSPENDING THE NOVEMBER 22, 2013, EFFECTIVE DATE OF ATMOS ENERGY CORP., WEST TEXAS DIVISION

("ATMOS WEST TEXAS") REQUESTED RATE CHANGE TO PERMIT THE CITY TIME TO STUDY THE REQUEST AND TO ESTABLISH REASONABLE RATES; APPROVING COOPERATION WITH THE STEERING COMMITTEE OF CITIES SERVED BY ATMOS WEST TEXAS ("CITIES") TO HIRE LEGAL AND CONSULTING SERVICES AND TO NEGOTIATE WITH THE COMPANY AND DIRECT ANY NECESSARY LITIGATION AND APPEALS; REQUIRING REIMBURSEMENT OF CITIES' RATE CASE EXPENSES; FINDING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; REQUIRING NOTICE OF THIS RESOLUTION TO THE COMPANY AND CITIES' LEGAL COUNSEL

21. Approved a resolution authorizing the execution of an Independent Professional Consultant Contract with Frances Stapp to provide Curator Management and other services to the Heritage District. (COMMUNITY SERVICES)

RESOLUTION NO. 2013 - 404

RESOLUTION AUTHORIZING THE EXECUTION OF AN INDEPENDENT PROFESSIONAL CONSULTANT CONTRACT WITH FRANCES STAPP TO PROVIDE CURATOR MANAGEMENT AND OTHER SERVICES TO THE HERITAGE DISTRICT

22. Approved a resolution authorizing the appropriation of \$19,789.00 in reimbursement funds from the Texas Department of State Health to project 7124 Refugee Immunization Grant Project. (COMMUNITY SERVICES)

RESOLUTION NO. 2013 - 405

RESOLUTION AUTHORIZING THE APPROPRIATION OF FUNDS IN THE AMOUNT OF \$19,789.00 IN REIMBURSEMENT FUNDS FROM THE TEXAS DEPARTMENT OF STATE HEALTH TO THE REFUGEE IMMUNIZATION GRANT PROJECT NUMBER 7124

23. Approved a resolution authorizing the Texas Housing Foundation to exercise its powers within the territorial boundaries of the City of Midland, Texas; and authorizing a cooperation agreement between the City of Midland and the Texas Housing Foundation. (DEVELOPMENT SERVICES)

RESOLUTION NO. 2013 - 406

RESOLUTION AUTHORIZING THE TEXAS HOUSING FOUNDATION TO EXERCISE ITS POWERS WITHIN THE TERRITORIAL BOUNDARIES OF THE CITY OF MIDLAND, TEXAS; AND AUTHORIZING A COOPERATION AGREEMENT

24. Approved a resolution to grant a variance to Ordinance 8769 (January 1, 2010 Oil and Gas Well Drilling Ordinance) to allow building permits for residences, to be issued in the future, where the proposed residence, either in whole or part is no closer than 135.1 feet of an existing oil and gas well. (DEVELOPMENT SERVICES)

RESOLUTION NO. 2013 - 407

RESOLUTION GRANTING A VARIANCE FOR LOTS 12A-21A AND 22, BLOCK 3, LOTS 1A-25A AND 26, BLOCK 6, LOTS 1-9 AND 17, BLOCK 13, AND LOTS 11-20, BLOCK 14, ADOBE MEADOWS ADDITION, SECTION 6, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE EAST SIDE OF STATE HIGHWAY 349, NORTH OF THE EAST EXTENSION OF MOCKINGBIRD LANE), BY PERMITTING CONSTRUCTION OF RESIDENCES WHERE NO PORTION OF ANY

STRUCTURE IS CLOSER THAN 135.1 FEET OF AN OIL AND GAS WELL; AND AUTHORIZING ISSUANCE OF BUILDING PERMITS

26. Approved a resolution authorizing advertisement seeking proposals for the development of two City-owned downtown properties being the Midland Executive Center, 301 North Colorado Street, 0.451 acres, Blk: 027, Lots: 07A, Original Town Addition, Sec 3 and Mid America Building, 310 West Illinois Avenue, 0.448 Acres, Blk; 027, Lots: 13A, Original Town Addition, Sec 3. (DOWNTOWN DEVELOPMENT)

RESOLUTION NO. 2013 - 409

RESOLUTION AUTHORIZING THE CITY MANAGER TO ADVERTISE A REQUEST FOR PROPOSALS FOR DEVELOPMENT OF THE PROPERTY DESCRIBED AS LOTS 7A AND 13A, BLOCK 27, ORIGINAL TOWN ADDITION, SECTION 3, CITY AND COUNTY OF MIDLAND, TEXAS (COMMONLY KNOW AS 301 NORTH COLORADO STREET AND 310 WEST ILLINOIS AVENUE); AUTHORIZING THE CITY MANAGER TO NEGOTIATE AN AGREEMENT FOR SUCH DEVELOPMENT; AND PROVIDING THAT SAID AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED BY THE CITY COUNCIL

27. Approved a resolution authorizing a Right-of-Way Agreement with Occidental Petroleum Corporation for installation and maintenance of one (1) water pipeline, not to exceed 4 inches in diameter, located within the City Limits along Greentree Boulevard in Block X, H P Hilliard, Section 8, Midland County TX. (DEVELOPMENT SERVICES)

RESOLUTION NO. 2013 - 410

RESOLUTION AUTHORIZING A THE CITY MANAGER TO NEGOTIATE AND EXECUTE A RIGHT-OF-WAY LICENSE BETWEEN THE CITY OF MIDLAND, TEXAS AND OCCIDENTAL PERMIAN MANAGER, THE GENERAL PARTNER OF OCCIDENTAL PERMIAN, LTD.; SAID RIGHT-OF-WAY LICENSE IS FOR ENTERING THE CITY OF MIDLAND'S RIGHT-OF-WAY FOR THE PURPOSE OF PLACING, INSTALLING, CONSTRUCTING, OPERATING, REPAIRING, MAINTAINING, REPLACING AND REMOVING A FRESH WATER SURFACE LINE AND TO HAVE THE RIGHT OF INGRESS AND EGRESS AT CONVENIENT POINTS FOR SUCH PURPOSE; THE PIPELINE IS LOCATED WITHIN THE CITY OF MIDLAND RIGHT-OF-WAY, SECTION 8, BLOCK "X", H.P. HILLIARD SURVEY, MIDLAND COUNTY, TEXAS

28. Approved a resolution Authorizing a Right-of-Way Agreement and a Surface Damage Agreement with Vitol Midstream Pipeline LLC for the installation and maintenance of two (2) pipelines, one not to exceed twelve (12) inches in diameter, the second not to exceed twenty (20) inches in diameter, for petroleum and petroleum by-products, located in Block 38, Section 10, T2S, T&P Survey Co, Midland, TX. (DEVELOPMENT SERVICES)

RESOLUTION NO. 2013 - 411

RESOLUTION AUTHORIZING A RIGHT-OF-WAY LICENSE BETWEEN THE CITY OF MIDLAND, TEXAS AND VITOL MIDSTREAM PIPELINE LLC; SAID RIGHT-OF-WAY LICENSE IS FOR ENTERING THE CITY OF MIDLAND'S RIGHT-OF-WAY FOR THE PURPOSE OF PLACING, INSTALLING, CONSTRUCTING, OPERATING, REPAIRING, MAINTAINING, REPLACING AND REMOVING TWO (2) PIPELINES, FOR THE TRANSPORTATION OF OIL AND GAS MATERIALS AND TO HAVE THE RIGHT OF INGRESS AND EGRESS AT CONVENIENT POINTS FOR SUCH PURPOSE; THE PIPELINE IS LOCATED WITHIN THE CITY OF MIDLAND RIGHT-OF-WAY, SECTION

10, BLOCK 38, T-2-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS; THE LICENSE TERM IS FOR TWENTY (20) YEARS, COMMENCING WITH THE DATE OF THIS LICENSE AND SHALL AUTOMATICALLY RENEW AT THE END OF THE TERM FOR ONE ADDITIONAL TWENTY (20) YEAR TERM UPON 90 DAYS WRITTEN REQUEST PRIOR TO EXPIRATION

29. Approved a resolution authorizing staff to accept a water and sewer line easement across property owned by ONCOR Electric Delivery Company LLC. The purpose of the easement is to allow the construction of necessary utilities to serve a development east of Fairgrounds Road north of Loop 250. (ENGINEERING SERVICES)

RESOLUTION NO. 2013 - 412

RESOLUTION AUTHORIZING THE ACCEPTANCE OF A 20-FOOT WATER AND SEWER LINE EASEMENT LOCATED IN SECTION 19, BLOCK 38, T-1-S, T&P RR CO. SURVEY, MIDLAND, MIDLAND COUNTY, TEXAS; AND ORDERING RECORDATION BY THE CITY SECRETARY

31. Approved a resolution authorizing a Right-of-Way Agreement and a Surface Damage Agreement with Sunvit Pipeline, LLC for the installation and maintenance of one (1) pipeline, not to exceed twenty (20) inches in diameter, for petroleum and petroleum by-products, located in Block 38, Section 10, T2S, T&P Survey Co, Midland, TX. (DEVELOPMENT SERVICES)

RESOLUTION NO. 2013 - 413

RESOLUTION AUTHORIZING A RIGHT-OF-WAY LICENSE BETWEEN THE CITY OF MIDLAND, TEXAS AND SUNVIT PIPELINE LLC; SAID RIGHT-OF-WAY LICENSE IS FOR ENTERING THE CITY OF MIDLAND'S RIGHT-OF-WAY FOR THE PURPOSE OF PLACING, INSTALLING, CONSTRUCTING, OPERATING, REPAIRING, MAINTAINING, REPLACING AND REMOVING ONE (1) PIPELINE, FOR THE TRANSPORTATION OF OIL AND GAS MATERIALS AND TO HAVE THE RIGHT OF INGRESS AND EGRESS AT CONVENIENT POINTS FOR SUCH PURPOSE; THE PIPELINE IS LOCATED WITHIN THE CITY OF MIDLAND RIGHT-OF-WAY, SECTION 10, BLOCK 38, T-2-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS; THE LICENSE TERM IS FOR TWENTY (20) YEARS, COMMENCING WITH THE DATE OF THIS LICENSE AND SHALL AUTOMATICALLY RENEW AT THE END OF THE TERM FOR ONE ADDITIONAL TWENTY (20) YEAR TERM UPON 90 DAYS WRITTEN REQUEST PRIOR TO EXPIRATION

32. Approved a resolution to approve and appoint volunteer candidates from the Citizens Police Academy Alumni as Volunteers Enforcing Parking Restrictions. (POLICE)

RESOLUTION NO. 2013 - 414

RESOLUTION APPOINTING INDIVIDUALS TO SERVE AS VOLUNTEERS TO ENFORCE AUTOMOBILE PARKING RESTRICTIONS AS AUTHORIZED BY CHAPTER 681 OF THE TEXAS TRANSPORTATION CODE

33. Approved a resolution approving Change Order No. 3 for the Midland Airport and Paul Davis Well Site Improvements Construction Project with Red River Construction Co., Inc and appropriate funds. (UTILITIES)

RESOLUTION NO. 2013 - 415

RESOLUTION AUTHORIZING THE EXECUTION OF CHANGE ORDER NUMBER

THREE WITH RED RIVER CONSTRUCTION COMPANY, INCORPORATED, ADDING \$36,704.52 FOR ADDITIONAL WORK TO THE EXISTING CONTRACT FOR THE AIRPORT AND PAUL DAVIS WELL SITES IMPROVEMENTS PROJECT; AND APPROPRIATING \$36,705.00; THE ORIGINAL CONTRACT WAS FOR \$3,877,740.00; THIS CHANGE ORDER BRINGS THE TOTAL CONTRACT PRICE TO \$4,787,458.73

34. Approved a resolution approving Change Order No. 2 for the Midland Raw Water Project with Archer Western Construction in the amount of \$102,768.64 and appropriating funds. (UTILITIES)

RESOLUTION NO. 2013 - 416

RESOLUTION AUTHORIZING THE EXECUTION OF CHANGE ORDER NUMBER TWO WITH ARCHER WESTERN CONTRACTORS, L.L.C., ADDING \$102,768.64 FOR ADDITIONAL WORK TO THE EXISTING CONTRACT FOR THE RAW WATER PROJECT; AND APPROPRIATING \$102,769.00; THE ORIGINAL CONTRACT WAS FOR \$7,058,965.00; THIS CHANGE ORDER BRINGS THE TOTAL CONTRACT PRICE TO \$7,428,711.80

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

15. Consider a resolution authorizing the City Manager to negotiate and execute an assignment of the Commercial Land/Use Agreement between Deer Horn, LTD Co. and The City of Midland, Texas to Ross Aviation, Denver, Colorado. (AIRPORTS)

RESOLUTION NO. 2013 - 398

RESOLUTION AUTHORIZING THE EXECUTION OF AN AIRPORT FUELING AGREEMENT WITH DEER HORN AVIATION LTD. CO. IN ORDER TO STORE AND DISPENSE ALL FORMS OF AVIATION PROPELLANTS AND FUELS FROM FIXED DISPENSERS ONLY TO DEER HORN AVIATION LTD. CO. AIRCRAFT AT THE MIDLAND INTERNATIONAL AIRPORT, MIDLAND, MIDLAND COUNTY, TEXAS

Director of Airports Marv Esterly reported that Deer Horn Aviation needs the ability to fuel aircraft through a mobile dispensing unit as well as the fixed unit.

Council Member Dufford moved to adopt Resolution No. 2013 - 398 with the amendment to dispense all forms of aviation propellants and fuels from fixed and mobile dispensers; seconded by Council Member Trost. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

16. Consider a resolution authorizing the execution of a fueling agreement between Deer Horn LTD. Co. and the City of Midland. (AIRPORTS)

RESOLUTION NO. 2013 - 399

RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A FIRST AMENDMENT TO AIRPORT FUELING AGREEMENT BETWEEN THE CITY OF MIDLAND, TEXAS AND ROSS MIDLAND LLC, A DELAWARE LIMITED LIABILITY COMPANY; A CONSENT TO ASSIGNMENT IN WHICH THE CITY OF MIDLAND, TEXAS CONSENTS TO THE ASSIGNMENT FROM DEER HORN AVIATION LTD., CO., A NEW MEXICO LIMITED LIABILITY COMPANY, TO ROSS MIDLAND LLC, A DELAWARE LIMITED LIABILITY COMPANY; A CONSENT AND ESTOPPEL CERTIFICATE IN FAVOR OF THE LENDER PROVIDING A LOAN TO ROSS

MIDLAND LLC, A DELAWARE LIMITED LIABILITY COMPANY; A MEMORANDUM OF LEASE FOR THE COMMERCIAL HANGAR LEASE BETWEEN THE CITY OF MIDLAND, TEXAS AND ROSS MIDLAND LLC, A DELAWARE LIMITED LIABILITY COMPANY; A MEMORANDUM OF LEASE FOR THE COMMERCIAL LAND AND FIXED BASE OPERATOR LEASE AGREEMENT BETWEEN THE CITY OF MIDLAND, TEXAS AND ROSS MIDLAND LLC, A DELAWARE LIMITED LIABILITY COMPANY; AN ASSIGNMENT AND ASSUMPTION OF LEASE AGREEMENT, AND AN OFFICE AND HANGAR SUBLEASE AND FUELING AGREEMENT BETWEEN DEER HORN AVIATION LTD., CO., A NEW MEXICO LIMITED LIABILITY COMPANY, AND ROSS MIDLAND LLC, A DELAWARE LIMITED LIABILITY COMPANY, WHILE ON FILE IN THE CITY SECRETARY'S OFFICE, ARE INCLUDED FOR INFORMATIONAL AND FILING PURPOSES ONLY AND WILL NOT BE EXECUTED BY THE CITY MANAGER ON BEHALF OF THE CITY OF MIDLAND

Council Member Sparks moved to adopt Resolution No. 2013 - 399 with the amendment to allow the City Manager to sign once the insurance is ready; seconded by Council Member Dufford. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

17. Consider a resolution approving the 2014 City Council Meeting Dates (CITY MANAGER'S OFFICE)

RESOLUTION NO. 2013 - 400

RESOLUTION ESTABLISHING THE DATES OF THE REGULAR CITY COUNCIL MEETINGS TO BE HELD DURING THE CALENDAR YEAR 2014

Council Member Sparks moved to adopt Resolution No. 2013 - 400 with the amendment to change October 14, October 28, and November 11 to October 7, October 21 and November 4 and adding the date of November 18; seconded by Council Member James. The motion carried by the following vote: AYE: Love, Morales, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: Trost. ABSENT: None.

25. Consider a resolution to grant a variance to Ordinance 8769 (January 1, 2010 Oil and Gas Well Drilling Ordinance) to allow building permits for residences, to be issued in the future, where the proposed residence, either in whole or part is no closer than 195 feet of an existing oil and gas well. (DEVELOPMENT SERVICES)

RESOLUTION NO. 2013 - 408

RESOLUTION GRANTING A VARIANCE FOR LOTS 1-6, BLOCK 10, LOTS 1-3, BLOCK 11, AND LOTS 23-25, 45-50 AND 52-72, BLOCK 15, ADOBE MEADOWS ADDITION, SECTION 6, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE EAST SIDE OF STATE HIGHWAY 349, NORTH OF THE EAST EXTENSION OF MOCKINGBIRD LANE), BY PERMITTING CONSTRUCTION OF RESIDENCES WHERE NO PORTION OF ANY STRUCTURE IS CLOSER THAN 195 FEET OF AN OIL AND GAS WELL; AND AUTHORIZING ISSUANCE OF BUILDING PERMITS

Council Member Sparks noted there are four wells that are in the process of being permitted. The subsurface owner has been in contact with the surface owner. The intent is not to have the surface owner hurry and build in order to keep the mineral owner from drilling his wells. He recommended approving variance and encouraged them to continue to work together.

Council Member Sparks moved to adopt Resolution No. 2013 - 408; seconded by Council Member James.

Mayor Perry asked if the houses were built first would they take precedence over drilling the well. Building Official Steve Thorpe noted that the well applications take standing because they were received first. Mayor Perry asked if the well would be drilled prior to the houses being built.

Mike Wallace, 200 Blackberry Circle, noted their intention is to drill all four wells back to back. He noted these wells will be directionally drilled under DR Horton property but the drill site is on Daybreak's site.

Council Member Sparks, noted the Council appreciates them putting the wells together in order to preserve the surface for development.

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

30. Consider a motion on a request by West Company of Midland, for the Lost Mountain Addition – Section 4 to approve items requested for deferral and to waive the associated public improvement guarantee. The subject property is located adjacent to the future Green Tree Boulevard alignment approximately 1300' west of the future Garfield Street alignment. (ENGINEERING SERVICES)

Council Member Sparks moved to defer the item to a date uncertain; seconded by Council Member James. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

SECOND READINGS

35. Consider an ordinance on second reading on a request by G. Granger Macdonald for a zone change from PD, Planned District for a Housing Development to an Amended Planned District on Lot 2A, Block 165, Wilshire Park Addition, Section 19, City and County of Midland, Texas. (Generally located on the southeast corner of the intersection of Leisure Drive and Beal Parkway.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9197

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOT 2A, BLOCK 165, WILSHIRE PARK ADDITION, SECTION 19, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A HOUSING DEVELOPMENT, TO BE USED AS AN AMENDED PLANNED DISTRICT (GENERALLY LOCATED ON THE SOUTHEAST CORNER OF LEISURE DRIVE AND BEAL PARKWAY); PROVIDING FOR SUCH USE TO BE SUBJECT TO CERTAIN SPECIAL CONDITIONS AND RESTRICTIONS AS SET OUT HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

Deputy City Secretary Reyes read the caption of Ordinance No. 9197.

Council Member Morales moved to approve the second and final reading of Ordinance No. 9197 in accordance with the Charter of the City of Midland; seconded by Council Member Dufford. The motion carried by the following vote: AYE: Love, Trost, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Morales.

36. Consider an ordinance on second reading on a request by Midland County for the vacation of a 0.78-acre portion of the drainage and utility easements located within Lot 1, Block 1, Horseshoe Addition, City and County of Midland, Texas. (Generally location on the north side of W. Interstate Hwy 20, approximately 1,100 feet west of Cotton Flat Road.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9199

AN ORDINANCE VACATING AND ABANDONING A 0.78-ACRE PORTION OF DRAINAGE AND UTILITY EASEMENTS LOCATED WITHIN LOT 1, BLOCK 1, HORSESHOE ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTH SIDE OF WEST INTERSTATE HIGHWAY 20, APPROXIMATELY 1,100 FEET WEST OF COTTON FLAT ROAD); ADOPTING THE APPRAISAL BY THE CITY MANAGER OF \$9,286.97; WAIVING THE FEE FOR THE COST OF THE EASEMENTS; AND ORDERING RECORDATION BY THE CITY SECRETARY

Deputy City Secretary Reyes read the caption of Ordinance No. 9199.

Council Member Sparks moved to approve the second and final reading of Ordinance No. 9199 in accordance with the Charter of the City of Midland; seconded by Council Member Morales. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

37. Consider an ordinance on second reading on a request by SBC Corporation for the vacation of a 0.64-acre portion of a dedicated 80-foot public rights-of-way location within Section 35, Block 40, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas. (Generally located northeast of W. State Hwy 158 near the west extension of Homestead Boulevard.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9200

AN ORDINANCE VACATING AND ABANDONING A 0.64-ACRE PORTION OF A DEDICATED 80-FOOT PUBLIC RIGHT-OF-WAY LOCATED WITHIN SECTION 35, BLOCK 40, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE NORTHWEST CORNER OF GRASSLAND ESTATES, SECTION 7); ADOPTING THE APPRAISAL BY THE CITY MANAGER OF \$226.00; WAIVING THE FEE FOR THE COST OF THE RIGHT-OF-WAY; RETAINING A PUBLIC UTILITY EASEMENT; AND ORDERING RECORDATION BY THE CITY SECRETARY

Deputy City Secretary Reyes read the caption of Ordinance No. 9200.

Council Member James moved to approve the second and final reading of Ordinance No. 9200 in accordance with the Charter of the City of Midland; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

38. Consider an ordinance on second reading designating and approving parking spaces on

the west side of a portion of Idlewilde Drive north of Princeton Avenue as reserved for the parking of motor vehicles operated by law enforcement officers. (ENGINEERING SERVICES)

ORDINANCE NO. 9201

AN ORDINANCE DESIGNATING AND APPROVING PARKING SPACES ON A PORTION OF THE WEST SIDE OF IDLEWILDE DRIVE FROM A POINT 265 FEET NORTH OF THE NORTH CURB LINE OF PRINCETON AVENUE AND CONTINUING NORTH A DISTANCE OF 140 FEET AS RESERVED FOR THE PARKING OF MOTOR VEHICLES OPERATED BY LAW ENFORCEMENT OFFICERS; AUTHORIZING AND DIRECTING THE TRAFFIC ENGINEER TO ERECT APPROPRIATE SIGNS; DECLARING ANY VEHICLE IN VIOLATION OF THE PROVISIONS OF THIS ORDINANCE A NUISANCE AND PROVIDING FOR THE REMOVAL OF SAME; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO HUNDRED DOLLARS (\$200.00); AND ORDERING PUBLICATION

Deputy City Secretary Reyes read the caption of Ordinance No. 9201.

Council Member Sparks moved to approve the second and final reading of Ordinance No. 9201 in accordance with the Charter of the City of Midland; seconded by Council Member Trost. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

PUBLIC HEARINGS

39. At approximately 10:30 A.M. hold a public hearing and consider an ordinance on a request by CFC Properties, LLC for a zone change from PD, Planned District for an Industrial District to an Amended Planned District on a 4.57-acre tract of land out of Lots 1 through 3 and the vacated rights-of-way of Arapahoe Road and State Highway 349, Block 17; and from LR-2, Local Retail District to PD, Planned District for an Industrial District on Lots 1 and 2, Block 18, all out of 349 Ranch Estates, Section 3, City and County of Midland, Texas. (Generally located on the east side of Highway 349 on both sides of Arapahoe Road.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9202

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 4.57-ACRE TRACT OF LAND OUT OF LOTS 1-3, AND THE VACATED RIGHTS-OF-WAY OF ARAPAHOE ROAD AND STATE HIGHWAY 349, BLOCK 17, AND LOTS 1 AND 2, BLOCK 18, ALL OUT OF 349 RANCH ESTATES, SECTION 3, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR AN INDUSTRIAL DISTRICT, IN PART, AND LR-2, LOCAL RETAIL DISTRICT, IN PART, TO BE USED AS AN AMENDED PLANNED DISTRICT FOR AN INDUSTRIAL DISTRICT (GENERALLY LOCATED ON THE EAST SIDE OF HIGHWAY 349 ON BOTH SIDES OF ARAPAHOE ROAD); 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

Senior Planner Jim Compton gave a brief overview of the item noting it was for a zone change for the construction of warehouses. When asked if similar to the storage units on the Loop, Mr. Compton clarified that they are more industrial looking and architecturally identical to the development on the west side of Big Spring. When asked about the difference between warehouses and storage units, he clarified there was one large building that could be rented by a single company or could be used by many companies. He answered questions about fencing noting it would be wrought iron along Big Spring and chain link in the remaining areas. One letter of opposition had been received.

Council Member Dufford expressed concern about the changes that have taken place along Big Spring and felt a storage facility similar to the one on the Loop might be more appropriate.

Mayor Perry opened the public hearing at 10:52 a.m.

Cliff Chalmers, 5100 Ashdown Place, clarified how access would be gained to the property. He noted the property would be just like the property across Highway 349 noting he was very proud of the architectural standard set. He noted he was available to answer any questions. He answered questions about what surrounded the property.

Jillian Ereira, 6400 Bowman Circle, noted Mr. Chalmer's existing facility is excellent but expressed concern about big trucks coming in and out of the new property. She asked that he continue the wrought iron fence along Arapahoe and asked who would maintain Arapahoe because the pavement is already falling apart. She is concerned with how the road will hold up with more traffic.

There being no one else present wishing to speak, the public hearing closed at 10:57 a.m.

Deputy City Secretary Reyes read the caption of Ordinance No. 9202.

Council Member Morales moved approval of the first of two readings of Ordinance No. 9202 in accordance with the Charter of the City of Midland; seconded by Council Member Sparks.

When asked if he would consider changing the fence to wrought iron along Arapahoe, Mr. Chalmers responded he would take it under consideration. He also noted that very little traffic would be generated from his business down Arapahoe. Mr. Chalmers answered questions about the types of building materials that would be used.

Discussion ensued about gateways into the City and the need to set standards for those gateways.

Mr. Chalmers reported that if the only objection is to add wrought iron fencing along Arapahoe as he is proposing to place on Big Spring, he would agree to add the additional wrought iron fencing.

Council Member Sparks moved to amend the motion to require the same wrought iron fencing along Arapahoe Road as was specified along Big Spring; seconded by Council Member Trost. The motion to amend carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None.

ABSENT: None.

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

40. At approximately 10:33 A.M. hold a public hearing and consider an ordinance on a request by David Martin for a zone change from AE, Agriculture Estate District to PD, Planned District for a Housing Development on 54.487-acre tract of land out of Section 12, Block "X", H. P. Hilliard Survey, City and County of Midland Texas. (Generally located on the east side of Hwy 349, approximately 1,200 feet north of Mockingbird Lane. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9203

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 54.487-ACRE TRACT OF LAND OUT OF SECTION 12, BLOCK "X", H.P. HILLIARD SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED AE, AGRICULTURE ESTATE DISTRICT, TO BE USED AS A PD, PLANNED DISTRICT FOR A HOUSING DEVELOPMENT (GENERALLY LOCATED ON THE EAST SIDE OF STATE HIGHWAY 349, APPROXIMATELY 1,200 FEET NORTH OF MOCKINGBIRD LANE); 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 Jim Compton gave brief overview of the item noting it was for a housing development. The preliminary plat was approved by Planning & Zoning. The only way to ensure that an attractive, permanent, common area fence is built is through a Planned District. He explained the two different types of fences that would be used. Comments were made about not having rear entry garages and alleys.

Mayor Perry opened the public hearing at 11:23 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Deputy City Secretary Reyes read the caption of Ordinance No. 9203.

Council Member Morales moved approval of the first of two readings of Ordinance No. 9203 in accordance with the Charter of the City of Midland; seconded by Council Member Love.

Discussion ensued about the pros and cons of having or not having alleys.

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

41. At approximately 10:36 A.M. hold a public hearing and consider an ordinance on a request by Chris Stokes for a Specific Use Permit with Term for an Electronic Billboard/Billboard Sign, on a 0.553-acre portion of Tract 1, Town & Country Annex, City and County of Midland, Texas. (Generally located on the south side of Andrews Highway, approximately 730 feet northeast of West Cuthbert Avenue.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9204

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS 0.553-ACRE PORTION OF TRACT 1, TOWN & COUNTRY ANNEX, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTH SIDE OF ANDREWS HIGHWAY, APPROXIMATELY 730 FEET NORTHEAST OF WEST CUTHBERT AVENUE), WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR AN OFFICE CENTER, BY PERMITTING SAID PROPERTY TO BE USED UNDER A SPECIFIC USE PERMIT WITH TERM FOR A BILLBOARD; MAKING SAID PERMIT SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

Planning Division Manager Jim Compton gave a brief overview of the item noting that a billboard in this location requires a Specific Use Permit. A billboard further up Big Spring will need to be removed before this one is installed. He noted the location meets policy and no opposition was received. A correction is needed to the Ordinance changing it from a PD for an office center to an LR2.

Mayor Perry opened the public hearing at 11:37 a.m. There being no one present wishing to speak, the public hearing was closed.

Deputy City Secretary Reyes read the caption of Ordinance No. 9204.

Council Member Love moved approval of the first of two readings of Ordinance No. 9204 in accordance with the Charter of the City of Midland with the amendment changing it from a PD for an Office District to an LR2; seconded by Council Member Morales. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

42. At approximately 10:39 A.M. hold a public hearing and consider an ordinance on a request by David Heiser Family Trust for a Specific Use Perm without Term for a RV Park on a 15.00-acre tract of land out of Section 1, Block 39, T-2-S, T&P RR Co. Survey, City and County of Midland, Texas. (Generally located on the north side of East Interstate Highway 20, approximately 1,300 feet west of South Fairgrounds Road.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9205

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF A 15.00-ACRE TRACT OF LAND OUT OF SECTION 1, BLOCK 39, T-2-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTH SIDE OF EAST INTERSTATE HIGHWAY 20, APPROXIMATELY 1,300 FEET WEST OF SOUTH FAIRGROUNDS ROAD), WHICH IS PRESENTLY ZONED BP, I-20 BUSINESS PARK DISTRICT, BY PERMITTING SAID PROPERTY TO BE USED UNDER A SPECIFIC USE PERMIT WITHOUT TERM FOR A RECREATIONAL VEHICLE (RV) PARK; MAKING SAID PERMIT SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

Planning Division Manager Jim Compton gave a brief overview of the item noting it was for 131 RV lots. They have met requirements for zoning and the property is located along the I-20 Corridor. Planning & Zoning recommended approval and staff concurred subject to the conditions contained in the ordinance. When asked if there was a limit as to how long an RV can sit on one spot, Mr. Compton replied there were no restrictions but noted that other cities have adopted ordinances restricting time limits. He emphasized this is without term so the applicant is not required to return for additional approval.

A suggestion was made to require fencing along Taylor Avenue and another suggestion was made to require fencing along I-20.

When concern was expressed about the age of the RVs, Mr. Compton clarified that this is a recreation vehicle park and not a mobile home park. Building Official Steve Thorpe noted that RVs are considered a motor vehicle and are required to have current registration and inspection stickers.

Mayor Perry opened the public hearing at 11:46 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Deputy City Secretary Reyes read the caption of Ordinance No. 9205.

Discussion ensued about the lack of information on this park. Council expressed concern about this being long term living quarters.

John Elfick reported he is associated with the landowner on a different deal. He noted the owner has been in the process with the City for almost one year on this project and his expectation was that he was doing everything the City would approve. The developer is an RV owner himself and is building a nice park where they can receive fire and police protection. He noted the intent is to have someplace for people who are coming into town for a few days or a few weeks. He noted there would be quarter million dollar vehicles there and that the owner would be putting in landscaping and extra facilities. The surrounding area is industrial and it is easy access to I-20.

Council Member James moved to defer the item to the next regular meeting; seconded by Council Member Morales. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

43. At approximately 10:42 A.M. hold a public hearing and consider an ordinance on a request by Mockingbird Oaks Development, LLC for a zone change from TH, Townhouse Dwelling District on a 3.98-acre tract of land all out of Section 25, Block 40, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas. (Generally located on the west side of Holiday Hill Road, approximately 470 feet south of Briarwood Avenue.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9206

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 3.98-ACRE TRACT OF LAND AND A 36.81-ACRE TRACT OF LAND, ALL OUT OF SECTION 25, BLOCK 40, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED TH, TOWNHOUSE

DWELLING DISTRICT, IN PART, AND 1F-3, ONE-FAMILY DWELLING DISTRICT, IN PART, TO BE USED AS A PD, PLANNED DISTRICT FOR A HOUSING DEVELOPMENT (GENERALLY LOCATED ON THE WEST SIDE OF HOLIDAY HILL ROAD, APPROXIMATELY 470 FEET SOUTH OF BRIARWOOD AVENUE); PROVIDING FOR SUCH USE TO BE SUBJECT TO CERTAIN SPECIAL CONDITIONS AND RESTRICTIONS AS SET OUT HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

Planning Division Manager Jim Compton gave a brief overview of the item noting the purpose is to change the front yard setbacks from 20 feet to 15 which is similar to other homes in the area. Planning & Zoning supported the item and no opposition was received.

Mayor Pro Tem Sparks opened the public hearing at 12:02 p.m.

John Newton, 4908 N. Midkiff, noted he was available to answer questions.

There being no one else present wishing to speak, the public hearing was closed at 12:03 p.m.

Deputy City Secretary Reyes read the caption of Ordinance No. 9206.

Council Member James moved approval of the first of two readings of Ordinance No. 9206 in accordance with the Charter of the City of Midland; seconded by Council Member Morales. The motion carried by the following vote: AYE: Love, Morales, Trost, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Perry.

44. At approximately 10:45 A.M. hold a public hearing and consider an ordinance on a request by Midland Pediatric Associates, PLLC for a zone change from PD, Planned District for a Shopping Center to an Amended Planned District on Lots 4 and 5, Block 10, Northwood Addition, Section 7, City and County of Midland, Texas. (Generally located on the north side of Mamie Circle, approximately 290 feet north of West Wadley Avenue.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9207

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOTS 4 AND 5, BLOCK 10, NORTHWOOD ADDITION, SECTION 7, 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 NORTH SIDE OF MAMIES CIRCLE, APPROXIMATELY 290 FEET NORTH OF WEST WADLEY AVENUE); PROVIDING FOR SUCH USE TO BE SUBJECT TO CERTAIN SPECIAL CONDITIONS AND RESTRICTIONS AS SET OUT HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

Planning Division Manager Jim Compton gave a brief overview of the item noting that more parking spaces were being provided than required. Planning & Zoning supported

the item and staff concurs.

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

Deputy City Secretary Reyes read the caption of Ordinance No. 9207.

Council Member Morales moved approval of the first of two readings of Ordinance No. 9207 in accordance with the Charter of the City of Midland; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

45. At approximately 10:48 a.m. hold a public hearing regarding a proposed oil and gas permit to Endeavor Energy Resources, L.P. (Operator), for a Permit to Drill an Oil & Gas Well within the City Limits, (Chaps A #6) located 655 feet from north line and 467 feet from east line, Section 9, Block "X", H.P. Hilliard Survey, City and County of Midland, Texas. Generally located on the north side of the Passage Way, approximately 467 feet west of the extension of North Garfield Street.) This is a public hearing only. No further action will be taken. (DEVELOPMENT SERVICES)

Oil & Gas Compliance Officer Ron Jenkins gave a brief overview of the item noting one letter of objection had been received.

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

Janet Walton, 2700 N. Garfield, stated she would like to get compliance of enforcement of the settlement agreement dated December 2007, noting Endeavor is supposed to live up to certain conditions in the settlement agreement. She felt the City was only enforcing current regulations in the present drilling ordinance.

City Attorney Stretcher asked Ms. Walton to provide exactly what conditions she felt were not being enforced. Ms. Walton noted there was to be a specific distance between the right of way and a specific distance to existing water wells. Mr. Stretcher noted those issues were currently being litigated. He asked Ms. Walton to provide specifics of what Endeavor is not complying with. Mayor Perry asked Ms. Walton to put her comments in writing and direct those comments to the City Attorney's Office.

There being no one else present wishing to speak, the public hearing was closed at 12:13 p.m. No further action was taken on this item.

46. At approximately 10:51 a.m. hold a public hearing regarding a proposed oil and gas permit to High Sky Partners, LLC (Operator), for a Permit to Drill an Oil & Gas Well within the City Limits, (Mask No 1001) located 773 feet from south line and 825 feet from west line, Section 10, Block "X", H.P. Hilliard Survey, City and County of Midland, Texas. (Generally located on the north side of the extension of Mockingbird Lane, approximately 825 feet west of the extension of North Garfield Street.) This is a public hearing only. No further action will be taken. (DEVELOPMENT SERVICES)

Oil & Gas Compliance Officer Ron Jenkins reported the application had been reviewed by the Oil & Gas Advisory Committee. The applicant is asking for a waiver of the road repair agreement because they will not travel on any City Streets. They also requested a variance for landscaping and irrigation. The Oil & Gas Advisory Committee

recommended a two year variance for landscape and irrigation. He reported no letters of objection had been received.

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

Mark Payne reported he owns the property north and east of the location. He expressed concern about waiving the road use agreement because the well be located in the middle of the subdivision and he wanted to ensure it would not impact him as a developer.

Mike Wallace, 200 Blackberry Circle, explained how the vehicles would access the site from the north and would not be traversing on any City roads at this time. If it is needed in the future it can be addressed in the annual audits/permits when it comes up for renewal.

Henry Nelson, 812 Canonero, noted he would like to see a plan of development and would like to have a say in the process. He is pro oil and gas.

There being no one else present wishing to speak, the public hearing was closed at 12:22 p.m. No further action was taken on this item.

47. At approximately 10:54 a.m. hold a public hearing regarding a proposed oil and gas permit to High Sky Partners, LLC (Operator), for a Permit to Drill an Oil & Gas Well within the City Limits, (Mask No 1002D) located 1176 feet from south line and 825 feet from west line, Section 10, Block "X", H.P. Hilliard Survey, City and County of Midland, Texas. (Generally located on the north side of the extension of Mockingbird Lane, approximately 825 feet west of the extension of North Garfield Street.) This is a public hearing only. No further action will be taken. (DEVELOPMENT SERVICES)

Oil & Gas Compliance Officer Ron Jenkins reported this item was exactly the same as the previous well. It was approved by the Oil & Gas Advisory Committee with the same recommendation of a landscape and irrigation waiver for two years and waiver of the road repair agreement. No letters of objection had been received.

Mayor Perry opened the public hearing at 12:22 p.m. There being no one present wishing to speak, the public hearing was immediately closed. No further action was taken on this item.

48. At approximately 10:57 a.m. hold a public hearing regarding a proposed oil and gas permit to High Sky Partners, LLC (Operator), for a Permit to Drill an Oil & Gas Well within the City Limits, (Mask No 1003) located 513 feet from south line and 1773 feet from west line, Section 10, Block "X", H.P. Hilliard Survey, City and County of Midland, Texas. (Generally located on the north side of the extension of Mockingbird Lane, approximately 1773 feet west of the extension of North Garfield Street.) This is a public hearing only. No further action will be taken. (DEVELOPMENT SERVICES)

Oil & Gas Compliance Officer Ron Jenkins gave a brief overview of the item noting it was the exact same situation as the previous two wells. There is not a surface agreement in place. The operator has attempted to make contact with the surface owner via mail and sending an agent to the owner's door.

Mayor Perry opened the public hearing at 12:24 p.m. There being no one present wishing to speak, the public hearing was immediately closed. No further action was taken on this item.

49. At approximately 11:00 A.M. hold a public hearing and consider an ordinance on a request by Marshall Gage, LLC / Scott Caruthers for a zone change from PD, Planned District for a Shopping Center to LR-2, Local Retail District on Lot 3, Block 2; Westridge Park Addition, Section 3, City and County of Midland, Texas. (Generally located on the southwest corner of the intersection of Andrews Highway and North Loop 250 West.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9208

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOT 3, BLOCK 2, WESTRIDGE PARK ADDITION, SECTION 3, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A SHOPPING CENTER, TO BE USED AS AN LR-2, LOCAL RETAIL DISTRICT (GENERALLY LOCATED ON THE SOUTHWEST CORNER OF THE INTERSECTION OF ANDREWS HIGHWAY AND NORTH LOOP 250 WEST); 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 Jim Compton gave a brief overview of the item noting the developer is wishing to raze the building and construct a grocery store with a self service gas station and car wash. All uses are allowed. Planning & Zoning recommended approval and no letters of opposition were received.

Mayor Perry opened the public hearing at 12:25 p.m. There being no one present wishing to speak, the public hearing was immediately closed.

Deputy City Secretary Reyes read the caption of Ordinance No. 9208.

Council Member Trost moved approval of the first of two readings of Ordinance No. 9208 in accordance with the Charter of the City of Midland; seconded by Council Member Love. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

50. At approximately 11:03 A.M. hold a public hearing and consider a resolution on a request by Joe L. Smith/ Oregon Trail Trees for a Temporary Land Use Permit for Outdoor Christmas Tree Sales. (Generally located on the west side of North Midland Drive, approximately 160 feet south of West Dengar Avenue.) (DEVELOPMENT SERVICES)

RESOLUTION NO. 2013 - 417

RESOLUTION AUTHORIZING THE TEMPORARY USE OF LAND FOR OUTDOOR CHRISTMAS TREE SALES ON LOT 1, BLOCK 1, SCOTSDALE ADDITION, SECTION 2, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE WEST SIDE OF NORTH MIDLAND DRIVE, APPROXIMATELY 160 FEET SOUTH OF WEST DENGAR AVENUE); AND MAKING SAID PERMIT SUBJECT TO CERTAIN SPECIAL CONDITIONS AND RESTRICTIONS CONTAINED HEREIN

Planning Division Manager Jim Compton gave a brief overview of the item noting the seller has been selling Christmas trees outside of Casa Verde Nursery for more than 20 years. They will operate from November 29 through December 22 from 10:00 a.m. to 10:00 p.m. Staff recommended approval and no letters of opposition had been received.

Mayor Perry opened the public hearing at 12:27 p.m. There being no one present wishing to speak, the public hearing was immediately closed.

Council Member Love moved to adopt Resolution No. 2013 - 417; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

MISCELLANEOUS

51. Consider an ordinance on third reading granting to Oncor Electric Delivery Company LLC, its successors and assigns, an electric power franchise to use the present and future streets, alleys, highways, public utility easements, public ways and public property of the City of Midland, Texas, providing for compensation therefor, providing for an effective date and a term of said franchise, providing for written acceptance of this franchise, providing for the repeal of all existing franchise ordinances to Oncor Electric Delivery Company LLC, its predecessors and assigns, and finding that the meeting at which this ordinance is passed is open to the public. (PURCHASING) (First reading held October 8, 2013.)

RESOLUTION NO. 9196

AN ORDINANCE GRANTING TO ONCOR ELECTRIC DELIVERY COMPANY LLC, ITS SUCCESSORS AND ASSIGNS, AN ELECTRIC POWER FRANCHISE TO USE THE PRESENT AND FUTURE STREETS, ALLEYS, HIGHWAYS, PUBLIC UTILITY EASEMENTS, PUBLIC WAYS AND PUBLIC PROPERTY OF THE CITY OF MIDLAND, TEXAS, PROVIDING FOR COMPENSATION THEREFOR, PROVIDING FOR AN EFFECTIVE DATE AND A TERM OF SAID FRANCHISE, PROVIDING FOR WRITTEN ACCEPTANCE OF THIS FRANCHISE, PROVIDING FOR THE REPEAL OF ALL EXISTING FRANCHISE ORDINANCES TO ONCOR ELECTRIC DELIVERY COMPANY LLC, ITS PREDECESSORS AND ASSIGNS, AND FINDING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC.

Deputy City Secretary Reyes read the caption of Ordinance No. 9196.

Council Member Love moved to approve the third and final reading of Ordinance No. 9196 in accordance with the Charter of the City of Midland; seconded by Council Member Morales.

Council Member Love noted most items are approved with two readings of an ordinance and asked why this item required three readings. City Attorney Stretcher noted it was a requirement of the City Charter.

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

52. Discuss and consider a motion on a request by Spivey & Grigg, LLP for a Right of Way Use Permit for the purpose of closing (1) the intersection of Garfield Street and the

Union Pacific Railroad Crossing and (2) the adjacent east and west bound lanes of the traffic on Front Street and Industrial Avenue on November 14, 2013 from 2:00 p.m. until 5:00 p.m. with City of Midland Police Department assistance. (CITY ATTORNEY)

Rick Leeper, Austin, noted he was available to answer questions.

Council Member James moved to approve a motion on a request by Spivey & Grigg, LLP for a Right of Way Use Permit for the purpose of closing (1) the intersection of Garfield Street and the Union Pacific Railroad Crossing and (2) the adjacent east and west bound lanes of the traffic on Front Street and Industrial Avenue on November 14, 2013 from 2:00 p.m. until 5:00 p.m. with City of Midland Police Department assistance. ; seconded by Council Member Trost. The motion failed by the following vote: AYE: None. NAY: Love, Morales, Trost, Perry, Dufford, James, Sparks. ABSTAIN: None. ABSENT: None.

53. Consider a resolution appealing the Building Official's denial of a building permit for the installation of a manufactured home on Block 10, Lot 12, East Midland Addition, commonly known as 1311 Walnut Lane. (DEVELOPMENT SERVICES)

RESOLUTION NO. 2013 - 275

RESOLUTION AUTHORIZING THE ISSUANCE OF A BUILDING PERMIT FOR THE INSTALLATION OF A MANUFACTURED HOME ON LOT 12, BLOCK 10, EAST MIDLAND ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (COMMONLY KNOWN AS 1311 WALNUT LANE); AND PROVIDING THAT THE ISSUANCE OF SAID PERMIT DOES NOT UNDERTAKE TO ADJUDICATE PROPERTY RIGHTS; SAID PERMIT WAS DENIED BY THE BUILDING OFFICIAL AND THIS RESOLUTION IS AN APPEAL TO THE MIDLAND CITY COUNCIL

Building Official Steve Thorpe reported that Mr. Englestadt applied for a building permit to install a mobile home on a piece of property, that according to the Midland Central Appraisal District, is not owned by him. The ordinance states that the ownership of the home and the property must be the same.

Max Wright, 508 W. Wall, speaking on behalf of Mr. Englestadt, noted some of the questions were how could the City be ensured the taxes and liens would be paid and are we setting precedent by allowing him to get a building permit under adverse possession or color of title. Mr. Englestadt is trying to lawfully establish claims to unclaimed and unmaintained properties all of which have not had taxes paid in at least five years. He shared information of previous permits issued showing that taxes have been paid or are in the process of being paid. He indicated that before a mobile home can be put in, Mr. Englestadt will install curb, gutter and sewer and that the properties end up in much better shape than before he took possession under color of title under adverse possession. Mr. Englestadt assumes all of the risk of putting in infrastructure. If the record owner claims possession Mr. Englestadt cannot recoup anything but taxes. He is waiting for the appropriate time to run so can go to court and get the title adjudicated. He asked Council to approve the permit and overrule the decision of the Building Official.

When asked if Mr. Englestadt has been in contact with the property owner, Mr. Wright responded that he has attempted to make contact by sending letters to the last known address and it is quite probably that the owner does not know.

Building Official Steve Thorpe reported that the previous permits issued are in the name of the homeowner of the property or other documentation was provided showing ownership. Mr. Wright responded that Mr. Englestadt has contracts with the people who are going to purchase the property once the title has been adjudicated.

Council Member Sparks moved to adopt Resolution No. 2013 - 275; seconded by Council Member Trost.

Discussion ensued about who owns the property and that property is not abandoned in Texas until it is sold at a tax sale.

Mayor Perry clarified that if this item is approved it will overturn the Building Official's decision and a building permit will be issued.

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

54. Consider a resolution on a request by David Martin, on appeal, for approval of a preliminary plat of Daybreak Estates, being a 159.373-acre tract in Section 12, Block "X", H. P. Hilliard Company Survey, Midland County, Texas (Generally located on the east side of SH 349, approximately 1,200 feet north of Mockingbird Lane) (DEVELOPMENT SERVICES)

RESOLUTION NO. 2013 - 418

RESOLUTION APPROVING A PRELIMINARY PLAT OF DAYBREAK ESTATES, BEING A PLAT OF A 159.373-ACRE TRACT OF LAND OUT OF SECTION 12, BLOCK "X", H.P. HILLIARD SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE EAST SIDE OF HIGHWAY 349, APPROXIMATELY 1,200 FEET NORTH OF MOCKINGBIRD LANE); SAID PRELIMINARY PLAT WAS DENIED BY THE CITY OF MIDLAND PLANNING AND ZONING COMMISSION AND IS ON AN APPEAL TO THE CITY COUNCIL

Planning Division Manager Jim Compton gave a brief overview of the item noting Planning & Zoning did not approve the preliminary plat by a vote of 3-3 and this item is on appeal. The subdivision code requires alleys unless there is a justifiable reason to not install them. Planning & Zoning couldn't justify the issue because it did not meet any of the guidelines. Staff has not made a recommendation and is asking Council to make a determination. When asked if the developer has been asked to purchase carts, Mr. Compton stated not to his knowledge.

Mayor Perry invited the developer forward to speak.

David Martin, 13020 Highway 191, reported he met with a few realtors to help determine what type of product would be most beneficial for Midland and was told that entry level affordable housing was needed most. His homes are priced from \$180,000 - \$250,000. In order to bring in the homes at that price point, they had to make a plat with no alleys and front entry parking noting they would be beautiful and affordable homes. He further clarified that when discussing alleys with the City, the City felt that caliche alleys were high maintenance so they decided to not put in alleys.

Council Member Love clarified that affordable housing is defined as less than \$160,000.

He asked how much the homes would be priced with alleys. Mr. Martin responded that affordability, especially in Midland has changed. Adding alleys would add about \$10,000 - \$15,000 to each lot and would put them out of competition. When asked what the hardship was, Mr. Martin noted the hardship was it would put them out of the price point in trying to building entry level professional housing.

Mr. Martin explained where the entrances would be located, noted amenities would include three parks, a fence built and maintained by the home owner's association and beautifully landscaped entries.

Council Member Morales moved to adopt Resolution No. 2013 - 418; seconded by Council Member Trost. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

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

ORDINANCE NO. 9209

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

Transportation Manager Gary Saunders gave a brief overview of the item noting 30 intersections were being added.

Deputy City Secretary Reyes read the caption of Ordinance No. 9209.

Council Member Trost moved approval of the first of two readings of Ordinance No. 9209 in accordance with the Charter of the City of Midland; seconded by Council Member Love. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

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

No appointments were made.

EXECUTIVE SESSION

57. 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 551.071 Consultation with the City Attorney.

a.1. Discuss with the City Attorney and attorney(s) with the law firm of Cotton, Bledsoe, Tighe and Dawson contemplated litigation and City legal issues

involved in litigation styled Catherine Stouffer, et al. v. Union Pacific Railroad, Inc. and Smith Industries, Inc., in the 116th Judicial District Court in Dallas County, Texas; Cause No. 12-15024.

- a.2. Discuss a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Chapter 551 of the Texas Government Code.

b. Section 551.087 Deliberate Economic Development Negotiations.

- b.1. Discuss business prospects that the City seeks to have, locate, stay, or expand in or near the City of Midland, Texas, and discuss possible incentives.

Mayor Perry recessed the meeting to Executive Session at 1:37 p.m. noting they would return in Regular Session not earlier than 2:30 p.m. to consider the remaining items. The entire Council met in Executive Session until 2:26 p.m.

Mayor Perry reconvened the meeting in Regular Session at 2:30 p.m.

All of the business at hand having been completed, the meeting adjourned at 2:38 p.m.

PASSED AND APPROVED the 26th day of November, 2013.

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

**MIDLAND CITY COUNCIL
MINUTES
November 14, 2013**

The City Council convened in a Special Session in the Basement Conference Room, City Hall, Midland, Texas, at 9:05 a.m. on November 14, 2013.

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

Council Members absent: Council Member Michael Trost (District 4) (Trost arrived at 9:08 a.m.).

SPECIAL SESSION

2. Receive a presentation from Water Resources Management, LLC regarding proposed Fiscal Year 2014 water and sewer rates.

Nelisa Heddin of Water Resources Management LLC reviewed the Utility Rate Assessment Study making the recommendation to increase water base rates to \$17.50, apartment base rate to \$14.25 and sewer base rate to \$17.65.

Finance Director Bob McNaughton reported that if rates are implemented in January 2014, there would still be a cash flow deficit. In order to reestablish viability of water and sewer, there also needs to be a 5% escalator effective October 1, 2014. He suggested including a 5% escalator for two years, then 4.5%, then 4% and by the end of the 5th year it can be set at 2.5% or 3%. He indicated this issue is imperative noting the fund cannot issue debt until there is a positive cash flow.

When asked how other communities fund infrastructure, Ms. Heddin noted some communities charge developer impact fees, require developers to pay for infrastructure, use economic development money, or subsidize through their General Fund.

It was noted that our customers need a level of predictability and implementing this plan would do that. Discussion ensued about how some people will reduce consumption when rates are raised. Council suggested everyone should be consistent in their message.

Ms. Heddin emphasized the importance of public education, noting water is the only commodity we cannot live without. Without water there can be no growth or development. The City is only charging the actual cost of water delivery.

City Manager Sharp stated the new ordinance will be presented at the next City Council Meeting with the proposed rates along with the 5% escalator suggested by Mr. McNaughton. The new rates would go into effect January 1, 2014.

Mayor Perry recessed the meeting at 9:55 a.m. The meeting was reconvened at 10:02 a.m.

3. Receive information regarding proposed Fiscal Year 2014 Certificates of Obligation and proposed Fiscal Year 2014 General Obligation Refunding Bonds.

City Manager Courtney Sharp reviewed statistics about building permits issued over the last two years emphasizing the sharp increase in growth noting the City has added a little over \$1 billion to the tax rolls.

He distributed information on proposed projects, time schedules and costs. The total proposed project costs are just over \$52 million noting they are proposing to fund out of two separate sources: unappropriated fund balance and issuance of Certificate of Obligation bonds.

He reviewed the projects that are tax supported noting it was a little over \$28 million which included Engineering projects, parks capital improvements, Information Systems capital projects and Police Department capital projects.

He reviewed the cash on hand projects including Engineering and street project, parks capital improved projects, Police Department projects and the Municipal Court Expansion.

Finance Director Bob McNaughton reviewed the schedule for the issuance of Certificate of Obligation bonds. He noted that on future agendas Council will see reimbursement resolutions specific to a project which will allow the City to get started on projects and then when the bonds are sold, the City can reimburse itself from the proceeds of the sale.

1. Consider a resolution canvassing the returns and declaring the results of the November 5, 2013 General Election for three City Officers.

RESOLUTION NO. 2013 - 420
RESOLUTION CANVASSING THE RETURNS AND DECLARING THE RESULTS OF
THE NOVEMBER 5, 2013 GENERAL ELECTION FOR THREE CITY OFFICERS

Council Member James moved to adopt Resolution No. 2013 - 420; seconded by Council Member Love. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

All of the business at hand having been completed, the meeting adjourned at 10:41 a.m.

PASSED AND APPROVED the 26th day of November, 2013.

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary



City Council Agenda

Approved for Agenda:
csharp
City Manager's Office

MEETING DATE: 11/26/2013

TO: City Council / City Manager

FROM: Bob McNaughton, Finance Director

SUBJECT: A RESOLUTION APPROVING AND AUTHORIZING PUBLICATION OF NOTICE OF INTENTION TO ISSUE SERIES 2014 CERTIFICATES OF OBLIGATION IN AN AMOUNT NOT TO EXCEED TWENTY-NINE MILLION AND NO/100 DOLLARS (\$29,000,000.00)

Purpose:

Resolution approving as to amount and purpose and authorize publication of notice of intent to issue 2014 Certificates of Obligation.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Directional / Informational

Fiscal Impact:

None

Discussion:

Notice of the issue is to be posted at City Hall on December 23 and remain posted until sale of the Certificates on January 28, 2014. Additionally, notice is to be published in the Midland Reporter Telegram on December 23 and December 30.

Attachment 1 is a schedule of events leading to the issuance of the Certificates.

Attachment 2 is a summary of uses of the Certificates.

Attachment 3 is the Notice of Intent to Issue for Publication.

RESOLUTION NO. _____

**RESOLUTION APPROVING AND AUTHORIZING
PUBLICATION OF NOTICE OF INTENTION TO ISSUE
SERIES 2014 CERTIFICATES OF OBLIGATION IN AN
AMOUNT NOT TO EXCEED TWENTY-NINE MILLION
AND NO/100 DOLLARS (\$29,000,000.00)**

WHEREAS, the City Council of the City of Midland, Texas, has determined that certificates of obligation should be issued under and pursuant to the provisions of Texas Local Government Code, Subchapter C of Chapter 271, as amended, for the purpose of paying contractual obligations to be incurred for the construction, improvement, and acquisition of public works and equipment, to wit: (i) acquiring and installing a voice and data communication system for public services, including police and fire departments, (ii) improving, constructing and equipping fire fighting facilities, (iii) improving, constructing and equipping park and recreational facilities, (iv) improving and equipping the City's information technology system, (v) constructing and improving streets, including drainage, landscaping, curbs, gutters, sidewalks, signage and traffic signalization incidental thereto and the acquisition of land and rights-of-way therefor and (vi) paying professional services rendered in relation to such projects and the financing thereof; and

WHEREAS, prior to the issuance of such certificates, the City Council is required to publish notice of its intention to issue the same in a newspaper of general circulation in the City, said notice stating (i) the time and place the Council tentatively proposes to pass the ordinance authorizing the issuance of the certificates, (ii) the maximum amount proposed to be issued, (iii) the purposes for which the certificates are to be issued and (iv) the manner in which the Council proposes to pay the certificates;

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

SECTION ONE. That the City Secretary is hereby authorized and directed to cause notice to be published of the Council's intention to issue certificates of obligation in the principal amount not to exceed TWENTY-NINE MILLION DOLLARS (\$29,000,000), in

one or more series, for the purpose of paying contractual obligations to be incurred for the construction, improvement, and acquisition of public works and equipment, to wit: (i) acquiring and installing a voice and data communication system for public services, including police and fire departments, (ii) improving, constructing and equipping fire fighting facilities, (iii) improving, constructing and equipping park and recreational facilities, (iv) improving and equipping the City's information technology system, (v) constructing and improving streets, including drainage, landscaping, curbs, gutters, sidewalks, signage and traffic signalization incidental thereto and the acquisition of land and rights-of-way therefor and (vi) paying professional services rendered in relation to such projects and the financing thereof, such certificates to be payable from ad valorem taxes and a limited pledge of the net revenues of the City's water and sewer system. The notice hereby approved and authorized to be published shall read substantially in the form and content of **Exhibit A** hereto attached and incorporated herein by reference as a part of this resolution for all purposes.

SECTION TWO. That the City Secretary shall cause the aforesaid notice to be published in a newspaper of general circulation in the City, once a week for two consecutive weeks, the date of the first publication to be at least thirty-one (31) days prior to the date stated therein for the passage of the ordinance authorizing the issuance of the certificates of obligation.

On motion of Council member _____, seconded by Council member _____, the above and foregoing resolution was adopted by the City Council of the City of Midland at a regular meeting on the _____ day of _____, A.D., 2013, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

Courtney Sharp, City Manager

APPROVED AS TO CONTENT
AND COMPLETENESS:

Robert McNaughton, Director of Finance

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

EXHIBIT A

NOTICE OF INTENTION TO ISSUE CITY OF MIDLAND, TEXAS CERTIFICATES OF OBLIGATION

TAKE NOTICE that the City Council of the City of Midland, Texas, shall convene at 10:00 A.M. on the 28th day of January, 2014, at Midland City Hall at 300 N. Loraine, Midland, Texas, and, during such meeting, the City Council will consider the passage of an ordinance authorizing the issuance of certificates of obligation in an amount not to exceed TWENTY-NINE MILLION DOLLARS (\$29,000,000) for the purpose of paying contractual obligations to be incurred for the construction, improvement, and acquisition of public works and equipment, to wit: (i) acquiring and installing a voice and data communication system for public services, including police and fire departments, (ii) improving, constructing and equipping fire fighting facilities, (iii) improving, constructing and equipping park and recreational facilities, (iv) improving and equipping the City's information technology system, (v) constructing and improving streets, including drainage, landscaping, curbs, gutters, sidewalks, signage and traffic signalization incidental thereto and the acquisition of land and rights-of-way therefor and (vi) paying professional services rendered in relation to such projects and the financing thereof, such certificates to be payable from ad valorem taxes and a limited pledge of the net revenues of the City's water and sewer system. The certificates are to be issued and this notice is given under and pursuant to the provisions of Texas Local Government Code, Subchapter C of Chapter 271, as amended.

Amy Turner
City Secretary
City of Midland, Texas

City of Midland
Schedule of Events
For Certificates of Obligation, Series 2014
And General Obligation Refunding Bonds, Series 2014

November							December							January							February						
S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S
					1	2	1	2	3	4	5	6	7				1	2	3	4							1
3	4	5	6	7	8	9	8	9	10	11	12	13	14	5	6	7	8	9	10	11	2	3	4	5	6	7	8
10	11	12	13	14	15	16	15	16	17	18	19	20	21	12	13	14	15	16	17	18	9	10	11	12	13	14	15
17	18	19	20	21	22	23	22	23	24	25	26	27	28	19	20	21	22	23	24	25	16	17	18	19	20	21	22
24	25	26	27	28	29	30	29	30	31					26	27	28	29	30	31		23	24	25	26	27	28	

Date

Event

Thursday, November 7, 2013

Review issuance with Finance and Audit Committee

Thursday, November 14, 2013

Review Proposed Certificate of Obligation Issue, Projects and Refunding Issue with City Council. Water and Sewer rate discussion.

Tuesday, November 26, 2013

Direction from City Council on proceeding with Certificate of Obligation Issue and Refunding Issue and Resolution to publish Notice of Intention to issue Certificates of Obligation

Monday, December 2, 2013

Initiate preparation of Preliminary Official Statement

Tuesday, December 24, 2013

1st publication of Notice of Intention to issue Certificates of Obligation (1st publication must precede January 28, 2014 date for authorization by at least **31** days). 2nd publication must occur on same day of following week.

Monday, December 30, 2013

Submit Preliminary Official Statement and information to rating agencies

Monday, January 6, 2014 -
Friday, January 10, 2014

Discussions with rating agencies

Thursday, January 16, 2014

Receive ratings

Friday, January 17, 2014

Distribute Preliminary Official Statement

Monday, January 27, 2014

Underwriters Price issue, overseen First Southwest

Tuesday, January 28, 2014

City Council:
Sale of Certificate of Obligation issue and Refunding bond issue; Ordinances Authorizing Issuance

Thursday, February 27, 2014

Delivery of Certificates of Obligation and Refunding Bonds, receipt of proceeds by City

SOURCES AND USES OF FUNDS
City of Midland, Texas
Certificates of Obligation, Series 2014
(preliminary, subject to change)

Dated Date 2/27/2014
Delivery 2/27/2014

Sources:

Bond Proceeds:		
	Par Amount of Issue*	28,250,000
		28,250,000

Uses:

Deposits:		
	Project Costs	27,851,441
Delivery Date Expenses:		
	Cost of Issuance**	210,000
	Underwriter's Discount	184,000
		394,000
Other Uses of Funds:		
	Rounding	4,559
		28,250,000

* Based on par structure, with no premium received to reduce issue size

** Includes contingency



City Council Agenda

Approved for Agenda:
csharp
City Manager's Office

MEETING DATE: 11/26/2013

TO: City Council / City Manager

FROM: Bob McNaughton, Finance Director

SUBJECT: A RESOLUTION DECLARING EXPECTATION TO REIMBURSE
EXPENDITURES WITH PROCEEDS OF FUTURE DEBT

Purpose:

Resolution allowing for reimbursement of General Fund from proceeds 2014 Certificates of Obligation.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Directional / Informational

Fiscal Impact:

Appropriation of \$6,430,000 from the General Fund to the 2014 GPCO Communication Systems Bond Fund (172) and providing for repayment of General Fund upon receipt of bond proceeds

Discussion:

The execution of proposed contracts with Dailey & Wells Communications, Inc. and RDD Consultants, Inc. for the Radio System Upgrade Project (9018) is for a project included in the 2014 C.O.

The project requires funding to enable contract execution in advance of receipt of the proceeds of the 2014 C.O. issue and the General Fund (001) will provide this advance funding.

The proposed resolution provides for the ability to reimburse General Fund from the 2014 CO upon receipt of the bond proceeds.

RESOLUTION NO. _____

**RESOLUTION DECLARING EXPECTATION TO
REIMBURSE EXPENDITURES WITH PROCEEDS OF
FUTURE DEBT; AND THE CITY OF MIDLAND
REASONABLY EXPECTS TO REIMBURSE CAPITAL
EXPENDITURES WITH PROCEEDS OF DEBT
HEREAFTER TO BE INCURRED BY THE CITY; AND
APPROPRIATING \$9,971,080.00 TO THE RADIO
SYSTEM UPGRADE PROJECT (9018)**

WHEREAS, the City of Midland, Texas (the "Issuer") intends to issue debt for acquiring and installing a voice and data communication system for public services, including police and fire department (the "Project"), the Radio System Replacement Project, and further intends to make certain capital expenditures with respect to the Radio System Replacement Project and currently desires and expects to reimburse the capital expenditures with proceeds of such debt; and

WHEREAS, under Treas. Reg. § 1.150-2 (the "Regulation"), to fund such reimbursement with proceeds of tax-exempt obligations, the Issuer must declare its expectation to make such reimbursement; and

WHEREAS, the Issuer desires to preserve its ability to reimburse the capital expenditures with proceeds of tax-exempt obligations;

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

SECTION ONE. That the City of Midland reasonably expects to reimburse capital expenditures for the Radio System Upgrade Project (9018), with proceeds of debt hereafter to be incurred by the Issuer, and that this resolution shall constitute a declaration of official intent under the Regulation. The maximum principal amount of obligations expected to be issued for the Radio System Replacement Project is \$6,430,000.00.

SECTION TWO. That a General Fund (001) interfund receivable from the 2014 GPCO Communications System Bond Fund (172), and the corresponding payable, in the amount of \$6,430,000.00 is to be recognized in anticipation of this repayment.

SECTION THREE. That the sum of \$6,430,000.00 is hereby appropriated from the 2014 GPCO Communications System Bond Fund (172) Unappropriated Fund Balance (5650) to the Radio System Upgrade Project (9018).

SECTION FOUR. That the sum of \$3,541,080.00 is hereby appropriated from the 2012 GPCO Communications System Bond Fund (160) Unappropriated Fund Balance (5650) to the Radio System Upgrade Project (9018).

On motion of Council member _____, seconded by Council member _____, the above and foregoing resolution was adopted by the City Council of the City of Midland at a regular meeting on the _____ day of _____, A.D., 2013, by the following vote:

Council members voting “AYE”:

Council members voting “NAY”:

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

Courtney Sharp, City Manager

APPROVED AS TO CONTENT
AND COMPLETENESS:

Robert McNaughton, Director of Finance

APPROVED AS TO FORM:

Keith Stretcher, City Attorney



City Council Agenda

Approved for Agenda:
THudson
City Manager's Office

MEETING DATE: 11/26/2013

TO: City Council / City Manager

FROM: Regina Stephenson, Purchasing Manager

SUBJECT: Consider a resolution approving an agreement with Halff Associates, Inc. for architectural and engineering services for the Hike and Bike Trail Plan and Phase 1 Development project and appropriating funds for the Community Services Department.

Purpose:

Approval of a resolution authorizing a professional services agreement for a hike and bike comprehensive plan.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Directional / Informational

Fiscal Impact:

\$400,000.00 2012 GPCO-Parks and Recreation Bond Fund and General Fund

Discussion:

We received proposals from six (6) firms. After a thorough review of the proposals, staff recommends entering into a professional services agreement with Halff Associates, Inc. of Austin, Texas. Halff Associates, Inc. will provide architectural and engineering services for a Hike and Bike Trail Plan and Phase 1 Development of plans and specifications for a total cost of \$400,000.00. Please refer to the attached memo from Tina Jauz, Community Services Director, for further discussion.

CITY OF MIDLAND
Community Services Department
Interoffice Memorandum

Date: November 12, 2013
To: Tommy Hudson, Deputy City Manager
From: Tina Jauz, Community Services Director
Subject: Professional Services Agreement – Hike and Bike Comprehensive Plan

The City of Midland advertised a Request for Qualifications for Professional Design Services for the Midland Hike and Bike Comprehensive Plan and Air Park Trail Development. In September, the Capital Improvement Committee of the Parks and Recreation Advisory Board and City staff reviewed the RFQ submittals. Halff Associates, Inc. was selected as the consultant to provide professional design services for the project.

Halff Associates submitted a scope of services for Phases A and B. Phase A is defined as development of the conceptual design, schematic design, construction documents, and project oversight of the 5.42 mile Airpark Hike and Bike Trail. Phase B is defined as the development of a Citywide Trail and Bicycle Master Plan for the City of Midland.

PHASE A - Airpark Trail Design

Basic Services:

Project Start-Up	\$ 4,240.00
Data Gathering/Site Investigation	\$ 10,080.00
Conceptual Trail Layout Plans.....	\$ 15,040.00
Surveying and Base Map Preparation	\$ 9,000.00
Geotechnical Investigations (allowance)	\$ 20,000.00
Schematic Design Plans	\$ 58,780.00
Hydraulic Analysis.....	\$ 15,000.00
Windlands Park Connection Review	\$ 6,750.00
Construction Documents	\$150,080.00
Bidding Assistance.....	\$ 5,500.00
Construction Phase Services (hourly, not to exceed).....	\$ 17,810.00
Sub Total (Fee Only)	\$312,280.00

Reimbursable expenses \$ 5,500.00

Total Lump Sum Fee(Including Basic Services and Expenses)\$317,780.00

PHASE B - Citywide Trail and Bicycle Master Plan

Basic Services:

Project Pre-Planning.....	\$ 6,250.00
Public Involvement.....	\$ 15,080.00
Field Review, Issues and Opportunities, Preliminary Recommendations...	\$ 25,040.00
Prioritization and Draft Master Plan.....	\$ 14,200.00
Final Review and Adoption.....	\$ 12,150.00
Sub Total (Fee Only)	\$ 72,720.00

Reimbursable expenses \$ 9,500.00

Total Lump Sum Fee(Including Basic Services and Expenses) \$ 82,220.00

Phase A, Airpark Trail Design, is estimated to be completed in 6-9 months. Phase B, the Citywide Trail and Bicycle Master Plan, would be worked on concurrently with the Airpark Design, and the estimated completion is 6 months.

Upon completion of Phase A, the City will work with Midland County, who has committed to constructing the paved areas of the trail. A fundraising sub-committee of the Parks and Recreation Advisory Commission has been actively working to raise money to fund the Air Park Trail. These funds will be given to the City with the intent of letting a construction contract to address issues such as moving the Airpark fence, constructing a link to Windlands Park, and building bridges to complete the loop trail.

Upon completion of Phase B, the City will have a working document that will serve as a guide to identify opportunities that currently exist within Midland to provide linkages to public places and neighborhoods, as well as identifying potential areas for future development of Hike and Bike trails. This amenity was listed as a top priority of the citizens of Midland in the recently updated Parks and Open Space Master Plan.

\$195,645 is available in the Hike and Bike Trail Development Project (8996).

The sum of \$200,000 is hereby appropriated from the General Fund (001) Unappropriated Fund Balance (5650) to the Hike and Bike Trail Development Project (8996); and

The sum of \$4,355 is hereby allocated from the General Fund (001) Nondepartmental (150) Interfund Transfer to (0199) 005-General Construction Fund (6299) budget account to the Hike and Bike Trail Development Project (8996)

RESOLUTION NO. _____

RESOLUTION AUTHORIZING THE EXECUTION OF A PROFESSIONAL SERVICES AGREEMENT WITH HALFF ASSOCIATES, INCORPORATED, OF AUSTIN, TEXAS, FOR PROFESSIONAL ARCHITECTURAL AND ENGINEERING SERVICES FOR THE HIKE AND BIKE TRAIL PLAN AND PHASE I DEVELOPMENT PROJECT AT A COST OF \$400,000.00; AND APPROPRIATING AND ALLOCATING FUNDS

WHEREAS, the Request for Qualifications was advertised for architectural and engineering services regarding the Hike and Bike Trail Plan and Phase I Development Project (“Professional Services”); and

WHEREAS, Halff Associates, Inc., proposes to perform said Professional Services for a fee not to exceed \$400,000.00; and

WHEREAS, the Council finds Halff Associates, Inc., to be the most highly qualified provider for such Professional Services based on demonstrated competence, knowledge, and qualifications; and

WHEREAS, the Council finds it to be in the public interest to select Halff Associates, Inc., to provide said Professional Services; and

WHEREAS, the Council authorizes the City Manager to execute a professional services agreement with Halff Associates, Inc., for the performance of said Professional Services;

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

SECTION ONE. That the City Manager and City Secretary are hereby authorized and directed to execute and attest, respectively, on behalf of the City of Midland, a professional services agreement with Halff Associates, Inc., for performance of said Professional Services, said agreement being substantially the same as is on file in the office of the City Secretary referenced by the date and number of this Resolution.

SECTION TWO. The sum of \$200,000.00 is hereby appropriated from the General Fund (001) Unappropriated Fund Balance (5650) to the Hike and Bike Trail Development

Project (8996).

SECTION THREE. That the sum of \$4,355.00 is hereby allocated from the General Fund (001) Non-departmental (150) Inter-fund Transfer to (0199) 005-General Construction Fund (6299) budget account to the Hike and Bike Trail Development Project (8996).

SECTION FOUR. That the City Treasurer is hereby authorized and directed to make payments to Halff Associates, Inc., for Professional Services pursuant to the terms of said professional services agreement from funds available in the Hike and Bike Trail Development Project (8996) budget account upon receipt of proper invoice(s) approved by the City Manager.

On motion of Council member _____, seconded by Council member _____, the above and foregoing resolution was adopted by the City Council of the City of Midland at a regular meeting on the _____ day of _____, A.D., 2013, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

Courtney Sharp, City Manager

APPROVED AS TO CONTENT
AND COMPLETENESS:

Regina Stephenson, Purchasing Manager

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

PROFESSIONAL SERVICES AGREEMENT
FOR CONSULTING SERVICES
#6643-13

THIS AGREEMENT is made and effective the 27th day of November 2013, by and between the CITY OF MIDLAND, TEXAS, a municipal corporation, hereinafter called "CITY," and, Halff Associates, Inc. hereinafter referred to as "CONSULTANT."

ARTICLE I. PURPOSE

The purpose of this Agreement is to state the terms and conditions under which CONSULTANT shall perform design, development and project management of the Comprehensive Hike and Bike Trail Plan and Development of Plans, Specifications and Estimates for Phase I of the Hike and Bike Trail System Project for the City of Midland.

ARTICLE II. SERVICES TO BE PERFORMED

1. CONSULTANT shall provide those services described in Exhibit "A."
2. CONSULTANT shall perform all the services under this Agreement consistent with the same level of skill and care as other professionals in approximately the same region at approximately the same point in time and for the same types of projects. CONSULTANT represents that any employee who performs services under this Agreement shall be fully qualified and competent to perform the services described in Exhibit "A."

ARTICLE III. FINANCIAL CONSIDERATIONS

CITY agrees to pay CONSULTANT according to the schedule set forth in Exhibit "A" upon presentation of a monthly invoice. The invoice shall set out service fees for the month and those Additional Expenses and Reimbursable Expenses described in Exhibit "A" incurred during the previous month which have received advance written approval from the City Manager. The City Manager must approve all additional expenses and reimbursable expenses in advance. CONSULTANT shall perform professional services as outlined in the "Services to be Performed" for a fee of \$400,000.00 (breakdown of fees is located in Exhibit "A".) which fee for basic services shall in no event exceed \$400,000.00, excluding Additional Services and Reimbursable Expenses. Within 30 days of the date CONSULTANT's invoice is received by CITY, CITY shall pay the full amount of such invoice; provided, however, that if CITY objects to any portion of an invoice, CITY shall notify CONSULTANT of CITY's objection and the grounds therefor

within 15 days of the date of receipt of the invoice, and the parties immediately shall make every effort to settle the disputed portion of the invoice. CITY in any event shall pay every portion of the invoice that is not in dispute within the 30-day period for payment.

ARTICLE IV. TERM

The term of this Agreement shall be from November 27, 2013 until December 31, 2015, unless the project is completed sooner or the Agreement is terminated as provided below.

ARTICLE V. TERMINATION AT WILL

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

ARTICLE VI. ASSIGNMENT

Consultant shall not, either directly or indirectly, assign all or any part of this Agreement or any interest, right or privilege herein, without the prior written consent of the CITY. The issue on whether or not to grant consent to an assignment is in the sole discretion of the CITY.

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

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

ARTICLE VIII. INDEPENDENT CONTRACTOR

It is expressly understood and agreed that Consultant shall perform all work and services described herein as an independent Consultant and not as an officer, agent, servant or employee of the CITY; that Consultant shall have exclusive control of and the exclusive right to control the details of the services and work performed hereunder, and all persons performing the same; and shall be solely responsible for the acts and omissions of its officers, agents, employees, contractors and subcontractors; that the doctrine of respondeat superior shall not apply as between CITY and Consultant, its officers, agents, employees, contractors and subcontractors; and that nothing herein shall be construed as creating a partnership or joint enterprise between CITY and Consultant. No person performing any of the work and services described hereunder by Consultant shall be considered an officer, agent, servant or employee of the CITY. Further, it is specifically understood and agreed that nothing in this Agreement is intended or shall be construed as creating a "Community of Pecuniary Interest" or "An Equal Right of Control" which would give rise to vicarious liability. Consultant shall be an independent contractor under this Agreement and shall assume all of the rights, obligations and liabilities, applicable to it as such independent contractor hereunder. The CITY does not have the power to direct the order in which the work is done. The CITY shall not have the right to control the means, methods or details of the Consultant's work. Consultant shall assume exclusive responsibility for the work. Consultant is entirely free to do the work in its own way.

ARTICLE IX. INSURANCE

1. 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
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Business Automobile Liability:	\$250,000.00 combined single limit - Personal Injury and Property Damage
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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-CITY 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.

ARTICLE X. ATTORNEY FEES

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

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

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

ARTICLE XI. SOVEREIGN IMMUNITY

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

THERE IS NO WAIVER OF SOVEREIGN IMMUNITY.

ARTICLE XII. NO THIRD PARTY BENEFICIARIES

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

ARTICLE XIII. RELEASE

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

ARTICLE XIV. GENERAL PROVISIONS

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

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

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

and custody of the United States Postal Service addressed as follows:

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

If to CONSULTANT: Halff Associates, Inc.
 Attn: Jim Carrillo
 4030 West Braker Lane, Ste 450
 Austin, TX 78759

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

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

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

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

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

I. Federal Wage Requirements. If applicable, the Davis-Bacon Act, 29 CFR 5.5, and any related acts or regulations are hereby incorporated by reference and made a part of this 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.

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

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

K. **PROMPT PAY ACT** - The City and Consultant agree that Texas Government Code, Chapter 2251, Payment for Goods and Services (the "Prompt Pay Act") does not waive governmental immunity.

EXECUTED IN DUPLICATE the day and year first above mentioned.

THE CITY OF MIDLAND, TEXAS

CONSULTANT:

By: _____
Courtney B. Sharp, City Manager

By: _____

Name: _____

Title: _____

APPROVED AS TO FORM

Keith Stretcher, City Attorney

ATTEST

Amy M. Turner, City Secretary

STATE OF TEXAS §

§

COUNTY OF MIDLAND §

BEFORE ME, the undersigned authority, on this day personally appeared _____,
an officer of Halff Associates, 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 _____,
2013.

Notary Public, State of Texas

EXHIBIT “A”

Scope of Professional Services

MIDLAND AIRPARK HIKE AND BIKE TRAIL DESIGN AND DEVELOPMENT OF A CITYWIDE TRAILS AND BICYCLE FACILITIES MASTER PLAN

Midland, Texas

The scope of work for this project is divided into two major phases. Phase A includes the evaluation of existing conditions within the project corridor that may affect the final trail configuration, including coordination with local, State and National governmental agencies having jurisdiction; preparation of conceptual trail layout plans; preparation of schematic design plans, design development plans, and construction documents; bidding assistance and construction phase services. The scope of work also includes Phase B, the development of a citywide Trails and Bicycle Facilities Master Plan.

PHASE A

MIDLAND AIRPARK HIKE AND BIKE TRAIL DESIGN

PROJECT ASSUMPTIONS

The scope of services for this proposal has been prepared using the following assumptions as a basis for its preparation:

1. The project area will encompass the approved trail corridor, identified as an approximate 5.42 Mile Trail around the Midland Airpark, on a master plan prepared by KDC Associates, as further illustrated by Attachment “A-1”.
2. The design for project improvements will include the design of a recycled asphalt trail, with a trailhead at Veterans Airpark Drive, and low-water or bridge crossing at the adjacent drainage draw. The design of other aesthetic and amenity improvements, such as tree plantings, interpretive features, benches or shade structures, are not included, but may be added at the city of Midland’s request.
3. A preliminary review of potential trail connections to Windlands Park, across Wadley Avenue, including potential costs of design and construction, will be provided as a part of this project. The design of this additional connection will be provided as an additional service at the request of the city of Midland.
4. All new bridge, shade or other structures proposed for the project are assumed to be pre-fabricated and pre-engineered structures. The Design Team will utilize city of Midland standard designs for other project improvements where appropriate and possible.
5. Environmental/biological evaluations/assessments; historical and cultural resources investigations; Section 404 coordination, and coordination with FEMA for flood plain impacts or alterations are not included in this scope of work, but can be provided at the request of the city of Midland.
6. Participation in a maximum of one (1) stakeholder group meeting is included in this scope of services.
7. The project will be bid out as one (1) bid package.

INFORMATION TO BE SUPPLIED BY THE CITY OF MIDLAND

The following items will be supplied by the city of Midland to the Halff Associates Planning and Design Team:

1. Available topography of the project area, as well as aerial photography of the project corridor as available, that illustrates existing conditions within the project corridor, including but not limited to utility lines and associated facilities; limits of floodplains and floodways; and limits of easements and rights of ways for utilities, roadways, drainage ways.
2. The city of Midland will provide boundary survey data for the project corridor; as well as hydraulic studies and models of adjacent drainage features that establish flood plain and floodway elevations.
3. Limits of property ownership, rights of ways, or easements for properties owned and managed by other public agencies.
4. Ongoing or future known plans for public infrastructure, parks, roads and other City of Midland or other agency facility improvements in or adjacent to the project area, in digital format.
5. Other applicable information possessed by or accessible to the city of Midland that would be beneficial to the project.

SCOPE OF SERVICES

The Basic Services for this project are defined as follows:

A. Project Start-Up

1. Attend a project kick-off meeting with City staff to review the scope of the project, identify the general program and parameters for preliminary design efforts, establish a schedule for project activities, and establish the locations of existing information and protocols for gathering and utilizing that existing information, including communicating with identified contact persons in cooperating agencies.
2. Confirm information that should be included as a part of this Project, and assemble an initial base map for use during project activities, utilizing available data and information.
3. Establish the city of Midland's parameters for the proposed trail design, including anticipated users, adherence to AASHTO standards, TAS/ADA requirements, and trail specifications, including width, minimum curvature and surface type, or any other requirements.

B. Data Gathering/Site Investigation

1. Conduct field reconnaissance to identify, map, and photograph the project corridor and document the locations of the existing features, including: sloped areas and erosion sites; drainage features and channels; the extents of vegetated areas; the locations of roadways, utilities and their easements and rights of ways; the locations of developed areas; and other features or conditions that might affect the implementation or cost of the trail project. City staff will be invited to attend and participate in field reconnaissance activities for the project.
2. Meet with representatives of other agencies having jurisdiction over the project or adjacent areas, including the FAA, representatives of the Midland Airport, and others as appropriate, to address requirements and restrictions to project development from those agencies. Meetings with agency representatives will take place during the Site Investigation phase of the project.
3. Participate in one stakeholder group meeting with a select group of local residents, elected officials and City and other public agency staff persons to gather input and perceptions related to the Project. This meeting will occur during the data gathering phase, between 6:00 and 8:00 PM in the evening, in a location approved by the city of Midland.

- a) The city of Midland will identify and notify participants about the meeting, and will provide staff during the meeting to set up and break down the meeting area, and to monitor attendance by participants. The Design Team will take notes of discussion topics during the meeting, and provide summary meeting notes of discussion items and meeting events. The Design Team will provide staff to present the proposed project improvements, and to answer questions from meeting attendees.
4. Compile digital information identified during data gathering and field reconnaissance exercises and update the base map for use during initial planning and design activities for the project. Information will include the following, as available:
 - a) Locations of streets; wet and dry utilities; topography; existing vegetation; survey data and ortho photographic mapping (as available), current FEMA FIRM panels; drainage ways, water courses and water bodies; limits of adjacent properties and developments; and major public facilities operated by state, county and local governments.
 - b) Map general locations of observed erosion sites, areas requiring structural repair, and areas requiring the potential relocation of existing utilities or other existing features, based on initial reconnaissance and City records provided to the planning and design team.
5. Review existing conditions data to evaluate and document the affects of existing conditions on the placement of trail facilities within the project corridor. Provide the results of this evaluation to city staff in graphic form for discussion during the design process.

C. Conceptual Trail Layout Plans

1. Prepare conceptual trail layout plans for the Project, in general accord with the master plan for a 5.42 Mile Trail around the Midland Airpark, prepared by KDC Associates, as further defined by Attachment "A-1". Conceptual trail layout plans will illustrate general locations, sizes and relationships of Project elements and improvements, materials and forms of construction, and will include the following tasks:
 - a. Based on the master plan identified above, develop a conceptual layout of trails and supporting project components, including amenity features desired by city staff and Park Commissioners such as: overlooks, seating areas, rest areas, restrooms and signage, ramps, retaining walls, bridges, drainage structures and other grade and bank stabilization dependent features, and the locations of pedestrian crossings facilities, parking areas, and other similar components. Detailed layouts or dimensioning are not included in this phase of work.
 - b. Identify areas along the preliminary trail layout that may require retaining walls, slope protection or stabilization. Provide preliminary, prototypical sections for proposed trail and bank stabilization materials, where needed, to illustrate potential solutions to existing conditions and to assist in the establishment of probable costs for construction for retaining walls, slope protection or stabilization.
 - c. Identify areas that may be affected by the requirement for re-vegetation or the application of special restoration or environmental treatments, and provide preliminary prototypical sections and details to illustrate proposed re-vegetation or restoration techniques, where needed, to illustrate potential solutions to existing conditions and to assist in the establishment of probable costs for construction for re-vegetation or the application of special restoration or environmental treatments.

- d. Provide product information and material cut-sheets as necessary to illustrate design characteristics, finishes and construction materials of pedestrian bridges, and other desired amenities, to assist in the establishment of probable costs for construction for these project elements.
 - e. Identify and delineate the probable limits of work within the project corridor and identify areas that may require the establishment of easements on private property, adjacent public agency's property, or the acquisition of private property to allow the construction of project improvements to proceed. The establishment of property values or costs for condemnation or acquisition is not included in this scope of work.
2. Prepare a preliminary estimate of probable construction cost for improvements.
 3. Review preliminary layout plans and probable construction cost for improvements with city staff, confirm trail and amenities layout and identify limits for each potential development phase of the Project, should phasing be required.
 4. Adjust preliminary layout plans and estimates of probable construction costs as necessary to reflect trail corridor improvements desired by city staff.
 5. Provide preliminary trail and amenities layouts for city staff use in hard copy and digital formats.
 6. Participate in a discussion of findings at one city of Midland staff briefing as directed by city staff.

D. Surveying and Base Map Preparation

1. Prepare digital topographic base maps, for preparation of design and construction documents, utilizing digital maps, boundary information, topography and aerial photography supplied by the City as a point of departure.
 - a. Supplement information supplied by the city of Midland by on-the-ground survey methods along the approved trail corridor.
 - b. On-the-ground surveying activities for the trail corridor will identify project features and improvements within the limits of the project site by surveying an area approximately 25-feet either side of the proposed trail alignment (approximately 50-feet total width). The trail alignment will be staked in the field by the Design Team, and reviewed by City staff. For the purposes of defining effort, the Design Team assumes the trail alignment and associated improvements will generally conform to the trail alignments and park improvements defined in the Project Assumptions. Deviations from the approved alignment will be the basis for additional services
 - c. Sufficient ground elevations will be obtained to prepare one-foot interval contour maps, with spot elevations for all significant features within the project design limits. Cross sections on 50-foot centers will be prepared for drainage channel crossings defined to have structures installed, along the project corridor.
 - d. All significant trees with a caliper equal to or greater than **eight (8)** inches (if any) will be located and tagged All tree species will be identified.
 - e. Topographic and tree location surveys which are outside the proposed corridor to be surveyed on the ground, and in areas which have not been previously surveyed, along with any other surveying services not specifically identified by this scope of services, will be provided at the city of Midland's request, and invoiced on an hourly basis, as described in Additional Services.

E. Geotechnical Investigations

1. Plan and coordinate foundation investigations, soil borings, and other tests required for design of drainage channel crossings, retaining walls, pavements or other structures, including the following:
 - a. Drainage channel crossings: Prepare two (2) borings, to a maximum depth to be determined, at channel crossings identified in the conceptual trail layout plans.
 - b. Retaining Walls and other structures: Prepare borings, to a maximum depth to be determined, at specific locations within the project.
 - c. Pavements: Prepare additional borings or excavation pits at selected locations within the project. Samples of the encountered earth materials will be obtained and groundwater observations will be made and recorded during the drilling operations.
 - d. The subsurface soils will be characterized in accordance with their physical and engineering characteristics by means of Atterberg Limits, moisture content, and other factors as appropriate.
 - e. Samples of the encountered earth materials will be obtained and groundwater observations will be made and recorded during the drilling operations.
 - f. A description of each site and general soil and geologic conditions encountered will be described and assessed in a report.
 - g. Pavement recommendations at channel crossings, and along the length of the trail corridor will be provided.
 - h. The results of the scope of work will be submitted in a formalized report prepared by a registered professional engineer in the State of Texas.
 - i. The final fee for geotechnical studies will be provided after the conceptual trail alignment is finalized.

F. Schematic Design Plan Preparation

1. Prepare schematic level design plans (25% complete) for project improvements, that illustrate general locations, sizes and relationships of Project elements and improvements, materials and forms of construction, including:
 - a. potential locations and approximate sizes of approved project improvements;
 - b. extent of parking and pedestrian pavements improvements, walkway and trail layouts and alignments;
 - c. locations and alignments of utilities and other infrastructure systems included in designs for the project;
 - d. material cut-sheets, and other information as necessary to illustrate design characteristics of selected equipment, finishes and construction materials;
2. Prepare a preliminary estimate of probable construction cost for improvements based on schematic plans.
3. Review Schematic Design plans with Midland staff and incorporate comments into preparation of Construction Documents for the Project.

G. Hydraulic Analysis and Floodplain Delineation

This task will include the development of a detailed hydraulic analysis of the proposed trail near the Midland Airpark along Jal Draw. Proposed improvements will be in compliance with city of Midland design criteria. Hydraulic analysis will be conducted to determine the impact of proposed bridge and culvert crossings and the proposed trail when located within the Current Effective FEMA floodplain.

1. Obtain and review project information including survey data, GIS data, FEMA floodplain maps, Flood Insurance Study, Current Effective Hydrologic and Hydraulic Models, and other available drainage studies (if applicable).
2. It is assumed that current effective hydrologic analysis will be utilized for this effort. If new hydrologic analysis is warranted, additional services will be required.
3. Develop project base map including locations of hydraulic model cross sections relative to the proposed trail alignment.
4. Using the FEMA current effective hydraulic models and the proposed trail alignment, size the proposed trail crossings (4) to adhere to the National Flood Insurance Policy's standards and requirements.
5. Prepare a detailed comparison of the pre-project hydraulic models to the post-project hydraulic models in the immediate trail crossing areas.
6. Prepare a brief engineering technical memorandum summarizing the results of the hydraulic investigation. Report shall include a summary of pre- and proposed project computed flood elevations and channel velocities, and recommendations for channel bank stabilization (if necessary) of the (4) primary drainage crossings as well as the identification and sizing of the at grade drainage crossings relative to the proposed trail.
7. Coordinate with design team to ensure the plans and specifications are in compliance with the hydraulic modeling.

H. Future Windlands Park Trail Connection Review

1. Provide a review of potential trail connections to Windlands Park, across Wadley Avenue. Options reviewed will include an at-grade roadway crossing, as well as a below grade crossing that utilizes an existing drainage structure, with potential modifications to accommodate pedestrians. The review for each crossing option will include:
 - a. a review of impacts from adjacent utilities and easements;
 - b. discussions with city staff regarding acceptable options for crossings that will satisfy safety and local design requirements;
 - c. an estimate of probable costs for construction for each crossing option.

I. Construction Documents Plan Preparation

Prepare construction documents to support one (1) bid package for the project. The bid package will include construction documents, and a bidding and project manual containing project specifications and other contract and bidding documents and information typically utilized by the city of Midland.

1. Provide specific facility plans, as needed, to construct new improvements within the limits of the project, as outlined by the Project Assumptions section above. These plans may include dimensional control and layout plans, elevations, sections, construction details, and/or other plans necessary for construction of improvements.
2. Review and coordinate preparation of construction documents with the city of Midland staff at plan review meetings identified below.
3. Provide site preparation and demolition plans with information necessary for construction. Site preparation plans will include erosion control plans, and will include a layout showing the suggested erosion control measures with details and notes which will be utilized by the Contractor for preparation of a storm water pollution prevention plan required for compliance with TCEQ permit requirements.
4. Provide layout plans with dimensional control information necessary to construct site improvements, including roadways and pedestrian paving improvements.
5. Provide pavements and grading plans indicating paving types and locations, with vertical elevation information necessary for construction.

6. Provide site drainage and storm sewer plans with information necessary for construction, allowing the preparation of a final Storm Water Pollution Prevention Plan and Best Management Practices by the selected Contractor, for control of erosion both during and after construction.
7. Provide site utility plans to support the design and construction of desired improvements.
8. Provide bridge or culvert plans and profiles for the channel crossing at Veterans Airpark Lane (including the approaches to each crossing), and details of the rip rap protection, as determined necessary for the channel crossing location with information necessary for construction.
9. Provide structural designs, plans and details as necessary for design of project improvements.
10. Submit three (3) sets of hard copy construction documents for city staff review and comment at 50% and 95% levels of completion.
 - a. Attend a meeting with city staff to discuss comments and plan changes related to development of the project, and to document staff comments for use during preparation of subsequent plans, at each submittal stage during preparation of construction documents, prior to submittal of 100% plans.
 - b. Provide an opinion of probable cost of construction for Project improvements at each plan completion submittal stage.
11. Provide specifications and bidder instructions in city of Midland standard format at the 95% plan completion stage.
12. Submit 100% plans to city staff for use during the bidding and construction phases of the Project.
13. Submit 100% plans to the Texas Department of Licensing and Regulation (TDLR), or an approved accessibility plan reviewer, for accessibility compliance review, and incorporate comments from that review into the construction documents for the Project. Costs for TDLR plan reviews will be paid by the city of Midland.

J. Bidding

1. Provide assistance to city staff in the preparation of one (1) bid packet for the Project, consisting of project specifications and plans, line item identification and bid form formatting. For clarification purposes, bid documents will be prepared as unit cost worksheets to define installed unit costs.
2. Provide assistance during the bidding phase by answering technical questions from Contractors, issuing necessary addenda, and attending a pre-bid meeting with city staff.
3. Provide a letter identifying a recommended bidder for award of the construction contract.

K. Construction Phase Services (Optional, as requested by the City of Midland)

1. Participate in a Preconstruction Conference prior to commencement of Work on the Project.
2. Provide assistance during the construction phase by reviewing Contractor submittals and shop drawings when appropriate, and by visiting the project site to observe the progress and quality of the Work completed by the Contractor. Such visits and observations are not intended to be an exhaustive check or a detailed inspection of the Contractor's work. Observations are to allow the Halff Associates, or its assigns, as experienced professionals, to become generally familiar with the Work in progress and to determine, in general, if the Work is proceeding in accordance with the Contract Documents.
 - a. We anticipate that members of the Design Team will visit the Project site monthly during the construction phase of the project, for an estimated total of twelve (12) total visits during the construction phases of the Project.
 - b. Site visit time will include preparation and issuance of meeting minutes that document observations and discussions that occurred during the site visit.

- c. Shop drawing and submittal reviews will occur on an as-needed basis, with review time billed to the City of Midland as part of Construction Observation Services.
 - d. ***Costs for excessive review of project submittals or shop drawings will be paid by the city of Midland.*** Excessive review of submittals or shop drawings is defined as any review required after the original review has been made and the first resubmittal has been checked by the Design Team to see that requested corrections have been made by the Contractor. Costs for additional review time will be billed to the city of Midland by the Design Team for the actual hours required for the review and marking of submittals or shop drawings.
3. Halff, or sub-consultant members of the planning and design team, shall not be responsible for any acts or omissions of the Contractor, subcontractor, any entity performing any portions of the Work, or any agents or employees of any of them. Halff does not guarantee the performance of the Contractor and shall not be responsible for the Contractor's failure to perform its Work in accordance with the Contract Documents or any applicable laws, codes, rules or regulations.
 4. Recommend to the City that Contractor's work be disapproved and rejected while it is in progress if, on the basis of such observations, Halff believes that such work will not produce a completed Project that conforms generally to the Contract Documents or that it will prejudice the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract Documents.
 5. Issue necessary clarifications and interpretations of the Contract Documents as appropriate to the orderly completion of Contractor's work. Such clarifications and interpretations will be consistent with the intent of and reasonably inferable from the Contract Documents. The Design Team may issue Field Orders authorizing minor variations from the requirements of the Contract Documents.
 6. Recommend Change Orders and Work Change Directives to City, as appropriate, and prepare Change Orders and Work Change Directives as required.
 7. Determine the appropriate pay amounts due Contractor, based on observations by Halff Associates or its assigns, as experienced and qualified design professionals and on review of Applications for Payment and accompanying supporting documentation.
 8. Conduct a pre-final walk-through of the Project site with city staff and the Contractor prior to the preparation of a final punch list.
 9. Prepare a Final Punch List that documents the deficiencies or discrepancies in the Contractor's work on the Project, and provides direction and guidance on an acceptable solution or remedy.
 10. Conduct a Final Punch List walk-through with city staff to verify the Contractor's completion of Final Punch List items.
 11. Prepare a set of Record Drawings for the project improvements.
 12. Participate in a One-Year Warranty walk-through to confirm the continued acceptability of the Contractor's work.

L. Additional Services

Additional services shall consist of, but not be limited to the following:

1. Client generated changes to planning and design efforts once work is in progress, including design of offsite improvements or areas outside of the project limits; or additions to the project scope or budget that causes additional design work; will be billed at hourly rates, per change-order proposals approved by city of Midland, until the work is at the same level of completion as it was prior to the change.
2. Additional meetings with city or other public agency staff or the general public beyond those

identified in this scope of services.

3. Any additional work not specifically included in the above scope of services will be accomplished as Additional Services.

M. Excluded Services

The following services are specifically excluded from proposal, but may be added at City's request:

1. Final plat or easement preparation, or easement or boundary negotiations with adjacent property owners.
2. Preparation of a FEMA Letter of Map Change (LOMC) submittal documents and FEMA review fees are not included in the scope or fee summary.
3. Property acquisition, appraisal, or land valuation or negotiation services.
4. Design of areas or improvements outside the limits of the project site.
5. Public meetings beyond those identified in the project scope.

N. Fee Schedule for Phase A - Airpark Trail Design

Consultant fees for this project are based on a lump sum amount for tasks identified as a part of the project. Efforts will be invoiced monthly, on a percent complete basis. Maximum fee amounts will not be exceeded without prior approval from the city of Midland.

Project Start-Up.....	\$4,240.00
Data Gathering/Site Investigation.....	\$10,080.00
Conceptual Trail Layout Plans.....	\$15,040.00
Surveying and Base Map Preparation.....	\$9,000.00
Geotechnical Investigations (allowance).....	\$20,000.00
Schematic Design Plans.....	\$58,780.00
Hydraulic Analysis	\$15,000.00
Windlands Park Connection Review.....	\$6,750.00
Construction Documents.....	\$150,080.00
Bidding Assistance.....	\$5,500.00
Construction Phase Services (hourly, not to exceed)	\$17,810.00

PHASE A - TOTAL BASE FEE

\$312,280.00

O. Reimbursable Expenses for Phase A

1. Out of pocket expenses related to travel, courier expenses, printing, postage and graphic reproduction shall be reimbursed at cost plus 10 percent to the Client. **For budgeting purposes, reimbursable expenses are estimated to be approximately \$5,500.00, and are not included in base fees.**

ATTACHMENT “A-1” - Project Limits
MIDLAND AIRPARK HIKE AND BIKE TRAIL DESIGN AND DEVELOPMENT OF A
CITYWIDE TRAILS AND BICYCLE FACILITIES MASTER PLAN



PHASE B

DEVELOPMENT OF A CITYWIDE TRAILS AND BICYCLE FACILITIES MASTER PLAN

PROJECT ASSUMPTIONS

The scope of services for the Citywide Trails and Bicycle Facilities Master Plan has been prepared using the following assumptions as a basis for its preparation:

1. The project area will encompass the entire city limits of Midland.
2. The master plan will consider existing trails, potential new trails, linkages to trails, and on-street bicycle facilities as deemed appropriate by the city of Midland staff, officials and residents.
3. At the initiation of the project, the City will provide base GIS shape files and any associated data for use by the Engineer in creating base data.
4. At the conclusion of the project, the Planner will provide the results of this planning effort in three formats, depending on the type of information that has been generated:
 - a. GIS shape file layers for recommended facilities and improvement categories
 - b. Maps and/or illustrations in jpeg and/or PDF formats
 - c. Original electronic files for reports and for printing in PDF formats, and
5. Key meetings and reviews, both with City Staff and with advisory committees, will be conducted on the same or consecutive dates to concentrate both City and Planner effort.
6. The City will provide the following information to the extent that it is available (in an Excel or other compatible spreadsheet format) for all thoroughfares where such information may be available:
 - a. Street Classification
 - b. Number of lanes
 - c. Cross section dimensions, including lane widths
 - d. Overall right of way dimensions
 - e. 24 hour traffic volumes in each direction
 - f. Peak traffic volumes
 - g. Most recent traffic counts from either City or other sources for roadways in Midland or its ETJ
 - h. Existing bicycle and trail facilities in Midland (location, type and dimensions)
 - i. Other information as deemed necessary and as available.
7. The City will provide digital schematics of alignments for ongoing or proposed street improvements, or new thoroughfares as available.
8. The City will provide (through request to TxDOT if necessary) schematic drawings of all major highways. These schematics should include all recent improvements created for these intersections.
9. The City will provide electronic (PDF) copies of all relevant documents (such as previous trails plans, parks plans, comprehensive plans, etc.) that may impact this effort.
10. The City will provide information on all other recent efforts that may impact this effort.
11. The City will provide information on any other future Capital Improvements Projects (CIP) or longer term plans for roadways or trails in Midland.
12. The City will undertake a lead role in organizing, scheduling, and promoting meetings conducted as part of this scope of services. This includes reserving meeting space(s), publicizing and posting

meeting announcements, and providing refreshments for meetings. The Planner will assist in providing an original meeting notification flyer (in electronic format suitable for printing), draft email blast for distribution by the City of Midland, and contact lists generated during the planning process.

13. City and Citizen oversight will be provided by staff and citizen committees as designated in this scope of work.
14. A final electronic copy in both PDF and In-Design format will be provided. Printing of final full color reports can be provided as an additional service. Interim draft copies will be conveyed electronically. The final document will also be provided in electronic format.

The scope of services for the master plan consists of the following tasks.

A. Project Pre-Planning – Confirmation of Where Midland is Today

1. Develop a list of information needs required for this effort, and transmit to the City of Midland for preparation of mapping prior to the Project Initiation Meeting. Assemble base data mapping in GIS, utilizing files received from the City. Information needed may include:
 - Previous plans prepared by the City, MPO or other area agencies
 - GIS files for the City including streets, property lines, key city owned properties such as buildings and parks, other natural and man-made features
 - Thoroughfare pavement widths, number of lanes, ROW width
 - 24 hour traffic volumes, peak hour volumes as available
 - Area vehicular, pedestrian and bicycle crash data for last 3 to 5 years
 - Current and proposed land use
 - Current and proposed population and demographics
 - Other information as available
2. Conduct project initiation meeting with key city staff – review schedule and project parameters, confirm general timeframe for key public input dates, review available background information and determine other key information needs (Mtg. 1).
3. Tour key areas of Concern – Along with City project leadership, conduct tour of City to review areas of concern that may be focal points of the project (as portion of Mtg. 1).
4. Confirm and map key destinations throughout Midland and in the region.
5. Conduct round table with leadership from other departments to determine opportunities areas as well as areas of concern (Mtg. 2, conducted on same day as Mtg. 1).
6. Prepare draft goals and overall vision for presentation to City staff and public at large in a future public meeting.

B. Public Input for Direction and Confirm Vision

1. Develop on-line citizen survey to derive citizen attitudes and perceptions about bicycling in Midland today, key desired destinations, what would most influence them to ride or walk more, and level of support for various types of initiatives. Provide to City staff to review and test with City staff.
2. Develop on-line mapping blog at CommunityWalk.com to gain citizen input on destinations and barriers. Site will allow direct input on map and blogging responses to previous inputs.
3. Conduct initial public input meeting series. These meetings will be held both during the day and evenings over two consecutive days. The Planner will prepare the meeting agenda and items for consideration such as maps, and will submit these to City staff in draft form for review prior to

meetings. The City will schedule the meetings, reserve location(s) and issue invitations. The following meetings will be held:

- a. Stakeholder meeting with key bicycle riding interests – to review goals, areas of interest, types of facilities that are of interest, citywide opportunities that attendees would like to be included (Mtg. 3).
- b. Workshop with Parks Advisory Board - to review goals and discuss areas of concern (Mtg. 4).

C. Field Review, Identify Issues and Opportunities, Preliminary Recommendations

1. Review information on existing trails and roadways provided by the City. Identify potential roadways and corridors for field investigation.
2. Conduct field assessments of potential candidate routes and streets, key connections points to off-street network, and key barriers.
3. Propose off-street trail network opportunity locations, define type of trail (hard or soft surface).
4. Propose new on-street network that enhances connectivity to the proposed off-street system. Identify potential solutions for each recommended thoroughfare (shared lane markings, side path, bicycle lane, buffered bicycle lane, etc.). Routes will be mapped by the recommended type of solution.
5. Prepare photo-realistic before and after image for key on-street recommendations (for up to 8 key locations along street corridors throughout the City).
6. Identify key linkage points to off-street trail system.
7. Meet with City staff to review draft network and proposed recommendations (Mtg. 5).
8. Meet with Advisory group to review draft network and proposed recommendations (Mtg. 6).

D. Prioritization and Draft Master Plan

1. Prepare cost projections for key recommendations. Costs will be at a pre-design level, and will use recent cost information from recent City of Midland and area projects as available. Submit to City staff for review and comment.
2. Develop potential prioritization criteria. Review criteria and methodology with City and modify per comments received. Recommend time frame for implementation (short term, medium term and long term).
3. Prepare draft prioritization and implementation action plan. Submit to City staff for review and comment.
4. Conduct second citywide open house workshop to review recommendations and to receive input. Planner will assist in promoting meeting with flyers, draft email blast. City will be responsible for meeting location, advertising and meeting invitations and notifications (Mtg. 7).

E. Final Review and Adoption

1. Prepare draft document and submit to City in electronic format for review and comment. Adjust per City staff comments received. Document will summarize the planning process, public input received in the process, recommendations for on and off-street facilities by type of recommendation, pre-design cost projection for each recommendation (by segments), general guidelines for use of each recommendation, prioritization and implementation strategies. Document format will be determined in consultation with City staff.

2. Present to the following Boards and City Council for review and adoption. Draft copies of the plan document will be provided on CD and in electronic format suitable for providing to board members electronically. Electronic copies in PDF format will be transmitted to the City of Midland to be made available to all other interested citizens and staff.
 - a. Park and Recreation Advisory Board (Mtg. 8)
 - b. Planning and Zoning Commission (for public hearing and adoption, Mtg. 9)
 - c. City Council (in workshop session Mtg. 10)
 - d. City Council (for public hearing and adoption, Mtg. 11)
3. Submit final electronic document (in both In-Design and PDF format) and GIS shape files to City.
4. If desired, assist in guiding printing of final report. Actual final report printing will be provided by the City of Midland.

F. Additional Service or Items Not Included in the Base Scope of Services for the Citywide Master Plan

The following items are not included in the scope of services or the base fees, but can be included if deemed necessary as additional service items.

1. Detailed facility design beyond the concept level appropriate for a master plan.
2. Data collection using a registered surveyor to provide base information for schematic concepts or street sections.
3. Detailed schematic design for barrier recommendations unless otherwise noted in scope of services above.
4. Specific intersection design for intersections along recommended on-street route.
5. Collection of traffic counts.
6. Future population or vehicular traffic forecasts.
7. Additional meetings above those noted in the scope of services above.

G. Fee Schedule for Phase B – Citywide Trail and Bicycle Master Plan

Project Pre-Planning.....	\$6,250.00
Public Involvement.....	\$15,080.00
Field Review, Issues and Opportunities, Preliminary Recommendations.....	\$25,040.00
Prioritization and Draft Master Plan.....	\$14,200.00
Final Review and Adoption.....	\$12,150.00
TOTAL BASE FEE	\$72,720.00

H. Reimbursable Expenses for Phase B – Citywide Trail and Bicycle Master Plan

Out of pocket expenses related to travel, courier expenses, printing, postage and graphic reproduction shall be reimbursed at cost plus 10 percent to the Client. **For budgeting purposes, reimbursable expenses are estimated to be approximately \$9,500.00, and are not included in base fees.**



City Council Agenda

Approved for Agenda:
THudson
City Manager's Office

MEETING DATE: 11/26/2013

TO: City Council / City Manager

FROM: Regina Stephenson, Purchasing Manager

SUBJECT: Consider a resolution approving the purchase of a Caterpillar D8TXL Waste Dozer through Buyboard contract 424-13 from Warren Power & Machinery, Inc. for the Garage Division.

Purpose:

Approval of a resolution authorizing the purchase of a Caterpillar D8TXL Waste Dozer for the Landfill.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Directional / Informational

Fiscal Impact:

\$765,300.00 from the Garage Fund

Discussion:

The new dozer will be used at the Landfill and will replace the current dozer which is a 1995 model. The new dozer comes equipped with a landfill package and a guaranteed buyback of 5 years or 7,500 hours for \$210,000.00; or 5 years or 10,000 hours for \$170,000.00. Staff recommends purchasing this item from Warren Power & Machinery, Inc. dba Warren Cat through Buyboard contract 424-13.

Therefore, please consider a resolution authorizing the purchase of a Caterpillar D8TXL dozer from Warren Power & Machinery, Inc. dba Warren Cat of Odessa, Texas for a total cost of \$765,300.00.

RESOLUTION NO. _____

**RESOLUTION APPROVING THE PURCHASE OF A
CATERPILLAR D8TXL WASTE DOZER THROUGH
THE BUYBOARD AT A TOTAL COST OF \$765,300.00;
AND THIS ITEM WAS NOT BID BUT PURCHASED
THROUGH A COUNCIL OF GOVERNMENTS**

WHEREAS, the Buyboard is a cooperative purchasing agency with which the City participates on purchases; and

WHEREAS, Warren Power & Machinery, Inc., dba Warren Cat of Odessa, Texas, has submitted a total proposed cost to the City of \$765,300.00 for the purchase of a Caterpillar D8TXL Waste Dozer through the Buyboard, as shown on the quote attached hereto as Exhibit "A" and incorporated herein for all legal purposes; and

WHEREAS, the Council finds the price proposed by Warren Power & Machinery, Inc., dba Warren Cat of Odessa, Texas, through the Buyboard for said Caterpillar D8TXL Waste Dozer to be fair and reasonable; and

WHEREAS, the City Council finds it to be in the public interest to purchase said Caterpillar D8TXL Waste Dozer through the Buyboard;

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 said Caterpillar D8TXL Waste Dozer referred to above through the Buyboard at a total estimated cost of \$765,300.00.

SECTION TWO. That the City Treasurer is hereby authorized and directed to pay for said Caterpillar D8TXL Waste Dozer from funds available in the Fiscal Year 2013 – 2014 Garage Fund (750) General Services (040) Garage (0752) Construction Equipment (8421) budget account upon proper receipt of invoices or statements approved by the City Manager.

On motion of Council member _____, seconded by Council member _____, the above and foregoing resolution was adopted by the City Council of the City of Midland at a regular meeting on the _____ day of _____, A.D., 2013, by

the following vote:

Council members voting “AYE”:

Council members voting “NAY”:

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

Courtney Sharp, City Manager

APPROVED AS TO CONTENT
AND COMPLETENESS:

Regina Stephenson, Purchasing Manager

APPROVED AS TO FORM:

Keith Stretcher, City Attorney



**BUYBOARD QUOTE
CONTRACT # 424-13**

Quote 144788-01

November 15, 2013

CITY OF MIDLAND
ATTN JILL REED
MIDLAND,
Texas
79702-1152

Attention: JILL REED

Dear Sir,

We would like to thank you for your interest in our company and our products, and are pleased to quote the following for your consideration.

D8TXL WASTE

STOCK NUMBER: TBD **SERIAL NUMBER:** TBD **YEAR:** 2014

We wish to thank you for the opportunity of quoting on your equipment needs. This quotation is valid for 30 days, after which time we reserve the right to re-quote. If there are any questions, please do not hesitate to contact me.

Sincerely,

Adam Allgood
Machine Sales Representative

D8TXL WASTE

STANDARD EQUIPMENT

C15 ACERT diesel engine with EUI - (Electronic Unit Injection) - 24-volt electric start - Advanced modular cooling system - Aftercooler, air-to-air (ATAAC) - Air filter, with electronic service - indicator - Coolant, extended life - Fan, suction, hydraulically driven - Fast fuel system - Fuel priming pump, electric - Muffler - Parking brake, electronic - Precleaner, stratta-tube dust ejector - Prescreener - Shift management - -Automatic directional and downshift - - Controlled-throttle, load-compensated - Starting aid, automatic ether - Torque divider - Transmission, electronically-controlled - -powershift, 3F/3R speed - Four planet, double-reduction - -planetary final drives - Transmission control module, electronic - Turbocharger, wastegate - Water separator

M318 EXCAVATOR - Rollers and idlers, lifetime lubricated - Sprocket rim segments, replaceable - Suspension-type undercarriage - 8-roller tubular track roller frame - (Carrier roller ready) - Track adjusters, hydraulic - Track guide - 24 inch (610 mm) PPR moderate service - grouser with sealed and lubricated - track (44 section) - Two-piece master links

Hydraulics, independent steering and - work tool pumps - Hydraulics, electronically controlled, - load-sensing dozer lift and tilt - Alternator, 150 amp - Batteries, heavy duty - Starting receptacle, auxiliary - Alarm, back-up - Converter, 24V to 12V - Diagnostic connector - Horn, forward warning

322 EXCAVATOR - Armrest, adjustable - Advisor operator interface - -Electronic monitoring system - -Diagnostic service information - -Operator preferences - Cab, ROPS/FOPS, sound suppressed - Deactivation switch, hydraulic controls - Decelerator pedal - Governor switch, electronic - Heater and ventilation - Mirror, rearview - Radio-ready - Seat, cloth, air-suspension - Seatbelt, retractable - Steering control, twist tiller with - touch shift - Wipers, intermittent

CD ROM Parts Book - Ecology drains - Engine oil, coolant, - -hydraulic oil, torque converter, fuel - -tank, powertrain case and transmission - Engine enclosures - Equalizer bar, pinned - Front pull device - Guards, bottom hinged - Grade control ready - Heater, engine coolant - Radiator, hinged fan blast deflector - HVAC box - corrosive resistant - Mounting, lift cylinders - Oil cooler, hydraulic - Product link ready - S.O.S. sampling ports - Steering, electronically controlled - power differential - Vandalism protection for fluid - compartments

MACHINE SPECIFICATIONS

Description	Reference No
D8T TRACTOR - 3	379-0250
GUARD, FAN DEBRIS	238-9658
SERVICE PACKAGE	325-4818
VISIBILITY AR, BASIC	327-3492
LANGUAGE, ADVISOR, 1	335-9416
GUARD, FUEL TANK	339-3077
RADIATOR, 6.35 FPI, DEBRIS	350-0217
PRODUCT LINK, CELLULAR PL522	351-2351
PAINT, BLADE	368-3377
SEAT, HEATED and VENTILATED	374-7176
8 RIPPER MS W/ STRIKER BAR	379-0236
FLUIDS, STANDARD	379-0240
INSTRUCTIONS, DOMESTIC	379-0256
ENGINE, THERMAL SHIELD	379-0261
HYDRAULICS, RIPPER	379-0265
CONTROL, BASIC, SINGLE TILT	379-0268
UNDERCARRIAGE, PPR, GUARDED	379-0277
FUEL SYSTEM, FAST FILL	380-2383
OIL DRAIN, STANDARD	380-2384
FAN, SINGLE TILT, REVERSING	380-2386
ENGINE COOLANT, STD (-37C)	382-5934
CAB, ENHANCED DUAL PANE GLASS	382-9560
TRACK, 660MM / 26" ES, TRAP PPR	384-2971
ALTERNATOR, 150AMP, DUCTED	384-4447
PRECLEANER, TURBINE W/SCREEN	384-4453
FINAL DRIVE, STANDARD, GUARDED	384-4604
BRAKES, BASIC	384-4605
LIGHTS, PREMIUM	384-6494
BATTERIES, HEAVY DUTY	384-8305
MOUNT, LIGHT, WARNING STROBE	384-8720
LIGHT, WARNING STROBE	384-8833
HEATER, ENGINE COOLANT (120V)	385-0235
8 SU/U DOZER, SNGL TILT GUARD	385-2596
BLADE, 8SU LANDFILL WEAR PLATE	385-2622
NO CARRIER ROLLERS	385-4734
CYLINDERS, LIFT, STANDARD	386-0490
WASTE HANDLING ARRANGEMENT	386-7001
OPERATORS AR, QUICK OPENING	386-7007
BOTTOM GUARDS, SEALED and POWERED	386-7008
FRAME, POWERED BOTTOM GRD	390-9840

Description

FAN SPEED, LOW, COLD WEATHER
PACK, DOMESTIC TRUCK, MTTT
LANE 3 ORDER

Reference No

420-4949
0P-8025
0P-9003

Sell Price	\$765,300.00
Ext Warranty	Included
After Tax Balance	\$765,300.00

THIS IS A BUYBOARD QUOTE

WARRANTY

Extended Warranty: **GOVT New Machine 5 Years / 7500 Hours PREMIER**

GUARANTEE BUYBACK

5 Years or 7,500 Hours is \$210,000
5 Years or 10,000 Hours is \$170,000

F.O.B/TERMS

Odessa

Accepted by _____ on _____

Signature



City Council Agenda

Approved for Agenda:
THudson
City Manager's Office

MEETING DATE: 11/26/2013

TO: City Council / City Manager

FROM: Marv Esterly, Director of Airports

SUBJECT: Consider a resolution finding that Diamondback E&P LLC submitted the most advantageous proposal with reference to RFP #07-13 Request for Oil and Gas Lease Proposal; and authorize the City Manager to execute all documents concerning the lease of minerals within portions of Sections 4 and 9, Block 40, T2S, T&P Ry. Co. Survey.

Purpose:

Consider a resolution finding that Diamondback E&P LLC submitted the most advantageous proposal with reference to RFP #07-13 Request for Oil and Gas Lease Proposal advertised on October 13, 2013 and October 20, 2013; and authorize the City Manager to execute all documents concerning the lease of minerals within portions of Sections 4 and 9, Block 40, T2S, T&P Ry. Co. Survey.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Directional / Informational

Fiscal Impact:

\$1,501,760.00 lease bonus along with 25% royalty over the life of the well.

Discussion:

During the January 25, 2011, City Council Briefing session, Council concurred with the Department of Airports' request to explore the possibility of leasing mineral rights on tracts of land in and around Midland Airpark. Difficulties extracting the minerals within the Airpark environs caused the tabling of this venture. During this time, additional research indicated that the City also owned approximately 300 surface acres of mineral at Midland International Airport. Two local oil companies showed interest in leasing the mineral rights in this area.

In October, 2013, City Council authorized a Request for Proposals to be advertised. Two proposals were received and opened on November 6, 2013. After careful consideration of both proposals, a selection committee made up of two City Councilmen and City staff selected the proposal submitted by Diamondback E&P LLC. The selected proposal offered to best financial incentives and a drilling plan that had the least impact on current and future airport operations.

RESOLUTION NO. _____

RESOLUTION AUTHORIZING AN OIL AND GAS LEASE AGREEMENT WITH DIAMONDBACK E&P, LLC, TO LEASE LAND AT THE MIDLAND INTERNATIONAL AIRPORT, WITHIN PORTIONS OF SECTIONS 4 AND 9, BLOCK 40, T-2-S, T&P RY. CO. SURVEY, MIDLAND COUNTY, TEXAS, FOR THE PURPOSES AND WITH THE EXCLUSIVE RIGHT OF EXPLORING, DRILLING, AND OPERATING FOR, AND PRODUCING OIL AND GAS; THE COUNCIL PREVIOUSLY AUTHORIZED ADVERTISEMENT FOR PROPOSALS TO LEASE LAND AT THE MIDLAND INTERNATIONAL AIRPORT FOR THE PURPOSES AND WITH THE EXCLUSIVE RIGHT OF EXPLORING, DRILLING, AND OPERATING FOR, AND PRODUCING OIL AND GAS; THE LEASED PREMISES CONSISTS OF APPROXIMATELY 304 ACRES

WHEREAS, the City Council previously determined that it was advisable to lease land belonging to the City of Midland for the purposes and with the exclusive right of exploring, drilling and operating for, and producing oil and gas, at the Midland International Airport; and

WHEREAS, the City Council previously authorized the advertisement for proposals to lease land at the Midland International Airport for the purposes and with the exclusive right of exploring, drilling and operating for, and producing oil and gas, at the Midland International Airport; and

WHEREAS, the proposals were opened on November 6, 2013, and after reviewing said proposals it was determined that Diamondback E&P LLC submitted the most advantageous proposal; and

WHEREAS, the City Council finds it to be in the public interest to authorize an Oil and Gas Lease agreement with Diamondback E&P LLC, for the purposes and with the exclusive right of exploring, drilling and operating for, and producing oil and gas, at the Midland International Airport;

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

SECTION ONE. That the City Manager and the City Secretary are hereby

authorized and directed to execute and attest, respectively, on behalf of the City of Midland, an Oil and Gas Lease agreement with Diamondback E&P LLC, for the purposes and with the exclusive right of exploring, drilling and operating for, and producing oil and gas, at the Midland International Airport.

SECTION TWO. That said lease shall be on file in the office of the City Secretary 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., 2013, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

Courtney Sharp, City Manager

APPROVED AS TO CONTENT
AND COMPLETENESS:

Marv Esterly, Director of Airports

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

OIL AND GAS LEASE

THIS AGREEMENT IS EFFECTIVE the ____ day of _____, 201_, between the City of Midland, Texas, whose address is 300 N. Loraine, Midland, Texas, 79701, Attention: City Manager, hereinafter called Lessor, and _____, whose address is _____, hereinafter called Lessee.

1. Lessor in consideration of Ten and No/100 (\$10.00) and other valuable cash consideration receipt of which is hereby acknowledged, for the royalties herein provided and of the covenants, agreements and obligations hereinafter set forth and contained, hereby grants, leases and lets unto Lessee the land covered hereby for the purposes and with the exclusive right of exploring, drilling and operating for, producing and owning oil and gas. The land covered hereby (herein "said land", "Leased Premises" or "Premises"), is located in the county of Midland, State of Texas, and is described as shown in Exhibit "A".

For the purpose of determining the amount of any bonus or other payment hereunder said land shall be deemed to contain ____ acres, whether actually containing more or less.

Lessor expressly reserves all minerals other than oil and gas, and all surface rights, it being expressly understood and agreed that Lessee shall have no right to use the surface of lands, even insofar as such use might be reasonable and necessary to the enjoyment of the oil and gas leasehold estate conveyed hereby or as might be reasonable and necessary to its enjoyment of any mineral interests covering all or part of said lands, save and except to the extent surface rights are expressly granted to Lessee by separate written consent of Lessor acting by and through the City Manager or other designee.

2. Subject to the other provisions herein contained, this Lease shall be for a term of three (3) years from this date (called "Primary Term") and as long thereafter as oil and/or gas is produced in paying quantities from said land. "Paying quantities" as used in this lease shall mean the interest in production of oil and gas acquired by Lessee herein after the deduction of (1) royalties provided for herein, and (2) all of the non-cost-bearing leasehold burdens of whatever nature owned by third parties which were created by Lessee, its heirs, successors and assigns, sufficient to yield a return in excess of operating expenses. "Operating expenses" for purposes hereof shall mean expenses of operation including reasonable overhead expenses, and exclusive of drilling, completing, casing repair and equipping expenses. All of the foregoing shall be calculated for the last six (6) calendar months.

3. When production of oil and/or gas is secured during the term of this lease, Lessee agrees to pay or cause to be paid to Lessor at its address shown above:

- (a) Oil. Royalty payable on oil which is defined as including all hydrocarbons produced in a liquid form at the mouth of the well and also as all condensate, distillate and other liquid hydrocarbons recovered from oil or gas run through a separator or other equipment as hereinafter provided, shall be one-fourth (1/4) part of the gross production or the amount realized therefrom by Lessee computed at the point of sale, at the option of Lessor. Lessee agrees that before any gas produced from the lease premises is sold, used or processed in a plant it will be run free of cost to the parties entitled to royalties in an adequate oil and gas separator of conventional type, or other equipment at least as efficient, so that all liquid hydrocarbons recoverable from the gas by such means will be recovered.
- (b) Non-Processed Gas. Royalty on any gas which is defined as all hydrocarbons and gaseous substances not defined as oil in subparagraph (a) above produced from any well on said land (except as provided herein with respect to gas processed in a plant where there is extraction of gasoline, liquid hydrocarbons or other products) shall be one-fourth (1/4) part of the gross production or the amount realized therefrom by Lessee computed at the point of sale, at the option of Lessor; provided that the maximum pressure base in measuring the gas under this lease shall not at any time exceed 14.65 pounds per square inch absolute and the standard base temperature shall be 60 degrees Fahrenheit, correction to be made for pressure according to Boyle's Law and for specific gravity according to tests made by the Balance Method or by the most generally accepted method of testing being used by the industry at the time of testing.
- (c) Processed Gas. Royalty on any gas processed in a gasoline plant or other plants for the recovery of gasoline or other liquid hydrocarbons shall be one-fourth (1/4) part of the residue gas and the liquid hydrocarbons extracted or the amount realized therefrom by Lessee computed at the tailgate of the plant, at the option of Lessor; provided that if liquid hydrocarbons are recovered from gas processed in a plant in which Lessee (or its parent, subsidiary, or affiliate) owns an interest, then the percentage applicable to liquid

hydrocarbons shall be the greater of 85% or the highest percent accruing to a third party processing gas through such plant under a processing agreement negotiated at arm's length (or if there is no such third party the highest percent then being specified in processing agreements or contracts in the general area). The respective royalties on residue gas and on liquid hydrocarbons shall be determined by the gross price paid or offered for such residue gas (or the weighted average gross selling price for the respective grades for liquid hydrocarbons, F.O.B. at the plant in which said gas is processed).

- (d) Other Products. Royalty on carbon black, sulphur or any other products produced or manufactured from gas (excepting liquid hydrocarbons) whether said gas be "casinghead", "dry" or any other gas, by fractioning, burning or any other processing shall be twenty-five percent (25%) of the gross production of such product or the amount realized by Lessee therefrom at processing point thereof, at the option of the Lessor, such market value to be determined as follows:
 - (1) On the basis of the market price received at processing point of each product for the same month in which such product is produced; or
 - (2) On the basis of the average gross sale price received at processing point of each product for the same month in which such product is sold, whichever is greater.
- (e) Generation of Electricity. In the event gas is utilized by Lessee for the generation of electricity for use either on said land or otherwise, royalty shall be payable and be based upon the market value of the gas utilized in such generation or the market value of the electricity so used, whichever is higher.
- (f) Minimum Royalty. One year after the expiration of the primary term and each year thereafter during the term of this Lease, Lessee shall pay to Lessor an amount equal to the positive difference, if any, between an amount equal to \$2,000.00 per well, without proportionate reduction, (the "minimum royalty") and royalties from this Lease actually paid and received in the immediately previous lease year. Such amount shall be due and payable within sixty (60) days after each anniversary date of this Lease unless payment for the immediately preceding year is waived in writing by the City Manager. No minimum royalty is due if royalties from this Lease actually paid and received during the previous lease year were greater than the minimum royalty.

4. Notwithstanding anything herein to the contrary, including the provisions of Paragraph 3 herein, Lessee agrees that all royalties accruing under this lease (including those paid in kind) shall be without deduction, directly or indirectly, for the cost of producing, gathering, storing, separating, treating, dehydrating, compressing, processing, transporting and otherwise making the oil, gas and other products hereunder ready for sale or use. In determining value of all royalties payable hereunder such value shall be determined without deduction for said costs. In no event shall Lessor ever be required to execute a division order as a condition to receiving any royalty payment. If Lessor agrees to execute a division order, no such division order shall amend or alter any term of this lease.

5. If Lessee enters into a Gas Purchase Contract which contains what is commonly referred to as a "take or pay provision" (such provision meaning that the gas purchaser agrees to take delivery of a specified minimum volume or quantity of gas over a specified term at a specified price or to make minimum periodic payments to producer for gas not taken by the purchaser) and the purchaser under such Gas Purchase Contract makes payments to Lessee by virtue of such purchaser's failure to take delivery of such minimum volume or quantity of gas, then Lessor shall be entitled to one fourth (1/4) of all such sums paid to Lessee or producer under the "pay" provisions of such Gas Purchase Contract. Said royalty payments shall be due and owing to Lessor within sixty (60) days after receipt of such payments by Lessee. Any royalty payments made to Lessor under the "pay" obligation of any "take or pay" Gas Contract shall be applied as a credit towards Lessee's royalty obligation. If the gas purchaser makes up such gas within the period called for in the gas contract, and Lessee is required to give such purchaser a credit for gas previously paid for but not taken, then Lessor shall not be entitled to royalty on such make-up gas. If Lessee is not producing gas in paying quantities from the lease premises but is receiving payments under the "pay" portion of such "take or pay" gas purchase contract provision, such payments shall not relieve Lessee of the duty to make shut-in royalty payments if Lessee desires to continue this lease, but such "take or pay" royalty payments shall be applied as a credit against any shut-in royalty obligation of the Lessee. Lessor shall be a third party beneficiary of any gas purchase contract and/or transportation agreement entered into between Lessee and any purchase and/or transporter or pipeline company of Lessor's gas, irrespective of any provision of said contracts to the contrary. Further, Lessor shall be entitled to one fourth (1/4) of the value of any benefits obtained by or granted to Lessee from any gas purchaser and/or transporter from the amendment, modification, extension, alteration, consolidation, transfer, translation or settlement of any gas purchase contract and/or transportation agreement.

6. Notwithstanding anything contained in paragraph 3 or elsewhere in this lease to the contrary, Lessor at any time on sixty (60) days prior notice in writing to Lessee, may require that payment of all or any part of the royalties accrued to Lessor under this lease on oil, gas or any product be made in kind effective as of the first day of the calendar month next following the expiration of said sixty (60) day period or if payment of any such royalties

are then being made to Lessor in kind, require that such in kind payment cease and that payment of such royalties thereafter be made as provided in paragraph 3 of this lease. In the event Lessor elects to take in kind, Lessee shall make all its leasehold and pipeline facilities available for Lessor's use with reasonable charge therefor but not to include any charges for capitalized costs or depreciation.

7. Notwithstanding provisions of paragraph 3 herein to the contrary, if gas or gas-condensate and/or other liquefiable hydrocarbon should be discovered on said land in paying quantities and after the expiration of the primary term or in the event that this lease is not maintained in effect by any other provision, and such substance or substances are not being sold or used for lack of a suitable market, Lessee may pay as royalty (called "shut-in royalty") the sum of Two Thousand and no/100 Dollars (\$2,000.00) per well, without proportionate reduction, each year commencing on or before ninety (90) days after the well is shut-in or this lease ceases to be maintained in effect pursuant to any other provision, whichever is later, and annually thereafter for a period not to exceed two (2) consecutive years after the expiration of the primary term hereof. Said payment may be mailed to Lessor at its address stated herein on or before said due date.

8. Within one hundred twenty (120) days following the date of first sale of oil and/or gas produced from the leased premises, all royalties from such production due Lessor by virtue of this Lease shall be paid to Lessor or its agent, successors and/or assigns, and such royalties shall be paid on a monthly basis thereafter. If said initial payment is not so made, this Lease shall be subject to termination by Lessor by notice in writing to Lessee as described below. From and after the date the initial payment is made all further payments of oil royalty shall be made within thirty (30) days following the last of the month during which production occurred and with respect to gas within sixty (60) days following the last of the month during which gas production occurred. In the event such further payments are not so made, Lessor shall have the right to terminate this Lease by furnishing a written notice to Lessee and such termination shall be effective sixty (60) days from the date such notice is mailed. Termination of this Lease, however, shall not take effect if payment is received by Lessor within sixty (60) days after Lessee's receipt of said notice or Lessee has given written notice of reasonable basis for such non-payment and all undisputed royalties then due are paid within said sixty (60) days. Any royalties provided for in this Lease which are suspended or not paid to Lessor within the time period specified therefor shall accrue interest, at the highest lawful rate per annum from due date until paid. Acceptance by Lessor of royalties which are past due shall not act as a waiver of its rights to receive or recover any and all interest due thereon under the provisions hereof. In the event of termination of the Lease for failure to timely pay royalties, at option of Lessor, all wells, all equipment and production remaining on the Lease at the time of such termination shall become the property of Lessor and Lessee shall convey all of its interests in other leases on said land to Lessor.

As security for the payment of the royalties hereunder, Lessee agrees by acceptance hereof that Lessor shall have a first lien and security interest upon the leasehold estate created hereby, the personal property and equipment thereon and the proceeds of production accruing to both Lessor and Lessee and that this lease shall be sufficient as a security agreement and financing statement in all respects.

9. Lessee may at any time and from time to time execute and deliver to Lessor or file for record a release or releases of Lease as to any part or all of said land. At such time as this lease or a portion thereof has terminated and Lessor makes a demand for such a release, Lessee shall promptly execute and deliver such release to Lessor, failing in which Lessee shall be liable at the rate of One Hundred and No/100 Dollars (\$100.00) per day after the thirtieth (30th) day following receipt of Lessor's request, until such release is delivered to Lessor. Failure to deliver a release as provided herein shall entitle Lessor to file a Notice of Termination in the real property records of Midland County designating those parts of the Leased Premises as to which the lease has terminated.

10. Subject to the provisions of paragraph 11 hereof, if after the expiration of the primary term the production of oil or gas should cease from any cause, this lease shall remain in force as long as additional drilling or reworking operations are conducted upon said land with no cessation of more than sixty (60) consecutive days in a good faith effort to discover and produce oil and/or gas and so long thereafter as oil or gas is produced in paying quantities.

11. Notwithstanding anything herein contained to the contrary, at the end of the Primary Term this Lease shall terminate as to all or any portion of the Lease Premises not then producing unless Lessee is then conducting drilling operations or has completed or plugged and abandoned a well within one hundred twenty (120) days prior to the expiration of the Primary Term. In either event, this Lease shall remain in force so long as Lessee is engaged in continuous drilling operations on said lands. Such operation shall be deemed continuous if not more than one hundred twenty (120) days elapse between the completion or abandonment of one well (including the well completed or plugged and abandoned within one hundred twenty (120) days prior to the expiration of the Primary Term) and the commencement of actual drilling operations on the next well. For purposes of this paragraph, "completion" shall be defined as the earlier of the date of first sales or a date that is 60 days after drilling rig release. Upon Lessee's failure so to drill, this Lease shall terminate except as follows:

- (a) If Lessee has completed a vertical well on said land which is producing, or capable of producing, oil or gas in commercial quantities, then this Lease shall continue in effect as to a tract not to exceed the minimum number of acres for a proration or spacing unit under applicable special field rules, or if there are no special field rules in effect, then forty (40) acres (plus 10% tolerance) around each such well;

- (b) If Lessee has completed a horizontal well on said land which is producing, or capable of producing, oil or gas in commercial quantities, then this lease shall continue in effect as to a tract of land around each such well not to exceed the minimum number of acres for a spacing or proration unit for vertical wells under applicable special field rules, or if there are no special field rules in effect, forty (40) acres around each well, plus so much additional acreage as may be permitted pursuant to Rule 86 of the Texas Railroad Commission rules and regulations, plus a tolerance of 10%, around each such well.

In each case, the acreage around such oil or gas well is to be limited as to depths from the surface of the earth down one hundred feet (100') below the base of the deepest then producing formation.

Thereafter, Lessee shall promptly execute and deliver to Lessor a recordable release of this Lease and to lands and depths as to which the Lease has terminated. Upon such partial termination each such producing proration unit shall become a separate lease subject to all the terms and provisions hereof so that production and/or operations from one such producing proration unit shall not constitute production and/or operations on any other such proration unit. It is agreed that so long as this Lease remains in force as to any part of said land, any portion of the land as to which this Lease expires may, nevertheless, be used by Lessee, its successors and assigns, to the extent previously permitted and reasonably necessary for ingress and egress for gathering, transporting, treating, processing and storing oil and/or gas produced from the land as to which this Lease remains in force, subject however, to all other terms of this Lease, including Lessor's retained right to designate and approve in advance all surface use and access details. Provided, however, if at any time after the expiration of said continuous drilling operations, the applicable field rules for said wells are changed or the well or wells located thereon are reclassified as oil or gas wells so that less acreage is thereafter allocated to said well or wells for spacing purposes, this Lease shall thereupon terminate as to all acreage not thereafter allocated to said well or wells for spacing purposes unless Lessee commences operations on the unproductive acreage within one hundred twenty (120) days after written notice from Lessor to release acreage; in the event of such release, Lessee shall release acreage that is entirely contiguous.

12. Lessee shall have the use free from royalty of oil and gas produced from said land in all operations hereunder except the production of electricity.

13. Lessee shall not have the right to use water for any operations from said Lease without the advance written consent of the City Manager and obligates itself to protect the potable water in, under and on said lease premises from contamination from oil and gas operations. When required by the Lessor, Lessee obligates itself to leave all or the part of the casing in any well drilled at no expense to Lessor. Any water well permitted to be drilled on the Leased Premises shall be left in a cased and serviceable condition and shall become the property of Lessor upon completion of the operation for which such well was permitted by Lessor.

Lessee covenants and agrees to exercise due diligence and good oilfield practices to protect fresh water strata or sources of supply underlying the Premises from pollution or contamination, including without limitation contamination from oil, gas, brine and/or salt water produced from wells situated on lands covered by this Lease. Without the advance written consent of the City Manager, Lessee shall not dispose of any salt water or produced water or other fluids of any sort on the Premises. To the extent that Lessee is permitted to dispose of salt water or other water produced from the Premises pursuant to written agreement with Lessee acting through its City Manager, Lessee shall pay to Lessor a disposal fee of not less than \$0.50 per barrel or such higher fee as Lessor and Lessee may agree, at the same time and in the same manner as provided for the payment of royalties in paragraph 3 of this Lease. Lessee shall not under any circumstances accept off-Premises fluids of any type for disposal in any facility permitted hereunder without the advance consent of the City Council.

14. The provisions of this Lease shall extend to and bind the heirs, successors and assigns of the parties hereto and shall constitute covenants running with the land hereby leased. In order to assure Lessor that operations hereunder shall be conducted by responsible parties for the mutual benefit of the Lessor and Lessee hereunder, Lessee agrees that no assignment of any part or all of Lessee's interest shall be made without the prior written consent of Lessor, and Lessor shall be furnished with a complete address and telephone number of any assignee of this Lease in addition to a recorded copy of any and all permitted assignments of this Lease. If Lessee fails to secure prior written consent to any assignments, said Assignment shall be void. Lessor shall be under no obligation, implied or otherwise, to approve any proposed assignment by Lessee or its permitted successors.

The rights and estate of Lessor may be assigned from time to time in whole or in part. All the covenants, obligations and consideration of this Lease shall extend to and be binding upon the parties hereto, their respective heirs, successors and assigns. No change or division of the ownership of said land, royalties or other monies or any part hereof however effected shall increase the obligation or diminish the rights of Lessee including, but not limited to the location in drilling of wells and the measurement of production. Notwithstanding any other actual or constructive knowledge or notice thereof or to Lessee, its successors or assigns, no change or division of the ownership of said lands or of the royalties or other monies or the right to receive the same shall be binding upon the then record owner of this Lease until thirty (30) days after there has been furnished to such record owner notice of such change or division supported by either original or duly certified copies of the instruments which have been properly filed for record which evidences such change of division and of any such court records and proceedings, transcripts or other documents as shall be necessary to establish the validity of such division or change. The assignment or relinquishment of rights under this Lease shall be governed by the provisions of Subchapter D, Chapter

66, Texas Education Code and the Rules. Any assignment or relinquishment shall not relieve the Lessee of any obligations theretofore accrued hereunder, or impair the lien provided for by law and in this Lease.

15. Lessee hereby releases, acquits and discharges Lessor, and its respective members, officers, employees and agents from all and any actions and causes of action of every nature, or other harm, including environmental harm, for which recovery of damages is sought, including, but not limited to, all losses and expenses which arise out of, are incidental to, or result from, the operations of or on behalf of Lessee on the Premises, or that may arise out of or be occasioned by Lessee's breach of any of the terms or provisions of this Lease, or by any act or omission of Lessee for which Lessee may be held strictly liable. Further, Lessee hereby agrees to be liable for, exonerate, indemnify, defend and hold harmless Lessor, and its respective members, officers, employees and agents, and their successors or assigns, against any and all claims, liabilities, losses, damages, actions personal injury (including death), costs and expenses, including those related to environmental hazards on the Premises or in any way related to Lessee's operations or any other of Lessee's activities on the Premises; those arising from Lessee's use of the surface of the Premises; and those that may arise out of or be occasioned by Lessee's breach of any of the terms or provisions of this Lease or any other act or omission of Lessee, its directors, officers, employees, agents, contractors, guests or invitees. Each assignee of this Lease, or an interest therein, agrees to be liable for, exonerate, indemnify, defend and hold harmless Lessor, and its respective members, officers, employees and agents in the same manner provided above in connection with the activities of such Lessee, its officers, employees and agents as described in this paragraph.

Lessee shall assure that Lessee and any person acting on Lessee's behalf under this Lease carries the following insurance with one or more insurance carriers licensed by the Texas Department of Insurance at any and all times such party or person is on or about the Premises or acting pursuant to this Lease, in such amounts as stated below or as from time to time may be reasonably required by Lessor:

- i. Worker's Compensation Insurance to cover full liability under the Worker's Compensation laws of the state in which the Contract Area is located;
- ii. Employer's Liability Insurance with limits of not less than \$500,000.00 for accidental injury or death of one or more employees;
- iii. Comprehensive General Public Liability Bodily Injury Insurance with limits of liability of not less than \$1,000,000.00 for the accidental injury or death of one person, and \$1,000,000.00 for accidental injury or death of more than one person as the result of one accident or occurrence;
- iv. Comprehensive General Public Liability Property Damage Insurance with limits of not less than \$1,000,000.00 for damage to property as a result of one accident or occurrence;
- v. Automobile Public Liability and Property Damage Insurance combined with the limits of not less than \$500,000.00 for injuries to or death of one person or property damage, and \$1,000,000.00 for injuries to or death of more than one person and property damage as the result of one accident;
- vi. Umbrella Liability with limits of not less than \$5,000,000.00 per occurrence; and
- vii. Care, custody and control coverage with limits of not less than \$100,000.00, or in lieu of coverage, Broad Form Property Damage endorsement.

The Lessee shall cause Certificates of Insurance evidencing the above coverage to be provided promptly upon request to Lessor, or to such other representative of Lessor as Lessor may from time to time designate but in any event in advance of conducting any physical entry on the Leased Premises. The insurance policies required above except under item (i), shall name The City of Midland, Texas, as additional insured with regard to the Leased Premises; shall reflect that the City of Midland, Texas will receive thirty (30) days prior written notice of cancellation or material changes in coverage; and shall reflect that the insurer has waived any right of subrogation against the City of Midland, Texas.

16. This Lease is executed without warranty, express or implied. If Lessor owns less than the entire estate in oil and gas in all or any part of said land, royalties payable hereunder shall be paid only in the proportion which the interest covered by this Lease bears to the whole and undivided fee simple estate except as otherwise expressly provided for in this Lease.

17. In the event a well or wells are brought in on adjacent land and within 660 feet of this lease or if any well be draining a portion of the lease premises, Lessee agrees, within one hundred and eighty (180) days after such offset well commences actual production, to commence drilling such offset well or wells as necessary to prevent such drainage. In such event Lessor shall designate a drillsite for Lessee's use. In lieu of drilling of such offset to any such oil or gas well, Lessee shall have the option of either releasing this Lease as to the stratigraphic equivalent of the zone or horizon which corresponds with that being produced in the offset well and within a tract of land in as near the form of a square as possible and constituting what would be the proration unit established in conformity with the field rules or spacing laws prescribed or permitted with respect to such offset well, with Lessee retaining all

other rights within such tract, or pay Lessor monthly, as compensatory royalty, a sum equal to the payments which would be payable under this Lease on the production from such offset well had same been produced from the above lease premises and, as long as Lessee may elect to pay such royalty in lieu of drilling an offset well, Lessee shall have satisfied its offset obligations to Lessor as to such well.

18. At such time as Lessee may elect to plug and abandon a well or wells, Lessee shall notify Lessor in writing, whereupon Lessor shall have thirty (30) days in which to elect in writing to take over such well in its then status and pay Lessee the reasonable salvage value of the equipment in and on such well less the reasonable costs of salvaging the same. If Lessor so elects, Lessor may take over such well whereupon Lessee shall as to such well release such well and lease subject to regulatory approvals unto Lessor and subject to the provisions of its other leases, assign unto Lessor all other leasehold estates it may own with respect to such well to Lessor together with the proration unit allocable thereto as to all depths owned by Lessee.

19. Lessee is hereby granted the right and power, from time to time, to pool or combine this lease, the land covered by it or any part or horizon thereof with any other land, leases, mineral estates or parts thereof for the production of oil or gas. Units pooled hereunder shall not exceed the area permitted to be retained as a producing proration unit hereunder at the end of the primary term or upon cessation of continuous development as provided in Section 11 of this lease. Lessee shall file written unit designations for record in the office of the county clerk of the county in which the premises are located, and such units may be designated from time to time and either before or after the completion of wells. Drilling operations on or production from any part of any such unit shall be considered for all purposes, except the payment of royalty, as operations conducted upon or production from the land described in this lease. There shall be allocated to the land covered by this lease included in any such unit that portion of the total production of pooled minerals from wells in the unit, after deducting any used in lease or unit operations, which the net oil or gas acreage in the land covered by this lease included in the unit bears to the total number of surface acres in the unit. The production so allocated shall be considered for all purposes, including the payment or delivery of royalty, to be the entire production of pooled minerals from the portion of said land covered hereby and included in said unit in the same manner as though produced from said land under the terms of this lease. Notwithstanding such allocation, the formation of any unit hereunder shall not have the effect of exchanging or transferring any interest under this lease between parties owning different interests as between lands covered by this lease and lands not covered. If this lease now or hereafter covers separate tracts (a "separate tract" meaning any tract with royalty ownership differing, either as to parties or amounts, from that as to any other part of the leased premises), no pooling or unitization of royalty interests as between any such separate tracts is intended or shall be implied from inclusion of such separate tracts within this lease, from the existence of Lessee's pooling authority herein, or from any other circumstances except by Lessee's express exercise of the pooling authority in the manner herein prescribed, nor shall this lease or the pooling authority hereby granted be construed as constituting an attempt or offer by Lessor to pool or unitize any interest which Lessor has no right or authority to pool or unitize, any such intention to pool or unitize such interests or to apportion any royalty over which Lessor has no such right being expressly disclaimed. Should this lease expire or terminate from any cause, in whole or in part, Lessor's interest in any land no longer subject to this lease shall not be subject to any pooling or unitization effected under the terms hereof, anything herein to the contrary notwithstanding.

20. Should Lessee be prevented from complying with any express or implied covenants of this lease, from conducting drilling or reworking operations thereon or from producing oil or gas therefrom by operation of force majeure, or by any federal or state law or any order, rule or regulation of governmental authority, then while so prevented, Lessee's obligation to comply with such covenant shall be suspended and Lessee shall not be liable in damages for failure to comply therewith and the time provided for compliance shall be extended while and so long as Lessee is prevented by any such cause from conducting drilling or reworking operations or from producing oil or gas from the said land, and the time while Lessee is so prevented shall not be counted against Lessee. However, nothing herein shall excuse Lessee from paying, or extend the time for paying, any royalty, shut-in gas royalty or other payment payable in money hereunder, or serve to extend the primary term of this lease beyond five (5) years from the date hereof.

21. Except as otherwise provided herein, Lessee shall have the right and obligation at any time during or within ninety (90) days after the expiration of this lease as to any portion of said land, to remove all property and fixtures placed by Lessee on any such portion of said land, including the right to draw and remove all casing, then belonging to Lessee and not take over by Lessor under some other provision of this lease. If Lessee fails to remove such property and fixtures within said ninety (90) days, such property and fixtures may be removed by Lessor at Lessee's expense; provided, however, Lessee shall not be relieved of its liability to plug any well so abandoned.

22. Lessee agrees to notify Lessor in advance, in writing, of the location of all wells to be drilled on the leased premises prior to commencement of operations and shall provide copies of all reports filed with the State of Texas or its agencies, when filed, including permit applications, completion, plugging, casing, cementing and production reports and shall provide Lessor with all daily drilling reports during drilling operations. In addition, Lessor or Lessor's duly authorized representatives, at their sole risk and expense, shall have access to each well drilled hereunder and to the drillsite thereof, including the derrick floor of any drilling well. At all times during drilling operations on the Leased Premises, Lessee shall water the roads, drill site and facilities location, and shall take such other actions, including without limitation observance of 15 mph maximum speed limits, as may be necessary to keep blowing dust to a minimum.

23. Lessee agrees that it will comply in all its operations with all provisions of the City of Midland Municipal Code Section 6-1-23 and to the extent that any operations are permitted to be conducted on land designated as a city park with Tex. Parks & Wildlife Code, Section 26.001, et seq., which are incorporated herein by

reference. In the event of any conflict between the provisions of this Lease and said code sections, Section 6-1-23 of the Municipal Code and/or Section 26.001, et seq., of the Tex. Parks & Wildlife Code, as the case may be, shall govern. Lessee acknowledges that all or part of the Premises lies in or near a municipal airport and agrees to comply with all applicable Federal Aviation Administration rules and regulations and to secure in advance all necessary approvals, permits and consents, and shall in addition comply with all directions of the City of Midland Director of Aviation relating to the public safety and welfare, and the safety of aviation related activities, including without limitation directives, rules and regulations relating to equipment height, location and safety markings.

24. The venue for any suit arising out of a provision of this Lease, whether express or implied, regarding interpretation breach or alleged breach of this Lease, or relating in any way to this Lease or to applicable case law, statutes, or administrative rules, shall be in the county in which the Premises are located. Lessee hereby waives any claim it may have regarding the award or recovery of attorneys fees in connection with any matter arising out of or related to this Lease, including without limitation any action pursuant to the Uniform Declaratory Judgment Act, Tex. Civ. Prac. & Rem. Code, Section 37.001, et seq., as amended from time to time. This agreement and all matters pertaining thereto shall be governed by the laws of the State of Texas without reference to any rule or law that would apply the law of another jurisdiction.

25. By executing this Lease, Lessor does not waive its right of sovereign immunity and is not consenting to be sued by reason of legislative action.

26. In the event of a bona fide, good faith intent by Lessor to develop for commercial, residential or public use, the surface of any part of the Leased Premises upon which a producing or other active well is either physically located or is situated within 200 feet, Lessor shall have the option, but not the obligation, to require plugging and abandonment of said well(s) by giving to Lessee not less than 180 days advance written notice of Lessor's intent, describing with reasonable certainty the surface area to be developed and the name and approximate location of Lessee's affected producing or other active well. Unless otherwise agreed in writing, within 180 days after receipt of said notice, Lessor and Lessee shall select a mutually acceptable, qualified registered professional engineer regularly engaged in evaluating Permian Basin oil and gas properties who shall then determine the fair market value of the affected well(s), plus the cost of plugging and abandonment, and less the fair market value of any recoverable salvage materials, using generally accepted evaluation techniques, discount rates, product and equipment prices, and other usual criteria (hereinafter called the "Purchase Price"). Said engineer shall notify Lessor and Lessee in writing of the calculated Purchase Price and the general basis upon which same was determined not later than 60 days after engineer's engagement.

If Lessor and Lessee are unable to mutually agree upon the selection of a qualified engineer within the time prescribed, then on the 180th day each shall submit the names and qualifications of two acceptable qualified engineers to the district judge of the 238th District Court of Midland County, who shall then select, not later than 10 days from submission, from all the names so submitted an impartial, qualified engineer to determine the Purchase Price as hereinabove provided, which selection shall be binding upon all parties.

Lessor shall notify Lessee in writing within 90 days after it receives written notice of the calculated Purchase Price if Lessee elects to either (i) acquire the affected well(s) or (ii) decline to acquire the affected well(s). If Lessor elects to acquire the affected well(s), Lessor shall promptly place the Purchase Price in an escrow account until such time as Lessee has properly plugged and abandoned the affected well(s) and same has been certified to the reasonable satisfaction of Lessor, whereupon the Purchase Price shall be released to Lessor. If Lessor elects NOT to acquire the affected well(s), Lessor may not exercise the rights and privileges accorded under this section for twelve months from the date of Lessor's election with respect to the same well(s).

IN WITNESS WHEREOF this instrument is executed by the parties hereto effective as of the effective date of said lease.

LESSOR:

CITY OF MIDLAND

By: _____
Name: Wes Perry, Mayor

LESSEE:

[Printed Name]

By: _____
Name: _____
Title: _____

[Acknowledgements on following page]

This instrument was acknowledged before me this ____ day of _____, 20____, by Wes Perry, Mayor of the City of Midland, a Home Rule municipal corporation, on behalf of said city.

This instrument was acknowledged before me this ____ day of _____, 20__, by _____, the _____ (officer) of _____, a _____ (State of organization) corporation, on behalf of said corporation.

10.14

EXHIBIT "A"
DESCRIPTION OF LANDS

All of those certain tracts of land located within Sections ____, all in Block 40, T-2-S, T&P Ry. Co. Survey, Midland County, Texas, described in the following deeds:

- A.
- B.
- C.

DEPARTMENT OF AIRPORTS
Request for Oil and Gas Lease Proposal – RFP # 07-13

RSP Permian Diamondback

			Selection
Development Plan	X		
Lease Bonus	\$1,094,345	\$1,501,760	
Primary Lease Term	3 Years	2 Years	
Royalty	¼	¼	
Shut-in	\$2,000 per well/yr	\$2,000 per well/yr	
Lease Revisions	Yes	Yes	
Alternative to Lease	No	Yes	

Comments: _____

Name: _____



City Council Agenda

Approved for Agenda:
csharp
City Manager's Office

MEETING DATE: 11/26/2013

TO: City Council / City Manager

FROM: Jim Nichols, Assistant City Manager

SUBJECT: Resolution Approving the MOUTD Management Services Agreement with McDonald Transit Associates, Inc.

Purpose:

Approve the management services agreement between Midland Odessa Urban Transit System (MOUTD) and McDonald Transit Associates, Inc. for the provision of management services associated with the operation of the EZ-Rider transit system.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Directional / Informational

Fiscal Impact:

Current annual budgeted amount to MOUTD is \$250,000.

Discussion:

The MOUTD Board currently contracts with McDonald Transit Associates, Inc for the provision of transit services throughout the MOUTD jurisdictional area (throughout Midland and Odessa). The current contract with McDonald Transit expired at the end of September and was extended while the procurement process for a new service provider was conducted. The process was led by the City of Odessa with participation by the City of Midland and the MOUTD Board. A selection committee was established with representatives from Odessa, Midland, and the Board to review the credentials and qualifications of potential service providers and recommend a preferred vendor to the Board.

Three proposals were received and the selection committee determined McDonald Transit to be the best qualified vendor to provide transit service. At the November 20 MOUTD Board meeting, a contract with McDonald Transit Associates, Inc. to manage and operate the motorbus transit system was approved by the Board. This contract now requires the approval of the City Councils of Midland and Odessa. Staff supports this contract and recommends approval.

RESOLUTION NO. _____

**RESOLUTION AUTHORIZING THE EXECUTION OF A
CONTRACT BETWEEN THE MIDLAND-ODESSA
URBAN TRANSIT DISTRICT AND MCDONALD
TRANSIT ASSOCIATES, INCORPORATED; THIS
CONTRACT IS A MANAGEMENT CONTRACT FOR
THE MOTORBUS TRANSPORTATION SYSTEM
LOCATED IN MIDLAND COUNTY AND ECTOR
COUNTY, TEXAS**

WHEREAS, the Council finds it to be in the public interest to authorize the City Manager to execute a contract between the Midland-Odessa Urban Transit District and McDonald Transit Associates, Incorporated;

**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, on behalf of the City of Midland, Texas, a contract between the Midland-Odessa Urban Transit District and McDonald Transit Associates, Incorporated.

SECTION TWO. That the contract between the Midland-Odessa Urban Transit District and McDonald Transit Associates, Incorporated, which is attached hereto, marked as Exhibit "A", and incorporated herein for all legal purposes, is hereby approved.

On motion of Council member _____, seconded by Council member _____, the above and foregoing resolution was adopted by the City Council of the City of Midland at a regular meeting on the _____ day of _____, A.D., 2013, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

Courtney Sharp, City Manager

APPROVED AS TO CONTENT
AND COMPLETENESS:

James R. Nichols, Assistant City Manager

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

STATE OF TEXAS §

COUNTY OF ECTOR §

MIDLAND-ODESSA URBAN TRANSIT DISTRICT
AND
MCDONALD TRANSIT ASSOCIATES, INC.
MANAGEMENT CONTRACT FOR TRANSPORTATION SYSTEM

This Contract and Agreement (“Agreement”) is made and entered into this ____ day of ____, 2013, by and between Midland-Odessa Urban Transit District, located in Midland and Ector Counties, Texas, (hereinafter referred to as “MOUTD”), and McDonald Transit Associates, Inc., located at 3800 Sandshell Drive, Suite 185, Fort Worth, Texas 76137 (hereinafter referred to as “McDonald”).

WITNESSETH

WHEREAS, MOUTD has determined that it will require services of a professional management company for the MOUTD-owned transit system which is being operated in its area of jurisdiction; and

WHEREAS, MOUTD is authorized to enter into a contract for the operation and management of said transportation system; and

WHEREAS, McDonald is engaged in the business of providing advisory and management services for the operation of transit systems and has trained, experienced personnel available for that purpose, and is desirous of providing such advisory and management services for the MOUTD; and

WHEREAS, MOUTD has made the determination that McDonald is qualified to provide the services referenced herein and the employment of McDonald would serve the best interests and welfare of the public utilizing the transit system operated by MOUTD.

NOW, THEREFORE, inconsideration of the foregoing recitals and covenants and agreements of each of the parties, the parties agree as follows:

ARTICLE I.
PURPOSE

The MOUTD does hereby engage McDonald to manage and operate the motorbus transit system conducted in and about the MOUTD jurisdictional area (“System”) as an independent contractor, under the terms and conditions set forth.

ARTICLE II.
MOUTD PERFORMANCE

The MOUTD agrees to make available to McDonald all necessary office, garage, and storage facilities, office furniture, equipment, materials, supplies, rolling stock, bus maintenance equipment, automobile transportation and other equipment necessary or appropriate for the operation of the System.

ARTICLE III. TERM

The term of this contract and agreement shall be for a period of five years beginning October 1, 2013 and ending on September 30, 2018, subject to rights of termination.

ARTICLE IV. PERFORMANCE OF SERVICES

McDonald agrees to furnish a qualified, diligent, expert, and efficient executive who will reside in the Midland/Odessa area and who will be assigned to, and perform the functions of the position of Resident General Manager who will serve as operating officer and be responsible for the day-to-day operation of all departments of the System in an efficient and effective manner.

The selection and appointment of the Resident General Manager, and any such subsequent appointees, shall be the responsibility of McDonald but shall not be made without first obtaining the advice and consent of the MOUTD, City of Odessa and City of Midland. In the event of the disability of any person acting in the position of Resident General Manager for a period in excess of one (1) month, McDonald covenants and agrees to secure a qualified individual to fill said position for as long as such disability may continue, or to replace such individual if necessary, all subject to the advice and consent of the MOUTD.

McDonald further covenants and agrees to furnish expert, efficient, and economical management services and/or consultation in all areas of the public bus transportation industry, including but not limited to the following:

1. Overall management and policy direction
 - a. Operations; systems and procedures, and research
 - b. Finance and accounting
 - i. Annual budget
 - ii. Quarterly and annual reports
 - c. Safety, accident prevention and insurance
 - d. Schedules, transportation and routing
 - e. Maintenance and purchasing of equipment
 - f. Sales promotion and public relations
 - g. Governmental grant application and administration
 - h. Security
 - i. Schedule preparations
2. Management Continuity
3. Management personnel development and training
4. Compliance with the Federal, State, and local guidelines and requirements, i.e, Section 504 Title VI, EEO, DBE, NTD, etc.
5. Personnel and labor relations including bargaining unit contract negotiations, if any.
6. McDonald's legal advisors will act as legal counsel in all legal affairs, suits, pleas, and litigation pertaining to management of the transit system operated by MOUTD. Neither the City of Odessa's nor the City of Midland's legal staff will act as legal counsel for McDonald or MOUTD.

McDonald covenants and agrees that it will establish and maintain at its sole cost and expense, the Texas Corporation, Midland-Odessa Transit Management, Inc., hereinafter called "MOTM" which corporation shall serve as employer of all transit employees, excluding the Resident General Manager. The articles of incorporation, by-laws, directors, employment policies, contracts, and compensation for MOTM must be jointly approved by the City Councils of Midland and Odessa.

Any contractual obligations entered into or assumed by MOTM and approved by MOUTD, in connection with the operation of the System, shall be binding upon McDonald only for the term of this Agreement, as same may be extended, and thereafter McDonald shall have no further obligation. With regard to liability as between McDonald, MOUTD, the City of Midland and the City of Odessa, McDonald shall have the same liability and limitations of liability for MOTM as are applicable to McDonald under this contract.

GOODS AND SERVICES - The parties agree that this is not a contract for the provision of goods and services to the City of Odessa and the City of Midland.

ARTICLE V. PAYMENT FOR SERVICES

As compensation for all services and obligation set forth herein MOUTD shall pay McDonald a firm, fixed, monthly management fee ("Management Fee") as follows:

	Year 1	Year 2	Year 3	Year 4	Year 5
Monthly Fee	\$13,521.00	\$14,129.00	\$14,129.00	\$14,659.00	\$15,172.00
Annual Fee	\$162,252.00	\$169,553.00	\$175,192.00	\$182,068.00	\$187,531.00

The Management Fee includes all cost and expense associated with the salary and related costs of the Resident General Manager, in-house legal counsel, corporate staff travel, and overhead. In addition, the Management Fee includes the cost of expert management consultation and advisory assistance in all area of the public bus transportation industry as may be reasonable required to assist the Resident General Manager.

MOUTD agrees to provide such funds as may be necessary to meet payroll and all other operating expenses of the System, sometimes referred to as operation expenses, excluding costs covered by the Management Fee, the cost of the fidelity bond on McDonald officers as described in Section VI, and the cost of non-resident advisory services described in Section IV.

ARTICLE VI. FIDELITY BOND

McDonald, at its sole cost and expense, shall furnish to MOUTD all necessary fidelity and surety bonds to protect, save whole and harmless, and indemnify MOUTD, City of Odessa and City of Midland, from and against dishonesty, fraud or theft occasioned by any officer to employee of McDonald. Coverage of each such employee shall be in the amount of no less than One million Dollars (\$1,000,000.00).

MOUTD based transit employees, excluding the Resident General Manager, will be covered by a blanket fidelity bond, the premium for which shall be considered as an operating expense.

ARTICLE VII. NONDISCRIMINATION

As a condition of this Agreement, McDonald covenants that McDonald will take all necessary actions to insure that, in connection with any work under this Agreement, McDonald, its associates and subcontractors, will not discriminate in the treatment or employment of any individual or groups of individuals on the grounds of race, color, religion, national origin, age, sex, or physical handicap

unrelated to job performance, either directly, indirectly or through contractual or other arrangements. In this regard, McDonald shall keep, retain and safeguard all records relating to this Agreement or work performed hereunder for a minimum period of three (3) years from final Agreement completion, with full access allowed to authorized representatives of the MOUTD, upon request, for purposes of evaluating compliance with this and other provisions of the Agreement.

ARTICLE VIII INTEREST OF PUBLIC OFFICIALS

McDonald represents that no MOUTD officer, employee, or agent has been compensated in any way with respect to this Agreement and its consideration by the MOUTD. In no event will McDonald pay a fee to or in any other manner compensate any MOUTD officers, employees, or agents in connection with the approval of this Agreement. A breach under this Article shall result in automatic termination under this Agreement by McDonald without cause.

No member, officer, or employee of MOUTD, City of Odessa or City of Midland, during this tenure will have any interest, direct or indirect, in this Agreement or the proceeds thereof.

ARTICLE IX INTEREST OF MEMBER OF CONGRESS AND THE LEGISLATURES OF THE STATE OF TEXAS

No member of or delegate to the Congress of the United States nor the Legislatures of the State of Texas will be admitted to any share or part of this Agreement or to any benefit arising therefrom.

ARTICLE X. RIGHT OF REVIEW AND AUDIT

McDonald will permit the authorized representatives of the United States Department of Transportation, the Comptroller General of the United States, the State of Texas, and MOUTD to inspect and audit all data and records relating to performance under this Agreement. MCDONALD agrees to retain such records for a minimum of three (3) years following completion of this Agreement.

ARTICLE XI. CONFLICTING INTEREST

McDonald covenants and agrees that it presently has no interest, and will not acquire any interest, direct or indirect, which conflicts with its efficient, diligent and faithful performance of the terms of this contract and agreement.

ARTICLE XII. COOPERATION

McDonald, its officers, agents, employees and assignees, covenant and agree to maintain close contact and cooperate with MOUTD through a MOUTD staff member specifically designated for such purpose and to furnish to said MOUTD staff member regular reports on the operations of the system.

ARTICLE XIII. COMPLIANCE

McDonald acknowledges and agrees that it shall comply with all terms and conditions of the State of Texas and the Federal Transit Administration grant contracts between the United States and MOUTD, the MOUTD's applications, assurances, and all other applicable laws and regulations which may apply in carrying out the accomplishment of the programs, including but not limited to Equal Employment Opportunity and Disadvantaged Business Enterprise. McDonald shall also comply with all applicable City ordinances of the City of Midland and City of Odessa and with the Interlocal Agreement between Midland Odessa establishing MOUTD.

ARTICLE XIV. BUDGET

McDonald, its successors and assigns, covenant and agree to prepare, submit, and recommend a proposed annual budget, in the same form and manner as requests for City departments, for the operation of the System for the same fiscal year under which MOUTD operates i.e., the period commencing October 1st and ending September 30th of each year. Such proposed budget shall be prepared and submitted in accordance with a schedule of presentations and submissions approved by MOUTD, or its duly authorized representatives. Amended budgets may also be submitted for approval. There shall be no expenditure of funds except as authorized by the annual or amended budget approved by the city of Midland and the City of Odessa. The budget shall include a budget for the City of Midland, a budget for the City of Odessa, and a general budget for the cost to be allocated between the Cities. MOUTD shall have the right to all revenues arising out of rents or operation of the system.

ARTICLE XV. DECISIONS

All services to be rendered by McDonald shall be subject to the review by MOUTD. McDonald shall make recommendations, or MOUTD may request information or recommendations, as to the areas of operation which are deemed appropriate and proper and the decision of MOUTD shall be binding and final in regards thereto.

ARTICLE XVI. INSURANCE

McDonald shall obtain appropriate forms of insurance coverage naming McDonald and MOTM as primary insured, to be in effect during the term of this contract, customarily maintained by the transit industry with respect to similar transit operations, including but not limited to personal injury and property damage insurance, providing single limit coverage in amount as may be designated by the MOUTD from time to time. All policies providing such coverage by their terms or by specific endorsement shall designate MOUTD, Cities of Midland and Odessa, as additional insured under the terms thereof. The cost of such insurance or self-insurance of any primary risk shall be an operating expense. Whatever liability, whether tort, contractual or otherwise, including but not limited, employment related matters, or bodily injury or property damage, which exceeds the insurance provided herein, other than liability for intentional personal injury or punitive damages, which may be incurred to third parties in connection with or arising out of the management or operation of the System by McDonald or MOTM and MOUTD, the cost and expense thereof, including any all liability of MOUTM and/or McDonald, its agents servants, or employees will be a part of the costs and expenses incurred by MOUTD in the operation of the system and will be reimbursed by MOUTD to MOTM or McDonald as may be appropriate. McDonald, will, however, be liable for any dishonesty, gross negligence or fraudulent misconduct committed or directed by any

officer of McDonald or any subsidiary of McDonald and for any breach of this Agreement on the part of McDonald, MOTM or any such subsidiary. The provisions of this article are solely for the benefit of the parties, shall not waive any governmental immunity and are not intended to create or grant any rights, contractual or otherwise, to any other person or entity not a party to the contract.

- (a) McDonald, as an operating expense, shall provide and maintain public liability insurance in full force and effect at all times during the term of this agreement and any extensions thereof. Such insurance, at a minimum, must include the following coverage and limits of liability:

<u>Coverage</u>	<u>Limit of Liability</u>
Comprehensive General Liability	\$10,000,000 per occurrence for Bodily Injury
Including Coverage for Employment	\$10,000,000 in the aggregate for Bodily Injury
Practices Liability and Comprehensive Automobile Liability	\$500,000 per occurrence for Property Damage

- (b) All insurance provided for in subsection (a) shall be effective under policies issued by solvent insurance carriers qualified to do business in the State of Texas and having a rating satisfactory to MOUTD, and shall be written on policy forms satisfactory to MOUTD, the City of Midland and the City of Odessa, their officials and employees as additional insured waiving any rights of subrogation against MOUTD, the City of Midland, the City of Odessa, and their officials and employees.
- (c) The payment of any deductible on such policies shall be the responsibility of McDonald as an operating expense.
- (d) There shall be an endorsement that requires issuer to give written notice to the Director of Public Works of the City of Odessa and the City of Midland at least thirty (30) days prior to cancellation, non-renewal, or material modification of such policy. McDonald shall furnish Project Manager with copies of said policies or certificates evidencing such coverage and endorsement prior to commencing the work.
- (e) McDonald and MOTM shall maintain workers compensation coverage on all employees working on this project. The workers compensation coverage insurance shall waive all rights of subrogation as to MOUTD, the City of Midland and the City of Odessa.
- (f) For purposes of insurance, the Cities of Midland and Odessa are considered third party beneficiaries.

ARTICLE XVII. ASSIGNMENT

This contract and agreement shall not be assigned or transferred, in whole or in part, by McDonald without the prior written consent of MOUTD.

ARTICLE XVIII. INDEMNITY - LIABILITY

MCDONALD and MOTM shall indemnify and hold harmless and defend MOUTD, the City of Odessa, and the City of Midland, their officers, agents and employees, harmless against any and all claims, lawsuits, judgments, costs and expenses for personal injury (including death), property damage or other harm for which recovery of damages is sought and suffered by any person or persons, that may arise out of or be occasioned by MCDONALD's or MOTM's breach

of any of the terms or provisions of this Agreement, or by any other negligent act or omission of MCDONALD or MOTM, its officers, agents, associates, employees or subcontractors, in the performance of this Agreement; except that the indemnity provided for in this Paragraph shall not apply to any liability resulting from the sole negligence of MOUTD, its officers, agents, employees or separate contractors, and in the event of joint and concurrent negligence of both the MCDONALD or MOTM and MOUTD, responsibility and indemnity, if any, shall be apportioned comparatively in accordance with the laws of the State of Texas, without, however, waiving any governmental immunity available to the MOUTD under Texas law and without waiving any defense of the parties under Texas law. The provisions of this Paragraph are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity.

ARTICLE XIX. INDEMNITY – DEFENSE

MCDONALD and MOTM agrees to indemnify, protect and save MOUTD, the City of Odessa, and the City of Midland, its directors, officers, and employees harmless against any and all cost or expenses of whatever kind of nature, including costs of litigation, attorney fees and reasonable expenses in connection therewith whether or not such loss, injury, or damage shall be valid or groundless, and MCDONALD and MOTM shall be bound and obligated to assume the defense thereof, including any settlement negotiations, and shall pay, liquidate, discharge and satisfy any and all settlement, judgments, awards or expenses resulting from or arising out of such injuries, death or damages without reimbursement from MOUTD. It is understood and agreed by MCDONALD and MOTM that in case MOUTD, its officers, agents, employees, are made defendant in any suit or action and MCDONALD and MOTM fails to neglects to assume the defense thereof, after having been notified so to do by MOUTD, that MOUTD may compromise and settle or defend any such suit or action, the MCDONALD and MOTM shall be bound and obligated to reimburse MOUTD for the amount expended by it in settling and compromising any such claim, or in the amount expended by MOUTD in paying any judgment rendered therein, together with all reasonable attorney's fees incurred by MOUTD by reason of its defense or settlement of such claims.

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

Release -Notwithstanding any other provisions, McDonald hereby releases, acquits, relinquishes and forever discharges MOUTD, the City of Odessa, the City of Midland, and their respective employees and officers, from any and all demands, claims, damages, or causes of action of any kind whatsoever which McDonald 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 MOUTDS's negligence.

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, McDonald or its legal representative, shall give to the City Manager of Odessa, Texas, 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 McDonald will settle, the physical and mailing addresses of

McDonald at the time and date the claim was presented and the physical and mailing addresses of McDonald for the six months immediately preceding the occurrence of such damages, and the names and addresses of the witnesses upon whom McDonald 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 MOUTD from any liability whatsoever. The MOUTD is under no obligation to provide notice to McDonald that McDonald's notice is insufficient. MOUTD 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, McDonalds failure to comply with the requirements herein shall perpetually bar McDonald's claim for damages under Chapter 271 of the Texas Local Government Code, and Section 311.034 of the Texas Government Code, regardless if MOUTD has actual or constructive notice or knowledge of said claim or alleged damages. McDonald agrees that the requirements of this entire Agreement are reasonable.

ARTICLE XX. ATTORNEY FEES

By executing this agreement, McDonald agrees to waive and does hereby knowingly, conclusively, voluntarily and intentionally waive any claim it has or may have in the future against either the MOUTD, the City of Odessa or the City of Midland, regarding the award of attorney's fees, which are in any way related to the agreement, or the construction, interpretation or breach of the agreement. McDonald specifically agrees that if McDonald 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, McDonald agrees to abandon, waive and relinquish any and all rights to the recovery of attorney's fees to which McDonald might otherwise be entitled.

McDonald agrees that this is the voluntary and intentional relinquishment and abandonment of a presently existing known right. McDonald acknowledges that it understands all terms and conditions of the agreement. McDonald further acknowledges and agrees that there was and is no disparity of bargaining power between MOUTD and McDonald. This section shall not be construed or interpreted as a waiver of sovereign immunity.

McDonald and MOUTD are relying on their own judgment. Each party had the opportunity to discuss this agreement with legal counsel prior to its execution.

ARTICLE XXI. FORCE MAJEURE

Neither MOUTD or MCDONALD shall be required to perform any term, condition, or covenant in this Agreement so long as such performance is delayed or prevented by force majeure, which shall mean acts of God, civil riots, floods and any other cause not reasonably within the control of MOUTD or MCDONALD except as herein provide, and which by the exercise of due diligence MOUTD or MCDONALD is unable, wholly, or in part, to prevent or overcome.

ARTICLE XXII. OWNERSHIP OF DOCUMENTS

Upon acceptance or approval by MOUTD, all reports, information and other data, given to, prepared or assembled by McDonald under this Agreement, and any other related documents or items shall become the sole property of MOUTD and shall be delivered to MOUTD, without restriction except as herein provided. McDonald may make copies of any and all documents for its files and shall have the rights to the concepts contained therein. It is understood, however, that McDonald does not intend or represent that such documents are suitable for reuse by MOUTD or others for any other project and the reuse by MOUTD for any other project shall require approval of McDonald. All parties recognize production of all documents are subject to the Public Information Act.

ARTICLE XXIII. TERMINATION

In connection with all the work outlined or contemplated herein, it is agreed that the MOUTD or McDonald may cancel or terminate this Agreement with or without cause upon thirty (30) days written notice to the other, with the provision and understanding that immediately upon receipt of notice of such cancellation from either party to the other, all work and labor being performed under this Agreement shall immediately cease, pending final cancellation at the end of such thirty day period, and further provided that McDonald shall be compensated in accordance with the terms of this Agreement for all work accomplished prior to the receipt of notice of such termination. All completed or partially completed studies, reports, drawings, documents, and material prepared under this Article shall then be delivered to MOUTD which it, its agents or contractors, may use without restraint for the purpose of completing the project. All rights duties, liabilities and obligations accrue prior to such termination shall survive termination. McDonald shall be liable for any additional cost to complete the Project as a result of McDonald's termination of this Agreement without cause.

ARTICLE XXIV. INDEPENDENT CONTRACTOR

In performing services under this Agreement, the relationship between MOUTD and MCDONALD is that of an independent contractor, and MOUTD and MCDONALD by the execution of this Agreement, do not change the independent status of MCDONALD. No term or provision of this Agreement or act of MCDONALD in the performance of this Agreement shall be construed as making MCDONALD, its employees or contractors, the agent, servant, or employee of MOUTD. This project is not a joint enterprise and no action by either party to this Agreement shall cause this project to be considered a joint enterprise.

ARTICLE XXVI. VENUE

The obligations of the parties to this Agreement are performable in Ector or Midland County, Texas, and if legal action is necessary to enforce same, exclusive venue shall lie in Ector or Midland County, Texas.

ARTICLE XXVI. GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws and court decisions of the State of Texas.

ARTICLE XXVII. LEGAL CONSTRUCTION

In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof and this Agreement shall be considered as if such invalid, illegal, or unenforceable provision had never been contained in this Agreement. This Agreement constitutes the only Agreement of the parties hereto and supersedes any prior understanding or oral or written agreements between the parties regarding the subject of this Agreement.

This Agreement is not intended to be a third party beneficiary contract and confers not rights on anyone other than MOUTD, the City of Odessa, the City of Midland, and McDonald. Nothing herein will constitute any imposition or acceptance of any personal obligation or liability not otherwise imposed by law or by an individual associated with MOUTD or McDonald. This Agreement is subject to a financial assistance contract between the Project sponsor (MOUTD) and the United States Department of Transportation.

ARTICLE XXVIII. COUNTERPARTS

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.

ARTICLE XXIX. CAPTIONS

The captions to the various clauses of this Agreement are for informational purposes only and shall not alter the substance of the terms and conditions of this Agreement.

ARTICLE XXX. NOTICE

Notice to McDonald means notice in writing addressed to the President of McDonald Transit Associates, 3800 Sandshell Drive, Suite 185, Fort Worth, Texas 76137.

Notice to MOUTD means notice in writing addressed to the Director of Public Works, City of Odessa, P.O. Box 4398, Odessa, Texas, 79760, and the Office of City Manager, P.O. Box 1152, Midland, Texas 79702.

ARTICLE XXXI COVENANTS

McDonald makes the following covenants to MOUTD and agrees that in the event of failure of McDonald to comply with such covenants, the breach of any one of which shall constitute an event of default, MOUTD may terminate this Agreement at its sole discretion; and in the event of such termination, if any consideration has been paid to or on behalf of McDonald, and not earned, McDonald must reimburse MOUTD for such consideration.

- (a) McDonald is a legal entity duly organized and existing in good standing and is duly authorized to do business in the State of Texas.
- (b) The execution of this Agreement has been duly authorized by its board of directors or an officer of McDonald empowered to execute such agreements and bind McDonald, and is not in contravention of any law, rule or regulations or of the provisions of McDonald's articles of incorporation or by-laws, or of any agreement or instrument to which McDonald is a party or by which it may be bound.
- (c) No material litigation or governmental proceeding is pending, or, to the knowledge of any McDonald's officers, threatened against or affecting McDonald.
- (d) No certificate or statement delivered by McDonald to MOUTD in connection herewith, or in connection with any transaction contemplated hereby, contains any untrue statement or fails to state any fact necessary to keep the statements contained therein from being misleading.
- (e) There are no bankruptcy proceedings or other proceedings currently or contemplated by McDonald.

ARTICLE XXXII. SUSPENSION

MOUTD, under the following circumstances, at its sole discretion, may suspend its obligation under this Agreement, or may terminate this Agreement and recapture any of the unearned consideration paid by MOUTD:

- (a) McDonald becomes insolvent. "Insolvent" is defined to mean McDonald either has ceased to pay its debts in the ordinary course of business or cannot pay its debts as they become due, or it is insolvent within the meaning of federal bankruptcy law.
- (b) The appointment of a receiver of McDonald, or of all or any substantial part of its property, and the failure of such receiver to be discharged within sixty (60) days thereafter.
- (c) The adjudication of McDonald as bankrupt.
- (d) The filing of McDonald of a petition to be adjudged as a bankrupt, or a petition or answer seeking reorganization or admitting the material allegation of a petition filed against it in any bankruptcy or reorganization proceedings.
- (e) McDonald shall obtain and maintain all necessary rights, licenses, permits, and authorities to carry on its business.

ARTICLE XXXIII. REPORTS

McDonald shall submit monthly reports to the City of Midland and the city of Odessa, not later than the fifteenth (15th) day of the next month. The form and content of such reports shall be mutually approved by the parties.

**ARTICLE XXXIV.
STANDARD OF OPERATION AND MAINTENANCE OF FACILITIES**

McDonald shall operate or cause the system to be operated in an efficient and economical manner in accordance with (i) sound business principles, (ii) accepted good management practices for the operation of similar type and size transit system, and (iii) all applicable regulatory requirements. McDonald agrees to use reasonable diligence and care to continually hold itself ready, willing and able to render its services as provided in this Agreement. The real and personal property comprising the System shall be used exclusively for the operation of the System during the term of this Agreement, unless otherwise agreed by both the City of Midland and the City of Odessa.

McDonald will provide preventative maintenance on all transit vehicles as specified by the Transit Manager. Preventative maintenance shall include tires, fluid changes and other services recognized by the vehicle manufacturer to be preventative.

McDonald shall provide transit signage and shelter installation.

**ARTICLE XXXV.
FINES, PENALTIES AND INDEMNITY**

In the event that fines, penalties, or civil liabilities are assessed against or imposed upon the parties, or any of them, as a result of McDonald's negligence or intentional act of omission, arising out of McDonald's violation of any permits or in violation of any other applicable laws, ordinances, governmental rules, or regulation, and such negligence or intentional act or omission causing such fine, penalty, or civil liability is established by agreement between the parties or by any other means pursuant to the terms thereof, as the negligence or intentional act or omission of McDonald, such fines, penalties, or civil liabilities shall be paid as follows: McDonald shall pay the initial \$25,000 of such fines, penalties or civil liability out of McDonald's Management Fee.

**ARTICLE XXXVI.
LIABILITY OR ACTS OF UNKNOWN ORIGIN**

In the event fines, penalties, or civil liabilities are assessed against or imposed upon the parties, or any of them, arising out of the operation of the System, or in violation of permits or any other applicable law, ordinance, governmental rule, or regulation, and the responsibility thereof is not establishment by agreement of the parties or by court or to the means, pursuant to the terms hereof to have resulted from the negligence or intentional act or omission of McDonald, or the parties, or any of them, then McDonald agrees to pay any such fines, penalties or civil liability out of McDonald's Management Fee up to \$2,000 per occurrence to a maximum liability of \$25,000 per year.

**ARTICLE XXXVII.
ENTIRE AGREEMENT**

THIS Agreement, with its Attachments, embodies the complete agreement of the parties hereto, superseding all oral or written previous and contemporary agreements between the parties relating to matter in this Agreement, and except as otherwise provided herein, cannot be modified without written agreement of the parties.

INWITNESS WHEREOF, the parties hereto have executed this contract and agreement on the _____ day of _____, A.D., 20____, as of the date and year aforesaid.

MIDLAND-ODESSA URBAN TRANSIT DISTRICT

By: _____
Richard Morton, City Manager
City of Odessa

By: _____
Courtney Sharp, City Manager
City of Midland

McDONALD TRANSIT ASSOCIATES, INC.
By: _____
President

MIDLAND-ODESSA TRANSIT MANAGEMENT, INC.
By: _____
President

(MOUTD)

STATE OF TEXAS §
COUNTY OF ECTOR §

BEFORE ME, the undersigned authority, on this day personally appeared **Richard Morton**, MOUTD Manager of the MOUTD of Odessa, Texas, a municipal corporation of Ector County, Texas, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that the same was the act of the said MOUTD of Odessa, a municipal corporation, and that he executed the same as the act of said MOUTD of Odessa 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 _____, A.D., 2013.

Notary Public in and for the State of Texas

(MCDONALD)

STATE OF TEXAS §
COUNTY OF ECTOR §

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

GIVEN UNDER MY HAND AND SEAL of office this ____ day of _____, A.D., 2013.

Notary Public in and for the State of Texas

(MOTM)

STATE OF TEXAS §
COUNTY OF ECTOR §

BEFORE ME, the undersigned authority, on this day personally appeared _____, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that the same was the act of the said Midland-Odessa Transit Management, Inc., and that he executed the same as the act of said Midland-Odessa Transit Management, Inc., for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL of office this ____ day of _____, A.D., 2013.

Notary Public in and for the State of Texas



City Council Agenda

Approved for Agenda:
THudson
City Manager's Office

MEETING DATE: 11/26/2013

TO: City Council / City Manager

FROM: Tina Jauz / Community Services Director

SUBJECT: Consider a resolution authorizing the acceptance of grant funds from Midland County Hospital District/ Midland Memorial Hospital in the amount of \$66,000.00 to assist the Health and Senior Services Division with the delivery of diabetes screening services and appropriate said funds to a project

Purpose:

Consider a resolution authorizing the acceptance of grant funds from Midland County Hospital District/ Midland Memorial Hospital in the amount of \$66,000.00 to assist the Health and Senior Services Division with the delivery of diabetes screening services and appropriate said funds to a project.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Directional / Informational

Fiscal Impact:

\$66,000

Discussion:

Midland Health & Senior Services receives reimbursement from Midland County Hospital District/ Midland Memorial Hospital to assist with diabetes screening. The reimbursement to the operating budget will be used for personnel, necessary medical supplies, and administrative service. The program offers residents of the City of Midland needed medical services and promotes overall community preventative health care.

The sum of \$66,000 is hereby appropriated from the General Fund (001) Unappropriated Fund Balance (5650) to the Diabetes Screening Services Project (7126).

RESOLUTION NO. _____

RESOLUTION AUTHORIZING THE CITY OF MIDLAND TO ACCEPT GRANT FUNDS FROM THE MIDLAND COUNTY HOSPITAL DISTRICT DBA MIDLAND MEMORIAL HOSPITAL, A POLITICAL SUBDIVISION OF THE STATE OF TEXAS IN THE AMOUNT OF \$66,000.00; SAID GRANT FUNDS ARE TO ASSIST THE HEALTH AND SENIOR SERVICES DIVISION WITH THE DELIVERY OF DIABETES SCREENING SERVICES; AUTHORIZING THE EXECUTION OF ACCEPTANCE DOCUMENTS; AND APPROPRIATING FUNDS

WHEREAS, the City of Midland will receive grant funds from the Midland County Hospital District DBA Midland Memorial Hospital, a political subdivision of the State of Texas in the amount of \$66,000.00 to assist the Health and Senior Services Division with the delivery of diabetes screening services; and

WHEREAS, the grant funds will be used by the City of Midland Health and Senior Services Division for personnel, necessary medical supplies, and administrative services; and

WHEREAS, the Council finds it to be in the public interest to accept the grant award and to appropriate the grant funds;

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

SECTION ONE. That the City of Midland hereby accepts the grant award of \$66,000.00. Said grant funds shall be used by the City of Midland Health and Senior Services Division for personnel, necessary medical supplies, and administrative services.

SECTION TWO. That the City Manager is hereby authorized and directed to execute, on behalf of the City of Midland, Texas, a Funding Agreement with the Midland County Hospital District DBA Midland Memorial Hospital, attached to this resolution, marked as Exhibit "A", and made a part hereof for all legal purposes.

SECTION THREE. That the sum of \$66,000 is hereby appropriated from the General Fund (001) Unappropriated Fund Balance (5650) to the Diabetes Screening Services Project (7126).

On motion of Council member _____, seconded by Council member _____, the above and foregoing resolution was adopted by the City Council of the City of Midland at a regular meeting on the _____ day of _____, A.D., 2013, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

Courtney Sharp, City Manager

Robert McNaughton, Director of Finance

APPROVED AS TO CONTENT
AND COMPLETENESS:

Tina Jauz, Community Services Director

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

FUNDING AGREEMENT

This Funding Agreement ("Agreement") is made and entered into as of September 1, 2013 (the "Effective Date"), between MIDLAND COUNTY HOSPITAL DISTRICT D/B/A MIDLAND MEMORIAL HOSPITAL, a political subdivision of the State of Texas ("MCHD") and the CITY OF MIDLAND ("COM").

WHEREAS, MCHD, pursuant to its enabling legislation, as established by the Texas Legislature, has the full responsibility to provide necessary medical care for the inhabitants within the boundaries of MCHD's territory, such boundaries which are coterminous with the boundaries of Midland County, Texas (the "District");

WHEREAS, COM, through the Midland Health Department, provides diabetes screening services for residents of the City of Midland in order to facilitate access to medical services and promote overall community preventative health care ("COM Services");

WHEREAS, MCHD participates in the Texas Region 14 Delivery System Reform Incentive Program (DSRIP) which provides payments to hospitals and other health care providers upon achieving certain goals that are intended to improve the quality and lower the cost of overall health care;

WHEREAS, MCHD desires to ensure such financial assistance to COM for the COM Services provided toward serving the needs of the residents of the City of Midland, as part of MCHD's participation in the DSRIP program; and

WHEREAS, MCHD and COM agree on the payment and receipt of funding for the COM Services on the terms and conditions set forth herein;

NOW, THEREFORE, for and in consideration of the premises, and the agreements, covenants, representations, and warranties hereinafter set forth, and other good and valuable consideration, the receipt and adequacy of which are forever acknowledged and confessed, the parties hereto agree as follows:

AGREEMENT

1. **Grant.** MCHD agrees to provide funding to COM for the COM Services in the amount of Five Thousand Five Hundred Dollars (\$5,500.00) per month during the Term ("Monthly Amount"). The maximum amount of funding during any calendar year shall be Sixty-Six Thousand Dollars (\$66,000.00) ("Maximum Annual Amount"). Upon the parties' mutual agreement, COM may receive accelerated payment of the remaining Monthly Amounts for a 12-month term during the 12-month term in which the accelerated payment is requested.

2. **Term of Agreement.** The term of this Agreement (the "Term") shall begin at 12:01 a.m. on October 1, 2013, and shall continue for a term of one (1) year thereafter and shall renew automatically on an annual basis for consecutive terms of one (1) year each (each separate one-year term referred to herein as "12-month term"). Either party may provide written notice

sixty (60) days prior to September 1 of the following 12-month term to terminate this Agreement.

3. **COM Services.** In performing the COM Services pursuant to this Agreement, COM, through the Midland Health Department, agrees to ensure the following, each of which is a required condition to receive the funding under this Agreement:

- a. The provision of appropriate diabetes screening services for the benefit of patients of the Midland Health Department, including Medicare, Medicaid and qualified low income patients of the District;
- b. The provision of any necessary medical and administrative services and supplies required to provide the COM Services;
- c. Compliance with established Midland Health Department policies, procedures and objectives, continuous quality improvement objectives, and safety, environmental, and/or infection control standards;
- d. Performance of all acts reasonably necessary to maintain and improve professional skills, including all required continuing medical education for providing diabetes screening services;
- e. The services of a Medical Assistant properly trained in diabetes screening, counseling and education, pursuant to all necessary requirements under State and federal law, rules and regulations;
- f. Supervision of the Medical Assistant by the Medical Director of the Midland Department of Health, in compliance with all appropriate State and federal law, rules and regulations and the Midland Department of Health's accrediting organization's guidelines;
- g. Full documentation and disclosure to MCHD, in a format and manner directed by MCHD, of the patients and the services such patients have received in the administration of the COM Services (MCHD to add patient names to the common registry for the DSRIP project);
- h. The obtaining and maintenance of a Clinical Laboratory Improvements Amendments (CLIA) Certificate of Waiver and compliance with all requirements in the CLIA rules and regulations as applicable to the provision of COM Services; and
- i. Maintenance, throughout the term of this Agreement, and any renewals hereof, of the following:
 - i. Eligibility and/or deeming under the Texas Tort Claims Act; or
 - ii. Insurance covering professional liability for the medical professionals providing COM Services under this Agreement with limits of liability of

not less than Two Hundred Thousand Dollars (\$200,000) per person and Six Hundred Thousand Dollars (\$600,000) per occurrence.

COM shall provide MCHD with certificates or other documentation reasonably evidencing the requirements set forth in this Section 3(i). Any policy providing said coverage and all renewals and replacements thereof shall not be cancelable or subject to reduction of coverage or other modifications except upon at least thirty (30) days written notice to MCHD.

4. **Termination.** Except as may otherwise be stated elsewhere in this Agreement, this Agreement shall terminate upon the occurrence of any of the following events:

- a. Whenever the parties shall mutually agree to the termination in writing;
- b. After the first twelve (12) months of the Term, whenever either party, at any time and for any reason, gives the other party at least sixty (60) days prior written notice of termination;
- c. Wherever there is a material failure or refusal on the part of COM to perform faithfully and diligently the COM Services called for herein and/or to comply with the provisions of this Agreement, after COM's receipt of at least ten (10) days prior written notice from MCHD specifying the failure or refusal;
- d. Whenever there is a material failure or refusal by MCHD to make timely payment of all amounts due according to the provisions of the Agreement, after MCHD's receipt of at least ten (10) days prior written notice from COM specifying the failure or refusal; or
- e. COM's loss of an unrestricted license to practice as a medical provider in the State of Texas and/or COM's loss of Medicare or Medicaid payment approval status.

5. **Regulatory Limitations.** Notwithstanding anything herein to the contrary, in the event performance by any party hereto of any term, covenant, condition or provision of this Agreement shall (1) jeopardize the licensure of any party's participation in Medicare, Medicaid or in any other reimbursement or payment program, or either party's full accreditation by its accrediting organization or any state or nationally recognized accrediting organization, or, as a result of such performance, a criminal or civil sanction or penalty is imposed or threatened to be imposed against a party in connection with its licensure, participation in payer programs or accreditation; (2) be in violation of any statute, regulation, or ordinance, or (3) be deemed illegal (each of the above being herein referred to individually as an Adverse Action), the parties shall use their best efforts to resolve or avoid the Adverse Action through any appropriate means, including, without limitation, the renegotiation of this Agreement, as soon as possible but no later than the effective date of any Adverse Action. If the parties are unable to resolve or avoid the Adverse Action within a reasonable period of time, this Agreement may be terminated by either party immediately upon written notice to the other party.

6. **Assignment.** This Agreement shall not be assignable or otherwise transferable by any party hereto, without the prior written consent of the other party.

7. **Notice.** Any notice, demand, or communication required, permitted, or desired to be given hereunder shall be deemed effectively given when personally delivered, when received by telegraphic or other electronic means (including telecopy and telex) or overnight courier, or five days after being deposited in the United States mail, with postage prepaid thereon, certified or registered mail, return receipt requested, addressed as follows:

MCHD: MIDLAND COUNTY HOSPITAL DISTRICT
400 Rosalind Redfern Grover Parkway
Midland, Texas 79701
ATTENTION: President, Midland Memorial Hospital

COM: CITY OF MIDLAND

ATTENTION: _____

Or to such other address, and to the attention of such other person or officer, as either party may designate in writing.

8. **Access Pursuant to Federal Law.** Upon written request of the Secretary of Health and Human Services or the Comptroller General of the Government Accounting Office, or any of their duly authorized representatives, COM shall make available those contracts, books, documents and records necessary to verify the nature and extent of the costs of services provided to MCHD. Such inspection shall be available up to four (4) years after the rendering of such services. If COM carries out any of the duties of this Agreement through a subcontract with a value of \$10,000.00 or more over a twelve (12) month period with a related organization or individual, COM agrees to include this requirement in any such subcontract. This provision is included pursuant to and is governed by the requirements of Public Law 96-499, Section 952 [Section 1861 (v)(1)(I)] of the Social Security Act and regulations promulgated thereunder.

9. **Severability.** In the event any provision of this Agreement is held to be invalid, illegal, or unenforceable for any reason and in any respect, such invalidity, illegality, or unenforceability shall in no event affect, prejudice, or disturb the validity of the remainder of this Agreement, which shall be and remain in full force and effect, enforceable in accordance with its terms.

10. **No Third-Party Beneficiaries.** The terms and provisions of this Agreement are intended solely for the benefit of COM and MCHD and their respective permitted successors or assigns, and it is not the intention of the parties to confer, and this Agreement shall not confer, third party beneficiary rights upon any other person.

11. **Entire Agreement.** This Agreement supersedes any prior agreement between the parties and constitutes the entire agreement existing between the parties with respect to the subject matter hereof, and neither party shall be entitled to benefits other than those specified herein or therein.

12. **Counterparts.** This Agreement may be executed in two or more counterparts, each and all of which shall be deemed an original and all of which together shall constitute but one and the same instrument.

13. **Amendment.** This Agreement may not be amended or modified except with the written consent of both of the parties hereto and compliance herewith may not be waived except in writing by the party waiving compliance.

14. **Waiver of Breach.** The wavier by either party of a breach or violation of any provision of this Agreement shall not operate as, or be construed to constitute, a waiver of any subsequent breach of the same or other provision hereof.

15. **Payments.** All payments to be made pursuant to this Agreement are to occur in Midland, Midland County, Texas.

16. **Relationship of Parties.** Except as specifically provided herein, neither of the parties shall act or represent or hold itself out as having authority to act as an agent or partner of the other party, or in any bind or commit the other party to any obligations. Nothing contained in this Agreement shall be construed as creating a partnership, joint venture, agency, trust or other association of any kind, each party being individually responsible only for its obligations as set forth in this Agreement.

17. **Not a Waiver.** THE PARTIES HEREBY ACKNOWLEDGE AND AGREE THAT THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF EACH PARTY HEREUNDER DO NOT CONSTITUTE A WAIVER OF EITHER PARTY'S IMMUNITY AS PROVIDED FOR UNDER APPLICABLE STATE OR FEDERAL LAW. FURTHERMORE, THE PARTIES ACKNOWLEDGE AND AGREE THAT THIS AGREEMENT DOES NOT CONSTITUTE A CONTRACT FOR THE PROVISION OF GOODS AND/OR SERVICES.

18. **Governing Law.** This Agreement shall be construed, enforced and otherwise governed in accordance with the laws of the State of Texas, and all obligations arising hereunder are performable in Texas. Venue for any proceeding brought hereunder shall be in the state or federal courts of Midland County, Texas.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the day and year first above written.

[Signature lines begin on next page.]

**MIDLAND COUNTY HOSPITAL DISTRICT
D/B/A MIDLAND MEMORIAL HOSPITAL**

By: _____
Russell Meyers, President
Midland Memorial Hospital

CITY OF MIDLAND

By: _____



City Council Agenda

Approved for Agenda:
rpatrick
City Manager's Office

MEETING DATE: 11/26/2013

TO: City Council / City Manager

FROM: David Beard,

SUBJECT: Consider a resolution authorizing the execution of an amendment to the Public Improvement Development Agreement with Real Property Resources, Inc. (Betenbough Homes) for the paving and water main extension along Avalon Drive adjacent to the Legends Park - Section 8 Addition. the site is generally located Along the east side of Avalon Dr. approximately 3,400' south of Deauville Blvd. Said agreement being authorized by Section 395.081 of the Texas Local Government Code. (District #4 – Trost)

Purpose:

Consider a resolution authorizing the execution of a Public Improvement Development Agreement with Real Property Resources, Inc. (Betenbough Homes) for the paving and water main extension along Avalon Drive adjacent to the Legends Park - Section 8 Addition. the site is generally located Along Avalon Dr. approximately 2,400' south of Deauville Blvd. Said agreement being authorized by Section 395.081 of the Texas Local Government Code. (District #4 – Trost)

Recommended City Council Action

☒ Approve ☐ Deny ☐ Directional / Informational

Fiscal Impact:

The City's contribution will be \$124,784

Water Distribution Improvements (Oversize)	\$77,000
Sidewalk Improvements (Along Avalon Dr.)	\$ 2,500
Paving Improvements (Avalon Dr.)	\$45,284 (26.6%)
Total	\$124,784

That the sum of \$124,784 is hereby appropriated from the following Sources in the following amounts to the Avalon Dr. Extension Developer's Agreement LP 8 Project (9072):

General Fund (001) Unappropriated Fund Balance (5650)	\$47,784
Water and Sewer Fund (300) Unappropriated Fund Balance (5650)	\$77,000

Discussion:

The Legends Park Addition is located on the east side of the future Avalon Dr. extension, south of Deauville Blvd. near the Scharbauer Sports Complex. The developer is requesting City participation for the construction of oversized water distribution improvements and the paving of Avalon Dr. (half width) to the City of Midland arterial standards.

Water distribution improvements include oversizing the water main from 8"Ø to 16"Ø along Avalon Dr. adjacent to Legends Park - Section 8

The local government code allows for 100% of all oversized costs to be incorporated into the development agreement as the City's portion of the cost. The City's contribution to the paving of this development agreement is 26.6% of the total cost

Paving improvements include the construction of Avalon Dr. to the arterial street standard (half width) adjacent to the Legends Park - Section 8 Addition.

Sidewalk improvements include expanding the sidewalk from 4' to 5' along the east side of Avalon Dr.

Once constructed, the improvements will serve the Legends Park Addition and allow for future connection to the south and west as development moves in that direction.

Staff recommends approval of the development agreement providing City participation in 100% of the construction cost for the oversized portion of the water main and 26.6% of the half width paving and sidewalk improvements along Avalon Dr. to serve the Legends Park subdivision. Attached is a cost sharing spreadsheet prepared by Engineering Services staff from the cost information provided by the Engineer of record (AMD Engineering, LLC – Jimmy McDaniel, P.E.) and a location map.

RESOLUTION NO. _____

**RESOLUTION AUTHORIZING THE EXECUTION OF A
PUBLIC IMPROVEMENT DEVELOPMENT
AGREEMENT WITH REAL PROPERTY RESOURCES,
INC. FOR DEVELOPMENT OF LEGENDS PARK
ADDITION, SECTION 8, CITY AND COUNTY OF
MIDLAND, TEXAS (GENERALLY LOCATED ALONG
AVALON DRIVE, APPROXIMATELY 2,400 FEET
SOUTH OF DEAUVILLE BOULEVARD); AND
APPROPRIATING FUNDS IN THE AMOUNT OF
\$124,784.00 THEREFOR; SAID AGREEMENT BEING
AUTHORIZED BY SECTION 395.081 OF THE TEXAS
LOCAL GOVERNMENT CODE**

WHEREAS, the developer of Legends Park Addition, Section 8, City and County of Midland, Texas, has requested City participation in the development of this addition; and

WHEREAS, the City Code allows City participation; and

WHEREAS, the City Council finds that in accordance with Section 395.081 of the Texas Local Government Code that the City of Midland will benefit from allowing the developer to connect to capital improvements by promoting the health, safety, and public welfare and providing for efficient and well-planned urban growth and development; and

WHEREAS, the City Council finds it to be in the public interest to execute a development agreement with Real Property Resources, Inc. which sets forth the extent of the City's participation in the construction of public improvements related to the development of Legends Park Addition, Section 8, and to appropriate funds therefor;

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

SECTION ONE. That the Mayor and City Secretary are hereby authorized and directed to execute and attest, respectively, on behalf of the City of Midland, Texas, a Public Improvement Development Agreement with Real Property Resources, Inc. Said agreement is marked as Exhibit "A", attached hereto and incorporated herein for all purposes.

SECTION TWO. That the sum of \$124,784.00 is hereby appropriated from the following sources in the following amounts to the Avalon Drive Extension Developer's Agreement LP 8 Project (9072):

General Fund (001)
Unappropriated Fund Balance (5650).....\$47,784.00

Water and Sewer Fund (300)
Unappropriated Fund Balance (5650).....\$77,000.00

SECTION THREE. That the City Treasurer is hereby authorized and directed to pay for said agreement, in amount not to exceed \$124,784.00, out of funds that are available in the said 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., 2013, by the following vote:

Council members voting “AYE”:

Council members voting “NAY”:

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

Courtney Sharp, City Manager

Robert McNaughton, Director of Finance

APPROVED AS TO CONTENT
AND COMPLETENESS:

Jose Ortiz, Engineering Services Director

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

**PUBLIC IMPROVEMENT DEVELOPMENT AGREEMENT
BETWEEN REAL PROPERTY RESOURCES, INC.
AND THE CITY OF MIDLAND, TEXAS**

THIS PUBLIC IMPROVEMENT DEVELOPMENT AGREEMENT (“Agreement”) is made and effective this 27th day of November, 2013, by and between **REAL PROPERTY RESOURCES, INC.** (“Developer”) and the **CITY OF MIDLAND, TEXAS** (“City”), a home rule municipal corporation.

W I T N E S S E T H:

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

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

1. The Developer desires to develop the Property described as Legends Park Addition, Section 8. Pursuant thereto, the Developer agrees to make certain public improvements as set forth below. The improvements are more particularly described in specifications and contract documents related to the construction of the public improvements related to the development of the Property prepared by AMD Engineering, LLC. (hereafter collectively called “the Specifications”). The Specifications are incorporated herein by reference and made a part hereof for all purposes, and Developer shall comply with the Specifications in the performance of all work pursuant to this Agreement. No amendment to the Specifications may be made without the written approval of the City Manager.

2. The public improvements to be constructed by Developer pursuant to this Agreement shall be generally described as follows:

See Exhibit “A”, attached hereto and incorporated herein by reference.

3. Developer must submit any bids it receives for the proposed public improvements to the City for approval prior to engaging any contractor or subcontractor in such work, which approval shall not be unreasonably withheld. If City fails to object within ten (10) days (excluding weekends and City holidays) after receipt from the Developer of the bid tabulations and written notification of whom the Developer intends to award the contract, the bid which the Developer indicated it is accepting shall be deemed to have been accepted by the City. The City reserves the right to reject any and all bids for work that involves City participation. In rejecting any bid pursuant to the provisions of this Paragraph 3, the City shall issue a notice of rejection in writing to the Developer stating each and every ground or reason relied upon by the City for such rejection.

4. Upon completion of the improvements called for in Paragraph 2, the Developer shall notify the City’s Director of Development Services for inspection. Project inspection for required public improvements will be done by the City during the construction phase. The City’s Director of Development Services shall cause such work to be inspected within five (5) days, excluding weekends and holidays, of being notified by the Developer. Notwithstanding anything herein to the contrary, project inspection must be completed prior to water or sewer systems being backfilled. If the Director of Development Services determines that all work has been completed in conformance with the Specifications, then the Director of Development Services shall give his approval for that improvement work.

5. After completion and acceptance of all work, the Developer must furnish to City an affidavit of all bills paid with respect to the completed work.

6. In consideration of the obligations incurred by the Developer pursuant to this Agreement, the City agrees to participate in the funding of the construction of the public improvements listed in Exhibit "A" attached hereto and incorporated herein by reference said amount to be no more than \$124,784.00. In no case shall the City's contributions to the public improvements required to be constructed on the Property exceed 30 percent of the actual cost of all the public improvements associated with the development without Developer complying with the applicable competitive sealed bid procedures set forth in state law and the ordinances and regulations of the City of Midland, Texas. If the City's contribution for public improvements for any contract exceeds 30 percent of the total cost of all public improvements associated with such contract and such public improvements were constructed without complying with said applicable competitive sealed bid procedures, then the City's maximum contribution under this contract for such phase shall not exceed 30 percent of the actual cost of all public improvements associated with the particular contract.

Provided, however, Developer shall not have to comply with said applicable competitive sealed bid procedures where the City's contribution exceeds 30 percent of the total cost of the public improvements if the City's participation is for the oversizing of such improvements in accordance with Section 212.072 of the Texas Local Government Code.

7. Developer will indemnify and hold harmless and defend City and all of City's officers, agents and employees from all suits, actions, claims, damages, personal injuries, including accidental death, 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 Developer, its 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 Agreement, and Developer will be required to pay any judgment with costs which may be obtained against City or any of its officers, agents or employees, including attorney's fees.

DEVELOPER SHALL INDEMNIFY AND HOLD HARMLESS AND DEFEND CITY AND ALL OF CITY'S OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, INCLUDING ACCIDENTAL DEATH, PROPERTY DAMAGE, LOSSES, AND EXPENSE 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 CITY, CITY'S OFFICERS, AGENTS AND EMPLOYEES, WHETHER SUCH NEGLIGENT ACT WAS THE SOLE PROXIMATE CAUSE OF THE INJURY OR DAMAGE OR A PROXIMATE CAUSE JOINTLY AND CONCURRENTLY WITH DEVELOPER OR DEVELOPER'S EMPLOYEES, AGENTS OR SUBCONTRACTORS NEGLIGENCE, IN THE EXECUTION, SUPERVISION AND OPERATIONS GROWING OUT OF OR IN ANY WAY CONNECTED WITH THE PERFORMANCE OF THIS AGREEMENT AND DEVELOPER WILL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST CITY OR ANY OF ITS

OFFICERS, AGENTS OR EMPLOYEES, INCLUDING ATTORNEY'S FEES.

8. The Developer agrees to indemnify and save the City harmless from all claims growing out of any demands of subcontractors, laborers, workmen, mechanics, materialmen, and suppliers of machinery and parts thereof, equipment, power tools, all supplies, including commissary incurred in the furtherance of the performance of this contract. When City so desires, the Developer shall furnish satisfactory evidence that all obligations of the nature hereinabove designated have been paid, discharged or waived.

9. Developer shall obtain and maintain continuously in effect at all times during the construction of the public improvements described in Paragraph 2, above, at Developer's sole expense, at least the following minimum insurance with a carrier or carriers licensed to do business in the State of Texas and satisfactory to the City.

A. The following requirements shall be met in regard to workers' compensation insurance coverage: Definitions:

Certificate of coverage ("certificate") - A copy of a certificate of insurance, a certificate of authority to self-insure issued by the commission, or a coverage agreement (TWCC-81, TWCC-82, TWCC-83, or TWCC-84), showing statutory workers' compensation insurance coverage for the person's or entity's employees providing services on a project, for the duration of the project.

Duration of the project - includes the time from the beginning of the work on the project until the contractor's/person's work on the project has been completed and accepted by the governmental entity.

Persons providing services on the project ("subcontractor" in §406.096) - includes all persons or entities performing all or part of the services the contractor has undertaken to perform on the project, regardless of whether that person contracted directly with the contractor and regardless of whether that person has employees. This includes, without limitation, independent contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity which furnishes persons to provide services on the project. "Services" include, without limitation, providing, hauling, or delivering equipment

or materials, or providing labor, transportation, or other service related to a project. “Services” does not include activities unrelated to the project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.

B. The Developer shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all employees of the Developer providing services on the project, for the duration of the project.

C. The Developer must provide a certificate of coverage to the governmental entity prior to being awarded the contract.

D. If the coverage period shown on the Developer’s current certificate of coverage ends during the duration of the project, the Developer must, prior to the end of the coverage period, file a new certificate of coverage with the governmental entity showing that coverage has been extended.

E. The Developer shall obtain from each person providing services on a project, and provide to the governmental entity:

(1) a certificate of coverage, prior to that person beginning work on the project, so the governmental entity will have on file certificates of coverage showing coverage for all persons providing services on the project; and

(2) no later than seven days after receipt by the contractor, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project.

F. The Developer shall retain all required certificates of coverage for the duration of the project and for one year thereafter.

G. The Developer shall notify the governmental entity in writing by certified mail or personal delivery, within 10 days after the Developer knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project.

H. The Developer shall post on each project site a notice, in the text, form and manner prescribed by the Texas Workers’ Compensation Commission, informing all persons providing services on the project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.

I. The Developer shall contractually require each person with whom it contracts

to provide services on a project, to:

- (1) provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all of its employees providing services on the project, for the duration of the project;
- (2) provide to the Developer, prior to that person beginning work on the project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the project, for the duration of the project;
- (3) provide the Developer, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project;
- (4) obtain from each other person with whom it contracts, and provide to the Developer:
 - (a) a certificate of coverage, prior to the other person beginning work on the project; and
 - (b) a new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the project;
- (5) retain all required certificates of coverage on file for the duration of the project and for one year thereafter;
- (6) notify the governmental entity in writing by certified mail or personal delivery, within 10 days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project; and
- (7) contractually require each person with whom it contracts, to perform as required by paragraphs (1) - (7), with the certificates of coverage to be provided to the person for whom they are providing services.

J. By signing this contract or providing or causing to be provided a certificate of coverage, the Developer is representing to the governmental entity that all employees of the Developer who will provide services on the project will be covered by workers'

compensation coverage for the duration of the project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the commission's Division of Self-Insurance Regulation. Providing false or misleading information may subject the contractor to administrative penalties, criminal penalties, civil penalties, or other civil actions.

K. The Developer's failure to comply with any of these provisions is a breach of contract by the Developer which entitles the governmental entity to declare the contract void if the Developer does not remedy the breach within 10 days after receipt of notice of breach from the governmental entity.

Developer shall also comply with the following:

L. Comprehensive General Liability Insurance against claims for bodily injury, death, or property damage occurring on, in or about the Property, in at least the amount of \$250,000.00 per individual, \$1,000,000.00 per occurrence and \$100,000.00 with respect to property damage; said insurance shall name the City as an additional insured and shall waive all rights of subrogation against the City.

M. Automobile Liability Coverage on all motor vehicles owned, leased and/or operated by the Developer or its employees in amounts of not less than \$1,000,000.00 combined single limit or equivalent, provided, however, separate automobile coverage shall not be required if such coverage is provided under the Developer's comprehensive general liability policy. The insurance shall name the City as an additional insured and waive all rights of subrogation against the City.

All insurance herein required shall apply as primary and not in excess of or contributing with other insurance which the Developer may carry.

10. **All insurance required pursuant to Paragraph 9, except worker's compensation, shall name the City as an additional insured.** The comprehensive general liability policy shall provide contractual liability coverage sufficiently broad so as to include the liability assumed by the Developer in the indemnity and hold harmless provisions included in this Agreement. Developer's insurance as required by this Agreement shall not be subject to cancellation or material alteration until at least thirty (30) days written notice

has been provided to the City. Developer shall furnish to the City a certificate of insurance showing City as an additional insured and evidencing that all of the herein stated requirements have been met. **All insurance coverage required pursuant to Paragraph 9 shall include in its provisions a waiver of any rights of subrogation against City.**

DEVELOPER SHALL CONTRACTUALLY REQUIRE ALL CONTRACTORS, SUBCONTRACTORS, AND SUB-SUBCONTRACTORS THAT WORK ON ANY PORTION OF THE WORK THAT IS THE SUBJECT OF THIS PUBLIC IMPROVEMENT DEVELOPMENT AGREEMENT TO OBTAIN INSURANCE COVERAGE THAT MEETS OR EXCEEDS THE MINIMUM AMOUNTS SPECIFIED HEREIN. ALL CONTRACTORS, SUBCONTRACTORS, AND SUB-SUBCONTRACTORS SHALL OBTAIN INSURANCE POLICIES THAT PROVIDE BLANKET WAIVERS OF SUBROGATION IN FAVOR OF THE CITY OF MIDLAND AND POLICIES THAT NAME THE CITY OF MIDLAND AS AN ADDITIONAL INSURED (EXCEPT WORKERS COMPENSATION).

11. Insurance must be approved by the City Attorney's office prior to this Agreement being executed.

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

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

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

If to Developer:

Real Property Resources, Inc.
6305 82nd St.
Lubbock, Texas 79424
Attn: Kelly Oaks

If to City:

City of Midland
P.O. Box 1152
Midland, Texas 79702
Attn: City Engineer

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

16. This Agreement shall be construed under the laws of the State of Texas and all obligations of the parties hereunder are performable in Midland County, Texas. Exclusive venue for any cause of action 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.

17. In the event of any conflict between the parties hereto such that either party brings or commences any legal action or proceeding related to this Agreement, including but not limited to any action pursuant to the provisions of the Texas Uniform Declaratory

Judgments Act (TEX. CIV. PRAC. & REM. CODE §37.001 et seq., as amended), the parties hereto agree to waive any and all rights to recovery of attorneys fees to which the prevailing party might otherwise be entitled.

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

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

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

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

18. It is expressly understood and agreed that Developer 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 Developer shall have exclusive control of and the exclusive right to control the details of the services and work performed hereunder, and all persons performing the same; and shall be solely responsible for the acts and omissions of its officers, agents, employees, contractors and subcontractors; that the doctrine of respondeat superior shall not apply as between City and Developer, its officers, agents, employees, contractors and subcontractors; and that nothing herein shall be construed as creating a partnership or joint enterprise between City and Developer. No person performing any of the work and services described hereunder by Developer shall be considered an officer, agent, servant or employee of the City. 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. Developer 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 City does not have the power to direct the order in which the work is done. The City shall not have the right to control the means, methods or details of the Developer's work. Developer shall assume exclusive responsibility for the work. Developer is entirely free to do the work in its own way.

19. RELEASE: DEVELOPER 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 ARISING UNDER OR ASSOCIATED WITH THIS AGREEMENT WHICH DEVELOPER HAS OR MIGHT HAVE IN THE FUTURE, INCLUDING BUT NOT LIMITED TO QUANTUM MERUIT, DUE PROCESS AND TAKINGS CLAUSES UNDER THE TEXAS AND UNITED STATES CONSTITUTION, TORT CLAIMS OR CITY'S NEGLIGENCE.

20. 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.

21. 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, Developer or its legal representative, shall give the City Manager, or any other reasonable official of the City,

notice in writing (consisting of one (1) original and seven (7) 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 Developer will settle, the physical and mailing addresses of Developer at the time and date the claim was presented and the physical and mailing addresses of Developer for the six (6) months immediately preceding the occurrence of such damages, and the names and addresses of the witnesses upon whom the Developer 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 Developer that Developer's notice is insufficient. The City reserves the right to request reasonable additional information regarding the claim. Said additional information shall be supplied within thirty (30) days after receipt of notice.

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

22. This agreement is made under the authority of Section 395.081 of the Texas

Local Government Code and the laws of the State of Texas and Ordinances and the Charter of the City of Midland. The City finds in accordance with Section 395.081 of the Texas Local Government Code that the City of Midland will benefit from allowing the Developer to connect to the capital improvements. The City finds that this benefit will promote the public health, safety, and public welfare of the citizens of Midland. The City finds that the benefit the City of Midland receives will be efficient and well-planned urban growth and development, in coordination with public services. The benefit is also that this agreement will help preserve and increase the ad valorem tax base of the City. The City finds that the Developer's land adjoins the capital improvement or is within five (5) miles of the capital improvement. The five (5) miles is the specified distance required in Section 395.081 of the Texas Local Government Code.

23. Notwithstanding any other provision hereof, the City shall not be obligated to provide payment to Developer under this Agreement until Developer has met all requirements of this Agreement, including, but not limited to, the City's approval of the improvement work as set forth in Paragraph 4 and the City's determination that Developer has furnished satisfactory evidence that all obligations described in Paragraph 8 have been paid, discharged or waived. Determination of whether Developer has furnished satisfactory evidence that all such obligations have been paid, discharged or waived shall be in the sole discretion of the City.

EXECUTED in duplicate the day and year first above written.

CITY OF MIDLAND, TEXAS

By: _____
W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

REAL PROPERTY RESOURCES, INC.

By: _____
Kelly Oaks, Vice President

THE STATE OF TEXAS §
 §
COUNTY OF MIDLAND §

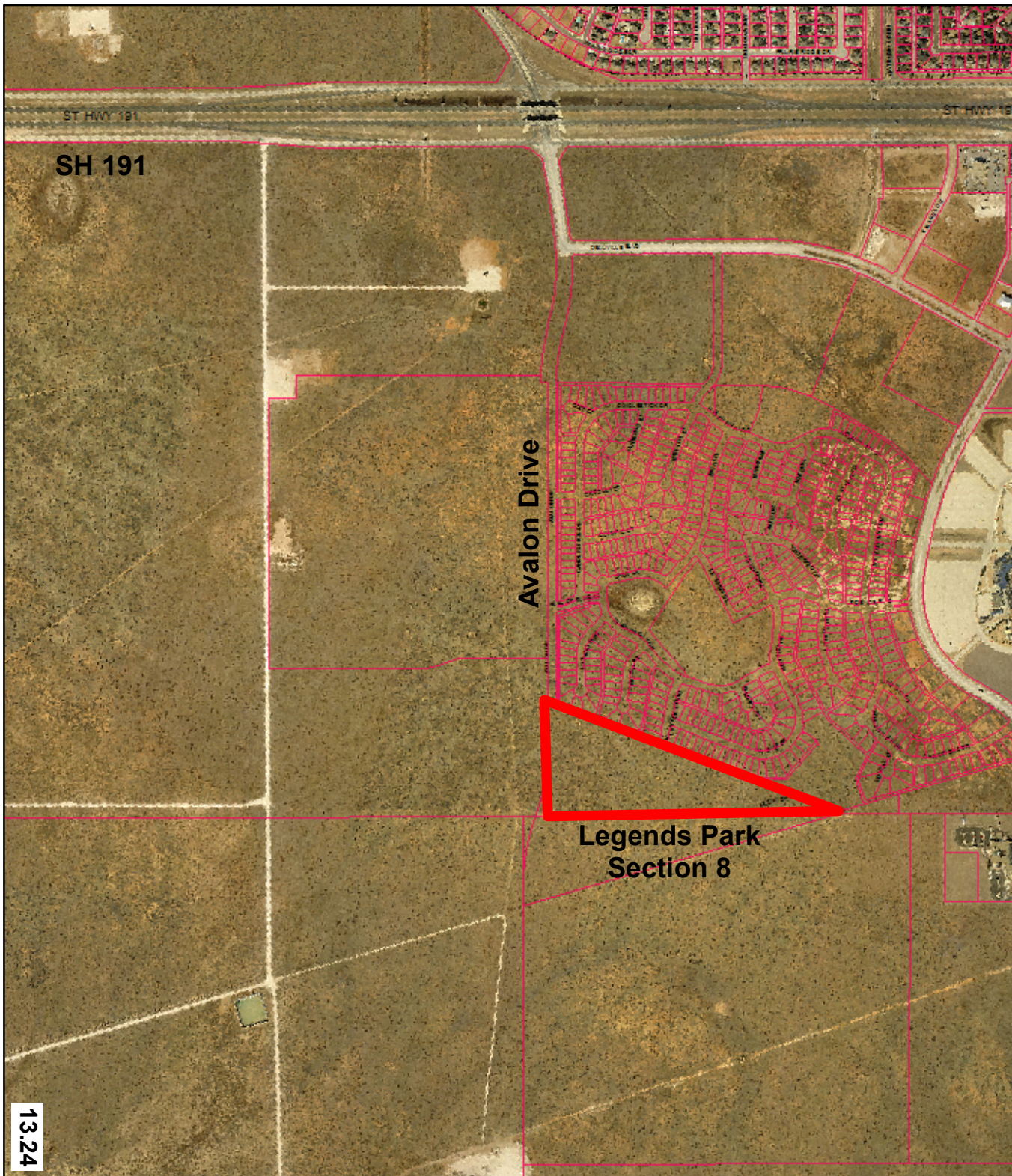
BEFORE ME, the undersigned authority, on this day personally appeared KELLY OAKS, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged that he executed and delivered the foregoing instrument for the purposes and consideration therein expressed on behalf of REAL PROPERTY RESOURCES, INC., in the capacity therein stated.

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

Notary Public, State of Texas

ENGINEER'S OPINION OF PROBABLE COSTS (Revised by DDB)
 AS OF NOVEMBER 18, 2013

ITEM NO.	DESCRIPTION	UNITS	QUANTITY	PRICE	Total	DEVELOPER SHARE	DEVELOPER COST	MIDLAND SHARE	MIDLAND COST
Paving - Avalon Dr. (½ Width)									
1	Subgrade Prep.	SY	3778	\$ 2.31	\$ 8,727.18	64.60%	\$ 5,637.76	35.40%	\$ 3,089.42
2	12" Base / Prime Coat / 3.5" HMAC	SY	3778	\$ 31.55	\$ 119,195.90	64.60%	\$ 77,000.55	35.40%	\$ 42,195.35
3	24" Curb & Gutter	LF	1442	\$ 14.70	\$ 21,197.40	100.00%	\$ 21,197.40	0.00%	\$ -
4	TxDOT Sloped Headwall	EA	2	\$ 8,883.00	\$ 17,766.00	100.00%	\$ 17,766.00	0.00%	\$ -
5	Expand width of sidewalk from 4' to 5' along Avalon Dr.	LF	1500	\$ 8.33	\$ 12,495.00	80.00%	\$ 9,996.00	20.00%	\$ 2,499.00
									\$ -
				Total (Paving)	\$ 179,382.00		\$ 131,598.00		\$ 47,784.00
									26.6%
									\$ -
									\$ -
									\$ -
									\$ -
									\$ -
16"Ø Water Main Extension (Oversized Participation)									\$ -
1	8" PVC C-900 Water Main Installation	LF	1500	\$ 39.00	\$ 58,500.00	100.00%	\$ 58,500.00	0.00%	\$ -
2	Oversized Water Main - 8"Ø to 16"Ø - (\$90 - \$39)	LF	1500	\$ 51.00	\$ 76,500.00	0.00%	\$ -	100.00%	\$ 76,500.00
3	DI Fittings and Valves	LS	1	\$ 500.00	\$ 500.00	0.00%	\$ -	100.00%	\$ 500.00
									\$ -
				Total (Water)	\$ 135,500.00		\$ 58,500.00		\$ 77,000.00
									\$ -
									\$ -
									\$ -
									\$ -
									\$ -
									\$ -
									\$ -



ENGINEERING DIVISION

Legends Park - Section 8 (Betenbough Homes)

Development Agreement
(Construction of Avalon Dr. (half width)
&
Oversized Water Main (8" - 16")



Map by DDB 11/21/2013



City Council Agenda

Approved for Agenda:
rpatrick
City Manager's Office

MEETING DATE: 11/26/2013

TO: City Council / City Manager

FROM: Bill Hodge, GIS Manager

SUBJECT: Consider a Resolution Authorizing a Right-of-Way Agreement and a Surface Damage Agreement with Saltwater Partners SWD, LLC for the installation and maintenance of one (1) pipeline not to exceed six (6) inches in diameter, for the transportation of produced water, located in Block 38, Section 9, T2S, T&P Survey Co, Midland, TX.

Purpose:

Consider a Resolution Authorizing a Right-of-Way Agreement and a Surface Damage Agreement with Saltwater Partners SWD, LLC for the installation and maintenance of one (1) pipeline not to exceed six (6) inches in diameter, for the transportation of produced water, located in Block 38, Section 9, T2S, T&P Survey Co, Midland, TX.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Directional / Informational

Fiscal Impact:

Application Fee: \$ 500 (one-time)

Annual Lease Rate: @ 20/rod/year/pipeline for 271.44 rods = \$ 5,428.80

Surface Damage Fee (one-time): \$ 10/rod/year for 271.44 rods = \$ 2,714.40

Discussion:

This ROW Agreement is proposed for one (1) 5-year period, with one renewal.

The easement will be 30 feet total, with an additional 30 feet allowed for use during the construction phase. The pipeline will be constructed inside of City Limits and will be placed and maintained in order to provide a minimum of 36 inches of cover to natural ground.

RESOLUTION NO. _____

RESOLUTION AUTHORIZING A RIGHT-OF-WAY LICENSE BETWEEN THE CITY OF MIDLAND, TEXAS AND SALTWATER PARTNERS SWD, LLC; SAID RIGHT-OF-WAY LICENSE IS FOR ENTERING THE CITY OF MIDLAND'S RIGHT-OF-WAY FOR THE PURPOSE OF PLACING, CONSTRUCTING, OPERATING, REPAIRING, MAINTAINING, REPLACING AND REMOVING A PIPELINE NOT TO EXCEED SIX (6) INCHES IN DIAMETER FOR THE TRANSPORTATION OF PRODUCED WATER AND TO HAVE THE RIGHT OF INGRESS AND EGRESS AT CONVENIENT POINTS FOR SUCH PURPOSE; THE PIPELINES ARE LOCATED WITHIN THE CITY OF MIDLAND RIGHT-OF-WAY, SECTION 9, BLOCK 38, T-2-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS; THE LICENSE TERM IS FOR FIVE (5) YEARS, COMMENCING WITH THE DATE OF THIS LICENSE AND SHALL AUTOMATICALLY RENEW AT THE END OF THE TERM FOR ONE ADDITIONAL FIVE (5) YEAR TERM UPON 120 DAYS WRITTEN REQUEST PRIOR TO EXPIRATION

WHEREAS the City Council finds it to be in the public interest to authorize a right-of-way license with Saltwater Partners SWD, LLC, located within the City of Midland Right-of-Way, Section 9, Block 38, T-2-S, T&P RR Co. Survey, Midland County, Texas;

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

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 right-of-way license with Saltwater Partners SWD, LLC, said license being substantially in the form attached hereto as Exhibit "A" and incorporated herein for all purposes.

On motion of Council member _____, seconded by Council member _____, the above and foregoing resolution was adopted by the City Council of the City of Midland at a regular meeting on the _____ day of _____, A.D., 2013, by the following vote:

Council members voting "AYE":

Council members voting “NAY”:

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

Courtney Sharp, City Manager

APPROVED AS TO CONTENT
AND COMPLETENESS:

Bill Hodge, GIS Manager

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

RIGHT-OF-WAY LICENSE

THE STATE OF TEXAS §
§ KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF MIDLAND §

THIS RIGHT-OF-WAY LICENSE (“AGREEMENT”), effective this 27th day of November, 2013, by and between THE CITY OF MIDLAND, TEXAS, a home-rule municipal corporation, hereinafter called “Licensor”, and SALTWATER PARTNERS SWD, LLC, 4201 E. Hwy 158, Midland, Texas 79706, hereinafter called “Licensee”.

Licensee desires use of property owned by the Licensor in Midland County, Texas outside the City of Midland, Texas, for purposes set forth below.

It is the position of the Licensor that Licensee must obtain a license in order to use the public lands of the City. The parties agree the grant herein may be referred to as the “License”.

W I T N E S S E T H:

For and in consideration of the execution of this Agreement and the mutual promises and covenants of the parties hereto, it is mutually promised, understood and agreed as follows, to wit:

I. Term

This Agreement shall be for a term of five (5) years (the “Initial Term”), commencing with the date of this Agreement, the “Commencement Date,” unless terminated earlier as provided hereafter. This Agreement shall automatically renew at the end of the Initial Term for one (1) additional term of five (5) years, upon the written request of Licensee received by Licensor on or before (120) days prior to the expiration

of the Initial Term then in effect, subject to the express written consent of the governing body of the Licensor. All work under this Agreement shall be suspended immediately upon termination of the Agreement becoming effective.

Either party may terminate this Agreement at will for any or no reason upon giving at least three hundred sixty five (365) days written notice to the Licensor. The parties to this Agreement understand and agree that it is in the Licensor's sole discretion to cancel the Agreement during the term of the Agreement without penalty to the Licensor. The Licensee has no expectation and has received no guarantees that this Agreement will not be terminated before the end of the Agreement term. The parties have bargained for the flexibility of terminating this Agreement upon tender of the requisite notice at any time during the term of the Agreement. All work and services under the Agreement shall be suspended upon termination of Agreement becoming effective.

Upon termination of this Agreement, Licensee shall remove all equipment and structures associated with the undertakings contemplated by this License. After removal of all equipment and structures associated with the undertakings contemplated by this License, the surface shall be restored at the expense of the Licensee to its original condition, as close thereto as may be practical, subject to the approval of the Licensor upon inspection by Licensor's GIS Manager, which approval shall not be unreasonably withheld. All of said work shall be completed within one hundred and eighty (180) days after termination of this license.

II. Financial Considerations

1. In further consideration for the rights herein granted to Licensee, Licensee shall

pay to the Licensors the sum of FIVE THOUSAND FOUR HUNDRED TWENTY EIGHT and 80/100 Dollars (\$5,428.80) per annum, each year payable on or before the anniversary of the commencement date of this license agreement except for the first year of the license agreement. The first year's license fee of FIVE THOUSAND FOUR HUNDRED TWENTY EIGHT and 80/100 Dollars (\$5,428.80) shall be due and payable in advance of the commencement date of this license ("License Fee"). Licensee's failure to make the License Fee payment within thirty (30) days after the License Fee is due shall constitute a late payment and Licensee shall pay the Licensors a late charge of five percent (5%). Licensee shall also pay a one-time surface damage fee to the Licensors for the sum of TWO THOUSAND SEVEN HUNDRED FOURTEEN and 40/100 Dollars (\$2,714.40), payable before the commencement date of this license agreement.

2. At the same time the first year License Fee is due, Licensee shall pay a non-refundable onetime fee of \$500.00 to the Licensors' GIS Manager. Said fee shall revert to the Licensors and Licensee shall have no claim to said fee. The fee shall be used to process the application for the License.

3. Prior to commencement of any renewal term, the Licensors and Licensee shall negotiate in good faith to agree to an adjustment of the License Fee. If the Licensors and Licensee are unable to reach an agreement regarding an adjustment to the License Fee, then the License Fee shall be determined by Licensors in its sole discretion, provided the new License Fee shall not exceed twenty-five percent (25%) of the License Fee paid for the last year of the Initial Term.

4. The License Fee payment shall be made to the Licensors at the office of the GIS

Manager, P.O. Box 1152, Midland, Texas, 79702. The License Fee payment shall be exclusive of and in addition to all general municipal taxes of whatever nature, including but not limited to ad valorem taxes and special taxes and assessments for public improvements.

III. Use

1. Licenser does hereby grant unto Licensee, the right to enter upon certain property of the City of Midland in Midland County, Texas, being twenty (20) feet either side of the pipeline location as shown on Exhibit "A," attached hereto and incorporated herein for the purpose of placing, constructing, operating, repairing, maintaining, replacing and removing, thereon, along the hereinafter described pipeline location, one (1) six (6) inch polyurethane pipeline for the transportation of produced water, and to have the right of ingress and egress at convenient points for such purpose.
2. Licensee covenants and agrees that it will repair any of Licenser's roads that Licensee damages on Licenser's property so that such roads will comply with Licenser's Standard Specifications.
3. Licensee covenants and agrees that Licensee shall, at its own expense, repair all water lines, sewer lines, service lines and water meters owned by the Licenser that Licensee, its employees, its agents or assigns, damage so that such water lines, sewer lines and water meters shall comply with the requirements of the Licenser's Standard Specifications.
4. Licensee covenants and agrees that it will bury the pipelines to be constructed hereunder at least thirty-six inches (36") in depth. All backfill used in burying such line

shall be compacted to a density of ninety percent (90%), except where such pipeline crosses under a paved or traveled portion of the City of Midland right of way where such backfill shall be compacted to a density of ninety-five percent (95%). The City of Midland shall be afforded the opportunity to test the density on all backfill.

5. Before the Licensee seeks bids on any phase of the repair of public streets, alleys, water lines, sewer lines or any other public utilities, the specifications shall be approved by the Licensor's GIS Manager.

6. Licensor expressly reserves the right to install, repair, or reconstruct streets or roads and all ancillary public uses usual and customary in connection with streets and roads, expressly including but not limited to drainage facilities and related structures in the rights of way used and occupied by the Licensee.

Licensor reserves the right to lay and permit to be laid, sewer, gas, water, and other pipelines or cables and conduits, and to do and permit to be done, any underground or overhead installation or improvement that may be deemed necessary or proper by the governing body of the Licensor, in, across, along, over or under any public property occupied by Licensee. In permitting such work to be done, the Licensor shall not be liable to the Licensee for any damage so caused to the Licensee's system, **NOR SHALL THE LICENSOR BE LIABLE TO THE LICENSEE FOR ANY DAMAGES TO THE LICENSEE'S PIPELINE OR CASING, ARISING OUT OF THE NEGLIGENCE BY THE LICENSOR, ITS EMPLOYEES, OFFICERS OR AGENTS, OR LICENSOR'S CONTRACTORS OR SUBCONTRACTORS.** If the Licensor requires the Licensee to remove, alter, change, adapt, or conform Licensee's

facilities because of changes in the grade of a street or in the location or manner of constructing a water pipe, sewer pipe, or other surface, underground or aboveground structure owned by the Licensor, the Licensee shall make the alterations or changes as soon as practicable, and in no event longer than one hundred eighty (180) days, when ordered in writing by the Licensor, without claim for reimbursement for the cost of the relocation or for damages against the Licensor. If these requirements impose a financial hardship upon the Licensee, the Licensee shall have the right to present alternative proposals for the Licensor's consideration.

7. Licensor expressly reserves the full right to grant other easements or rights of way crossing or running parallel with the rights of way used by Licensee.

8. It is especially provided, however, that as an express condition of this Agreement, and not as a mere covenant, in the event Licensee abandons any equipment or appurtenances to the undertakings contemplated by this License, or the premises covered hereby cease to be used for the purposes enumerated herein for any period of twelve (12) consecutive months, or longer, other than the time elapsing between the date hereof and construction, and upon giving Licensee one hundred and twenty days (120) notice, then and in that event, this license shall automatically revert to the Licensor, its successors or assigns, free and clear of any right, title, or interest in the Licensee, or any re-entry by the Licensor.

9. In the event that Licensee desires to reconstruct, repair, maintain, replace or remove any pipeline or casing system built hereunder, Licensee shall submit the plans and specifications that pertain to the rebuilding or repairs of Licensor's streets and roads

and the rebuilding or repairs of any of Licensor's public utilities to the Licensor's GIS Manager for his or her approval. In the event of emergency repairs necessary to restore service, the Licensee shall notify Licensor's GIS Manager before making any repairs if during a Licensor work day and if not on a work day, the Licensee shall notify the Licensor's GIS Manager on the first work day after repairs have begun.

10. The Licensor reserves the right to use the surface or subsurface or airspace above the land covered by this Agreement for any public purpose allowed by law and deemed necessary by the Licensor and to do and permit to be done, any work in connection therewith which may be deemed necessary or proper by the Licensor on, across, along, under or over said right of way occupied by the Licensee. In the event of such work in connection with said public purposes it shall be deemed necessary by the Licensor, at Licensor's sole discretion, to alter, change, adapt, conform or relocate any pipeline or casing of Licensee, such alteration or change or relocation shall be commenced and completed by the Licensee within one hundred eighty (180) days after being ordered in writing by the Licensor pursuant to directions from the Licensor's City Council without any claim for reimbursement for the cost of the relocation or damages against the Licensor. The relocation or alteration shall be at the sole cost of Licensee. Provided, however, that Licensee shall at all times be entitled to receive from appropriate governmental bodies, excluding the Licensor, payment for alteration or relocation of its system to which it may be lawfully entitled to under applicable Federal or State laws with respect to relocation payments.

IV. Standard General Conditions

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

Commercial General Liability (including Contractual liability):

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

-Property Damage: \$100,000.00 per occurrence

Business Automobile Liability: \$1,000,000.00 combined single limit -
Personal Injury and Property Damage

Worker's Compensation: Statutory limits

Employers' Liability: \$1,000,000.00 per accident or occurrence

Umbrella Liability: \$5,000,000.00 per occurrence
\$5,000,000.00 per aggregate

This insurance, except Worker's Compensation, shall name the Licensor as an additional insured and all insurance shall waive subrogation in favor of the Licensor.

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

The Business Automobile Liability insurance provided by Licensee 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 \$1,000,000.00 covering any vehicle used for the execution of the work

that is the subject of this Agreement. All insurance required pursuant to this Agreement, except for Worker's Compensation Insurance, shall name the Licensor as an additional insured on a claims occurred basis. All insurance required pursuant to this Agreement, including Worker's Compensation Insurance, shall provide for a waiver of subrogation as to the Licensor.

The parties agree that, prior to the execution of the Agreement, Licensee shall provide one or more certificates of insurance showing that the requirements of this article have been met. This decision shall be in Licensor's sole discretion.

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

Licensee shall contractually require all contractors, subcontractors, and sub-subcontractors that work on any portion of the work that is the subject of this Agreement to obtain insurance coverage that meets or exceeds the policy requirements and minimum amounts as required by Licensee, and name the City of Midland as an additional insured.

Licensee certifies that the one or more certificates 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.

2. INDEMNITY - THE LICENSEE SHALL INDEMNIFY AND HOLD HARMLESS AND DEFEND THE LICENSOR AND ALL OF LICENSOR'S OFFICERS, AGENTS, AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, LOSSES, ATTORNEY'S FEES AND EXPENSES OF ANY

CHARACTER WHATSOEVER, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON, PERSONS OR PROPERTY, ON ACCOUNT OF ANY ACT OF THE LICENSEE, Licensee's contractor or subcontractor, their agents or employees, arising directly or indirectly or in any way connected with the placement, construction, operations, repair, maintenance, replacement or removal of any part of the Licensee's pipeline or casing system in the Licensors' rights of way. The Licensee will be required to pay any judgment with costs which may be obtained against the Licensors or any of its officers, agents, or employees including attorney's fees.

THE LICENSEE AGREES THAT LICENSEE WILL INDEMNIFY AND SAVE THE LICENSOR 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 PLACEMENT, CONSTRUCTION, OPERATION, REPAIR, MAINTENANCE, REPLACEMENT OR REMOVAL OF THE PIPELINE OR CASING SYSTEM DESCRIBED HEREIN.

THE LICENSEE SHALL INDEMNIFY AND HOLD HARMLESS AND DEFEND THE LICENSOR, AND ALL OF LICENSOR'S OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, ACCIDENTAL DEATH, PROPERTY DAMAGE, LOSSES

AND EXPENSE 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 LICENSEE, LICENSEE'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 LICENSEE OR LICENSEE'S EMPLOYEES, AGENTS OR SUBCONTRACTORS NEGLIGENCE, IN THE EXECUTION, SUPERVISION AND OPERATIONS GROWING OUT OF OR IN ANY WAY CONNECTED WITH THE PERFORMANCE OF THIS AGREEMENT INCLUDING SUCH NEGLIGENT ACTS ARISING FROM OR IN ANY WAY CONNECTED WITH THE PLACEMENT, CONSTRUCTION, OPERATION, REPAIR, MAINTENANCE, REPLACEMENT OR REMOVAL OF ANY PART OF THE LICENSEE'S PIPELINE OR CASING SYSTEM IN THE LICENSOR'S RIGHT OF WAY. THE LICENSEE WILL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST THE LICENSOR OR ANY OF ITS OFFICERS, AGENTS OR EMPLOYEES, INCLUDING ATTORNEY'S FEES.

3. **Assignment** - The rights granted by this Agreement inure to the benefit of the Licensee. The rights and privileges shall not be assignable by Licensee, with the exception of an assignment by Licensee to an affiliated entity, without the express written

consent of the governing body of the Licensor. Any required consent is to be evidenced by an ordinance or resolution of the governing body of the Licensor that fully recites the terms and conditions, if any, upon which consent is given. The granting of consent is in the sole discretion of Licensor.

4. **Subletting** - The rights granted by this Agreement inure to the benefit of the Licensee. Licensee shall not sublet the rights and privileges granted herein without the express written consent of the governing body of the Licensor. Any required consent is to be evidenced by an ordinance or resolution of the governing body of the Licensor that fully recites the terms and conditions, if any, upon which consent is given. The granting of consent is in the sole discretion of Licensor.

5. **Independent Contractor** - It is expressly understood and agreed that Licensee shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant or employee of the Licensor; that Licensee 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 Licensor and Licensee, its officers, agents, employees, contractors and subcontractors; and that nothing herein shall be construed as creating a partnership or joint enterprise between Licensor and Licensee. No person performing any of the work and services described hereunder shall be considered an officer, agent, servant or employee of the Licensor. Further, it is specifically understood and agreed that nothing in this Agreement

is intended or shall be construed as creating a “Community of Pecuniary Interest” or “An Equal Right of Control” which would give rise to vicarious liability. Licensee 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. Licensors do not have the power to direct the order in which the work is done. Licensors shall not have the right to control the means, methods or details of Licensee’s work. Licensee shall assume exclusive responsibility for the work. Licensee is entirely free to do the work in its own way.

6. **WAIVER OF ATTORNEY’S FEES - BY EXECUTING THIS AGREEMENT, LICENSEE AGREES TO WAIVE AND DOES HEREBY KNOWINGLY, CONCLUSIVELY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY CLAIM IT HAS OR MAY HAVE IN THE FUTURE AGAINST THE LICENSOR, REGARDING THE AWARD OF ATTORNEY’S FEES, WHICH ARE IN ANY WAY RELATED TO THE AGREEMENT, OR THE CONSTRUCTION, OR INTERPRETATION OF THE AGREEMENT. THE LICENSEE SPECIFICALLY AGREES THAT IF THE LICENSEE 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 LICENSEE AGREES TO ABANDON, WAIVE AND RELINQUISH ANY AND ALL RIGHTS TO THE RECOVERY OF ATTORNEY'S FEES TO WHICH LICENSEE MIGHT OTHERWISE BE ENTITLED.

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

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

7. **Governing Law & Venue** - 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 been performed in Midland County, Texas.

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

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

THERE IS NO WAIVER OF SOVEREIGN IMMUNITY.

10. **Third-party Beneficiary** - The Licensor'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.

11. **Notice** - Any notice or communication required in the administration of this Agreement shall be sent by certified mail, return receipt requested, to the Licensor as follows: GIS Manager, City of Midland, P. O. Box 1152, Midland, Texas, 79702.

Any notice or communication required in the administration of this Agreement shall be sent by certified mail, return receipt requested, to the Licensee as follows:

Saltwater Partners SWD, LLC, Fred Forster III, Manager/CEO, 4201 E. Hwy. 158, Midland, Texas, 79706.

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, Licensee or his legal representative, shall give the City Manager, or any other reasonable official of the Licensor, 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 eighty (180) 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 Licensee will settle, the physical and mailing addresses of Licensee at the time and date the claim was presented and the physical and mailing addresses of Licensee for the six months immediately preceding the occurrence of such damages, and the names and addresses of the witnesses upon whom the Licensee 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 Licensor from any liability whatsoever. The Licensor is under no obligation to provide notice to Licensee that Licensee's notice is insufficient. Licensor 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, Licensee's failure to comply with the requirements herein shall perpetually bar Licensee's claim for damages under Chapter 271 of the Texas Local Government Code, and Section 311.034 of the Texas Government Code, regardless if Licensor has actual or constructive notice or knowledge of said claim or alleged damages. Licensee agrees that the requirements of this entire Agreement are reasonable.

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

LICENSOR:

CITY OF MIDLAND, TEXAS

Courtney Sharp, City Manager

ATTEST:

Amy M. Turner, City Secretary

APPROVED AS TO CONTENT AND
COMPLETENESS:

Bill Hodge, GIS Manager

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

LICENSEE:

SALTWATER PARTNERS SWD, LLC

Fred Forster III, Manager/CEO

THE STATE OF TEXAS

§

§

COUNTY OF _____

§

BEFORE ME, the undersigned authority, on this day personally appeared Fred Forster III, an officer of SALTWATER PARTNERS SWD, LLC, 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 the act and deed of said entity, 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 _____, 2013.

Notary Public, State of Texas



FAIRGROUNDS RD

TODD DR

FRONT ST

80

20

CLOVERDALE RD

307

GARDEN CITY HWY

Saltwater Partners

Fire Training

WPCP

BLK 38-2-S
SEC 9

158

Legend

-  Survey Section
-  Street
-  ROW
-  City Owned Parcels
-  City Limit

11/11/2013

**Saltwater Partners ROW License
Blk 38, Sec 9 T2S**

Total Rods= 275.5

1 inch = 2,900 feet

© THE CITY OF MIDLAND - 2013
THE CITY OF MIDLAND SHALL NOT BE RESPONSIBLE FOR
ANY DECISIONS BASED UPON THE USE OF THIS DATA
WHILE THIS DATA IS MADE AVAILABLE TO THE PUBLIC, IT WAS
CREATED FOR INTERNAL USE BY THE CITY OF MIDLAND WHICH
MAKES NO CLAIM AS TO ITS ACCURACY OR COMPLETENESS.
THIS DATA IS NOT DESIGNED TO BE USED AS A
TOOL IN PERMITTING, CITING, OR OTHER DECISIONS
SOLELY ON THE INFORMATION CONTAINED
14.23

Block 38, T-2-S, T. & P. RR. Co. Survey Midland County, Texas

(S-20006) 5 4 (60936)
(72671) 8 9 (S-20010)

3 (S-20007)
10 (68121)
(26330)

LINE	BEARING	DISTANCE
L1	S 75°50'14" W	4478.74'
L2	S 12°27'25" E	250.08'
L3	N 78°59'32" E	106.96'

0+00.00 - On Existing Pipeline
Lat: 31°58'25.299"
Long: 101°59'11.837"

44+78.74 - P.I.
Lat: 31°58'23.810"
Long: 102°00'00.050"

45+48.53 - Calculated Block Line
45+48.57 - Calculated Property Line
45+04.71 - Fence
44+78.74 - P.I.

4545.87 Ft. = 275.51 Rods
(Grid Distance)
4546.35 Ft. = 275.54 Rods
(Surface Distance)
Surface Owner:
The City of Midland
Vol. 2308, Pg. 3

26+32.92 - Lease Road
26+15.85 - Fence

7+58.85 - Fence
7+44.75 - Lease Road
5+34.80 - Fence

0+00.00 - On Existing Pipeline

(S-20012) 13

46+35.79 - E.O.L.
47+28.82 - P.I.
48+35.79 - E.O.L.
Lat: 31°58'21.403"
Long: 102°00'01.398"

47+28.82 - P.I.
Lat: 31°58'21.403"
Long: 102°00'01.398"

289.92 Ft. = 17.57 Rods
(Grid Distance)
289.95 Ft. = 17.57 Rods
(Surface Distance)
Surface Owner:
Saltwater Partners #1 SWD, LLC.
Vol. 2308, Pg. 3

Calc. point from which
R.R. Spk. in centerline
of roads bears
N 75°43' E 55.9'

Abstract No. 591
Mrs. M.E. Sparks
(P-7285)

H. M. Horton
(S.F. 4468)

G. A. Torbett
(P-7286)

A. M. Cobb
(S.F. 5527)

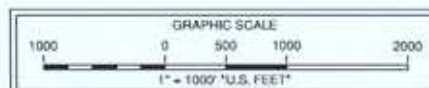
T. J. Murphy
(P-6511)

I. B. Rose
(P-7284)

H. M. Horton S. F.

CENTERLINE DESCRIPTION
Of a Proposed Pipeline Right-of-Way
In and Through
Section 9, Block 38, T-2-S
T. & P. RR. Co. Survey &
Abstract No. 591, Mrs. M.E. Sparks Survey
Midland County, Texas

Beginning at pipeline station 0+00.00 on an existing pipeline for the beginning of this proposed pipeline right-of-way from which a calculated corner for the Southeast corner of Section 9, Block 38 bears S 45°46'22" E, 85.54 feet;
Thence S 75°50'14" W, with the centerline of this proposed pipeline right-of-way, a distance of 4478.74 feet to pipeline station 44+78.74 being a P.I. with a deflection of 88°17'30" to the left;
Thence S 12°27'25" E, with the centerline of this proposed pipeline right-of-way, at 69.60 feet pass the South line of Section 9, Block 38 and the North line of Abstract No. 591, Mrs. M.E. Sparks Survey, continuing on the same course for a total distance of 250.08 feet to pipeline station 47+28.82 being a P.I. with a deflection of 88°33'03" to the left;
Thence N 78°59'32" E, with the centerline of this proposed pipeline right-of-way, a distance of 106.96 feet to pipeline station 48+35.79 being the E.O.L. (End of Line) of this proposed pipeline right-of-way from which a calculated corner for the Southeast corner of Section 9, Block 38 bears N 73°28'09" E, 4428.03 feet.



Note: Survey Reconstruction filed in the Office of Pennell & Marlowe Land Surveyors, Inc.
Note: Bearings and distances are based on The Texas Coordinate System of 1927, Central Zone.
A combined grid factor of 0.0000944 must be divided into all distances to obtain surface distances.
Latitudes and Longitudes shown are on NAD'83 Datum.
Note: Example: (S-99999) Indicates General Land Office file number.



Stephen P. Marlowe
REGISTERED PROFESSIONAL LAND SURVEYOR NO. 5715

August 12, 2013
130612M-KRM

P.O. Box 51887, Midland, Texas, 79710 (432) 262-0901 Fax (432) 262-0670

USGS Quadrangle Sheet: Stephenson Lake, Tex. &
USGS Quadrangle Sheet: Southeast Midland, Tex.
Proposed Pipeline Survey Plat

ENDEAVOR ENERGY RESOURCES, L.P.
Proposed Pipeline Survey
In and Through
Section 9, Block 38, T-2-S
T. & P. RR. Co. Survey &
Abstract No. 591, Mrs. M.E. Sparks Survey
Midland County, Texas

Scale: 1" = 1000'

Block 38, T-2-S, T. & P. RR. Co. Survey Midland County, Texas

4 (S-20010)

3 (S-20007)

9 (S-20010)

LINE	BEARING	DISTANCE
L1	S 75°50'14" W	4478.74'
L2	S 12°27'25" E	250.08'

0+00.00 - On Existing Pipeline
Lat: 31°58'35.228"
Long: 101°59'11.837"

44+78.74 - P.I.
Lat: 31°58'23.610"
Long: 102°00'02.088"

45+48.53 - Calculated Block Line
45+48.87 - Calculated Property Line
45+08.71 - Fence
44+78.74

4545.87 FL = 275.51 Rods
(Grid Distance)
4546.36 FL = 275.54 Rods
(Surface Distance)
Surface Owner:
The City of Midland
Vol. 2308, Pg. 3

28+35.82 - Lease Road
28+16.89 - Fence

7+08.89 - Fence
7+44.76 - Lease Road
5+34.82 - Fence

0+00.00 - On Existing Pipeline

(S-20012) 13

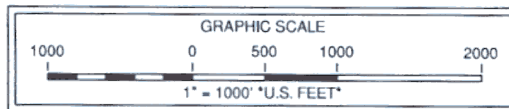
Abstract No. 591
Mrs. M.E. Sparks
(P-7285)

H. M. Horton
(S.F. 4468)

Calc. point from which
R.R. Spt. in centerline
of roads bears
N 75°43' E 55.9'
G. A. Torbett
(P-7286)

CENTERLINE DESCRIPTION
Of a Proposed Pipeline Right-of-Way
In and Through
Section 9, Block 38, T-2-S
T. & P. RR. Co. Survey &
Abstract No. 591, Mrs. M.E. Sparks Survey
Midland County, Texas

Beginning at pipeline station 0+00.00 on an existing pipeline for the beginning of this proposed pipeline right-of-way from which a calculated corner for the Southeast corner of Section 9, Block 38 bears S 45°48'22" E, 85.54 feet;
Thence S 75°50'14" W, with the centerline of this proposed pipeline right-of-way, a distance of 4478.74 feet to pipeline station 44+78.74 being a P.I. with a deflection of 88°17'39" to the left;
Thence S 12°27'25" E, with the centerline of this proposed pipeline right-of-way, at 88.80 feet pass the South line of Section 9, Block 38 and the North line of Abstract No. 591, Mrs. M.E. Sparks Survey, continuing on the same course for a total distance of 250.08 feet to pipeline station 47+28.82 being a P.I. with a deflection of 88°33'03" to the left;
Thence N 78°59'32" E, with the centerline of this proposed pipeline right-of-way, a distance of 106.98 feet to pipeline station 48+35.79 being the E.O.L. (End of Line) of this proposed pipeline right-of-way from which a calculated corner for the Southeast corner of Section 9, Block 38 bears N 73°28'05" E, 4428.03 feet.



Note: Survey Reconstruction filed in the Office of Pennell & Marlowe Land Surveyors, Inc.

Note: Bearings and distances are based on The Texas Coordinate System of 1927, Central Zone.

A combined grid factor of 0.9999944 must be divided into all distances to obtain surface distances.

Latitudes and Longitudes shown are on NAD83 Datum.

Note: Example: (S-00000) indicates General Land Office file number.

USGS Quadrangle Sheet: Stephenson Lake, Tex. &
USGS Quadrangle Sheet: Southeast Midland, Tex.

Proposed Pipeline Survey Plat

ENDEAVOR ENERGY RESOURCES, L.P.
Proposed Pipeline Survey
In and Through
Section 9, Block 38, T-2-S
T. & P. RR. Co. Survey
Midland County, Texas



Stephen P. Marlowe
REGISTERED PROFESSIONAL LAND SURVEYOR NO. 5715

August 12, 2013

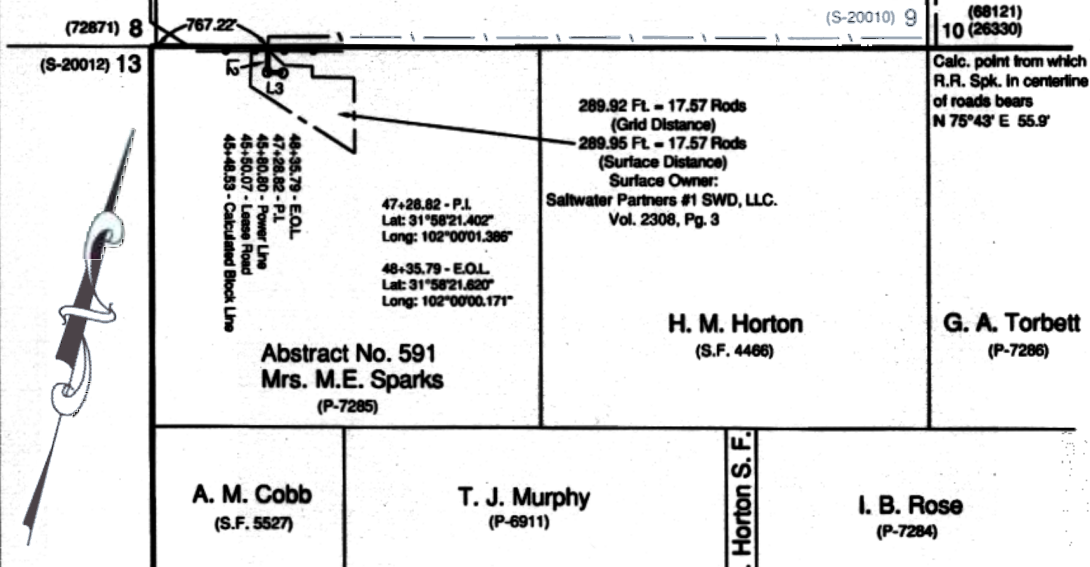
130812M1-KRM

P.O. Box 51887, Midland, Texas, 79710 (432) 262-0901 Fax (432) 262-0679

Scale: 1" = 1000

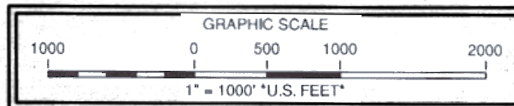
Block 38, T-2-S, T. & P. RR. Co. Survey Midland County, Texas

LINE	BEARING	DISTANCE
L2	S 12°27'25" E	250.08'
L3	N 78°59'32" E	106.98'



CENTERLINE DESCRIPTION
Of a Proposed Pipeline Right-of-Way
In and Through
Section 9, Block 38, T-2-S
T. & P. RR. Co. Survey &
Abstract No. 591, Mrs. M.E. Sparks Survey
Midland County, Texas

Beginning at pipeline station 0+00.00 on an existing pipeline for the beginning of this proposed pipeline right-of-way from which a calculated corner for the Southeast corner of Section 9, Block 38 bears S 45°48'22" E, 85.54 feet;
Thence S 75°50'14" W, with the centerline of this proposed pipeline right-of-way, a distance of 4478.74 feet to pipeline station 44+78.74 being a P.I. with a deflection of 88°17'39" to the left;
Thence S 12°27'25" E, with the centerline of this proposed pipeline right-of-way, at 69.80 feet pass the South line of Section 9, Block 38 and the North line of Abstract No. 591, Mrs. M.E. Sparks Survey, continuing on the same course for a total distance of 250.08 feet to pipeline station 47+28.82 being a P.I. with a deflection of 88°33'03" to the left;
Thence N 78°59'32" E, with the centerline of this proposed pipeline right-of-way, a distance of 106.98 feet to pipeline station 48+35.79 being the E.O.L. (End of Line) of this proposed pipeline right-of-way from which a calculated corner for the Southeast corner of Section 9, Block 38 bears N 73°28'05" E, 4428.03 feet.



Note: Survey Reconstruction filed in the Office of Pennell & Marlowe Land Surveyors, Inc.

Note: Bearings and distances are based on The Texas Coordinate System of 1927, Central Zone.

A combined grid factor of 0.9998944 must be divided into all distances to obtain surface distances.

Latitudes and Longitudes shown are on NAD'83 Datum.

Note: Example: (S-99999) Indicates General Land Office file number.

USGS Quadrangle Sheet: Stephenson Lake, Tex. &

USGS Quadrangle Sheet: Southeast Midland, Tex.

Proposed Pipeline Survey Plat



August 12, 2013

130612M2-KRM

ENDEAVOR ENERGY RESOURCES, L.P.
Proposed Pipeline Survey
In and Through
Abstract No. 591, Mrs. M.E. Sparks Survey
Midland County, Texas

Scale: 1" = 1000

P.O. Box 51887, Midland, Texas, 79710 (432) 262-0901 Fax (432) 262-0679



P.O. Box 51887 Midland, Texas 79710 (432) 262-0901 Fax (432) 262-0697
REGISTERED PROFESSIONAL LAND SURVEYOR NO. 5715

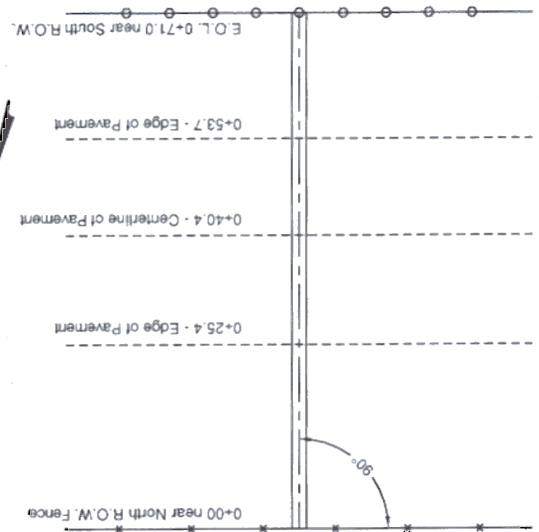
Stephen P. Marlowe

August 12, 2013
130812M3-JFG

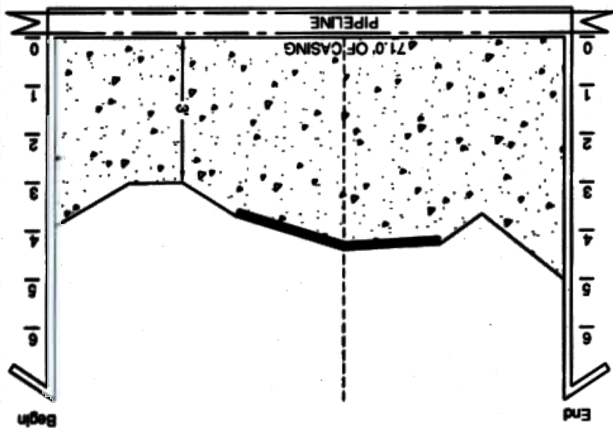
Proposed Road Bore Plat
ENDEAVOR ENERGY RESOURCES, L.P.
under
County Road 120
Section 9, Block 38, T-2-S
T. & P. R.R. Co. Survey &
Abstract No. 591, Mrs. M. E. Sparks Survey
Midland County, Texas
Scale: Shown in Illustrations

Note: Lat/Longs shown herein are NAD83 Datum in Decimal Degrees form.

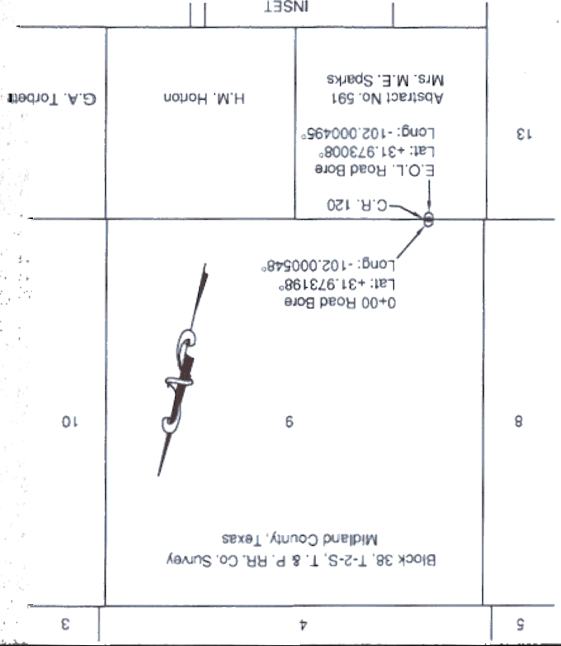
PLAN
County Road 120
Scale: 1" = 20'



CROSS SECTION
(Looking East to West)
Scale: Horizontal 1" = 20'
Vertical 1" = 3'



INSET
(Not to Scale)





CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

10/1/2013

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Flowers & McKeller Insurance Services, LLC 1031 Andrews Highway Ste. 305 Midland TX 79701	CONTACT NAME: Danielle Stafford PHONE (A/C No. Ext): (432) 682-2333 FAX (A/C No.): (432) 682-2303 E-MAIL ADDRESS: danielle@fm-ins.com
INSURED Saltwater Partners SWD, LLC 4201 E Hwy 158 Midland TX 79706	INSURER(S) AFFORDING COVERAGE INSURER A: Crum & Forster Specialty NAIC # 44520 INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:

CERTIFICATE NUMBER: CL1362801776

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSURANCE TYPE	TYPE OF INSURANCE	ADDL. SUBR. INFO	POLICY NUMBER	POLICY EFF. DATE (MM/DD/YYYY)	POLICY EXP. DATE (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY					
	☒ COMMERCIAL GENERAL LIABILITY					
	☐ CLAIMS-MADE ☒ OCCUR		EPK101556	6/21/2013	6/21/2014	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Per occurrence) \$ 50,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMPROP AGG \$
	GEN'L AGGREGATE LIMIT APPLIES PER: ☒ POLICY ☐ PROJECT ☐ LOC					
A	AUTOMOBILE LIABILITY					
	☐ ANY AUTO					
	☐ ALL OWNED AUTOS ☐ SCHEDULED AUTOS		EPK101556	6/21/2013	6/21/2014	COMBINED SINGLE LIMIT (Per accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	☒ HIRED AUTOS ☒ NON-OWNED AUTOS					
A	UMBRELLA LIAB					
	☒ EXCESS LIAB					
	☐ DED ☐ RETENTION \$		EPK100621	6/21/2013	6/21/2014	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 5,000,000
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below					WC STATUTORY LIMITS OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)
The GL, Auto & Workers Compensation policies include a blanket automatic waiver of subrogation endorsement (per form numbers in the note attached) that provides this feature only when there is a written contract between the named insured and the certificate holder that requires it. The GL & Auto policies include a blanket automatic additional insured endorsement (per form numbers in the note attached) that provide additional insured status to the certificate holder only when there is a written contract between the named insured and the certificate holder that requires such status.

CERTIFICATE HOLDER

CANCELLATION

City of Midland	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE Michael McKeller/DTS <i>Michael E. McKeller</i>

ACORD 25 (2010/05)

INS025 (201005) 01

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Additional Named Insureds

Other Named Insureds

Saltwater Partners #1 SWD, LLC

Limited Liability Company, Additional Named Insured

COMMENTS/REMARKS

GL/AUTO AI & Primary & Non-Contributory Endt-EN01180211
GL/AUTO WOS Endorsement-EN0109 0211

OFREMARK

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City Council Agenda

Approved for Agenda:
rpatrick
City Manager's Office

MEETING DATE: 11/26/2013

TO: City Council / City Manager

FROM: Jeff Cohen, Assistant City Engineer

SUBJECT: Consider a resolution accepting a Temporary Drainage Easement by Cumberland & Western Resources LLC on property adjacent to Avalon Drive near Legends Park Addition Section 8.

Purpose:

Consider a resolution accepting a Temporary Drainage Easement by Cumberland & Western Resources LLC on property adjacent to Avalon Drive near Legends Park Addition Section 8.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Directional / Informational

Fiscal Impact:

A public Temporary Drainage Easement for an earthen channel is being dedicated by the property owner at no cost to the City.

Discussion:

Real Property Resources, Inc., dba Betenbough Homes, is developing Legends Park Addition Section 8, a residential subdivision on the east side of Avalon Drive, south of Legends Park Addition Section 7. Storm water from Section 8 drains to the southwest corner of the development, where it is collected into a concrete flume and fed to concrete box culverts under Avalon Drive.

On the west side of Avalon Drive, opposite Legends Park Addition Section 8, Cumberland & Western Resources LLC (C&W) owns approximately 643 acres out of Section 47, Block 40, T 1 S, T&P RR Co. Survey, Midland County, Texas. C&W are developing the mineral resources in this Section, but a large playa lake is also located within this Section. Legends Park Addition Section 8 is situated within the watershed of this playa.

Therefore, in order to convey storm water from Legends Park Addition Section 8 across Avalon Drive and to the playa lake, C&W is allowing Betenbough Homes to construct an earthen channel

that follows an existing caliche roadway alignment to the playa lake. C&W is also dedicating to the City a Temporary Drainage Easement that allows constructing, reconstructing, maintaining, repairing, cleaning, and clearing the drainage improvements for the purpose of conveying storm water in the easement.

Staff supports accepting this easement.

The easement agreement is attached, and a location map is attached.

RESOLUTION NO. _____

**RESOLUTION AUTHORIZING THE ACCEPTANCE OF
A 1.186-ACRE TEMPORARY DRAINAGE EASEMENT
LOCATED IN SECTION 47, BLOCK 40, T-1-S, T&P RR
CO. SURVEY, MIDLAND, MIDLAND COUNTY, TEXAS;
AND ORDERING RECORDATION BY THE CITY
SECRETARY**

WHEREAS, the City Council finds it to be in the public interest to authorize the acceptance of a 1.186-acre temporary drainage easement located in Section 47, Block 40, T-1-S, T&P RR Co. Survey, Midland, Midland County, Texas, for the use and benefit of the public for utility purposes;

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

SECTION ONE. That the 1.186-acre temporary drainage easement located in Section 47, Block 40, T-1-S, T&P RR Co. Survey, Midland, Midland County, Texas, is hereby accepted. A copy of said easement is attached hereto as Exhibit "A" and incorporated herein for all legal purposes. The City Manager is hereby authorized to execute the acceptance of the easement.

SECTION TWO. That the City Secretary is hereby authorized and directed to file said easement in the Deed Records of Midland County, Texas.

On motion of Council member _____, seconded by Council member _____, the above and foregoing resolution was adopted by the City Council of the City of Midland at a regular meeting on the _____ day of _____, A.D., 2013, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

Courtney Sharp, City Manager

APPROVED AS TO CONTENT
AND COMPLETENESS:

Jose Ortiz, Engineering Services Director

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

MEETS AND BOUNDS DESCRIPTION of a 1.186 Acre Drainage Easement being out of a 634.887 acre tract of land as described in Volume 3131, Page 210, Official Public Records, Midland County, Texas, located in Section 47, Block 40, T-1-S, T. & P. RR. Co. Survey, Midland County, Texas.

BEGINNING at (N=10687974.55 & E=1728477.29) a point in the east line of Section 47 and the west line of Section 48, Block 40, T-1-S, T. & P. RR. Co. Survey, Midland County, Texas the east line of a 634.887 acre tract of land as described in Volume 3131, Page 210, Official Public Records, Midland County, Texas, and the west line of a 40.498 acre tract of land as described in Instrument No. 2013-5263, Official Public Records, Midland County, Texas, for the northeast corner of this easement, from which a 1" block iron pipe found for a common corner of said 634.887 acre tract of land and the 40.498 acre tract of land, the northeast corner of said Section 47 and the northwest corner of said Section 48, bears N 14°16'09" W a distance of 592.65 feet;

THENCE, along the east line of said Section 47, the west line of said Section 48, the west line of the said 40.498 acre tract and the east line of the said 634.887 acre tract, S 14°16'09" E a distance of 62.56 feet to a point for the southeast corner of this easement, from which a 3/4" galvanized iron pipe and plastic cap marked "RPLS 4413" found in the east line of said Section 47, the west line of said Section 48 and for the southwest corner of the said 40.498 acre tract of land, bears S 14°16'09" E a distance of 20.61 feet;

THENCE S 59°17'41" W a distance of 851.85 feet to a point for the southwest corner of this easement;

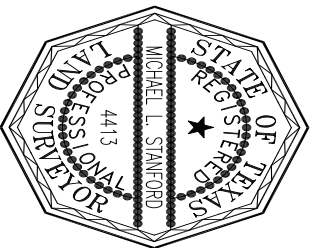
THENCE N 30°42'19" W a distance of 60.00 feet to a point for the northwest corner of this easement from which a City of Midland Control Point marked "191/158" bears N 03°53'06" W a distance of 6216.13 feet;

THENCE N 59°17'41" E a distance of 869.55 feet to the POINT OF BEGINNING.

Bearings, Distances, & Coordinates are based upon the Texas State Plane Coordinate System NAD 83 Central Zone and are relative to the City of Midland GPS Control Monuments as provided by the City of Midland. Acreage's shown are Surface Values.

Block 40, T-1-S,
T. & P. RR. Co. Survey

Survey Plat of a
1.186 Drainage Easement located in
Section 47, Block 40, T-1-S, T. & P. RR. Co. Survey
Midland County, Texas



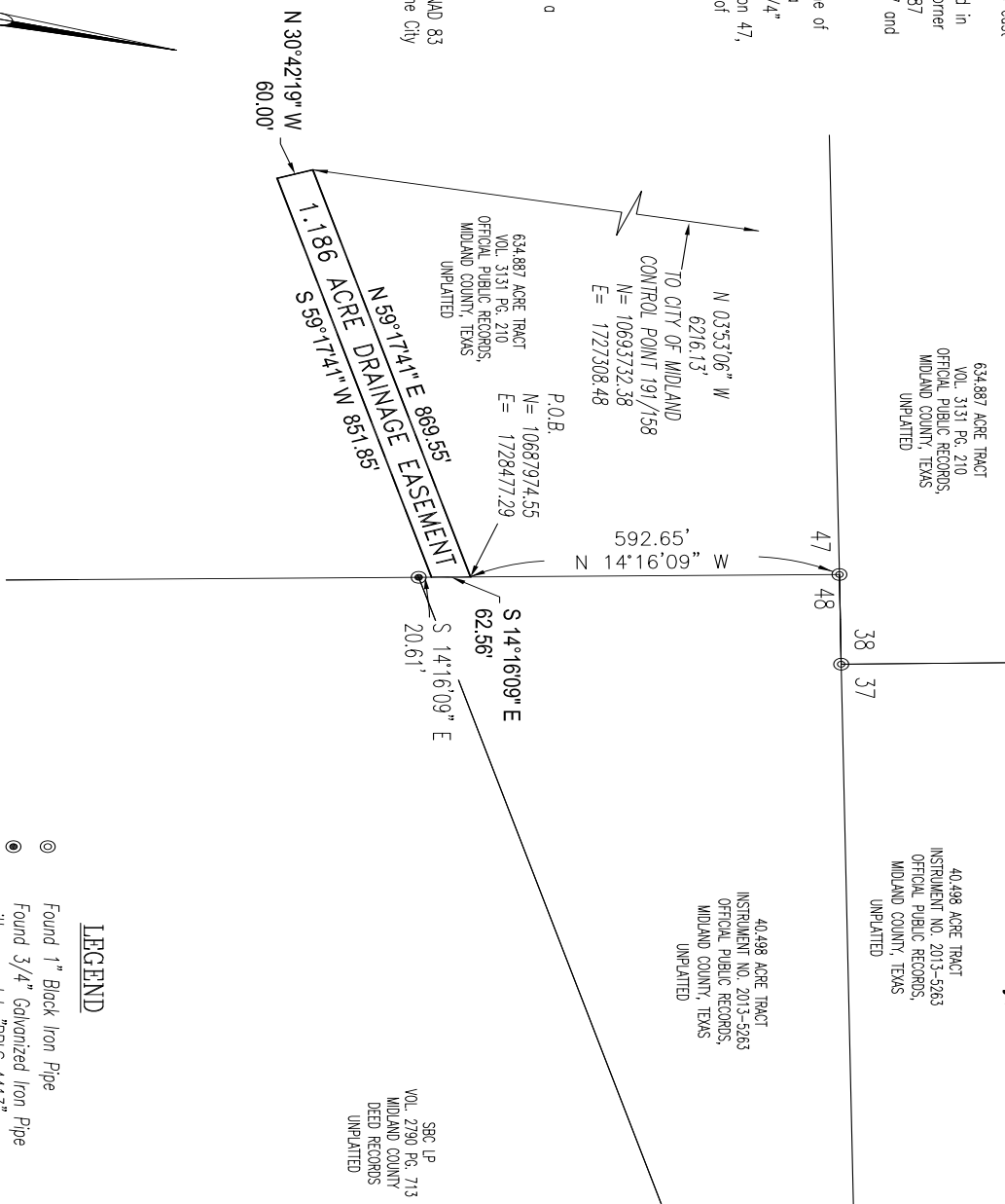
Michael L. Stanford

I, MICHAEL L. STANFORD, REGISTERED PROFESSIONAL LAND SURVEYOR, DO HEREBY CERTIFY THAT THIS PLAT WAS PREPARED FROM AN ACTUAL SURVEY OF THE PROPERTY AND THAT THE INFORMATION HEREON REPRESENTS THE FINDINGS OF THIS SURVEY TO THE BEST OF MY KNOWLEDGE AND BELIEF.

SURVEYED MAY 20, 2013



Bearings shown on this plat are relative to the
Texas State Plane Coordinate System, NAD 1983
(Central Zone).



LEGEND

- Found 1" Block Iron Pipe
- Found 3/4" Galvanized Iron Pipe with cap mkd. "RPLS 4413"

STANFORD SURVEYING COMPANY

P.O. BOX 8490
MIDLAND, TEXAS 79708-8490
432-699-5708

DRAWN BY Justin Robertson

DATE 05-20-2013

SCALE

1" = 300'

FILE NAME

DRAINAGE EASEMENT

Midland County
Cheryl Becker
County Clerk
Midland, Texas 79702



70 2013 00014110

Instrument Number: 2013-14110

As

Recorded On: June 13, 2013

Recording after Aug 2005

Billable Pages: 2

Number of Pages: 3

Comment: EM CUMBERLAND AND WESTERN

(Parties listed above are for Clerks reference only)

**** Examined and Charged as Follows: ****

Recording after Aug 2005	20.00
Total Recording:	20.00

***** DO NOT REMOVE. THIS PAGE IS PART OF THE INSTRUMENT *****

Any provision herein which restricts the Sale, Rental or use of the described REAL PROPERTY
because of color or race is invalid and unenforceable under federal law.

File Information:

Document Number: 2013-14110
Receipt Number: 404415
Recorded Date/Time: June 13, 2013 02:03:20P

Record and Return To:

BETENBOUGH HOMES
6305 82ND ST
LUBBOCK TX 79424

User / Station: A Hernandez - Cashiering Station 4



State of Texas
County of Midland

I hereby certify that this instrument was FILED on the date and at the time stamped hereon by me and was duly
RECORDED in named RECORDS of Midland County, Texas as stamped hereon.

Cheryl Becker

County Clerk
Midland County, Texas

TEMPORARY DRAINAGE EASEMENT

THE STATE OF TEXAS
COUNTY OF MIDLAND

§
 §
 §

KNOW ALL MEN BY THESE PRESENTS:

THAT **Cumberland & Western Resources, LLC**, herein called "GRANTOR", for and in consideration of the enhancement of GRANTOR's remaining abutting property, has by these presents GRANTED, BARGAINED, SOLD and CONVEYED and by these presents does GRANT, BARGAIN, SELL AND CONVEY unto the **CITY OF MIDLAND** (the "City"), a Home Rule Municipal Corporation of Midland County, Texas, its legal successors and assigns, for the use of the public as a perpetual and temporary drainage easement (the "Easement"), the free and uninterrupted use, liberty of passage in, on, over, upon, along, under (not to exceed ten (10) feet in depth), and across all that property more particularly described in the attached "**Exhibit A**"

SO LONG AS THE CITY OF MIDLAND continues to use said temporary Easement for the purposes herein stated, said temporary Easement includes, but is not limited to, the free and uninterrupted use, liberty and privilege of passage in, along, over, across, under (not to exceed ten (10) feet in depth), upon and against the hereinabove described land for the purpose of conveying storm water runoff associated with development of a subdivision of the City of Midland, Texas. Improvements necessary to the stated purpose of the temporary Easement are required public improvements associated with such subdivision and are to be constructed in accordance with applicable City ordinances. This temporary Easement allows constructing, reconstructing, maintaining, repairing, cleaning, and clearing said premises for the conveyance of surface water runoff in a temporary drainage Easement; together with the right of ingress, egress, and regress for such purposes in, on, along, through, and across all the property above described.

THE CITY OF MIDLAND shall not prohibit the use of the channel by GRANTOR or future owners of the property adjacent to, or in close proximity with, the temporary Easement for the purpose of conveying surface runoff. However, GRANTOR acknowledges that the Easement has a limited capacity and GRANTOR shall not be entitled to use the temporary Easement to carry surface runoff in excess of that capacity.

GRANTOR, or future property owners adjacent to, or in close proximity with, the drainage Easement, shall have the right to widen the channel and increase the conveyance capacity of the channel as needed for that purpose. GRANTOR agrees that no future modifications of the channel shall reduce the capacity for conveyance or usefulness for the purpose of outflow for which the channel was designed. GRANTOR agrees that any widening of the channel shall be accompanied with dedication of additional temporary drainage easement as needed to encompass the area of all improvements.

It is hereby covenanted and agreed that the CITY OF MIDLAND retains and reserves the right to approve all plans for associated temporary drainage Easement. Buildings or like permanent structures shall not be erected, built, constructed or allowed to be erected, built or constructed in, upon, over, along or across the Easement and if such erection, building or construction does occur in violation of this prohibition, the CITY OF MIDLAND shall have the right to remove said building or structure from the temporary drainage Easement.

TO HAVE AND TO HOLD the above described premises, together with all and singular, the rights and appurtenances thereto in anywise belonging perpetually unto the CITY OF MIDLAND, its successors and assigns, for so long as the CITY OF MIDLAND uses the same for the purposes herein granted.

WITNESS THE EXECUTION OF THIS INSTRUMENT this _____ day of _____, 2013.

Cumberland & Western Resources, LLC

By: [Signature]

Printed Name: GRACE BERTERSON

Title: MLR

14110

The City of Midland, Texas

By: _____

Printed Name: _____

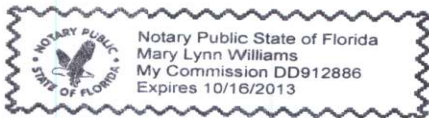
Title: _____

THE STATE OF FLORIDA

§
§
§

COUNTY OF SARASOTA

This instrument was acknowledged before me on the 5th day of June, 2013, by Grace Berterson, Manager of Cumberland & Western Resources, LLC, and in the capacity therein stated.



Mary Lynn Williams
Notary Public

My Commission Expires: 10/16/13

THE STATE OF TEXAS

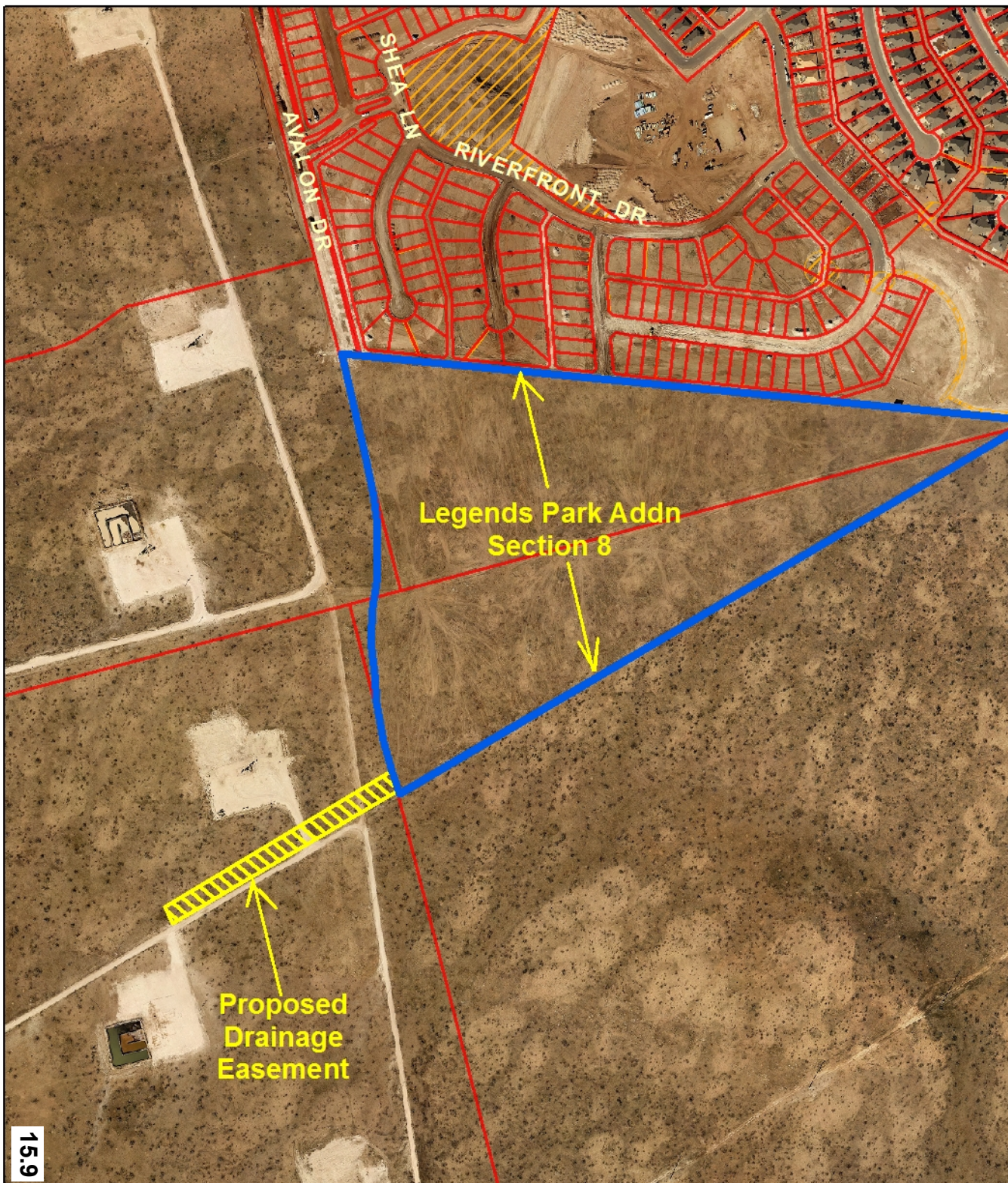
§
§
§

COUNTY OF MIDLAND

This instrument was acknowledged before me on the _____ day of _____, 2013, by _____, _____ of _____, and in the capacity therein stated.

Notary Public in and for the State of Texas

My Commission Expires: _____



ENGINEERING DIVISION

**Resolution:
Temporary Drainage
Easement**

by Cumberland & Western Resources LLC

for Legends Park Addition Section 8

N



Map by JHC 11/26/2013



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: 11/26/2013

TO: City Council / City Manager

FROM: Matt Irvin, Interim Utilities Director

SUBJECT: Acceptance of Engineering Plans and Specifications for Elevated Storage Tank Rehabilitation and Authorization for Advertisement for Bid

Purpose:

Consider a resolution for acceptance of engineering plans and specifications for the "Water System Improvements: Rehabilitation & Lead Abatement of Edgewood and Wadley Elevated Storage Tanks Project" and authorize advertisement for bids.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Directional / Informational

Fiscal Impact:

No fiscal impact at this point. Approval for funding from the Water and Sewer fund will be sought upon award of bid for construction through an agenda item at a later date.

Discussion:

Both Wadley and Edgewood elevated storage tanks in the water distribution system are in need of rehabilitation to ensure their integrity. Plans and specifications have been prepared by Parkhill, Smith, and Cooper, a local engineering firm. Staff recommends acceptance of the plans and specs and requests authorization to advertise for bids for a contractor to perform all necessary repairs, upgrades, and painting.

RESOLUTION NO. _____

RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING ADVERTISEMENT FOR COMPETITIVE BIDS FOR THE “WATER SYSTEM IMPROVEMENTS; REHABILITATION & LEAD ABATEMENT OF THE EDGEWOOD ELEVATED WATER STORAGE TANK AND THE WADLEY ELEVATED STORAGE TANK PROJECT”; AND THE PLANS AND SPECIFICATIONS WERE PREPARED BY PARKHILL, SMITH AND COOPER

WHEREAS, the Interim Director of Utilities has reviewed the plans and specifications for the Water System Improvements; Rehabilitation & Lead Abatement of Edgewood and Wadley Elevated Storage Tanks Project; and

WHEREAS, the City Council finds it to be in the public interest to approve such plans and specifications for said project and to authorize the City Manager to advertise for competitive bids;

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

SECTION ONE. That the plans and specifications for the Water System Improvements; Rehabilitation & Lead Abatement of Edgewood and Wadley Elevated Storage Tanks Project are hereby approved, said plans and specifications to be on file in the City Secretary’s Office referenced by the number and date of this Resolution.

SECTION TWO. That the City Manager, or his designee, is hereby authorized to advertise for competitive bids for said project pursuant to the statutes of the State of Texas for accomplishing the work set forth in the above approved plans and specifications.

On motion of Council member _____, seconded by Council member _____, the above and foregoing resolution was adopted by the City Council of the City of Midland at a regular meeting on the _____ day of _____, A.D., 2013, by the following vote:

Council members voting “AYE”:

Council members voting “NAY”:

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

Courtney Sharp, City Manager

APPROVED AS TO CONTENT
AND COMPLETENESS:

Holly McGrath Rosas, Interim Utilities Director

APPROVED AS TO FORM:

Keith Stretcher, City Attorney



City Council Agenda

Approved for Agenda:
rpatrick
City Manager's Office

MEETING DATE: November 26, 2013

TO: CITY COUNCIL/CITY MANAGER

FROM: Jim Compton, Planning Division Manager

SUBJECT: Consider an ordinance on second reading on a request by CFC Properties, LLC for a zone change from PD, Planned District for an Industrial District, and from LR-2, Local Retail District, to Amended Planned District for an Industrial District, on a 4.57-acre tract of land out of Lots 1 thru 3 and the vacated rights-of-way of Arapahoe Road and State Highway 349, Block 17, and on Lots 1 and 2, Block 18, all out of 349 Ranch Estates, Section 3, City and County of Midland, Texas. (Generally located on the east side of Highway 349 on both sides of Arapahoe Road.) – District 1.

Purpose:

Consider an ordinance on second reading on a request by CFC Properties, LLC for a zone change from PD, Planned District for an Industrial District, and from LR-2, Local Retail District, to Amended Planned District for an Industrial District.

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

There is no cost to the City to process this application.

Discussion:

CFC Properties wishes to construct storage buildings on the property east of State Highway 349 and on the north and south sides of Arapahoe Road. Part of the land is zoned PD, Planned District for an Industrial District, and part is zoned LR-2, Local Retail District. This zone change request proposes to assemble both properties into a single Planned District, and to adopt site plans as required in the current Planned Districts. A total of nine buildings are planned, including an office. The applicant submitted site plans illustrating the type of construction and screening that is planned. Following a favorable

recommendation by the Planning and Zoning Commission, the City Council approved this request on first reading on November 12, 2013. Council also requested that the applicant construct a wrought iron fence with natural stone columns every 25 feet adjacent to both sides of Arapahoe Road. The applicant concurred, and the ordinance has been amended accordingly. It is now appropriate to consider this ordinance on second and final reading.

ORDINANCE NO.

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 4.57-ACRE TRACT OF LAND OUT OF LOTS 1-3, AND THE VACATED RIGHTS-OF-WAY OF ARAPAHOE ROAD AND STATE HIGHWAY 349, BLOCK 17, AND LOTS 1 AND 2, BLOCK 18, ALL OUT OF 349 RANCH ESTATES, SECTION 3, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR AN INDUSTRIAL DISTRICT, IN PART, AND LR-2, LOCAL RETAIL DISTRICT, IN PART, TO BE USED AS AN AMENDED PLANNED DISTRICT FOR AN INDUSTRIAL DISTRICT (GENERALLY LOCATED ON THE EAST SIDE OF HIGHWAY 349 ON BOTH SIDES OF ARAPAHOE ROAD); 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 for an Industrial 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 an Industrial District, in part, and LR-2, Local Retail District, in part, and it shall be used as an Amended Planned District for an Industrial District, subject to the special conditions and restrictions hereinafter set out, said property being described as follows:

A 4.57-acre tract of land out of Lots 1-3, and the vacated rights-of-way of Arapahoe Road and State Highway 349, Block 17, and Lots 1 and 2, Block 18, all out of 349 Ranch Estates, Section 3, City and County of Midland, Texas. Said 4.57-acre tract being more specifically described by metes and bounds in Exhibit "E", which is attached hereto and incorporated herein.

SECTION TWO. That said property shall be subject to the following special conditions and restrictions:

1. That the use and development of this property shall conform to the regulations of the LR-2, Local Retail District, except as otherwise stated below.
2. That in addition to the uses of the LR-2 District, this property may be developed with storage units, subject to the conditions set forth below.
3. That the proposed development shall significantly conform to Exhibits "A", "B", "C" and "D", which are attached hereto and incorporated herein. Provided, however, that a wrought iron fence shall be installed adjacent to the north and south sides of Arapahoe Road for the full length of this property and said fence shall substantially match the fence along Big Spring Street on this property.
4. That the maximum height of all buildings shall not exceed 30 feet.
5. That the proposed development shall meet all requirements of the Fire Department.
6. That the proposed development shall meet all requirements of the Code Administration Division.
7. That all driveways shall be in compliance with all applicable provisions of the Midland City Code.
8. That all Texas Department of Transportation regulations regarding driveway approval shall be followed for any State Highway 349 controlled access frontage.
9. That all signage shall be in compliance with all applicable provisions of the the Revised Outdoor Sign Regulations of the Midland City Code.
10. That all landscaping shall be in compliance with all applicable City of Midland landscaping regulations.
11. That dumpster placement and utility screening shall be in compliance with the Site Plan Review Standards of the Midland City Code.

12. That City of Midland Ordinance No. 8543 is hereby amended by this ordinance.

SECTION THREE. That the definitions given in the zoning regulations contained in the City Code of the City of Midland, Texas, shall be applicable to such of those terms as are used herein.

SECTION FOUR. The provisions of this ordinance are to be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent with or in conflict with any of the provisions of this ordinance are hereby expressly repealed to the extent of any such inconsistency or conflict.

SECTION FIVE. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this ordinance. The Council of the City of Midland hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

SECTION SIX. The penalty for violation of this ordinance shall be in accordance with the general penalty provisions contained in Section 1-3-1 of the City Code of Midland, Texas, which provides for a fine not exceeding two thousand dollars (\$2,000.00).

SECTION SEVEN. The City Secretary is hereby authorized and directed to publish the descriptive caption of this ordinance in the manner and for the length of time prescribed by the law as an alternative method of publication.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the ___ day of _____, A.D., 2013; and passed to second reading on motion of Council member _____, seconded by Council member _____, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

The above and foregoing ordinance was read in full and finally adopted by the following vote upon motion of Council member _____, seconded by Council member _____, on the ____ day of _____, A.D., 2013, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2013.

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

Robert Patrick, Assistant to the City Manager

APPROVED AS TO FORM:

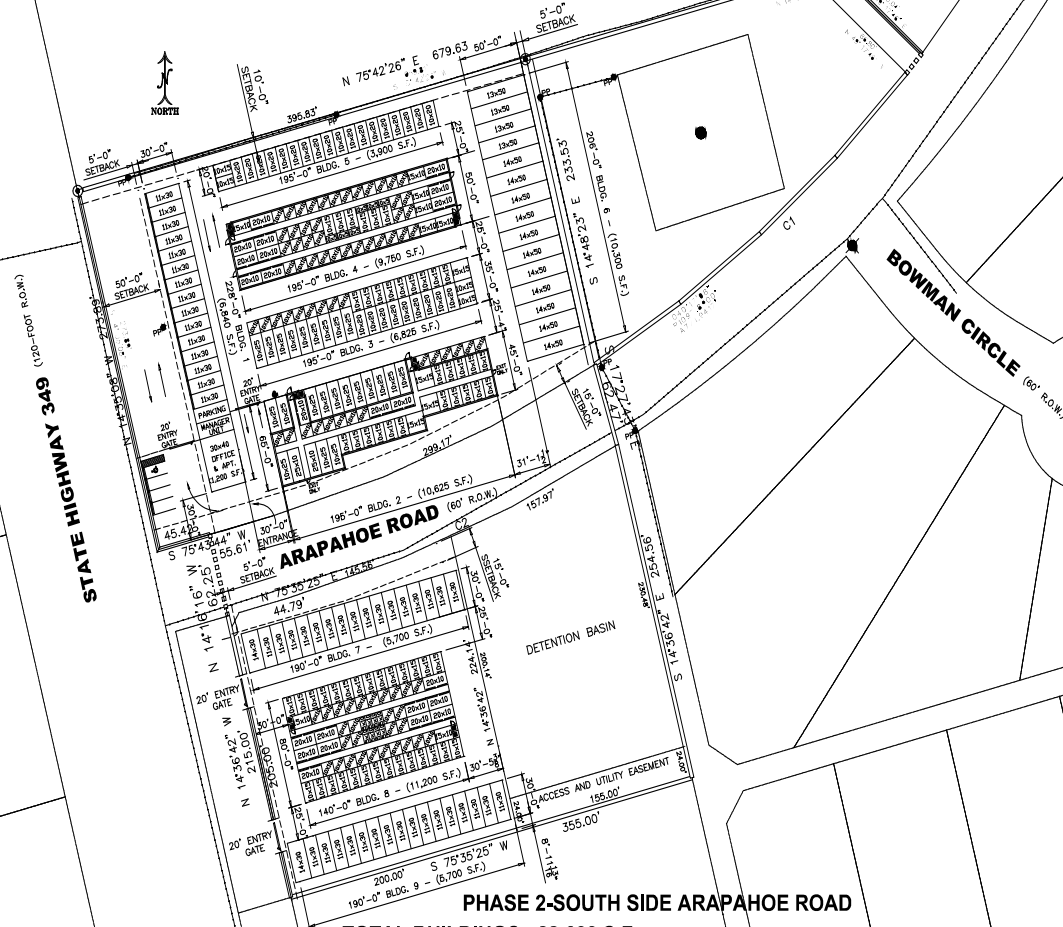
Keith Stretcher, City Attorney

PHASE 1-NORTH SIDE ARAPAHOE ROAD TOTAL BUILDINGS - 48,240 S.F.

EXTERIOR		INTERIOR	
UNIT SCHEDULE	QTY.	UNIT SCHEDULE	QTY.
15x15 UNIT	1	25x10 UNIT	2
14x50 UNIT	11	10x25 UNIT	3
13x50 UNIT	4	20x10 UNIT	13
11x30 UNIT	15	15x15 UNIT	3
10x25 UNIT	20	15x10 UNIT	6
10x20 UNIT	27	10x15 UNIT	22
10x15 UNIT	13	10x10 UNIT	44
10x10 UNIT	15	10x5 UNIT	6
TOTAL UNITS	106	TOTAL UNITS	99

MATERIAL NOTES

WEST FENCE FOR PHASES 1&2 TO CONSIST OF IRON FENCE PANELS WITH NATURAL STONE COLUMNS EVERY 25'
WEST SIDE OF OFFICE AND BETWEEN DOORS TO HAVE 4' WAINSCOT CONSISTING OF NATURAL STONE
SOUTH SIDEWALL OF BUILDING 2 WILL HAVE SIX 2' COLUMNS CONSISTING OF NATURAL STONE FROM BOTTOM TO TOP PLATE
NORTH SIDEWALL OF BUILDING 7 WILL HAVE FOUR 2' COLUMNS CONSISTING OF NATURAL STONE FROM BOTTOM TO TOP PLATE
ALL BUILDINGS TO HAVE 26 GA. METAL ROOF AND 26 GA. METAL WALLS
BUILDING HEIGHT NOT TO EXCEED 30'
FOUR PARKING SPACES TO BE PROVIDED



EXTERIOR		INTERIOR	
UNIT SCHEDULE	QTY.	UNIT SCHEDULE	QTY.
14x30 UNIT	2	20x10 UNIT	10
11x30 UNIT	32	15x10 UNIT	2
10x15 UNIT	28	10x10 UNIT	28
5x10 UNIT	8		
TOTAL UNITS	62	TOTAL UNITS	48

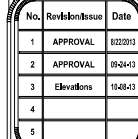
No.	Revision/Issue	Date
1	Material Notes	08-19-13
2	Rev. Material Notes	08-19-13
3		
4		
5		

CLIFF CHALMERS
MIDLAND, TEXAS

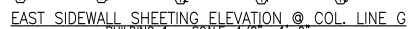
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DESCRIPTION	SITE PLAN
DWG BY	BM
CHECKED BY	
JOB NO.	P72302
Date	08-22-2013
Scale	1"=50'
SHEET	SP-1
OF SHEETS	



BUILDING 1 - SCALE: 1/8" = 1'-0"



WALL SHEETING ELEVATION, @
BUILDING 1 - SCALE: 1/8" = 1'-0"



BUILDING 1 - SCALE: 1/4" = 1'-0"



BUILDING 1 - SCALE: 1/4" = 1'-0'

FOR APPROVAL
NOT FOR CONSTRUCTION
☐ APPROVED WITHOUT EXCEPTION
☐ APPROVED AS NOTED
☐ DISAPPROVED - RESUBMIT

ISSUED: _____ DATED: _____

PRELIMINARY DRAWINGS ONLY

CLIFF CHALMERS
MIDLAND, TEXAS

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877-856-2843 • 817-491-9955 • 817-491-9993 FAX

BUILDING SYSTEMS
P.O. BOX 5879 ROUND ROCK, TEXAS 78683-5879

DESCRIPTION

DWG B'

CHECKED BY _____

JOB NO. _____

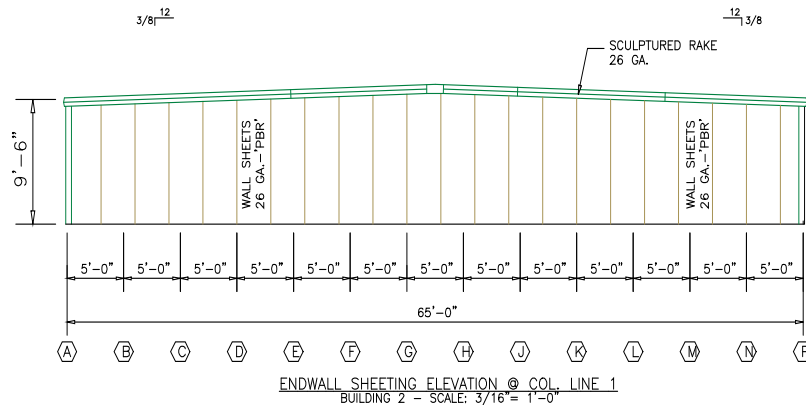
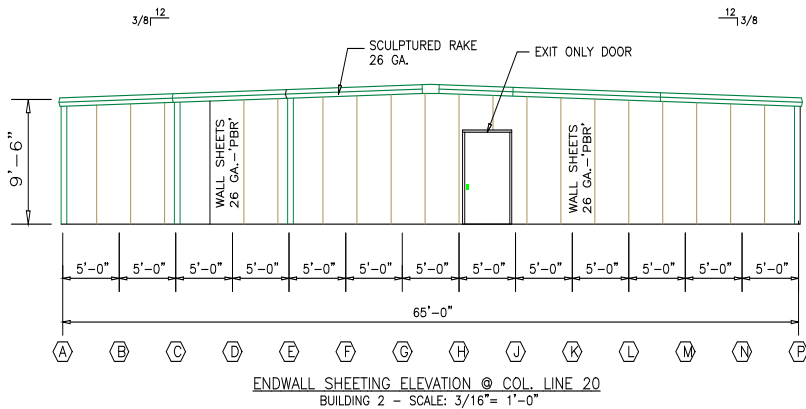
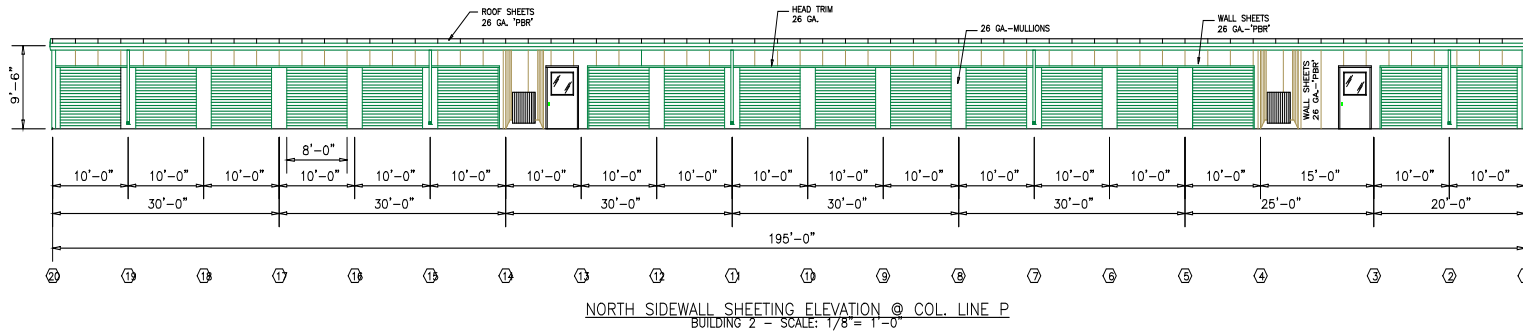
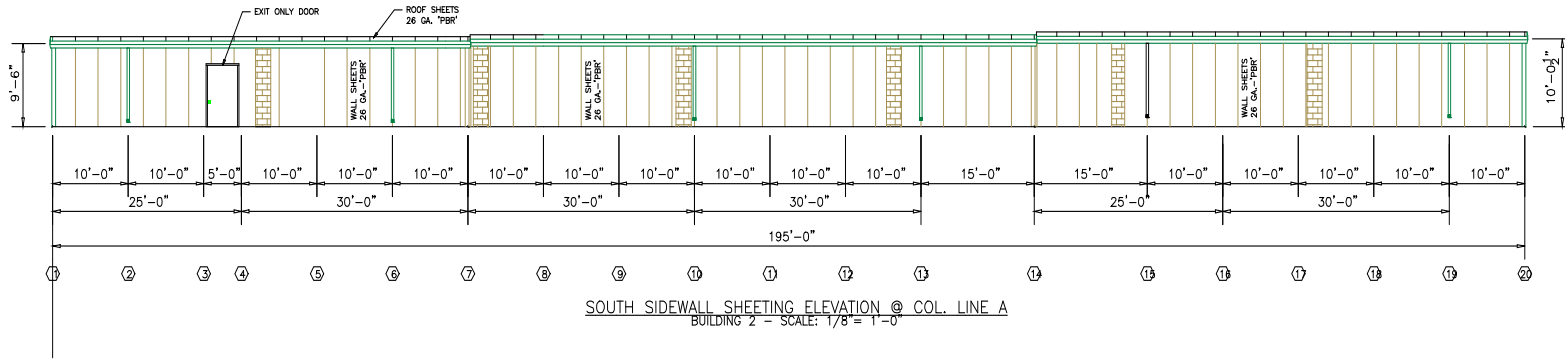
Date _____

8-20-2017
 2017

REF. DRAW

A_2

OF SHEET



FOR APPROVAL
NOT FOR CONSTRUCTION
☐ APPROVED WITHOUT EXCEPTION
☐ APPROVED AS NOTED
☐ DISAPPROVED - RESUBMIT

SIGNED: _____ DATED: _____

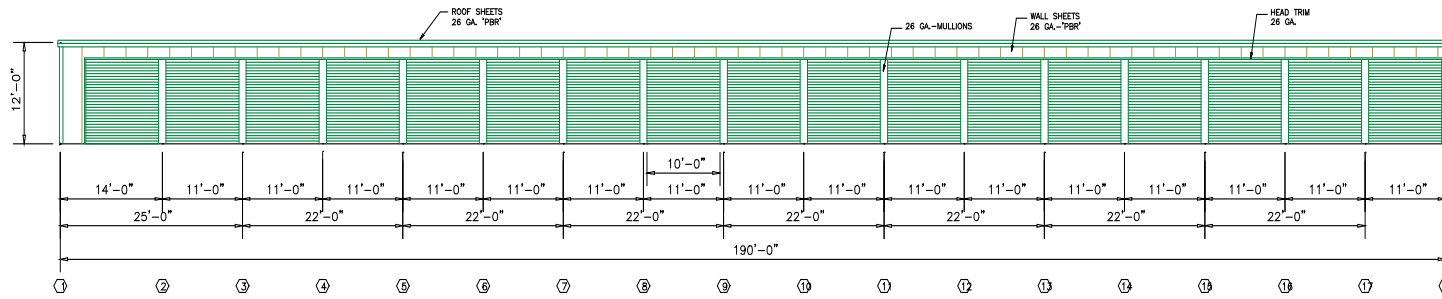
PRELIMINARY DRAWINGS ONLY

No.	Revision/Issue	Date
1	APPROVAL	8/22/2013
2	Elevations	10-06-13
3		
4		
5		

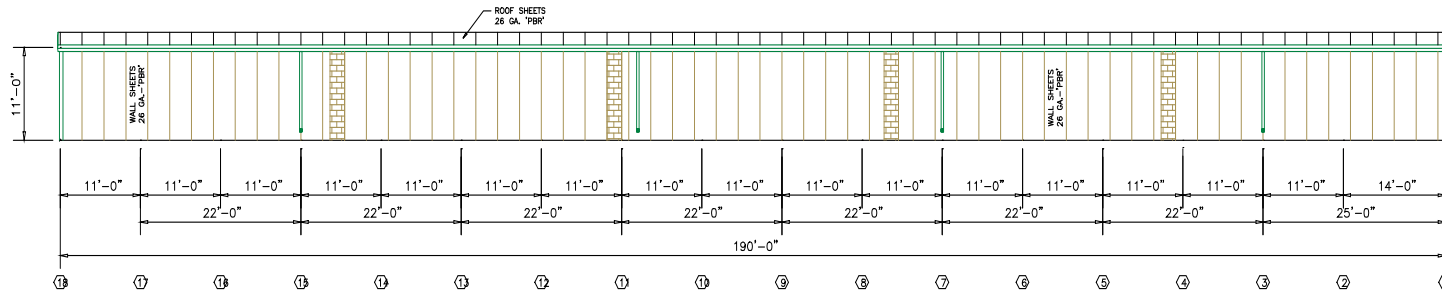
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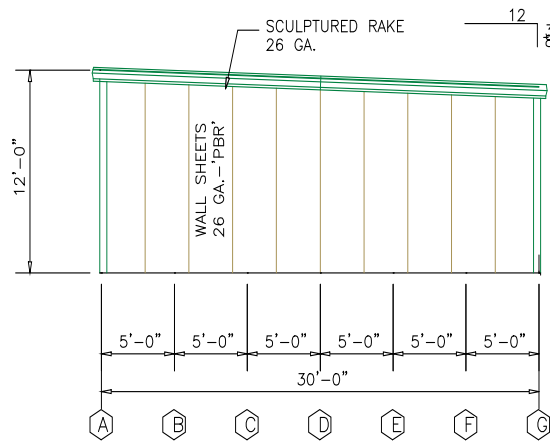
DESCRIPTION ELEVATIONS
DWG BY DA
CHECKED BY
JOB NO. P72202
Date 8-20-2013
Scale REF. DRAWING
SHEET A-2
OF SHEETS



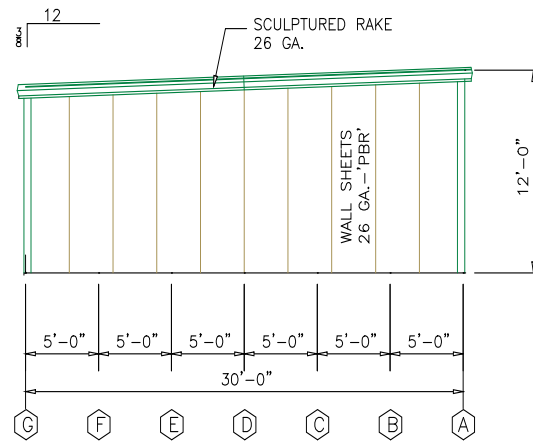
SOUTH SIDEWALL SHEETING ELEVATION @ COL. LINE A
BUILDING 7 - SCALE: 1/8" = 1'-0"



NORTH SIDEWALL SHEETING ELEVATION @ COL. LINE G
BUILDING 7 - SCALE: 1/8" = 1'-0"



ENDWALL FRAMING ELEVATION @ COL. LINE 18
BUILDING 7 - SCALE: 1/4" = 1'-0"



ENDWALL FRAMING ELEVATION @ COL. LINE 1
BUILDING 7 - SCALE: 1/4" = 1'-0"

FOR APPROVAL
NOT FOR CONSTRUCTION
☐ APPROVED WITHOUT EXCEPTION
☐ APPROVED AS NOTED
☐ DISAPPROVED - RESUBMIT

SIGNED _____ DATE: _____

PRELIMINARY DRAWINGS ONLY

CLIFF CHALMERS
MIDLAND, TEXAS

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DESCRIPTION

ELEVATIONS

DWG BY

GA

CHECKED BY

JOB NO.

P72302

Date

8-20-2013

Scale

REF. DRAWING

SHEET

A-7

OF SHEETS



110 W. Louisiana Ave. ☐ Suite 110 ☐ Midland, Texas 79701
O: 432.682.0588 F: 432.687.0868 Registration: Firm 2184

September 25, 2013

FIELD NOTES OF A 4.57 ACRE TRACT OF LAND OUT OF SECTION 12, BLOCK "X",
H. P. HILLIARD SURVEY, MIDLAND COUNTY, TEXAS:

BEGINNING at a found 1/2-inch iron rod (N=10,721,870.46, E=1,752,919.72) in the Eastern right-of-way of SH 349 and in the Northwest corner of Lot 1, Block 17, 349 Ranch Estates, Section 3 as recorded in Cabinet "C", Page 88 Midland County Plat Records for the Northwest corner this tract;

THENCE N 75°42'26" E, along the Northern boundary of said 349 Ranch Estates, Section 3, 679.63 feet to a found 1/2inch iron rod in the common boundary of a 20-foot alley and Lot 4 of Block 17 for the Northeast corner this tract;

THENCE S 16°23'57" E, along the Eastern boundary of a proposed 20-foot alley, 14.37 feet to a point for a corner this tract;

THENCE S 49°17'46" E, along the Eastern boundary of a proposed 20-foot alley 110.01 feet to a point in the curved centerline of Arapahoe Road for the Southeast corner this tract;

THENCE Southwesterly along the curved centerline of Arapahoe Road, Delta Angle=34°37'07", Radius Length=1127.89 feet, Chord Bearing=S 58°25'10" W, Chord Length=671.16 feet and an Arc Length of 681.48 feet to a point of tangency this tract;

THENCE S75°43'44" W, along the centerline of Arapahoe Road, 160.86 feet to a point in the centerline of SH 349 for the Southwest corner this tract;

THENCE N 14°35'08" W, 303.86 feet to a point for the Northwest corner this tract;

THENCE N 75°42'26" W, 60.00 feet to the Place of Beginning and containing 4.57 acres of land.

Amended Planned District Industrial Park
CFC Properties, LLC
Job Number 2013-1252



EXHIBIT E

CASE NO. 2-13-085

PLANNING AND ZONING COMMISSION

October 14, 2013

CASE: Z-13-035, CFC Properties, LLC.

REQUEST: Hold a public hearing and consider a request for a zone change from PD, Planned District for an Industrial District and from LR-2, Local Retail District, to Amended Planned District for an Industrial District.

APPLICANT/OWNER: Cliff Chalmers/CFC Properties, LLC.

REPRESENTATIVE: West Company of Midland, Inc.

LEGAL DESCRIPTION: On a 4.57-acre tract of land out of Lots 1 thru 3 and the vacated rights-of-way of Arapahoe Road and State Highway 349, Block 17, and on Lots 1 and 2, Block 18, all out of 349 Ranch Estates, Section 3, City and County of Midland, Texas.

LOCATION: Generally located on the east side of Highway 349 on both sides of Arapahoe Road.

CURRENT ZONING: PD, Planned District for Industrial District and LR-2, Local Retail District.

ASSOCIATED CASES: P-13-032, 349 Ranch Estates, Section 18.

DETAILS OF REQUEST:

1. The subject property is located on the east side of State Highway 349, on the north and south sides of Arapahoe Road. The property which is proposed to be rezoned is a portion of a larger property which is currently in the process of being replatted as 349 Ranch Estates, Section 18. The replat will change the plat outline to include the previously vacated portions of Arapahoe Road and vacated alleys, as well as other changes to the lots. Mr. Chalmers, the owner, is requesting a zone change on his property from PDID, Planned District for an Industrial District, and LR-2, Local Retail District, to an Amended Planned District for Industrial District, with the underlining zoning of LR-2, Local Retail District, in order to develop several storage buildings.

SURROUNDING ZONING AND LAND USE:

2. The property is on the east side of Highway 349, a state highway, and on the north and south sides of Arapahoe Road, a collector street. To the north is an AE, Agriculture-Estate District, location of the Resthaven Cemetery. To the west across the state highway is a continuation of the PDID, Planned District for Industrial District, also owned by Mr. Chalmers, and also including storage buildings, as well as an AE District. To the south is an LR-2, Local Retail District, occupied by Northside Storage. Finally, to the east, is an AE District with single-family homes.

ANALYSIS:

3. We find that the zone change from PD, Planned District for Industrial District and LR-2, Local Retail District, to an Amended Planned District for Industrial District (with an underlining zoning of LR-2, Local Retail District), is reasonable. The Planned District on the lots north of Arapahoe Road was already established during the initial zoning approved in July 2007, subject to the approval of site plans in the same manner as a zone change by the Planning and Zoning Commission and City Council. The lots to the south of Arapahoe Road which are currently zoned LR-2, Local Retail District, will also be included in this zone change, and will increase the initial size allotted for the Planned District.

SITE PLAN:

4. The site plan, Exhibit A, provides the layout and information about the site. As shown, nine total storage buildings are proposed. Phase One, the portion north of Arapahoe Road, will include six buildings, and phase two, the portion south of Arapahoe Road, will include the remaining three. A total of 106 exterior units, ranging from 10'X10' to 15'X15' and a total of 99 interior units ranging from 10'X5' to 25'X10' will be provided in Phase 1, totaling 48,240 square feet. In Phase Two, a total of 62 exterior units ranging from 10'X15' to 14'X30' will be provided as well as 48 interior units ranging from 5'X10' to 20'X10', totaling 22,600 square feet. The storage buildings will be at varying heights, but are not proposed to exceed 30 feet. The building setbacks meet the requirements of the LR-2 District, unless otherwise differing on the site plan. On the north side of Arapahoe Road, the building setback from State Highway 349 will be 50 feet. In order to maintain a consistency in the alignment, the building setback from State Highway 349 on the south side of Arapahoe Road will only be 5 feet. The setbacks on either side of Arapahoe Road will be 15 feet. In terms of screening, the western north/south boundary along State Highway 349 in both the phases will include iron fence panels with natural stone columns every 25 feet. The northern boundary line includes a pre-existing chain link fence. The rest of the property's perimeter, along the eastern edge of the two phases, to the south of Phase Two, and on the north and south sides of Arapahoe Road, will include a 6'

chain link fence. There are a total of three entrances/exits to the property: one off Arapahoe Road accessing Phase One, and two entrances off State Highway 349 accessing Phase Two. Twenty foot entry gates are included upon entering into the property. As shown on the site plan, four parking spaces are provided for the office building, meeting the ratio of 1 space per 400 square feet of office space. Parking shown on the plan will be considered illustrative.

Exhibits B, C, and D depict the elevations of the proposed storage buildings. As mentioned earlier, though the different storage buildings vary in height, the buildings will have a maximum height of 30 feet. All of the storage buildings will have metal roofs and walls. In particular, Exhibit B shows Storage Building One, the building parallel to State Highway 349. As shown, the west side of the office (facing State Highway 349) will include wainscot consisting of natural stone, the same material which will be included in the iron fence on the western perimeter. The natural stone on this side of the office, included also in between the doors, will be four feet high. The rest of the storage buildings will essentially appear the same, except without the four foot natural stone interspacing.

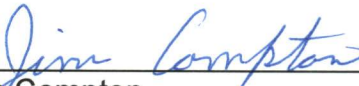
Exhibits C and D show Buildings 2 and 7, respectively, as they will be facing Arapahoe Road, a public street. As portrayed, the south side of Building 2 will have six columns, each 2 feet wide, consisting of natural stone extending to the top plate of the storage buildings. The north side of Building 7 will have four columns, each 2 feet wide, consisting of natural stone extending to the top of the storage buildings. Thus, as the rear of both of these buildings will face the public street, they have been decorated to avoid blank walls according to our site plan standards.

STAFF RECOMMENDATION:

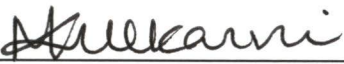
Staff recommends approval of this request for a zone change from PD, Planned District for Industrial District and LR-2, Local Retail District to Amended Planned District for Industrial District, subject to the following conditions:

- A. That the use and development of this property shall conform to the regulations of the LR-2, Local Retail District, except where permitted otherwise.**
- B. That the proposed development shall significantly conform to Exhibits A, B, C, and D.**
- C. That the maximum height of all buildings shall not exceed 30 feet.**
- D. That the proposed development meets all requirements of the Fire Division.**

- E. That the proposed development meets all requirements of the Code Administration Division.
- F. That all driveways meet the requirements of the Transportation Division.
- G. That TxDot driveway approval is followed for any State Highway 349 controlled access frontage.
- H. That signage shall be in compliance with the "Revised Outdoor Sign Regulations" of the Midland City Code.
- I. That landscaping shall be in compliance with the "Landscape Regulations" of the Midland City Code.
- J. That any dumpster screening shall conform to the "Site Plan Review Standards" of the Midland City Code.
- K. That the applicable conditions in Ordinance 8543 are hereby repealed.



Jim Compton
Acting Planning Division Manager
Department of Development Services



Madhuri Kulkarni, City Planner
Department of Development Services

Attachments:

Application
Maps
Exhibits A-D

Case Number: 2-13-035

CITY OF MIDLAND
Planning Division

APPLICATION TO CHANGE ZONING CLASSIFICATION

CFC Properties, LLC 528-2201
Applicant Name (Phone/e-mail)
5100 Ashdown Place, Midland, TX 79705
Address Zip Code

Property Owner Name (Phone/e-mail)
Address Zip Code

West Company of Midland, Inc. 687-0865
Representative Name (Phone/e-mail)
110 W. Louisiana, Suite 110, 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.

Lots 1 and 2, Block 18, 349 Ranch Estates,
Section 3, Site Plan Review for Lot 1 and 2, Block 17 and
Lots 1 and 2, Block 18, 349 Ranch Estates.

PDIP amended PDIP
PRESENT ZONE: LR-2 REQUESTED ZONE: PDIP
(List by tracts if more than one district is requested)

Reason for Zone Change Request: Need for warehousing and storage units

Present Use of Property: Need for storage units Vacant

Proposed Use of Property: ~~Vacant~~ Warehouses and storage units

How will zone change affect the public health, safety and welfare? Will not have an adverse affect on the public health, safety or welfare.

Describe how conditions affecting the property have changed since present zoning designation:
Present need for warehousing and storage.

Is a Specific Use Permit with Term for alcoholic beverages sales needed? Yes ☐ No ☒

2013-1252

APPLICATION FEES:

- Single, standard zone change: **\$400**. Multiple, standard zone change: add **\$100** per additional district.
- Single PD, Planned District zone change: **\$550**. Multiple PD proposal: add **\$100** per district.
- If a Traffic Impact Analysis is required, a fee of up to \$500.00 will be assessed.

SITE PLAN SUBMITTALS (if applicable):

16 copies (FOLDED) of the PD site plan:

Site Plan in digital format .pdf and .jpg:

✓

✓

SIGNATURE (by property owner only - authorized agent must sign affidavit below)

Property Owner (signature): _____ Date: _____

If an Agent is authorized by the property owner to file and execute the application on behalf of the property owner, the Agent must complete the affidavit below.

STATE of TEXAS
COUNTY OF MIDLAND

Before me, the undersigned authority, on this day personally appeared

Max W. Richardson who, being by me duly sworn, upon oath says: That (s)he is authorized by CFC Properties, 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.

Max W. Richardson

Authorized Agent (signature)

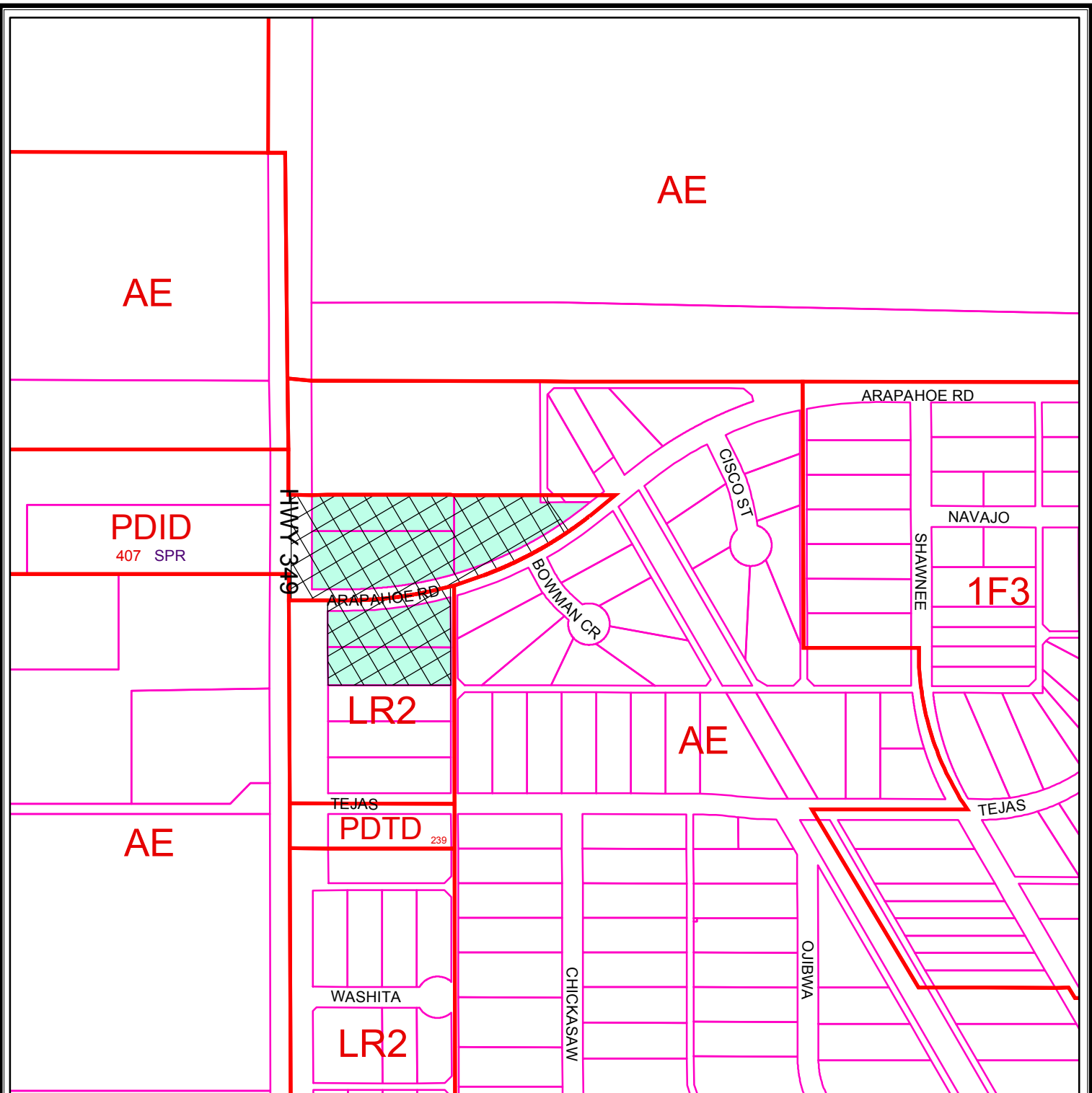
Subscribed and sworn to before me, this 9 day of August, 2013, to certify which witness my hand and seal of office.

[Signature]
NOTARY PUBLIC, MIDLAND COUNTY, TEXAS

FOR OFFICE USE ONLY	
Rec'd By: <u>MS</u>	Date: <u>8/16/13</u>
Assigned: <u>MK</u>	
For: <u>P + 2</u>	On: <u>08/14/13</u>



****Application will not be considered for scheduling until reviewed by a planner.****



ZONING MAP

Z - 13 - 035

Scale: 1" = 400'

Consider a request for a zone change from PD, Planned District for an Industrial District to an Amended Planned District on a 4.57-acre tract of land out of Lots 1 thru 3 and the vacated rights-of-way of Arapahoe Road and State Hwy 349, Block 17; and from LR-2, Local Retail District to PD, Planned District for an Industrial District on Lots 1 and 2, Block 18, all out of 349 Ranch Estates, Section 3, City and County of Midland, Texas.

LEGEND

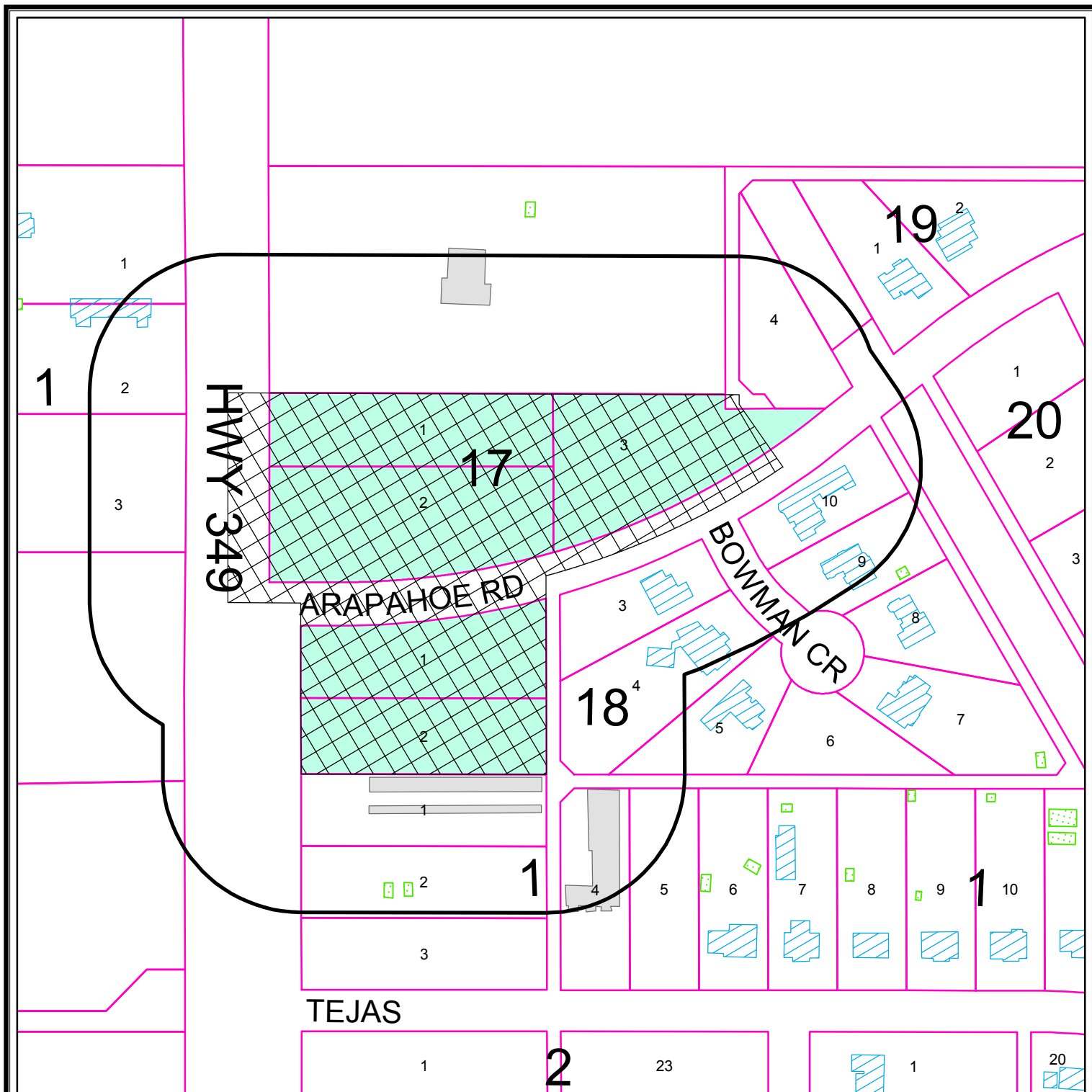
ZONING PARCELS

ZONING DISTRICTS:

FD	FUTURE DEVELOPMENT	BP	BUSINESS PARK
PD	PLANNED DISTRICT	P	PARKING
AE	AGRICULTURE ESTATE	01, 02	OFFICE
CE	COUNTRY ESTATE	NS	NEIGHBORHOOD SERVICE
1F1, 1F2, 1F3	ONE-FAMILY DWELLING	LR1, LR2, LR3	LOCAL RETAIL
MH	MOBILE HOME DWELLING	C1, C2, C3	COMMERCIAL
TH	TOWNHOUSE DWELLING	IP, IP1, IP2, IP3	INDUSTRIAL PARK
2F	TWO-FAMILY DWELLING	LI	LIGHT INDUSTRY
MF1, MF2	MULTIPLE FAMILY DWELLING	HI	HEAVY INDUSTRY

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PROPERTY OWNER NOTIFICATION MAP

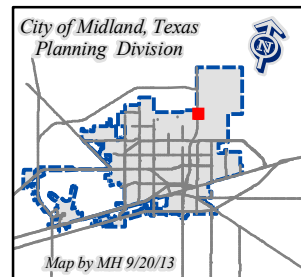
Z - 13 - 035

Scale: 1" = 200'

Consider a request for a zone change from PD, Planned District for an Industrial District to an Amended Planned District on a 4.57-acre tract of land out of Lots 1 thru 3 and the vacated rights-of-way of Arapahoe Road and State Hwy 349, Block 17; and from LR-2, Local Retail District to PD, Planned District for an Industrial District on Lots 1 and 2, Block 18, all out of 349 Ranch Estates, Section 3, 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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City Council Agenda

Approved for Agenda:
rpatrick
City Manager's Office

MEETING DATE: November 26, 2013

TO: CITY COUNCIL/CITY MANAGER

FROM: Jim Compton, Planning Division Manager

SUBJECT: Consider an ordinance on second reading on a request by David Martin for a zone change from AE, Agriculture Estate District to PD, Planned District for a Housing Development on a 54.487-acre tract out of Section 12, Block "X", H. P. Hilliard Survey, Midland County, Texas (Generally located on the east side of SH 349, approximately 1,200 feet north of Mockingbird Lane) District 1.

Purpose:

Consider an ordinance on second reading on a request by David Martin for a zone change from AE, Agriculture Estate District to PD, Planned District for a Housing Development on a 54.487-acre tract out of Section 12, Block "X", H. P. Hilliard Survey, Midland County, Texas.

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

There is no cost to the City to process this application.

Discussion:

David Martin wishes to develop a residential subdivision on a 54-acre portion of a quarter-section located on the east side of SH 349, north of the eastward extension of Mockingbird Lane. The lot sizes conform to the 1F-3 District regulations. However, the plat orients lots so that they back toward SH 349. This condition is not allowed unless a Planned District for a Housing Development is proposed that guarantees the characteristics of a decorative masonry screening fence. The applicant provided a site plan illustrating two different styles of screening fences that are planned. Following a favorable recommendation by the Planning and Zoning Commission, the City Council voted to approve this request on November 12, 2013. It is now appropriate to consider this ordinance on second and final reading.

ORDINANCE NO. _____

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 54.487-ACRE TRACT OF LAND OUT OF SECTION 12, BLOCK “X”, H.P. HILLIARD SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED AE, AGRICULTURE ESTATE DISTRICT, TO BE USED AS A PD, PLANNED DISTRICT FOR A HOUSING DEVELOPMENT (GENERALLY LOCATED ON THE EAST SIDE OF STATE HIGHWAY 349, APPROXIMATELY 1,200 FEET NORTH OF MOCKINGBIRD LANE); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

WHEREAS, the City Planning and Zoning Commission and the Governing Body of the City of Midland, in compliance with the City Charter and the State law with reference to the creation of “Planned Districts” under the zoning ordinance regulations and zoning map, have given the requisite notices by United States mail, publication and otherwise; and after a full and fair hearing to all of the property owners generally and particularly to those interested persons situated in the affected area and in the vicinity thereof, the Governing Body finds that the public health, safety and general welfare will be best served by the creation of a PD, Planned District for a Housing Development, set out hereinafter and subject to the conditions and restrictions set out hereinafter;

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

SECTION ONE. That Chapter 1, Title XI, of the City Code of Midland, Texas, and the official zoning map of the City of Midland, Texas, are hereby amended insofar as the hereinafter described property is concerned, which is presently zoned AE, Agriculture Estate District, and it shall be used as a PD, Planned District for a Housing Development, said property being described as follows:

A 54.487-acre tract of land out of Section 12, Block “X”, H.P. Hilliard Survey, City and County of Midland, Texas, said tract being more specifically described by metes and bounds in Exhibit “B”, which is attached hereto and incorporated herein.

SECTION 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 conditions of the 1F-3, One-Family Dwelling District, except as otherwise stated below.
2. That screening fences, conforming to Type A and Type B fences, shall be constructed within the common areas as shown on Exhibit “A”, which is attached hereto and incorporated herein. Said fences shall be constructed prior to the issuance of any Certificate of Occupancy for any platted lot that is oriented with the rear of the lot facing a public street.

SECTION THREE. That the definitions given in the zoning regulations contained in the City Code of the City of Midland, Texas, shall be applicable to such of those terms as are used herein.

SECTION FOUR. The provisions of this ordinance are to be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent with or in conflict with any of the provisions of this ordinance are hereby expressly repealed to the extent of any such inconsistency or conflict.

SECTION FIVE. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this ordinance. The Council of the City of Midland hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

SECTION SIX. The penalty for violation of this ordinance shall be in accordance with the general penalty provisions contained in Section 1-3-1 of the City Code of Midland, Texas, which provides for a fine not exceeding two thousand dollars (\$2,000.00).

SECTION SEVEN. The City Secretary is hereby authorized and directed to publish the descriptive caption of this ordinance in the manner and for the length of time prescribed

by the law as an alternative method of publication.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the _____ day of _____, A.D., 2013; and passed to second reading on motion of Council member _____, seconded by Council member _____, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

The above and foregoing ordinance was read in full and finally adopted by the following vote upon motion of Council member _____, seconded by Council member _____, on the _____ day of _____, A.D., 2013, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2013.

W. Wesley Perry, Mayor

ATTEST:

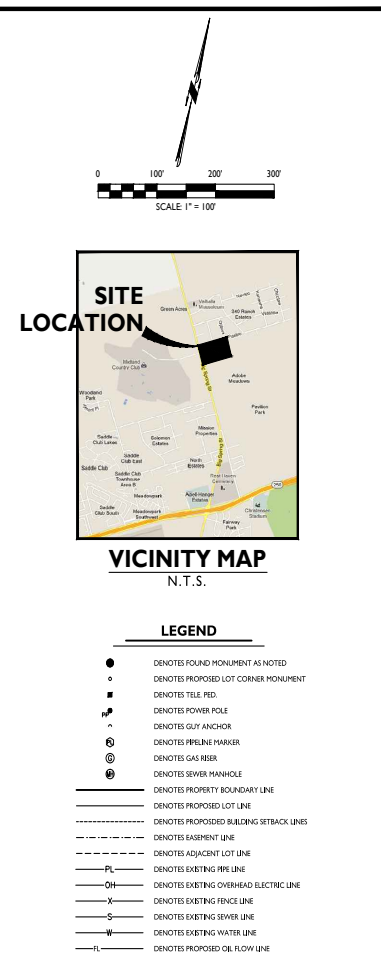
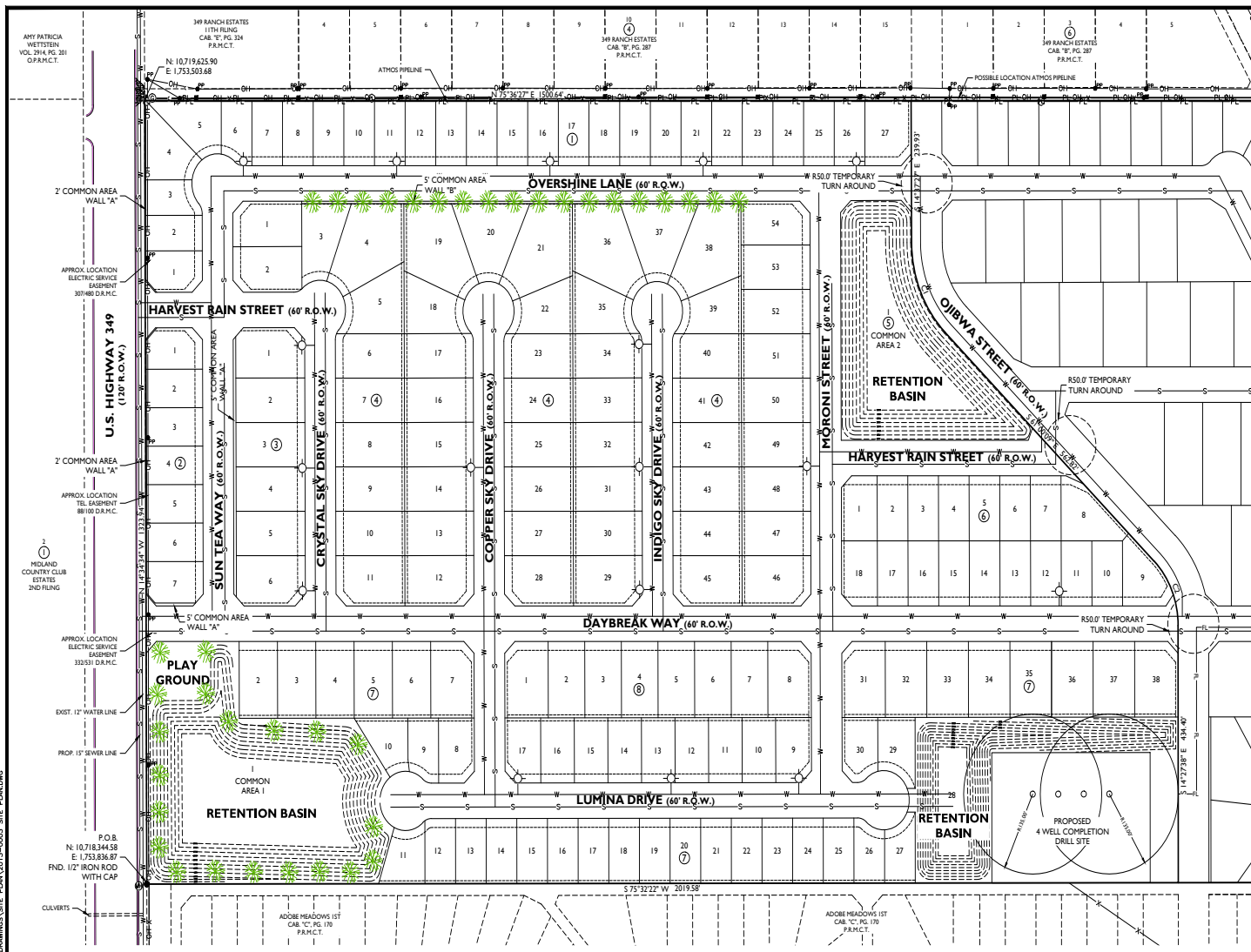
Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

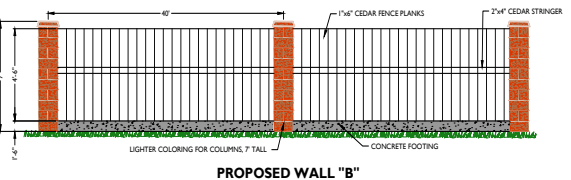
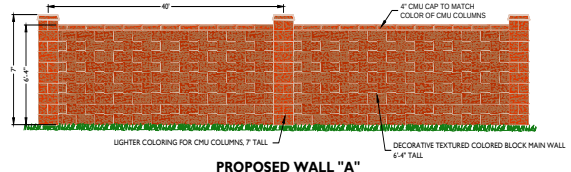
Robert Patrick, Assistant to the City Manager

APPROVED AS TO FORM:

Keith Stretcher, City Attorney



CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	210.00'	103.99'	103.99'	S 37° 48' 46" E	46° 22' 42"
C2	150.00'	121.89'	118.52'	S 37° 47' 33" E	46° 22' 23"



- GENERAL:** BEING AN 54.49 ACRE ADDITION OUT OF THE N/2 OF THE S/2 OF SECTION 12, BLOCK "X", H.P. HILLIARD SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS.
- ACCESS:** PRIMARY ACCESS WILL BE FROM TWO STREETS (DAYBREAK WAY AND HARVEST RAIN STREET) OFF OF U.S. HIGHWAY 349.
- SETBACKS:** -15' BUILDING SETBACKS WILL BE OBSERVED AT THE FRONT OF THE LOTS.
-5' BUILDING SETBACKS WILL BE OBSERVED AT THE REAR AND SIDE OF THE LOTS.
- LANDSCAPE:** -TREES WILL BE OBSERVED AT THE FRONT OF THE SUBDIVISION.
-1 TREE FOR EVERY 30 L.F. OF STREET FRONTAGE. 1,324 L.F. = 44 TREES. 1/2 OF THE REQUIRED TREES WILL BE PAID INTO THE CITY OF MIDLAND'S TREE & PARK ENDOWMENT FUND.
- SCREENING:** -4' COLORED CMU WALL "A" WILL BE OBSERVED IN COMMON AREAS INDICATED IN THIS SITE.
-4' WOODEN WALL "B" WILL BE OBSERVED IN COMMON AREAS INDICATED IN THIS SITE.
-ALL OTHER FENCINGS WILL BE 6" WOOD FENCING.
- TRASH COLLECTION:** -TRASH WILL BE PICKED UP IN FRONT OF STREETS WITH ROLL-OUT CARTS. THERE WILL BE NO ALLEYS IN THIS SUBDIVISION.
- SIGHT LIGHTING:** -LIGHTING WILL CONFORM TO THE CITY OF MIDLAND STANDARDS AND SPECIFICATIONS.
- SITE UTILITIES & SITE PROTECTION:** -WET AND DRY UTILITIES WILL BE ROUTED IN THE CITY R.O.W. WITHIN ACCORDANCE TO THE CITY OF MIDLAND STANDARD UTILITY MAIN SPACING DETAIL 414. ALL UTILITIES WILL BE DESIGNED PER CITY OF MIDLAND STANDARDS AND SPECIFICATIONS.
- SIDEWALKS:** -SIDEWALKS WILL BE PLACED IN ACCORDANCE WITH CITY OF MIDLAND STANDARDS AND SPECIFICATIONS.
- LOT:** -MINIMUM LOT SIZE IS 60'x110'.

John F. Watson & Company

PROFESSIONAL LAND SURVEYORS & PLANNERS

200 N. Loraine, Suite 220, Midland, Texas 79701, (432) 520-2400, Fax (432) 520-2404

www.windearthwater.com

DAYBREAK ESTATES-PHASE 1 - 54.487 ACRES

LEGAL DESCRIPTION: BEING 54.487 ACRES OF LAND, LYING IN AND BEING SITUATED OUT OF THE NORTH-HALF OF THE SOUTH-HALF OF SECTION 12, BLOCK X, H.P. HILLIARD SURVEY, IN MIDLAND COUNTY, TEXAS, AND BEING A PORTION OF THAT SAME TRACT CONVEYED TO DAYBREAK DEVELOPMENT, LLC BY DEED RECORDED AS DOCUMENT NO. 2013-10878 OF THE OFFICIAL RECORDS OF MIDLAND COUNTY, TEXAS; SAID 54.487 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS AND AS SURVEYED UNDER THE SUPERVISION OF JOHN F. WATSON & COMPANY IN SEPTEMBER, 2013:

BEGINNING at a 1/2 inch iron rod with cap (N(Y) 10718344.58', E(X) 1753836.87') found in the east r-o-w line of said U.S. Highway 349 for the northwest corner of Adobe Meadows, Section 1, an addition to the City of Midland recorded in Cabinet C, Page 170 of said plat records and the southwest corner of said Daybreak tract and hereof;

THENCE North 14°34'34" West a distance of 1323.94 feet along said r-o-w line to an iron rod (N(Y) 10719625.90' E(X) 1753503.68') set at the intersection of said r-o-w line and the south line of a 20 foot wide alley dedicated and shown on the subdivision plat of 349 Ranch Estates, an addition to the City of Midland recorded in Cabinet B, Page 287 of said plat records, for the northwest corner of said Daybreak tract and hereof;

THENCE North 75°36'27" East a distance of 1500.64 feet along the south line of said alley to an iron rod set for northeast corner hereof;

THENCE crossing said Daybreak tract the following five (5) calls:

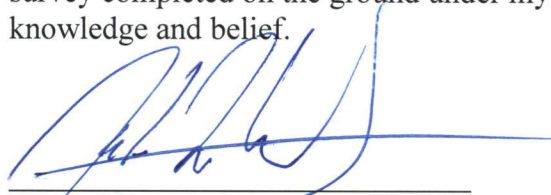
1. South 14°37'27" East a distance of 239.93 feet to a point for the point of curvature of a curve to the left;
2. Along said curve turning to the left an arc length of 169.99 feet, a radius of 210.00 feet, and a chord bearing South 37°48'48" East a chord length of 165.38 feet to a point for an angle point hereof;
3. South 61°00'09" East a distance of 562.82 feet to a point for the point of curvature of a curve to the right;
4. Along said curve turning to the right an arc length of 121.85 feet, a radius of 150.00 feet, and a chord bearing South 37°43'54" East a chord length of 118.52 feet to a point for an angle point hereof;

5. South $14^{\circ}27'38''$ East a distance of 434.40 feet to an iron rod set in the common line of said Adobe Meadows, Section 1 and said Daybreak tract for the southeast corner hereof;

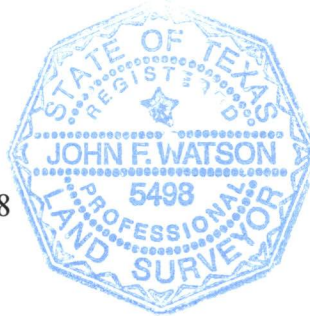
THENCE South $75^{\circ}32'22''$ West a distance of 2019.58 feet along said common line to the **POINT OF BEGINNING** and containing 54.487 acres of land, more or less;

Note: "Iron rods set" are 1/2 inch iron rebar with blue plastic caps marked "WATSON-5498".
Bearings, distances and acreage shown hereon are Grid, NAD83(CORS96), Texas Central Zone.

I hereby certify that the foregoing description and plat attached hereto is a representation of a survey completed on the ground under my supervision and is true and correct to the best of my knowledge and belief.



John F. Watson, RPLS
Registered Professional Land Surveyor No. 5498
State of Texas
JFWCO Job No. 13-0087



September 13, 2013



CASE NO. Z-13-043

PLANNING AND ZONING COMMISSION

October 14, 2013

CASE: Z-13-043.

REQUEST: Hold a public hearing and consider a request for a zone change from AE, Agriculture Estate District to PD, Planned District for a Housing Development.

APPLICANT/OWNER: David Martin.

REPRESENTATIVE: Maverick Engineering.

LEGAL DESCRIPTION: A 54.487-acre tract out of Section 12, Block "X", H. P. Hilliard Survey, Midland County, Texas.

LOCATION: East side of SH 349, approximately 1,200 feet north of Mockingbird Lane.

DETAILS OF REQUEST:

1. This tract is a 54-acre portion of a 160-acre tract owned by the applicant. It was annexed in 1982, and zoned AE, Agriculture Estate District at that time. The owner wishes to develop this land into a single-family residential neighborhood with lots that meet the standards of the 1F-3, One-Family Dwelling District. However, the associated plat is designed so that lots along to SH 349 and Fairgrounds are oriented with the rear lots lines adjacent to these streets, a condition that is prohibited without a decorative screening fence. Therefore, the applicant is requesting a zone change to a Planned District for a Housing Development, subject to the 1F-3 District regulations, and to Exhibit A, which illustrate the required screening fences.

SURROUNDING ZONING AND LAND USE:

2. North of this property is the 349 Ranch Estates neighborhood. To the east is the balance of the owner's property that will remain zoned AE District until the next phase of development is planned. To the south is the Adobe Meadows subdivision, where new residential development is expected in the near future. East, across Big Spring Street is the Midland Country Club.

ANALYSIS:

3. The Comprehensive Plan identifies this land as being suitable for single-family development. The 1F-3 District yields a typical density of 4.5 dwelling units per acre. This is below the maximum density of 5.0 units per acre recommended in the Comprehensive Plan. The attached Exhibit A illustrates the location and design of the proposed screening fences. A Type "A" fence is planned along SH 349. It is shown as six feet tall, with seven-foot pilasters located on 40-foot spacing. The CMU material is described as having a color throughout the block, and with a textured face. The fence described as Type B is planned to be in a common area on the south side of Overshine Lane and on the east side of Sun Tea Way. Screening fence "B" is a six-foot tall cedar fence on top of an 18" concrete footing, with CMU pilasters placed on 40-foot centers. This fence is required to screen the rear of cul-de-sac lots located on the north side of Overshine Lane. The staff recognizes that the lot patterns shown on Exhibit A are unique to Midland, but we confirmed with the applicant's representative this is the design his client prefers.

STAFF RECOMMENDATION:

We recommend approval of this request for a zone change from AE, Agriculture Estate District to PD, Planned District for a Housing Development, subject to the following conditions:

- A. That this Planned District shall be subject to the development regulations of the 1F-3, One-Family Dwelling District, except as otherwise stated below.
- B. That the Common Areas shown along SH 349, Overshine Lane and Sun Tea Way are developed with the screening fences illustrated as Type "A" and Type "B" on the attached Exhibit A prior to the issuance of any Certificates of Occupancy for any lot which abuts said common areas.



Jim Compton
Acting Planning Division Manager

Attachments:

Application
Maps
Exhibit A

Case Number: 2-13-043

CITY OF MIDLAND
Planning Division

APPLICATION TO CHANGE ZONING CLASSIFICATION

David Martin 432-362-3436 David@Permianhomes.com
Applicant Name (Phone/e-mail)
13020 Hwy 191 Suite A 79707
Address Zip Code

David Martin 432-362-3436 David@Permianhomes.com
Property Owner Name (Phone/e-mail)
13020 Hwy 191 Suite A 79707
Address Zip Code

Andrew Mellen 432-262-0616 amellen@mavencientities.com
Representative Name (Phone/e-mail)
1909 W. Wall St. Midland TX 79701
Address Suite K Zip Code

Street address and Legal Description of property (complete Lot, Block, and Subdivision Name or if unplatted, attach a Metes and Bounds description with surveyor's seal). Each district must be described separately. See Attached Metes & Bounds

PRESENT ZONE: AE REQUESTED ZONE: PDHD
(List by tracts if more than one district is requested)

Reason for Zone Change Request: We are going to build 1-F1 style lots. within the site plan we will have common area screen walls; which will require the property to fall under a Planned District

Present Use of Property: Raw Land

Proposed Use of Property: PDHD - 1-F1

How will zone change affect the public health, safety and welfare? This will add 1-F1 type housing

Describe how conditions affecting the property have changed since present zoning designation: No changes

Is a Specific Use Permit with Term for alcoholic beverages sales needed? Yes X No

APPLICATION FEES:

- Single, standard zone change: **\$400**, Multiple, standard zone change: add **\$100** per additional district.
- Single PD, Planned District zone change: **\$550** Multiple PD proposal: add **\$100** per district.
- If a Traffic Impact Analysis is required, a fee of up to \$500.00 will be assessed.

SITE PLAN SUBMITTALS (if applicable):

16 copies (FOLDED) of the PD site plan:

Site Plan in digital format .pdf and .jpg:

X

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

Andrew Mellen who, being by me duly sworn, upon oath says: That (s)he is authorized by David Martin, 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.

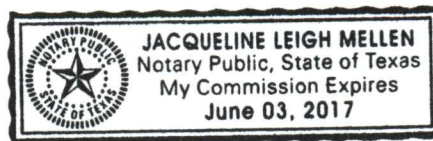
Andrew Mellen

Authorized Agent (signature)

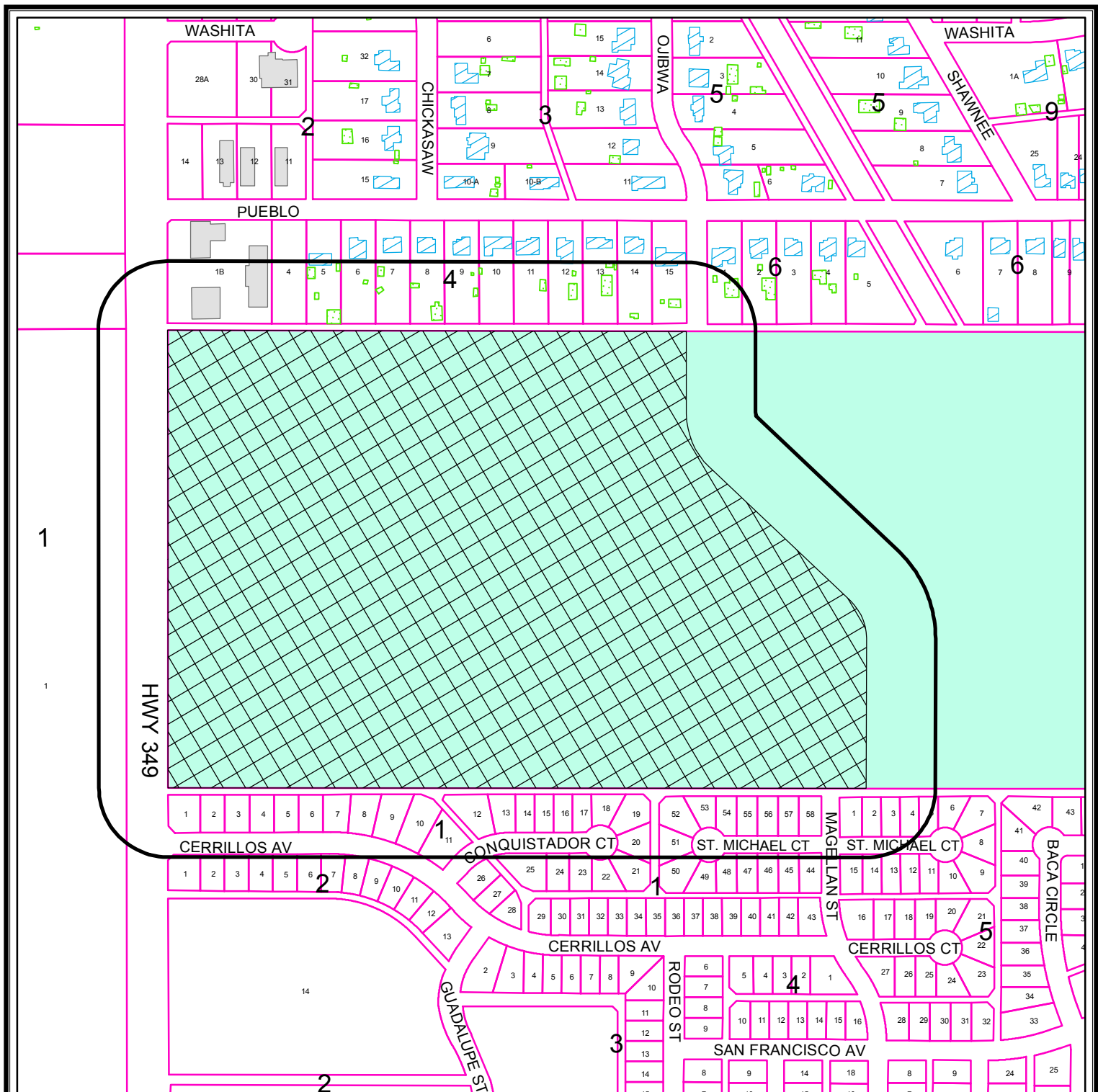
Subscribed and sworn to before me, this 13 day of SEPTEMBER, 20 13, to certify which witness my hand and seal of office.

Jacqueline Leigh Mellen
NOTARY PUBLIC, MIDLAND COUNTY, TEXAS

FOR OFFICE USE ONLY	
Rec'd By: <u>JS</u>	Date: <u>9/13</u>
Assigned: <u>JC</u>	
For: <u>Pt2</u>	On: <u>10/14/13</u>



****Application will not be considered for scheduling until reviewed by a planner.****



PROPERTY OWNER NOTIFICATION MAP

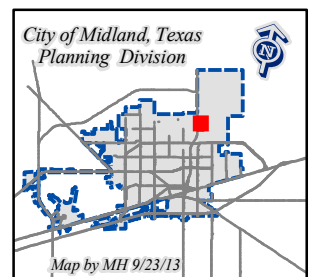
Z - 13 - 043

Scale: 1" = 400'

Consider a request for a zone change from AE, Agriculture Estate District, to PD, Planned District for a Housing Development on 54.487-acre tract of land out of Section 12, Block "X", H. P. Hilliard Survey, City and County of Midland, Texas.

LEGEND

- CITY LIMITS
- PARCEL
- PUBLIC BLDGS
- PRIVATE BLDGS
- ACCESSORY BLDGS



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 THE CITY OF MIDLAND SHALL NOT BE RESPONSIBLE FOR ANY DECISIONS BASED UPON THE USE OF THIS DATA. WHILE THIS DATA IS MADE AVAILABLE TO THE PUBLIC, IT WAS CREATED FOR INTERNAL USE BY THE CITY OF MIDLAND WHICH MAKES NO CLAIM AS TO ITS ACCURACY OR COMPLETENESS. THIS DATA IS NOT DESIGNED TO BE USED AS A PROFESSIONAL TOOL IN PERMITTING, ENGINEERING, OR OTHER DECISION-MAKING. SOLELY ON THE INFORMATION CONTAINED HEREIN.



City Council Agenda

Approved for Agenda:
rpatrick
City Manager's Office

MEETING DATE: November 26, 2012

TO: CITY COUNCIL/CITY MANAGER

FROM: Jim Compton, Planning Division Manager

SUBJECT: Consider an ordinance on second reading on a request by Chris Stokes / Lamar Advertising for approval of a Specific Use Permit with Term for an Electronic Billboard/Billboard Sign, on a 0.553-acre portion of Tract 1, Town & Country Annex, City and County of Midland, TX. (Generally located on the south side of Andrews Hwy, approximately 730 feet northeast of W. Cuthbert Avenue District 1)

Purpose:

Consider an ordinance on second reading on a request by Chris Stokes / Lamar Advertising for approval of a Specific Use Permit with Term for an Electronic Billboard/Billboard Sign, on a 0.553-acre portion of Tract 1, Town & Country Annex, City and County of Midland, TX.

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

There is no cost to the City for processing this application.

Discussion:

The applicant wishes to construct an electronic billboard on the owner's property located on Andrews Highway. The property is within an LR-2, Local Retail District. Billboards are a use permitted by right in the C-2, C-3, LI, and HI Districts. However, a Specific Use Permit is required for a billboard within the LR-2, LR-3, C-1, and BP Districts. Thus, this request requires approval of a Specific Use Permit. The billboard will have a maximum height of 30 feet and a sign area of 242 square feet. The attached ordinance requires removal of the existing billboard before the new one can be constructed in order to meet minimum spacing

requirement. The City Council voted to approve this ordinance on first reading on November 12, 2013. This ordinance is now ready for consideration on second and final reading.

Attachments: Maps, P & Z Reports, Proposed Ordinance and Site Plan

ORDINANCE NO. _____

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS 0.553-ACRE PORTION OF TRACT 1, TOWN & COUNTRY ANNEX, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTH SIDE OF ANDREWS HIGHWAY, APPROXIMATELY 730 FEET NORTHEAST OF WEST CUTHBERT AVENUE), WHICH IS PRESENTLY ZONED LR-2, LOCAL RETAIL DISTRICT, BY PERMITTING SAID PROPERTY TO BE USED UNDER A SPECIFIC USE PERMIT WITH TERM FOR A BILLBOARD; MAKING SAID PERMIT SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

WHEREAS, the City Planning and Zoning Commission and the Governing Body of the City of Midland, Texas, in compliance with the City Charter and the State law with reference to the granting of specific use permits under the zoning ordinance regulations and zoning map, have given the requisite notices by United States mail, publication and otherwise; and after holding due hearings affording a full and fair hearing to all of the property owners generally, and particularly to those interested persons situated in the affected area and in the vicinity thereof, the Governing Body of the City of Midland finds that the public convenience will be best served by the granting of a Specific Use Permit With Term, set out hereinafter, on the property described in Section One hereof;

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

SECTION ONE. That the zoning use classification of the following described property, which is presently zoned LR-2, Local Retail District, to-wit:

A 0.553-acre portion of Tract 1, Town & Country Annex, City and County of Midland, Texas;

is hereby changed to permit said property to be used under a Specific Use Permit With Term for a billboard, together with the uses permitted in the present LR-2, Local Retail District.

SECTION TWO. That said property shall be subject to the following conditions and

restrictions:

1. That the location of billboard shall conform to the site plan, which is attached hereto as Exhibit “A” and incorporated herein for all purposes.
2. That the billboard shall conform to Exhibit “B”, which is attached hereto and incorporated herein for all purposes; the maximum height of the billboard shall not exceed 30 feet, and the maximum square footage in area per sign face shall not exceed 242 square feet.
3. That the billboard located at 1117 Andrews Highway and shown on Exhibit “C”, which is attached hereto and incorporated herein for all purposes, shall be removed prior to the issuance of this Specific Use Permit.
4. That the billboard shall conform to the City of Midland sign code.
5. That the billboard shall comply with Texas Department of Transportation regulations.
6. That the applicant, Lamar Outdoor Advertising, shall obtain a Certificate of Occupancy prior to using this billboard for advertising to ensure the conditions of this permit are satisfied.

SECTION THREE. The provisions of this ordinance are to be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances, inconsistent with or in conflict with any of the provisions of this ordinance are hereby expressly repealed to the extent of any such inconsistency or conflict.

SECTION FOUR. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this ordinance. The Council of the City of Midland hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

SECTION FIVE. The penalty for violation of this ordinance shall be in accordance with the general penalty provisions contained in Section 1-3-1 of the City Code of Midland, Texas, which provides for a fine not exceeding two thousand dollars (\$2,000.00).

SECTION SIX. The City Secretary is hereby authorized and directed to publish the

descriptive caption of this ordinance in the manner and for the length of time prescribed by the law as an alternative method of publication.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the _____ day of _____, A.D., 2013; and passed to second reading on motion of Council member _____, seconded by Council member _____, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

The above and foregoing ordinance was read in full and finally adopted by the following vote upon motion of Council member _____, seconded by Council member _____, on the _____ day of _____, A.D., 2013, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2013.

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

Robert Patrick, Assistant to the City Manager

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

**1101 Andrews Hwy Rapid Oil Change
Lamar Digital Poster Site Plan**

**430 Feet from
nearest residential
use**

11'x22' V Poster

**47' Feet from Right of
Way**

**Digital Face on East
Face**

50 Feet From Building

**5 Feet from Wall
property line**

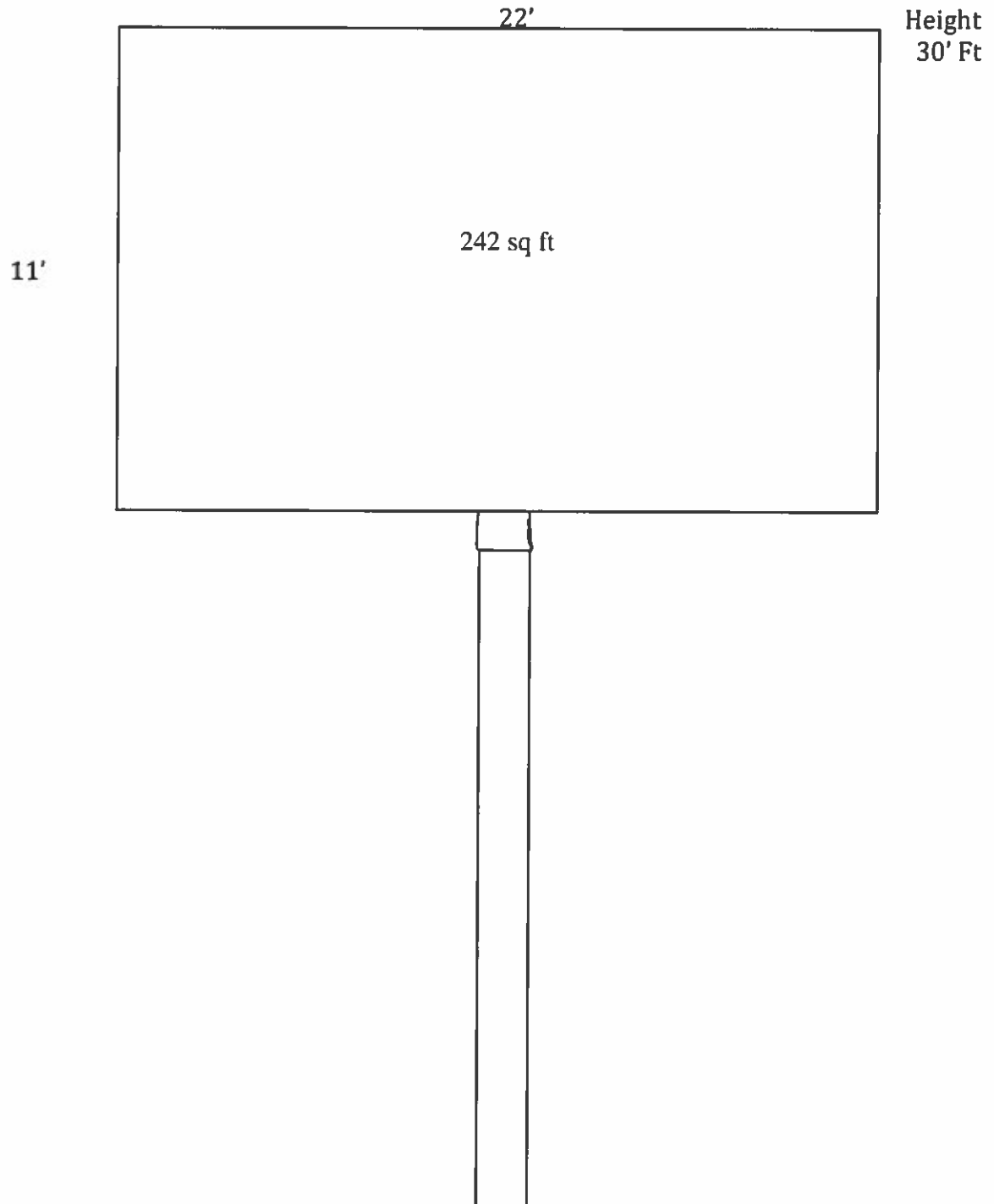
1101 Andrews Hwy, Midland, TX 79701, USA

EXHIBIT A

© 2013 Google

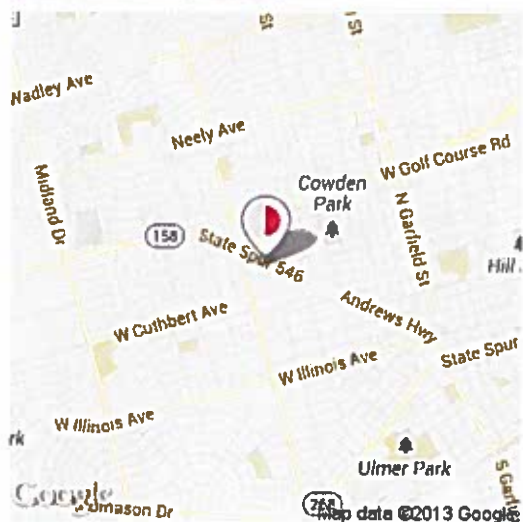


1101 Andrews Hwy



P.O. Box 10586 Midland, Texas 79702
(432) 683-8571 • FAX (432) 683-8595

BILLBOARD TO BE REMOVED



Advertising Strengths: This locations is close to McDonalds Restaurant and will catch traffic going to the Hospital.

Market: MIDLAND

Panel: 56

TAB Unique ID: 7407890

Location: MIDLAND 1115 ANDREWS HWY S/S
F/W P2

Lat/Long: 32.0014 / -102.1167

Media/Style: Poster / Retro

***Weekly Impressions:** 84868

Copy Size: 10' 6" x 22' 9" [Spec Sheet](#)

Vinyl Size: 10' 6" x 22' 9"

Facing/Read: West / Right

Illuminated: YES

*Impression values based on: 18+



Midland/Odessa, TX

800-583-8571

Physical Address: 1011 South Garfield, Midland, TX 79701
 Mailing Address: P.O. Box 10586, Midland, TX 79702

PLANNING AND ZONING COMMISSION

October 14, 2013

CASE: S-13-012, Chris Stokes.

REQUEST: Hold a public hearing and consider a request for a Specific Use Permit for an Electronic Billboard/Billboard Sign.

APPLICANT: Lamar Advertising.

OWNER: Winchell Land Management.

LEGAL DESCRIPTION: Consider a request for a Specific Use Permit with Term for an Electronic Billboard/Billboard Sign, on a 0.553-acre portion of Tract 1, Town & Country Annex, City and County of Midland, TX.

LOCATION: Generally located on the south side of Andrews Hwy, approximately 730 feet northeast of W. Cuthbert Avenue.

CURRENT ZONING: LR-2, Local Retail District.

DETAILS OF REQUEST:

1. The applicant wishes to construct an electronic billboard on the owner's property located south of Andrews Highway. The property is within an LR-2, Local Retail District. Typically, billboards are a use permitted by right in the C-2, C-3, LI, and HI Districts. However, a Specific Use Permit is required for a billboard within the LR-2, LR-3, C-1, and BP Districts. Thus, this request requires approval of a Specific Use Permit for a billboard prior to obtaining a sign permit. The billboard will have a maximum height of 30 feet. The dimensions of the billboard will be 11' X 22' feet, totaling a sign area of 242 square feet. The location of the billboard will be five feet east of the property line fence (which is setback 47' from the front Right-of-Way) and 50' from the building, as shown in the Site Plan (Exhibit A). The billboard will include one electronic panel facing east and one vinyl poster face on the west face, which will be illuminated by one LED fixture.

SURROUNDING ZONING AND LAND USE:

2. The property is located within an LR-2, Local Retail District. To the north across Andrews Highway, is more LR-2, Local Retail District. To the east is PDMX, Planned Development Mixed Use and to the south is PDOC, Planned Development. There is 1F1, One-Family Dwelling District to the southeast of the property approximately 430 feet from the property line.

ANALYSIS:

3. Title 11, Chapter 7a, "Revised Outdoor Sign Regulations," and in particular, Section 8, "Billboards and Electronic Billboards," of Midland's City Code, lists several requirements that must be met prior to approval of billboards:
 - Minimum Separation:
 - Static: No billboard location may be approved which is within 1,000 feet of an existing billboard, or property zoned with a Specific Use Permit with term for location of a billboard on the same side of the street, or within 1,500 feet of an existing electronic billboard or property zoned with a Specific Use Permit with term for an electronic billboard on the same side of the street.
 - Electronic: No electronic billboard location may be approved which is within 1,500 feet of an existing billboard on the same side of the street, or within 1,500 feet of any other electronic billboard facing the same direction of travel, or within 1,500 feet of a property zoned with a Specific Use Permit for the location of any billboard on the same side of the street.
 - Maximum Height: 30 feet, for both static and electronic.
 - Maximum Sign Area:
 - Static: The total area of each sign face shall not exceed 672 square feet.
 - Electronic: 400 square feet.
 - Limits of Sign Face: A billboard shall be limited to a single face viewed from any one direction, for both static and electronic.
 - Setbacks: Same as the setbacks required for buildings in the zoning district (LR-2 front setback is a minimum of 15'), for static and electronic.

- Distance from MF-2, Multi-Family Dwelling District, or More Restrictive Districts:
 - Static: 75 feet.
 - Electronic: 150 feet.
- Lighting:
 - Static: Exterior lighting to be shielded to prevent glare.
 - Electronic: No external lighting shall be used to illuminate the electronic billboard.
- Electronic Billboards: Compliance to other information listed in the City Code such as prohibitions on display and animations, operation requirements such as light intensity and message transition, and emergency notification requirements must be met.

The location and design of the proposed billboard complies with the City Code on all of the points listed above. There is a billboard within 1,500 feet of this proposed billboard or a property zoned for Specific Use Permit for a billboard. Part of the stipulation for approval would be to require the billboard at 1117 Andrews to be removed before the new sign Specific Use Permit is issued. The maximum height is 30' as required by the Code. The electronic billboard sign face is less than 400 square feet. The billboard is limited to a single face viewed from any one direction. The setbacks for the LR-2 District are met. The distances to the surrounding zoning which are MF-2 or less restrictive are in compliance; the closest 1F-1, One-Family Dwelling District, to the east is at least 430 feet away as shown in Exhibit A, The applicant is proposing internal LED lighting for the electronic face.

The proposed billboard meets all the requirements of the City Code, the Comprehensive Plan and a 1978 policy suggest that locations of billboards are also subjective. Additionally, in July 1978, the Planning and Zoning Commission had unanimously adopted a policy regarding the placement of billboards to assist in evaluating Specific Use Permits. Essentially, this policy states the following:

1. That billboard locations should be considered only along major thoroughfares which carry state highway traffic through the city, including streets such as Garden City Highway, Florida Avenue,
2. Andrews Highway, Big Spring Street, Rankin Highway, Business I-20, I-20, Fairgrounds Road, and certain segments of the Loop.

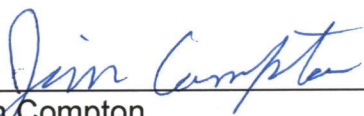
3. That billboard locations along these routes should be limited to areas of major commercial concentrations where the billboards would conform to the character of the area.
4. That billboards should be avoided in shopping center locations which serve residential areas.
5. That size, setback, height, spacing, and lighting restrictions should also be considered when evaluating such requests.

Andrews Highway serves primarily as a state highway; the primary function of Andrews Highway is a main thoroughfare that moves both residential and commercial traffic to other areas of the City. Based on these policies, staff believes that this proposed billboard would fit the character of the area.

STAFF RECOMMENDATION:

Staff recommends approval of this request for a Specific Use Permit for an Electronic Billboard/Billboard Sign. Should the Planning and Zoning Commission find this site to be a reasonable location for the billboard, we recommend that any approval be subject to the following conditions:

- A. That the location of the billboard shall conform to the Site Plan (Exhibit A);
- B. That the billboard shall conform to Exhibit B:
 - a. That the maximum height of the billboard shall not exceed 30 feet;
 - b. That the maximum square footage in area per sign face shall not exceed 242 square feet.
- C. That the current billboard at 1117 Andrews Highway be removed before the Specific Use Permit is issued.
- D. That this billboard shall conform to all conditions of the current Midland Sign Code;
- E. That the billboard must comply with all state requirements from TxDot along Andrews Highway.
- F. That the applicant, Lamar Advertising, shall obtain a Certificate of Occupancy prior to using this billboard for advertising to ensure the conditions of this permit are satisfied;



Jim Compton
Acting Planning Division Manager
Department of Development Services



Robert Baronti, Jr., AICP
Sr. Planner
Department of Development Services

Attachments:

Application
Map
Exhibits A, B, and C

Case Number: S-13-012

CITY OF MIDLAND
Planning Division

SPECIFIC USE PERMIT APPLICATION

Chris Stokes 432-683-8595
Applicant Name Contact Phone #s
P.O. Box 10586 Midland, TX 79702
Address Zip Code
E-Mail address: cstokes@lamar.com

Winchell Land Management LLC 432-366-4333
Property Owner Name Contact Phone #s
3854 Penbrook Odessa, TX 79762
Address Zip Code
E-Mail address: _____

Operator (if different from Applicant or Property Owner) Contact Phone #s
Address Zip Code

Type of Permit: Digital Billboard Poster

SUP with Term: Yes No
(For Office Use)

Street address and Legal Description of property on which SUP is desired (complete Lot, Block, and Subdivision, or if unplatted, attach a Metes and Bounds description with surveyor's seal.)
1101 Andrews Hwy Acres .441, Tract:001., ADDN Town & County, Annx

Current Zoning: FR2

Maximum Floor Area: _____ Max. Occupancy: _____

Proposed hours and days of use or operation: _____

Reason for request: Relocate existing Billboard Poster at 1117 Andrews Hwy to property and add one Digital Face

Applicant's opinion as to why the request will not adversely affect the public safety, health, morals, general welfare, and convenience: Billboard is consistent with the allowed uses. Digital Billboard will be more then 250 Feet from any residential use

REQUIRED SUBMITTALS

1. Application fee: **\$300.** (80% of fee will be refunded if no P&Z public hearing is called; if no City Council public hearing is called, then 30% of fee will be refunded.)
2. Site plan – 16 copies (FOLDED)
3. On a CD in .pdf and .jpg format.

SIGNATURES:

Applicant: Roger Winchell Date: 8-16-2013

Property Owner: Roger Winchell Date: _____

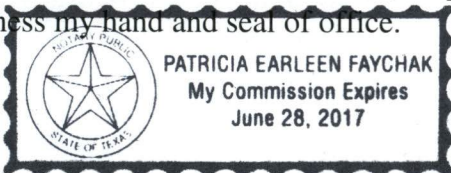
If an Agent is authorized by the property owner to file and execute the application on behalf of the property owner, the Agent must complete the affidavit below.

STATE of TEXAS
COUNTY OF MIDLAND

Before me, the undersigned authority, on this day personally appeared

H Chris Strokes who, being by me duly sworn, upon oath says: That he is authorized by Roger Winchell, the owner of the above described property, to fully represent him in this application and that he had the legal right, power and authority to sign said owner's name hereto as his/her attorney in fact.

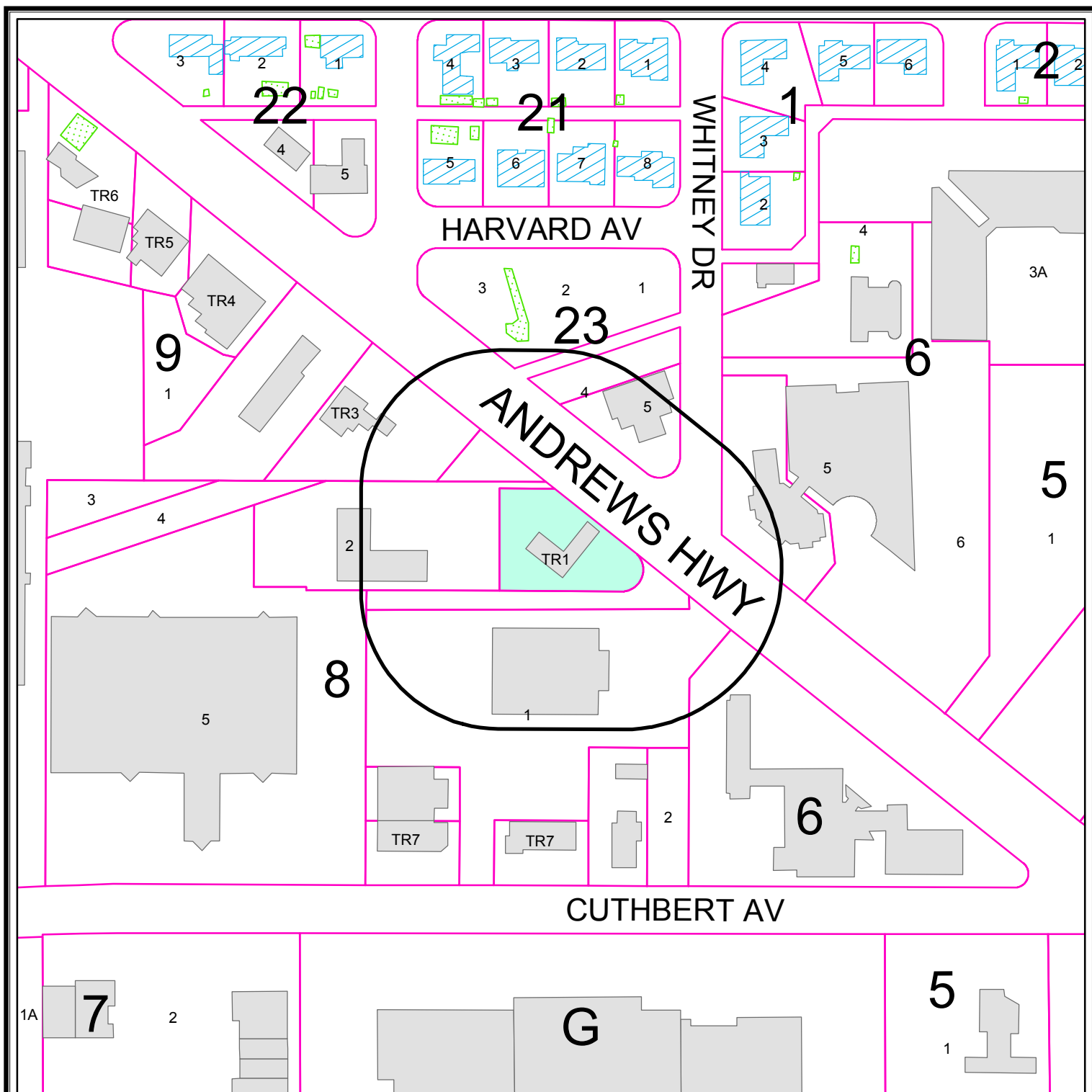
Subscribed and sworn to before me, this 19th day of August, 2013, to certify which witness my hand and seal of office.



Patricia E. Faychak
NOTARY PUBLIC, MIDLAND COUNTY, TEXAS

FOR OFFICE USE ONLY	
Rec'd By: <u>28 LMX</u>	Date: <u>8/23</u>
Assigned: _____	
For: _____	On: _____

****Application will not be considered for scheduling until reviewed by a planner.****



PROPERTY OWNER NOTIFICATION MAP

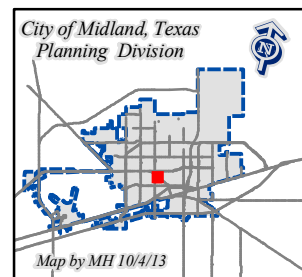
S - 13 - 012

Scale: 1" = 200'

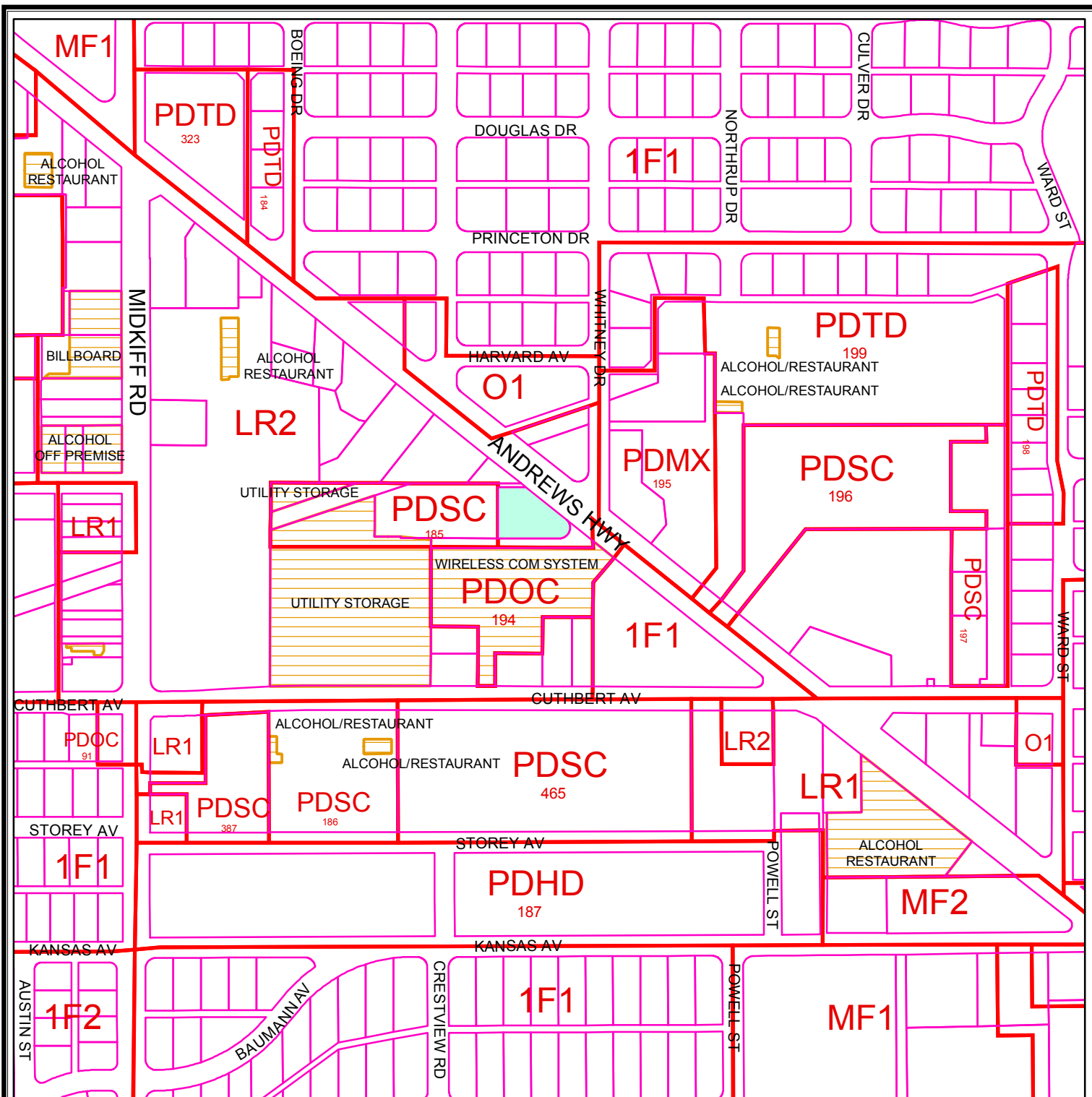
Consider a request for a Specific Use Permit with Term for an Electronic Billboard/ Billboard Sign, on a 0.553-acre portion of Tract 1, Town & Country Annex, City and County of Midland, Texas.

LEGEND

- CITY LIMITS
- 200 FT. LEGAL NOTICE LIMIT
- PARCEL
- PUBLIC BLDGS
- PRIVATE BLDGS
- ACCESSORY BLDGS



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ZONING MAP

S - 13 - 012

Scale: 1" = 400'

Consider a request for a Specific Use Permit with Term for an Electronic Billboard/ Billboard Sign, on a 0.553-acre portion of Tract 1, Town & Country Annex, City and County of Midland, Texas.

LEGEND

ZONING PARCELS SPECIFIC USE PERMITS

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:

patrick

City Manager's Office

MEETING DATE: November 26, 2013

TO: CITY COUNCIL/CITY MANAGER

FROM: Jim Compton, Planning Division Manager

SUBJECT: Consider an ordinance on second reading on a request by Mockingbird Oaks Development, LLC for a zone change TH, Townhouse Dwelling District, to PD, Planned District for Housing Development on a 3.98-acre tract of land, and from 1F-3, One-Family Dwelling District, on a 36.81-acre tract of land, to PD, Planned District for Housing Development, all out of Section 25, Block 40, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas. (Generally located on the west side of Holiday Hill Road, approximately 470 feet south of Briarwood Avenue.) – District 4.

Purpose:

Consider an ordinance on second reading on a request by Mockingbird Oaks Development, LLC for a zone change TH, Townhouse Dwelling District, to PD, Planned District for Housing Development and from 1F-3, One-Family Dwelling District, to PD, Planned District for Housing Development.

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

No City funds are required to process this request.

Discussion:

The applicant's property is located on the west side of Holiday Hill Drive, 470 feet south of Briarwood Avenue, and is associated with Los Patios Addition, Section 3. The applicant wishes to rezone the TH, Townhouse Dwelling District, and the 1F-3, One-

Family Dwelling District, to a PD, Planned District for Housing Development, to reduce the front yard setback from 20 feet to 15 feet in order to construct larger homes. Following a favorable recommendation from the Planning and Zoning Commission, City Council approved this request on first reading on November 12, 2013. It is now appropriate to consider this ordinance on second and final reading.

ORDINANCE NO.

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 3.98-ACRE TRACT OF LAND AND A 36.81-ACRE TRACT OF LAND, ALL OUT OF SECTION 25, BLOCK 40, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED TH, TOWNHOUSE DWELLING DISTRICT, IN PART, AND 1F-3, ONE-FAMILY DWELLING DISTRICT, IN PART, TO BE USED AS A PD, PLANNED DISTRICT FOR A HOUSING DEVELOPMENT (GENERALLY LOCATED ON THE WEST SIDE OF HOLIDAY HILL ROAD, APPROXIMATELY 470 FEET SOUTH OF BRIARWOOD AVENUE); PROVIDING FOR SUCH USE TO BE SUBJECT TO CERTAIN SPECIAL CONDITIONS AND RESTRICTIONS AS SET OUT HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

WHEREAS, the City Planning and Zoning Commission and the Governing Body of the City of Midland, in compliance with the City Charter and the State law with reference to the creation of “Planned Districts” under the zoning ordinance regulations and zoning map, have given the requisite notices by United States mail, publication and otherwise; and after a full and fair hearing to all of the property owners generally and particularly to those interested persons situated in the affected area and in the vicinity thereof, the Governing Body finds that the public health, safety and general welfare will be best served by the creation of a PD, Planned District for a Housing Development, set out hereinafter and subject to the conditions and restrictions set out hereinafter;

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

SECTION ONE. That Chapter 1, Title XI, of the City Code of Midland, Texas, and the official zoning map of the City of Midland, Texas, are hereby amended insofar as the hereinafter described property is concerned, which is presently zoned TH, Townhouse Dwelling District, in part, and 1F-3, One-Family Dwelling District, in part, and it shall be

used as a PD, Planned District for a Housing Development, subject to the special conditions and restrictions hereinafter set out, said property being described as follows:

A 3.98-acre tract of land and a 36.81-acre tract of land, all out of Section 25, Block 40, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas. Said tracts being more specifically described by metes and bounds in Exhibits "A" and "B", respectively, which are attached hereto and incorporated herein.

SECTION TWO. That said property shall be subject to the following special conditions and restrictions:

1. That this planned district shall be subject to TH, Townhouse Dwelling District, regulations on the 3.98-acre tract, which is described in Exhibit "A" hereto, except that the front yard setback shall be reduced to 15 feet.
2. That this planned district shall be subject to 1F-3, One-Family Dwelling District, regulations on the 36.81-acre tract, which is described in Exhibit "B" hereto, except that the front yard setback shall be reduced to 15 feet.
3. That for any residential structure built with less than a twenty (20) foot front yard setback, no curb cuts or driveways shall be allowed from the street abutting the front of the lot. All driveways and garages shall be entered from the alley at the rear of the property.
4. That an exception to Condition No. 3 above shall be that corner lots and driveways shall be allowed from the abutting side street, subject to all applicable regulations.

SECTION THREE. That the definitions given in the zoning regulations contained in the City Code of the City of Midland, Texas, shall be applicable to such of those terms as are used herein.

SECTION FOUR. The provisions of this ordinance are to be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent with or in conflict with any of the provisions of this ordinance are hereby expressly repealed to the extent of any such inconsistency or conflict.

SECTION FIVE. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this ordinance. The Council of the City of Midland hereby declares that it would have passed this ordinance and each section,

subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

SECTION SIX. The penalty for violation of this ordinance shall be in accordance with the general penalty provisions contained in Section 1-3-1 of the City Code of Midland, Texas, which provides for a fine not exceeding two thousand dollars (\$2,000.00).

SECTION SEVEN. The City Secretary is hereby authorized and directed to publish the descriptive caption of this ordinance in the manner and for the length of time prescribed by the law as an alternative method of publication.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the ____ day of _____, A.D., 2013; and passed to second reading on motion of Council member _____, seconded by Council member _____, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

The above and foregoing ordinance was read in full and finally adopted by the following vote upon motion of Council member _____, seconded by Council member _____, on the ____ day of _____, A.D., 2013, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS ____ day of _____, A.D., 2013.

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

Robert Patrick, Assistant to the City Manager

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

CHARLES P. RUTHERFORD SURVEYING

CHARLES P. RUTHERFORD
REGISTERED PROFESSIONAL LAND SURVEYOR
LICENSED STATE LAND SURVEYOR
PROFESSIONAL LAND SURVEYOR, NEW MEXICO

April 20, 2012

Field Notes for Rezoning from TH to PD
Los Patios Section 3
3.98 acres

FIELD NOTES for a 3.98 acre tract of land for rezoning purposes out of Section 25, Block 40, T-1-S, Texas and Pacific Railroad Survey, County of Midland and more particularly described as follows:

Beginning at the Northeast corner of this tract at point in the North right-of-way line of Balmorhea Trail at a point S 14°26'00" E, 499.42 feet and S 75°34'00" W, 367.37 feet from the Northeast corner of said Section 25.

Thence S 75°34'00" W along the North line of this tract and said North line of Balmorhea Trail, 160.00 feet to the Northwest corner of this tract.

Thence S 14°26'04" E along the centerline of Guadalupe St., 388.50 feet to the beginning of a 6°28'58" curve to the left.

Thence continuing with the centerline of said Guadalupe St., following said curve to the left, 196.88 feet to the end of said curve and the beginning of a 6°28'58" curve to the right. Said curve having a Radius of 870.00 feet and Delta Angle 12°57'55".

Thence continuing with the centerline of said Guadalupe St. following said curve to the right, 196.886 feet to the end of curve. Said curve having a Radius of 870.00 feet and Delta Angle 12°57'55".

Thence S 14°26'04" E continuing along the centerline of said Guadalupe St., 294.12 feet to the Southwest corner of this tract, on the North line of Los Patios Addition Section 1 as shown on plat recorded in Cabinet E, page 222, Plat Records of Midland County, Texas.

Thence N 79°57'31" E along the said North line of Los Patios Section 1 and the South line of Block 1, Los Patios Section 3, 160.47 feet to the Southeast corner of said Block 1 and the Southeast corner of this tract.

Thence N 14°26'04" W along the East line of this tract, same being the East line of said Block 1, 306.57 feet to the beginning of a 6°28'58" curve to the left.

Thence around said curve to the left, 233.08 feet to end of said curve and the beginning of a 6°28'58" curve to the right. Said curve having a Radius of 1030.00 feet and Delta Angle of 12°57'55".

Page 1

EXHIBIT A



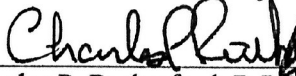
CASE NO. 7-13-037 20.7

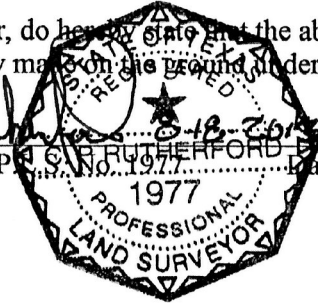
Page 2, 3.98 acre Los Patios rezone

Thence along said 6°28'58" curve to the right, 160.67 feet to the end of said curve. Said curve having a Radius of 710.00 feet and Delta Angle of 12°57'55".

Thence N 14°26'04" W along the East line of this tract and the said East Alley line of Block 1, 388.50 feet to the place of beginning and containing 3.98 acres.

I, Charles P. Rutherford, Registered Professional Land Surveyor, do hereby state that the above field noted description correctly describes the results of a survey made on the ground under my supervision and direction.


Charles P. Rutherford, R.P.S. No. 1977 State



CASE NO. 2-13-037

CHARLES P. RUTHERFORD SURVEYING

CHARLES P. RUTHERFORD
REGISTERED PROFESSIONAL LAND SURVEYOR
LICENSED STATE LAND SURVEYOR
PROFESSIONAL LAND SURVEYOR, NEW MEXICO

April 20, 2012
Field Notes for Rezoning from 1F3 to PD
Los Patios Section 3
36.81 acres

FIELD NOTES for a 36.81 acre tract of land for rezoning purposes out of Section 25, Block 40, T-1-S, Texas and Pacific Railroad Survey, County of Midland and more particularly described as follows:

Beginning at the Northeast corner of this tract at point in the North right-of-way line of Balmorhea Trail at a point S 14°26'00" E, 499.42 feet and S 75°34'00" W, 527.37 feet from the Northeast corner of said Section 25.

Thence S 14°26'04" E along the centerline of Guadalupe St., 388.50 feet to the beginning of a 6°28'58" curve to the left.

Thence continuing with the centerline of said Guadalupe St., following said curve to the left, 196.88 feet to the end of said curve and the beginning of a 6°28'58" curve to the right. Said curve having a Radius of 870.00 feet and Delta Angle 12°57'55".

Thence continuing with the centerline of said Guadalupe St. following said curve to the right, 196.88 feet to the end of curve. Said curve having a Radius of 870.00 feet and Delta Angle 12°57'55".

Thence S 14°26'04" E continuing along the centerline of said Guadalupe St., 294.12 feet to the Southwest corner of this tract, on the North line of Los Patios Addition Section 1 as shown on plat recorded in Cabinet E, page 222, Plat Records of Midland County, Texas.

Thence S 79°57'31" W along the South line of said Section 3, 119.06 feet to a point of deflection to the left, continuing with said South line of Section 3, S 75°33'56" W, 668.08 feet to a point of deflection to the right.

Thence S 82°33'49" W, continuing along the said South line of Block 2, at 61.85 feet the East line of Llano Court, at 121.85 feet the West line of said Llano Court and at 589.66 feet a point of deflection to the left on the South line of this tract, same being the South line of said Block 2.

Thence S 75°34'03" W, continuing with the South line of this tract and the South line of said Block 2, 540.83 feet to the Southwest corner of this tract in the East line of Crowley Boulevard.

Thence along the west line of this tract and the East right-of-way line of said Crowley Boulevard, following said curve to the left, 416.86' to the end of said curve and Northwest corner of this tract in the North line of said Balmorhea Trail. Said curve having a Radius of 894.52 feet and Delta Angle 23°05'27".

Page 1

EXHIBIT B

CASE NO. 2-13-037



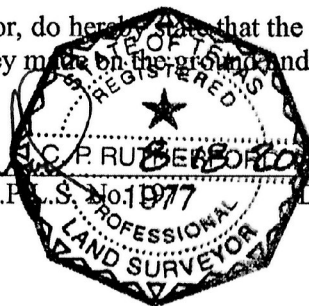
Thence N 52°27'00 E along the North line of this tract and the North line of said Balmorhea Trail, 1,138.79 feet to the beginning of a 11°33'30" curve to the right.

Thence along said North line of Balmorhea Trail and the North line of this tract, following said curve to the right, 723.57 feet to end of curve. Said Curve having a Radius 1,793.39 feet and Delta Angle of 23°07'00.

Thence N 75°34'00 E continuing with the North line of this tract and the said North line of Balmorhea Trail, 215.72 feet to the place of beginning and containing 36.81 acres of land.

I, Charles P. Rutherford, Registered Professional Land Surveyor, do hereby state that the above field noted description correctly describes the results of a survey made on the ground under my supervision and direction.

Charles P. Rutherford
Charles P. Rutherford, R.P.S. No. 1977 Date 8-13-2013



CASE NO. 2-13-037

Case Number: 213-037

CITY OF MIDLAND
Planning Division

APPLICATION TO CHANGE ZONING CLASSIFICATION

Mockingbird Oaks Development, LLC (432) 697-3402

Applicant Name	Contact #s
3902 CALDERA BLVD.	79705
Address	Zip Code

Property Owner Name	Contact #s
Mockingbird Oaks Development, LLC	

Address	Zip Code
John M. Newton	(432) 438-7784

Representative Name	Contact #s
4908 N. MIDKIFF RD.	79705
Address	Zip Code

Street address and Legal Description of property (complete Lot, Block, and Subdivision, or if unplatted, attach a Metes and Bounds description with surveyor's seal). Describe by tracts if more than one zoning district is requested:

See attached. REQUESTING 36.79 ACRES TO BE ZONED PD Conforming to 1F-3 and 15' front setback line AND 3.98 ACRES TO BE ZONED PD conforming to TH with 15' Front setback lines.

PRESENT ZONE: 1F3 and TH REQUESTED ZONE: PD 1F-3 AND PD TH
(List by tracts if more than one district is requested)

Reason for Zone Change or PD Amendment: To conform to development

Present Use of Property: Pasture

Proposed Use of Property: Residential

How will zone change affect the public health, safety and welfare?

Describe how conditions affecting the property have changed since present zoning designation:

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 district.
 - Single PD, Planned District zone change: **\$550**. Multiple PD proposal: add **\$100** per district.
- 80% of fee will be refunded if no P&Z public hearing is called; if no City Council public hearing is called, then 30% of fee will be refunded.*
- If a Traffic Impact Analysis is required, a fee of up to \$500.00 will be assessed.

SITE PLAN SUBMITTALS (if applicable):

16 copies of the PD site plan: _____

Site Plan on a CD in .pdf and .jpg format: _____

SIGNATURE (by property owner only - authorized agent must sign affidavit below)

Property Owner (signature): *Windy Jackson* Date: _____

If an Agent is authorized by the property owner to file and execute the application on behalf of the property owner, the Agent must complete the affidavit below.

STATE of TEXAS
COUNTY OF MIDLAND

Before me, the undersigned authority, on this day personally appeared

_____ who, being by me duly sworn, upon oath says: That (s)he is authorized by _____, the owner of the above described property, to fully represent him/her in this application and that (s)he had the legal right, power and authority to sign said owner's name hereto as his/her attorney in fact.

Authorized Agent (signature)

Subscribed and sworn to before me, this _____ day of _____, 20 __, to certify which witness my hand and seal of office.

NOTARY PUBLIC, MIDLAND COUNTY, TEXAS

FOR OFFICE USE ONLY	
Rec'd By: <u><i>DS</i></u>	Date: <u><i>8/19</i></u>
Assigned: <u><i>MK</i></u>	
For: <u><i>P&Z</i></u>	On: <u><i>11/4/13</i></u>

****Application will not be considered for scheduling until reviewed by a planner.****

PLANNING AND ZONING COMMISSION

November 4, 2013

CASE: Z-13-037, Mockingbird Oaks Development, LLC.

REQUEST: Hold a public hearing and consider a request for a zone change from TH, Townhouse Dwelling District, to PD, Planned District for Housing Development, and from 1F-3, One-Family Dwelling District, to PD, Planned District for Housing Development.

APPLICANT/OWNER: Mockingbird Oaks Development, LLC.

REPRESENTATIVE: Newton Engineering.

LEGAL DESCRIPTION: On a 40.97-acre tract of land out of Section 25, Block 40, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas.

LOCATION: Generally located on the west side of Holiday Hill Road, approximately 470 feet south of Briarwood Avenue.

CURRENT ZONING: TH, Townhouse Dwelling District, and 1F-3, One-Family Dwelling District.

RELATED CASE: P-11-100, Los Patios, Section 3.

DETAILS OF REQUEST:

1. The Planning and Zoning Commission approved the preliminary plat for Los Patios Addition, Section 3, on April 30, 2012. The 47.96-acre subdivision was associated with a zone change that was approved by City Council on June 12, 2011, which changed the zoning from FD, Future Development District, to 1F-3, One-Family Dwelling District and TH, Townhouse Dwelling District. At this time, the applicant is requesting the established 1F-3 and TH Districts to be rezoned into two PD, Planned District for Housing Developments, subject to the 1F-3 underlining zoning on the 36.81-acre tract and subject to the TH District underlining zoning on the 3.98-acre tract. The applicant is requesting the Planned District in order to reduce the front setback to 15 feet from the 20 feet required in the 1F-3 and TH Districts.

SURROUNDING ZONING AND LAND USE:

2. This applicant's property is on the west side of Holiday Hill Drive, approximately 470 feet south of Briarwood Avenue. This property is north of a PD, Planned District for a Housing Development, and a TH, Townhouse Dwelling District, both in the Los Patios and Los Patios, Section 2 subdivisions, respectively. To the west is a vacant PD, Planned District for a Housing Development, with future anticipated residential growth. The area to the north is zoned FD, Future Development District. To the east across Holiday Hill Road is an MF-1, Multi-Family Dwelling District, location of the Meridian Apartments, and single family homes zoned 1F-3 District south of the apartments.

ANALYSIS:

3. As discussed, during the initial zoning of the property, the developer had requested the zoning districts for this area to be 1F-3 and TH Districts. The request is consistent with the Comprehensive Plan, which identifies this area as suitable for residential development. The applicant is wishing to rezone the property into two separate PD, Planned District for Housing Developments, in order to reduce the front setback from 20 feet to 15 feet. The first phases of Los Patios and several other developments to the south also include residential lots with a reduced setback. For this reason, we find the zone change request to be reasonable.

STAFF RECOMMENDATION:

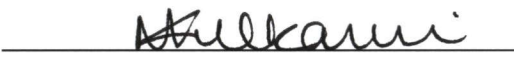
Staff recommends approval of this request for a zone change from TH, Townhouse Dwelling District, to PD, Planned District for Housing Development on a 3.98-acre tract of land and from 1F-3, One-Family Dwelling District, on a 36.81-acre tract of land, to PD, Planned District for Housing Development, subject to the following conditions:

- A. That the underlining zoning classification of the PD, Planned District for Housing Development, be subject to TH, Townhouse Dwelling District, on the 3.98-acre tract, except that the front setback be reduced to 15'.
- B. That the underlining zoning classification of the PD, Planned District for Housing Development, be subject to 1F-3, One-Family Dwelling District, on the 36.81-acre tract except that the front setback be reduced to 15'.
- C. That for any residential structure built with less than a twenty (20) foot front-yard setback, no curb cuts or driveways shall be allowed from the street abutting the front of the lot. All driveways and garages shall be entered from the alley at the rear of the property.

D. That an exception to Condition C above shall be that corner lots and driveways will be allowed from the abutting side street, subject to all applicable regulations.

A handwritten signature in black ink, appearing to read 'Jim Compton', written over a horizontal line.

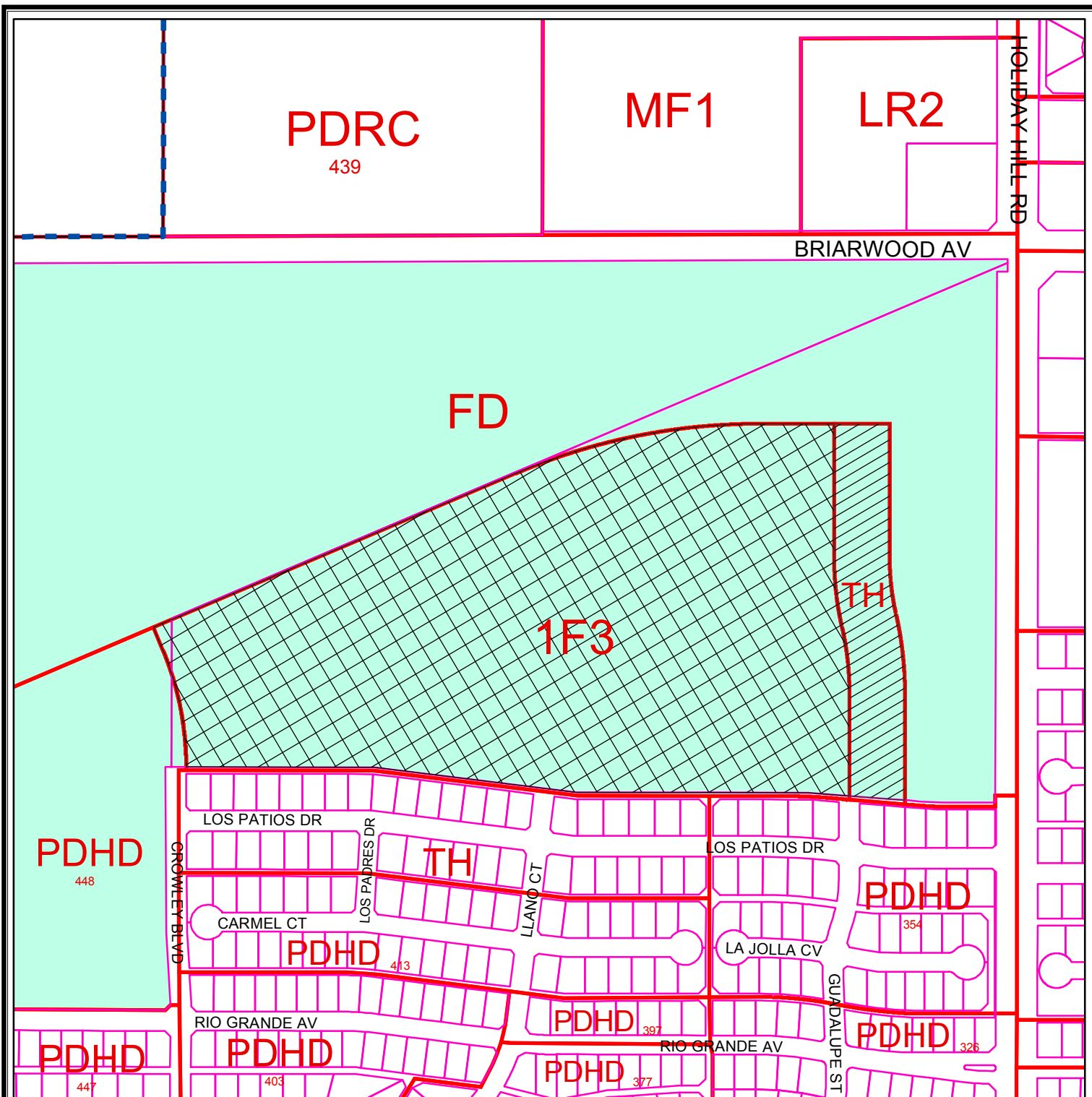
Jim Compton *For*
Acting Planning Division Manager
Department of Development Services

A handwritten signature in black ink, appearing to read 'Madhuri Kulkarni', written over a horizontal line.

Madhuri Kulkarni, City Planner
Department of Development Services

Attachments:

Application
Maps



ZONING MAP

Z - 13 - 037

Scale: 1" = 400'

Consider a request for a zone change from TH, Townhouse Dwelling District, to PD, Planned District for Housing Development on a 3.98-acre tract of land and from 1F-3, One-Family Dwelling District on a 36.81-acre tract of land, to PD, Planned District for Housing Development all out of Section 25, Block 40, T-1-S, T & P RR Co. Survey, City and County of Midland, Texas.

LEGEND

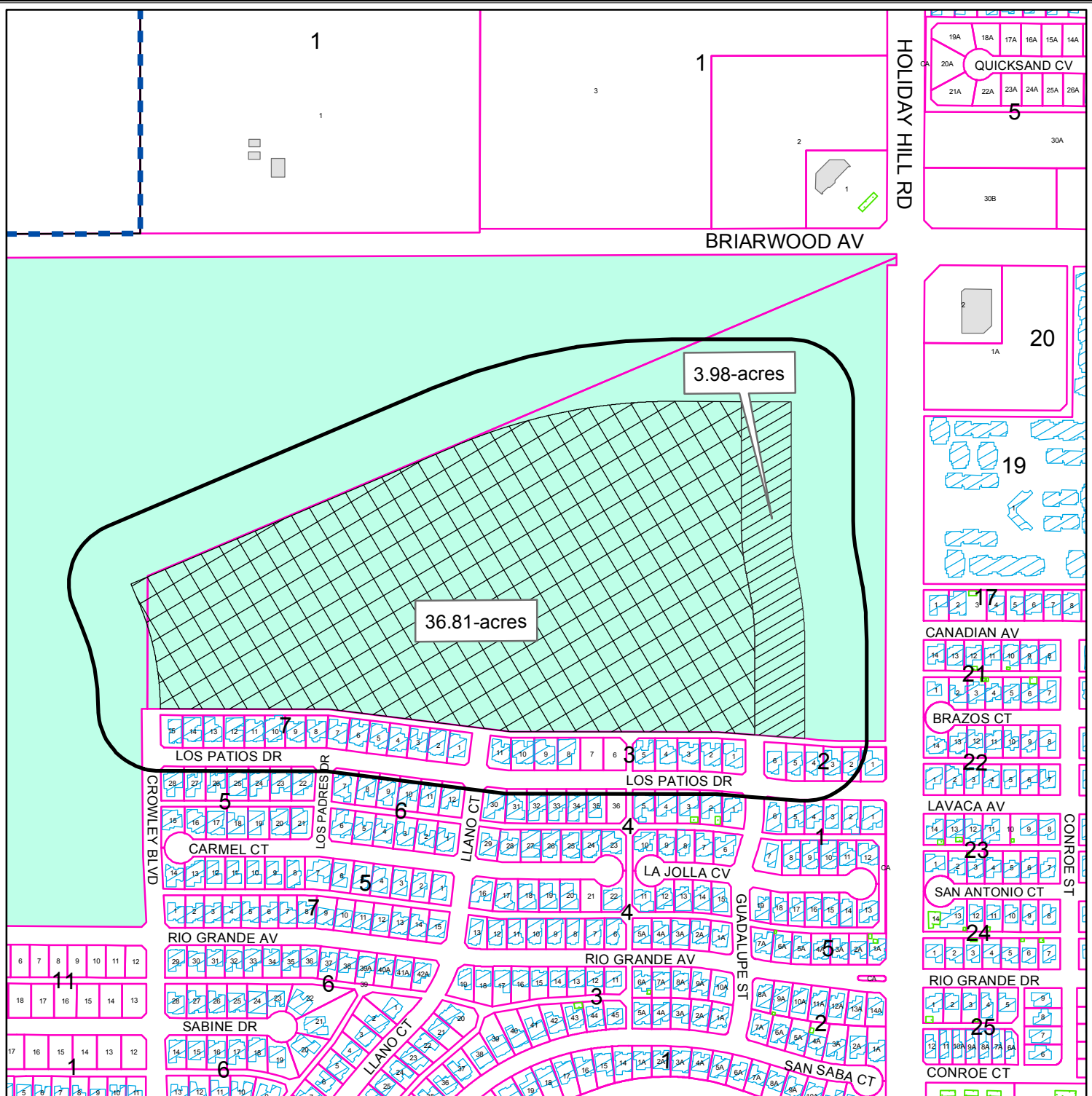
- | | |
|---|---|
| ZONING | CITY PARCELS |
| CITY LIMITS | COUNTY PARCELS |

ZONING DISTRICTS:

FD	FUTURE DEVELOPMENT	BP	BUSINESS PARK
PD	PLANNED DISTRICT	P	PARKING
AE	AGRICULTURE ESTATE	01, 02	OFFICE
CE	COUNTRY ESTATE	NS	NEIGHBORHOOD SERVICE
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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PROPERTY OWNER NOTIFICATION MAP

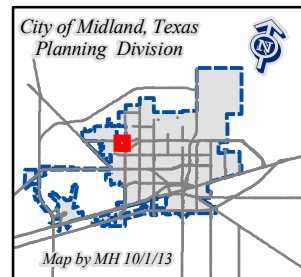
Z - 13 - 037

Scale: 1" = 450'

Consider a request for a zone change from TH, Townhouse Dwelling District, to PD, Planned District for Housing Development on a 3.98-acre tract of land and from 1F-3, One-Family Dwelling District on a 36.81-acre tract of land, to PD, Planned District for Housing Development all out of Section 25, Block 40, T-1-S, T & P RR Co. Survey, City and County of Midland, Texas.

LEGEND

- CITY LIMITS
- 200 FT. LEGAL NOTICE LIMIT
- CITY PARCEL
- COUNTY PARCEL
- PUBLIC BLDGS
- PRIVATE BLDGS
- ACCESSORY BLDGS



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City Council Agenda

Approved for Agenda:
rpatrick
City Manager's Office

MEETING DATE: November 26, 2013

TO: CITY COUNCIL/CITY MANAGER

FROM: Jim Compton, Planning Division Manager

SUBJECT: Consider an ordinance on second reading on a request by Midland Pediatric Associates, PLLC for a zone change from PD, Planned District for a Shopping Center, to an Amended Planned District, on Lots 4 and 5, Block 10, Northwood Addition, Section 7, City and County of Midland, Texas. (Generally located on the north side of Mamies Circle, approximately 290 feet north of W. Wadley Avenue.) District – 1.

Purpose:

Consider an ordinance on second reading on a request by Midland Pediatric Associates, PLLC for a zone change from PD, Planned District for a Shopping Center, to an Amended Planned District.

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

No City funds are required to process this request.

Discussion:

Midland Pediatrics Associates, PLLC, wishes to construct an approximate 13,000 square foot medical office building north of Mamies Circle and 290 feet north of Wadley Avenue. The current PD, Planned District for Shopping Center, will be rezoned to an Amended Planned District, subject to LR-2, Local Retail District, standards. The applicants have submitted a site plan and elevations illustrating the type of construction that is planned. Following a favorable recommendation from the Planning and Zoning Commission, City Council approved this request on first reading on November 12, 2013. It is now appropriate to consider this ordinance on second and final reading.

ORDINANCE NO.

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOTS 4 AND 5, BLOCK 10, NORTHWOOD ADDITION, SECTION 7, 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 NORTH SIDE OF MAMIES CIRCLE, APPROXIMATELY 290 FEET NORTH OF WEST WADLEY AVENUE); PROVIDING FOR SUCH USE TO BE SUBJECT TO CERTAIN SPECIAL CONDITIONS AND RESTRICTIONS AS SET OUT HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

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:

Lots 4 and 5, Block 10, Northwood Addition, Section 7, 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, except where permitted otherwise.
2. That the rear yard setback shall be a minimum of 10 feet.
3. That the development shall conform to Exhibits “A” and “B”, which are attached hereto and incorporated herein.
4. That the development shall meet all requirements of the Fire Department.
5. That the development shall meet all requirements of the Code Administration Division.
6. That signage shall be considered illustrative and shall be in compliance with the Revised Outdoor Sign Regulations of the Midland City Code.
7. That the landscaping shown on Exhibit “A” shall be considered illustrative, and shall be in compliance with the landscaping regulations of the Midland City Code, including the additional landscape buffer at the rear of the property.
8. That the building on this property shall not exceed one story.

SECTION THREE. That the definitions given in the zoning regulations contained in the City Code of the City of Midland, Texas, shall be applicable to such of those terms as are used herein.

SECTION FOUR. The provisions of this ordinance are to be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent with or in conflict with any of the provisions of this ordinance are hereby expressly repealed to the extent of any such inconsistency or conflict.

SECTION FIVE. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this ordinance. The Council of the City of

Midland hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

SECTION SIX. The penalty for violation of this ordinance shall be in accordance with the general penalty provisions contained in Section 1-3-1 of the City Code of Midland, Texas, which provides for a fine not exceeding two thousand dollars (\$2,000.00).

SECTION SEVEN. The City Secretary is hereby authorized and directed to publish the descriptive caption of this ordinance in the manner and for the length of time prescribed by the law as an alternative method of publication.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the ____ day of _____, A.D., 2013; and passed to second reading on motion of Council member _____, seconded by Council member _____, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

The above and foregoing ordinance was read in full and finally adopted by the following vote upon motion of Council member _____, seconded by Council member _____, on the ____ day of _____, A.D., 2013, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS ____ day of _____, A.D., 2013.

W. Wesley Perry, Mayor

ATTEST:

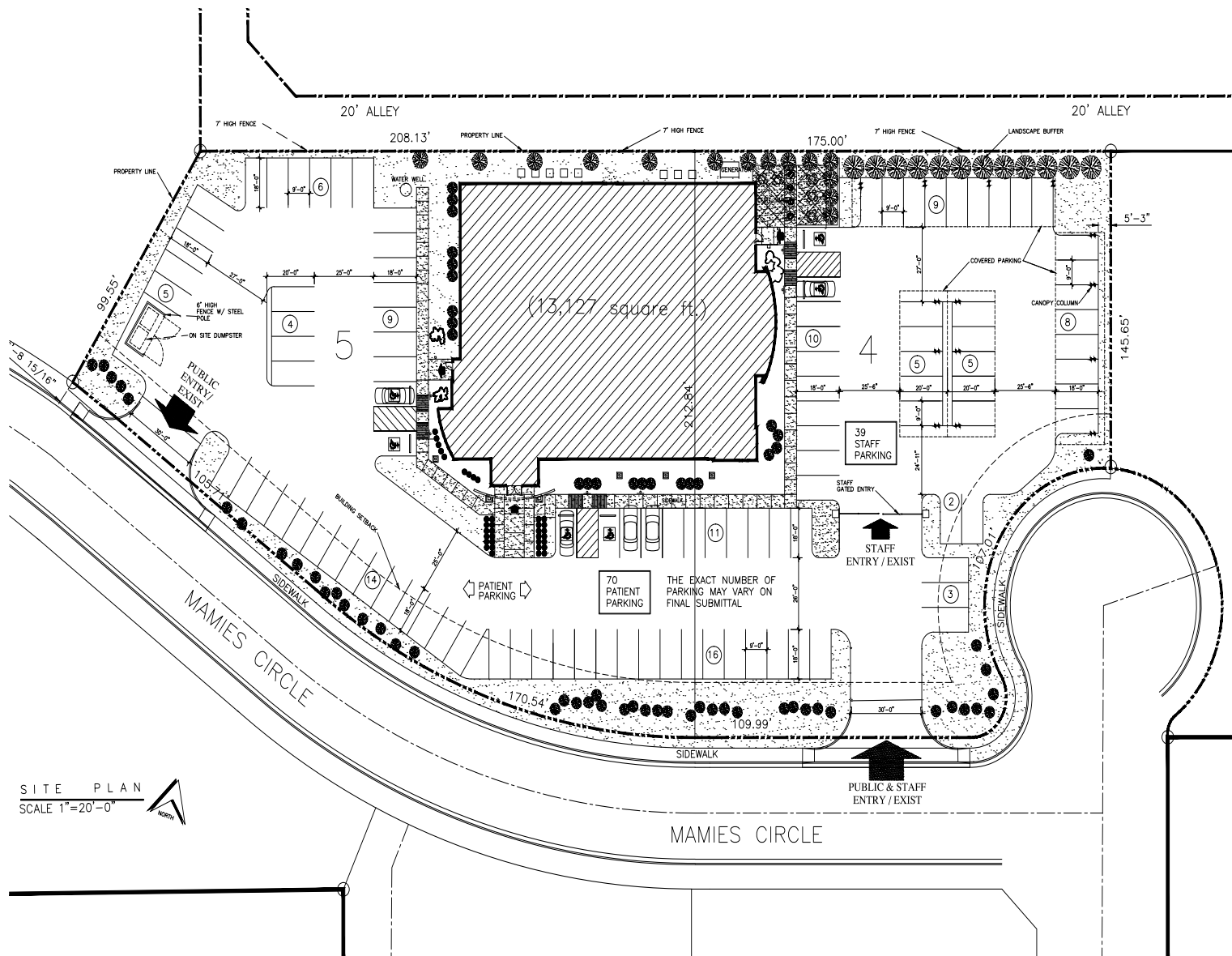
Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

Robert Patrick, Assistant to the City Manager

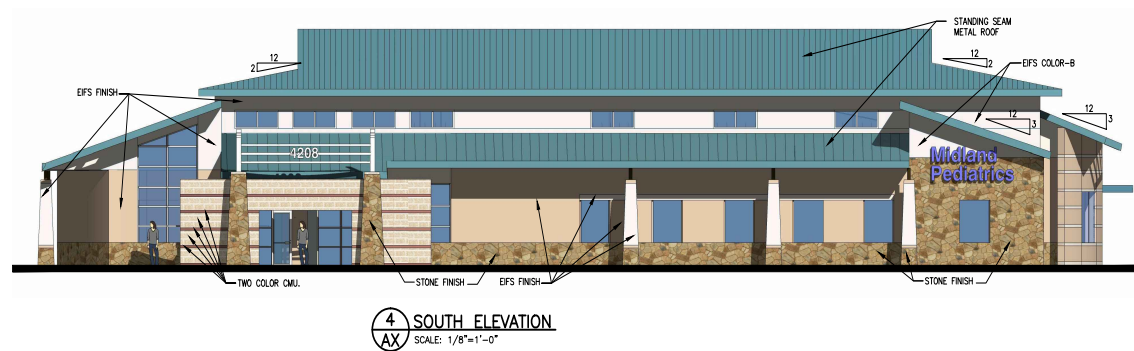
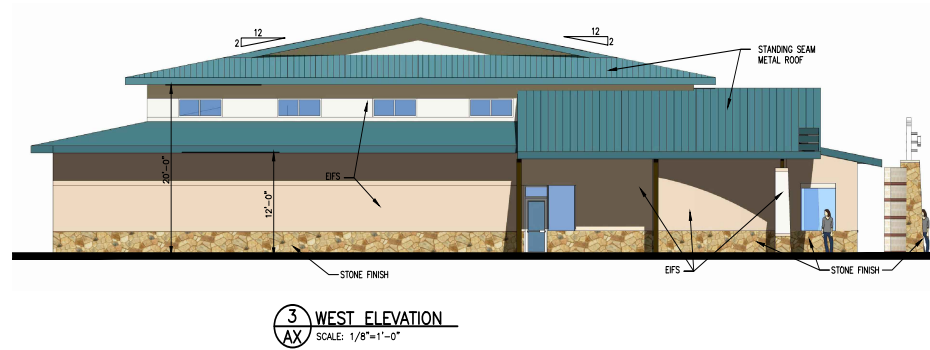
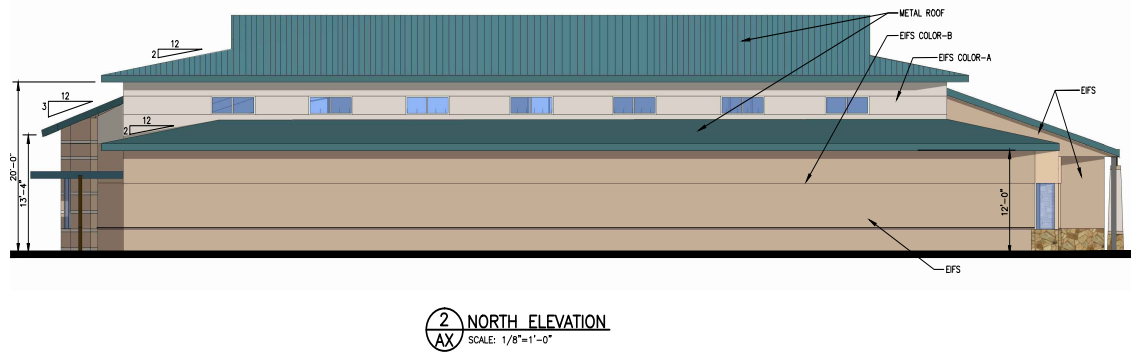
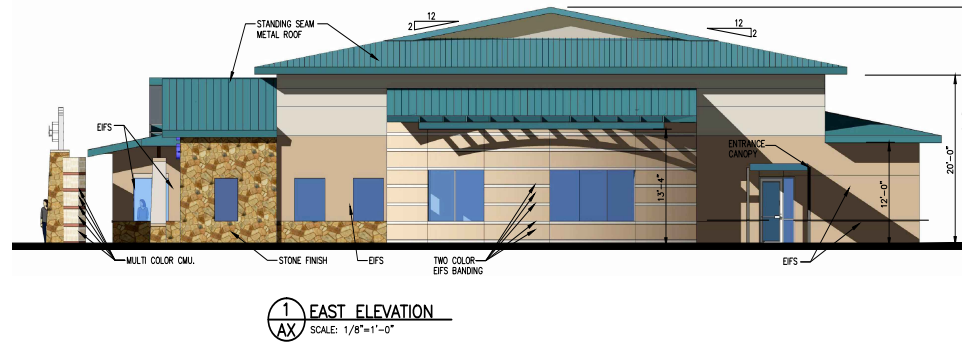
APPROVED AS TO FORM:

Keith Stretcher, City Attorney



SITE PLAN
SCALE 1"=20'-0"





PLANNING AND ZONING COMMISSION

November 4, 2013

CASE: Z-13-044, Midland Pediatric Associates, PLLC.

REQUEST: Hold a public hearing and consider a request for a zone change from PD, Planned District for a Shopping Center, to an Amended Planned District.

APPLICANT: Midland Pediatric Associates, PLLC.

OWNER: MPA Investments, LLC.

LEGAL DESCRIPTION: Lots 4 and 5, Block 10, Northwood Addition, Section 7, City and County of Midland, Texas.

LOCATION: Generally located on the north side of Mamies Circle, approximately 290 feet north of W. Wadley Avenue.

CURRENT ZONING: PDSC, Planned District for Shopping Center.

ASSOCIATED CASE: P-13-087, Northwood Addition, Section 10.

DETAILS OF REQUEST:

1. This property is located north of Mamies Circle, approximately 290 feet north of Wadley Avenue. The currently vacant property is in the process of being replatted from two lots into one (Northwood Addition, Section 10), to build an approximately 13,000 square foot pediatric doctor's office. The property is zoned PDSC, Planned District for Shopping Center, with an underlining zoning of LR-2, Local Retail District, and is subject to a site plan review in the same manner as a zone change request.

SURROUNDING ZONING AND LAND USE:

2. The property is located north of Mamies Circle, classified as a commercial street. To the north is a 1F-2, One-Family Dwelling District, which is the Trinity West Subdivision. To the west and the south of the property are several Planned Districts for Shopping Centers. These properties include a fitness center, a bank, car washes, and similar uses. To the east are two Planned Districts for Office Centers, location of the First Med of Midland and the American State Bank.

ANALYSIS:

3. We find that the zone change from PD, Planned District for Shopping Center, to an Amended Planned District (with an underlining zoning of LR-2, Local Retail District), is reasonable. The Planned District was already established during the initial zoning approved in April 2004, and will be amended with the approval of site plans in the same manner as a zone change.

SITE PLAN:

4. The site plan, Exhibit A, provides the layout and information about the site. A 13,127 square foot building is proposed. The setbacks and the 28 foot height of the building comply with the LR-2 District requirements. There will be a total of two means of ingress/egress to the property, both from Mamies Circle. One dumpster on the southwestern portion of the property is proposed, as shown on the site plan. The dumpster will be enclosed and screened with CMU Block, which will match the color and style of the building. The owner will be providing a screening wall on the rear of the building – a 7 foot natural Cedar colored wood fence along with a landscape buffer. Landscaping will also be provided according to the City Code – landscaping shown on Exhibit A will be considered illustrative. In terms of parking, the Zoning Code requires a ratio of one parking space for every 300 feet for a doctor's office. With this calculation, a total of 44 parking spaces are required. A total of 109 parking spaces, 70 for patients and 39 for staff, have been provided. Parking shown on the plan will be considered illustrative.

Exhibit B shows the east, north, west, and south elevations of the building. As shown, the total height of the building not including the roof is 20 feet. The total height of the structure is 28 feet. The building will be composed of EIFS and stone, with some CMU. The roof will be composed of metal. Since this building only has a single level, staff does not object to the windows on the north elevation. No one in the office area will have visual access to the lots to the north.

STAFF RECOMMENDATION:

Staff recommends approval of the zone change from PD, Planned District for a Shopping Center, to an Amended Planned District, subject to the following conditions:

- A. That the use and development of this property shall conform to the regulations of the LR-2, Local Retail District, except where permitted otherwise.
- B. That the rear yard setback shall be a minimum of 10 feet.

- C. That the development shall conform to Exhibits A and B in all respects.
- D. That the proposed development meets all requirements of the Fire Department.
- E. That the proposed development meets all requirements of the Code Administration Division.
- F. That all driveways meet the requirements of the Transportation Division.
- G. That signage shall be considered illustrative, and shall be in compliance with the "Revised Outdoor Sign Regulations" of the Midland City Code.
- H. That landscaping shall be considered illustrative, and shall be in compliance with the "Landscape Regulations" of the Midland City Code, along with the additional landscape buffer.
- I. That the dumpster locations shall be considered illustrative and shall be determined by the Solid Waste Division. Dumpster screening shall conform to the "Site Plan Review Standards" of the Midland City Code.
- J. That the associated replat is approved.
- K. That no second story shall be included in this building.



Jim Compton *PSL*
Planning Division Manager
Department of Development Services



Madhuri Kulkarni, City Planner
Department of Development Services

Attachments:

Application
Maps
Exhibits A and B

Case Number: 2-13-044

CITY OF MIDLAND
Planning Division

APPLICATION TO AMEND A PLANNED DISTRICT

Applicant: Midland Pediatric Associates, PLLC

Address: 2409 W. Illinois Suite D

Street Address: Midland City State: TX (Phone/e-mail): 79701 Zip Code

Property Owner: MPA Investments, LLC

Address: 2409 W. Illinois Suite D

Street Address: Midland City State: TX (Phone/e-mail): 79701 Zip Code

Street address and Legal Description of Planned District (complete Lot, Block, and Subdivision Name description below, or, if not in a recorded plat, attach a sealed Metes and Bounds Description:

4208 + 4216 Mamies Circle, will be replatted for one office building

Current PD Classification: PDSC

Requested PD Classification: PDSC Amended
(List by tracts if more than one zoning district is requested)

Reason for amendment request: Site plan Approval

Describe how conditions affecting the property have changed since it was designated its present zone: WE want to combine two lots into one to build one 13,000 sq ft. pediatric doctors office.

Will a Specific Use Permit with Term for alcoholic beverage sales be needed? ____ Yes X No

FEES:

Single, Planned District amendment: **\$550**. Multiple, PD proposal: add \$75 per district.

SUBMITTALS:

16 copies of the PD site plan (FOLDED): ✓

Site Plan in digital format .pdf and .jpg: ✓

SIGNATURE (by property owner only - authorized agent must sign affidavit below)

Property Owner (signature):

[Handwritten Signature]

Date: 8/7/13

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

Chuck Stueckert

who, being by me duly sworn, upon oath says: That (s)he is

authorized by MIDLAND PEOPLES, 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.

[Handwritten Signature]

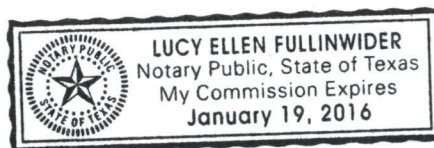
Authorized Agent (signature)

Subscribed and sworn to before me, this 16th day of September, 2013, to certify which witness my hand and seal of office.

Lucy Ellen Fullinwider

NOTARY PUBLIC, MIDLAND COUNTY, TEXAS

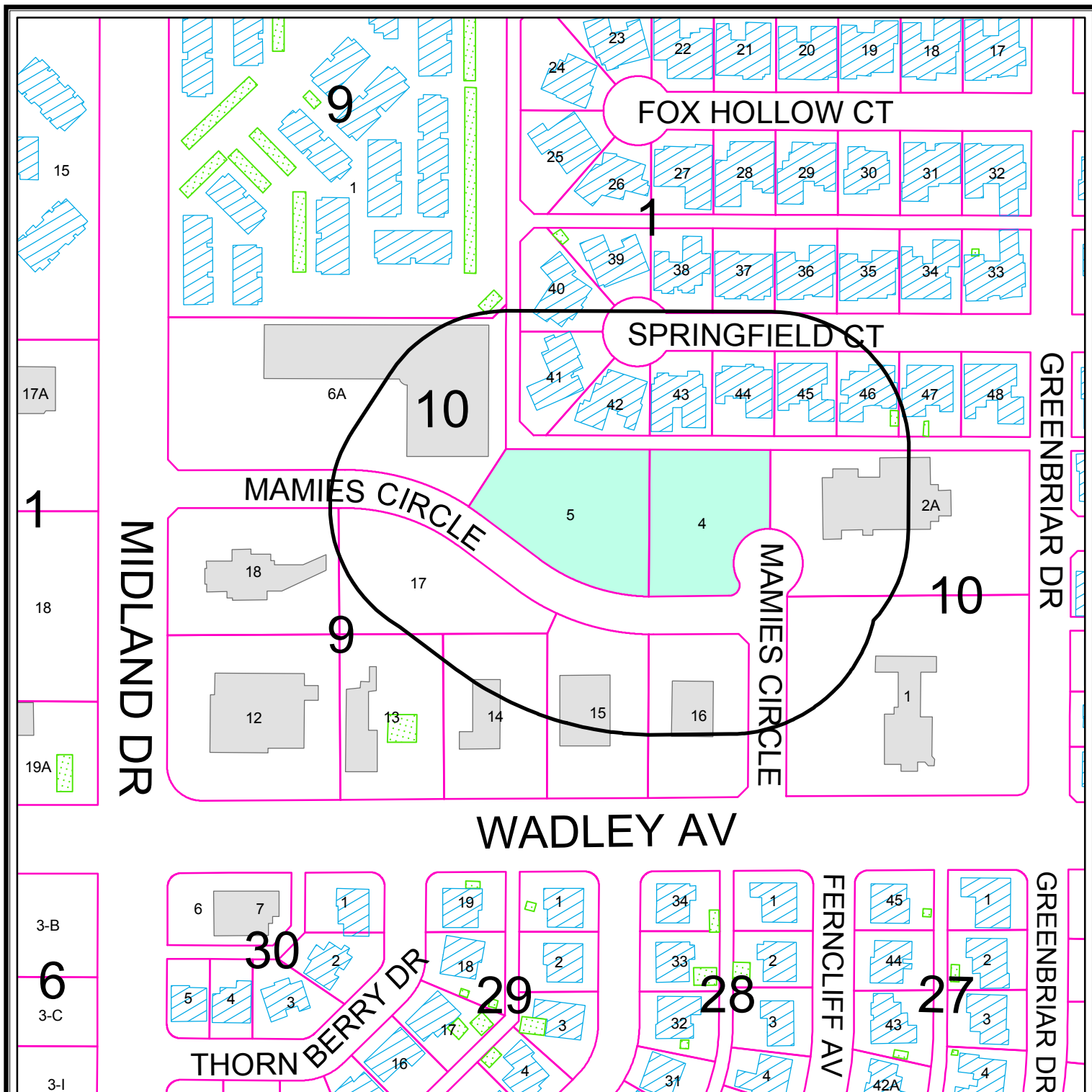
FOR OFFICE USE ONLY	
Rec'd By: <u>SS</u>	Date: <u>9/16/13</u>
Assigned: <u>MK</u>	
For: <u>Pfz</u>	On: <u>10/14/13</u>



****Application will not be considered for scheduling until reviewed by a planner. ****

Amended PD App-2011.doc

Revised 5/2/11



PROPERTY OWNER NOTIFICATION MAP

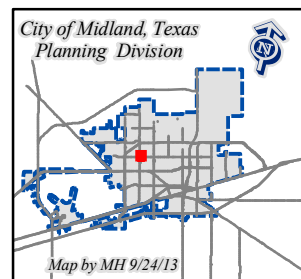
Z - 13 - 044

Scale: 1" = 200'

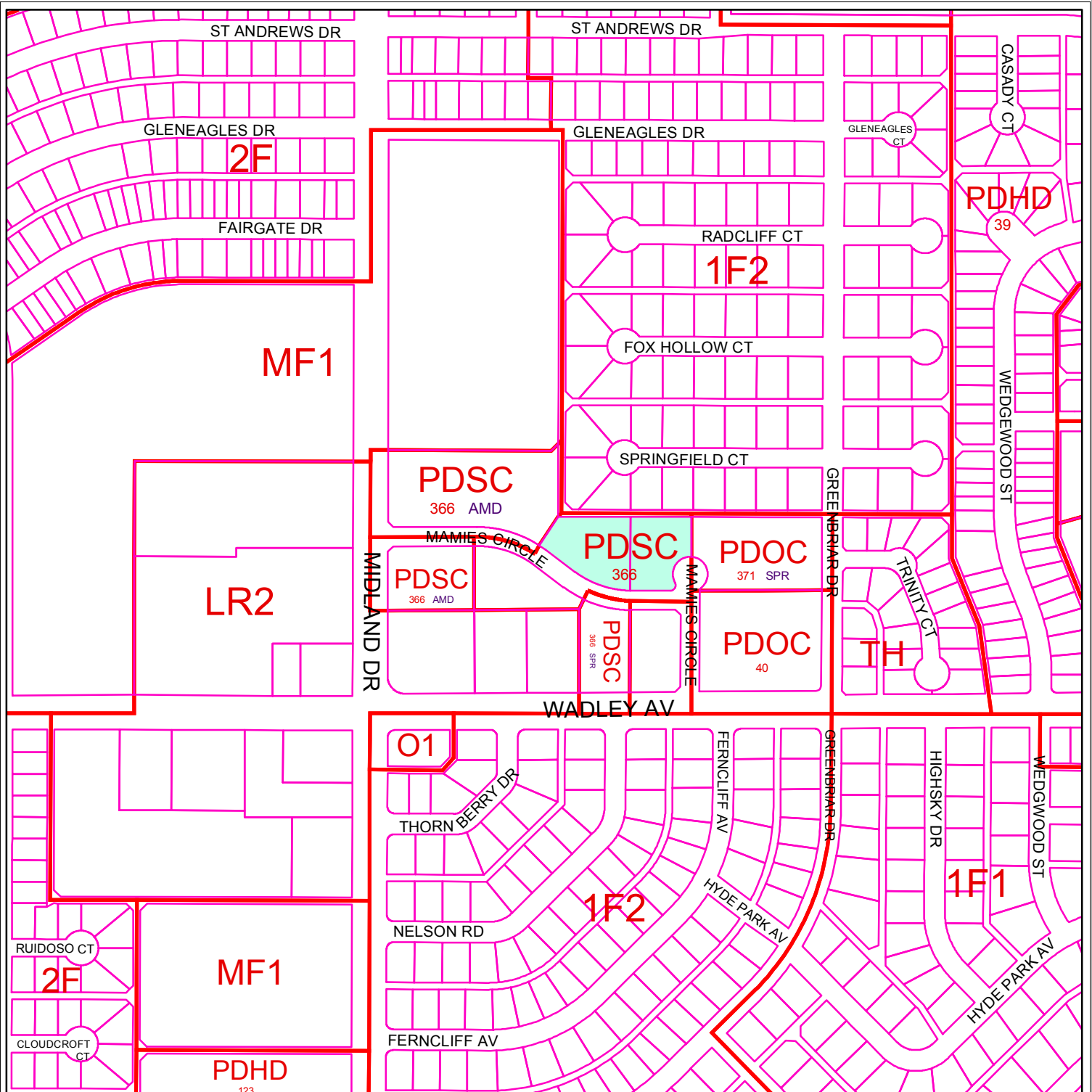
Consider a request for a zone change from PD, Planned District for a Shopping Center, to an Amended Planned District on Lots 4 and 5, Block 10, Northwood Addition, Section 7, City and County of Midland, Texas.

LEGEND

- CITY LIMITS
- 200 FT. LEGAL NOTICE LIMIT
- PARCEL
- PUBLIC BLDGS
- PRIVATE BLDGS
- ACCESSORY BLDGS



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ZONING MAP

Z - 13 - 044

Scale: 1" = 400'

Consider a request for a zone change from PD, Planned District for a Shopping Center, to an Amended Planned District on Lots 4 and 5, Block 10, Northwood Addition, Section 7, City and County of Midland, Texas.

LEGEND

ZONING PARCELS

ZONING DISTRICTS:

FD	FUTURE DEVELOPMENT	BP	BUSINESS PARK
PD	PLANNED DISTRICT	P	PARKING
AE	AGRICULTURE ESTATE	01, 02	OFFICE
CE	COUNTRY ESTATE	NS	NEIGHBORHOOD SERVICE
1F1, 1F2, 1F3	ONE-FAMILY DWELLING	LR1, LR2, LR3	LOCAL RETAIL
MH	MOBILE HOME DWELLING	C1, C2, C3	COMMERCIAL
TH	TOWNHOUSE DWELLING	IP, 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:
rpatrick
City Manager's Office

MEETING DATE: November 26, 2013

TO: CITY COUNCIL/CITY MANAGER

FROM: Jim Compton, Planning Division Manager

SUBJECT: Consider an ordinance on second reading on a request by Marshall Gage LLC Scott Caruthers for a zone change from PD, Planned District for a Shopping Center to LR2, Local Retail District. Lot 3, Block 2, Westridge Park Addition, Section 3, City and County of Midland, Texas. Generally located on the southwest corner of the intersection of Andrews Highway and N. Loop 250 West. Council District 4.

Purpose:

Consider an ordinance on second reading on a request by Marshall Gage LLC Scott Caruthers for a zone change from PD, Planned District for a Shopping Center to LR2, Local Retail District. Lot 3, Block 2, Westridge Park Addition, Section 3, City and County of Midland, Texas. Generally located on the southwest corner of the intersection of Andrews Highway and N. Loop 250 West.

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

There will be no fiscal impact to the City of Midland from this action.

Discussion:

The applicant Marshall Gage LLC-Scott Caruthers desires to develop a grocery store and gas station with car wash on this property. This parcel was zoned Planned District for a Shopping Center in 1986, and has been used for a home building materials store and a telephone call center. The applicant proposes to raze the existing building and construct a grocery store, a self-service gas station, and a car wash. The underlying zoning district of this Planned District is the LR- 2 District. All three of the proposed uses are allowed in this district. Staff recommends approval of this request.

ATTACHMENTS:

Application

Maps

Proposed Ordinance

Planning and Zoning Commission Report

ORDINANCE NO. _____

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOT 3, BLOCK 2, WESTRIDGE PARK ADDITION, SECTION 3, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A SHOPPING CENTER, TO BE USED AS AN LR-2, LOCAL RETAIL DISTRICT (GENERALLY LOCATED ON THE SOUTHWEST CORNER OF THE INTERSECTION OF ANDREWS HIGHWAY AND NORTH LOOP 250 WEST); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

WHEREAS, the City Planning and Zoning Commission and the Governing Body of the City of Midland, in compliance with the City Charter and the State law with reference to the creation of Districts under the zoning ordinance regulations and zoning map, have given the requisite notices by United States mail, publication and otherwise; and after a full and fair hearing to all of the property owners generally and particularly to those interested persons situated in the affected area and in the vicinity thereof, the Governing Body finds that the public health, safety and general welfare will be best served by the creation of an LR-2, Local Retail District, as set out hereinafter;

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

SECTION ONE. That Chapter 1, Title XI, of the City Code of Midland, Texas, and the official zoning map of the City of Midland, Texas, are hereby amended insofar as the hereinafter described property is concerned, which is presently zoned PD, Planned District for a Shopping Center, and it shall be used as an LR-2, Local Retail District, said property being described as follows:

Lot 3, Block 2, Westridge Park Addition, Section 3, City and County of Midland, Texas.

SECTION TWO. That the definitions given in the zoning regulations contained in

the City Code of the City of Midland, Texas, shall be applicable to such of those terms as are used herein.

SECTION THREE. The provisions of this ordinance are to be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent with or in conflict with any of the provisions of this ordinance are hereby expressly repealed to the extent of any such inconsistency or conflict.

SECTION FOUR. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this ordinance. The Council of the City of Midland hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

SECTION FIVE. The penalty for violation of this ordinance shall be in accordance with the general penalty provisions contained in Section 1-3-1 of the City Code of Midland, Texas, which provides for a fine not exceeding two thousand dollars (\$2,000.00).

SECTION SIX. The City Secretary is hereby authorized and directed to publish the descriptive caption of this ordinance in the manner and for the length of time prescribed by the law as an alternative method of publication.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the _____ day of _____, A.D., 2013; and passed to second reading on motion of Council member _____, seconded by Council member _____, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

The above and foregoing ordinance was read in full and finally adopted by the following vote upon motion of Council member _____, seconded by Council member _____, on the _____ day of _____, A.D., 2013, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2013.

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

Robert Patrick, Assistant to the City Manager

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

PLANNING AND ZONING COMMISSION

November 4, 2013

CASE: Z-13-045.

REQUEST: Hold a public hearing and consider a request for a zone change from PD, Planned District for a Shopping Center to LR2, Local Retail District.

APPLICANT: Marshall Gage LLC-Scott Caruthers.

OWNER: Signal Midland Wireless, LLC.

REPRESENTATIVE: Scott Caruthers.

LEGAL DESCRIPTION: Lot 3, Block 2, Westridge Park Addition, Section 3, City and County of Midland, Texas.

LOCATION: Generally located on the southwest corner of the intersection of Andrews Highway and N. Loop 250 West.

CURRENT ZONING: PD, Planned District for a Shopping Center.

DETAILS OF REQUEST:

1. The applicant desires to develop a grocery store and gas station with a car wash on this property. This parcel was zoned Planned District for a Shopping Center in 1986, and has been used for a home building materials store and a telephone call center. The applicant proposes to raze the existing building and construct a grocery store, a self-service gas station, and a car wash.

SURROUNDING ZONING AND LAND USE:

2. The land to the north across Andrews Highway is zoned PD, Planned District for a Shopping Center and 1F1, One-Family Dwelling District. The land to the east across Loop 250 West is zoned LR2, Local Retail District and C-3, Commercial District. The land to the south and west is zoned PD, Planned District for a Shopping Center. There is one parcel to the east at the intersection of Andrews Highway and Tradewinds Blvd. that is zoned LR-1, Local Retail District.

STAFF RECOMMENDATION:

3. Staff recommends approval of this request for a zone change from PD, Planned District for a Shopping Center. This Planned District is subject to the regulations of the LR-2 District, and to an approved site plan. All of the proposed uses are allowed in the LR-2 District, but the approved site plan conflicts with the proposed development. Rather than asking for revised site plans, the staff is recommending that this lot be removed from the Planned District, and rezone it to LR-2 District. Staff believes there are sufficient building design and administrative review process in place to ensure that the new building will complement the existing development in this area.



Jim Compton *FC*

Planning Division Manager
Department of Development Services



Robert Baronti, AICP

Senior Planner
Department of Development Services

Attachments:

Application
Maps

Case Number: 213-045

CITY OF MIDLAND
Planning Division

APPLICATION TO CHANGE ZONING CLASSIFICATION

MARSHALL GAGE LLC - Scott Caruthers 214 986 9018
SDC@MARSHALLGAGE.COM
Applicant Name (Phone/e-mail)

207 E. Virginia Suite 214 McKinney TX 75069
Address Zip Code

Signal Midland Wireless, LLC
20866 E. Quail Run Dr. Diamond Bar, CA. 91787
Property Owner Name (Phone/e-mail)
Address Zip Code

Scott Caruthers 214 986 9018 SDC@MARSHALLGAGE.COM
Representative Name (Phone/e-mail)
207 E. Virginia Suite 214 McKinney TX 75069
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.

5407 Andrews Hwy
LOT 3 Block 2 Westridge Park Addition - Sect. 4

PRESENT ZONE: PD - SC REQUESTED ZONE: LR2
(List by tracts if more than one district is requested)

Reason for Zone Change Request: Redevelopment of Site for Grocery Store Use

Present Use of Property: AT & T Call Center

Proposed Use of Property: Grocery Store, Gas Station w/ car wash

How will zone change affect the public health, safety and welfare? NO ADVERSE AFFECT

Describe how conditions affecting the property have changed since present zoning designation:

SITE WAS INITIALLY USED AS TRADITIONAL RETAIL, BUT IS
CURRENTLY USED AS CALL CENTER

Is a Specific Use Permit with Term for alcoholic beverages sales needed? Yes X No

APPLICATION FEES:

- Single, standard zone change: **\$400**. Multiple, standard zone change: add **\$100** per additional district.
- Single PD, Planned District zone change: **\$550**. Multiple PD proposal: add **\$100** per district.
- If a Traffic Impact Analysis is required, a fee of up to \$500.00 will be assessed.

SITE PLAN SUBMITTALS (if applicable):

16 copies (FOLDED) of the PD site plan: _____

Site Plan in digital format .pdf and .jpg: _____

SIGNATURE (by property owner only - authorized agent must sign affidavit below)

Property Owner (signature): Mr. King, Managing Member Date: 9/18/13

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

Scott D. Canthers who, being by me duly sworn, upon oath says: That (s)he is authorized by Signal Midland Wireless, 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.

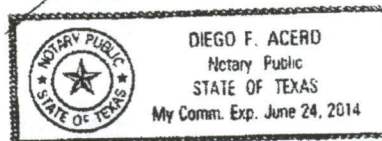
Scott D. Canthers Scott D. Canthers
Authorized Agent (signature)

Subscribed and sworn to before me, this 17th day of September, 2013, to certify which witness my hand and seal of office.

(mailed in)

NOTARY PUBLIC, MIDLAND COUNTY, TEXAS

FOR OFFICE USE ONLY	
Rec'd By: <u>DS</u>	Date: <u>9/23</u>
Assigned: _____	
For: _____	On: _____



****Application will not be considered for scheduling until reviewed by a planner.****

ANDREWS HWY

LOOP 250 WEST

TRADEWINDS BLVD

WESTRIDGE BLVD

DEAUVILLE BLVD

PRINCETON AV

2

3

3

4

1A

6D

6C

6A

6B

7

8

1

2

3

4

5

6

7

8

9

10

11

12

PROPERTY OWNER NOTIFICATION MAP

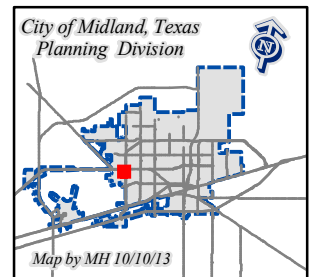
Z - 13 - 045

Scale: 1" = 300'

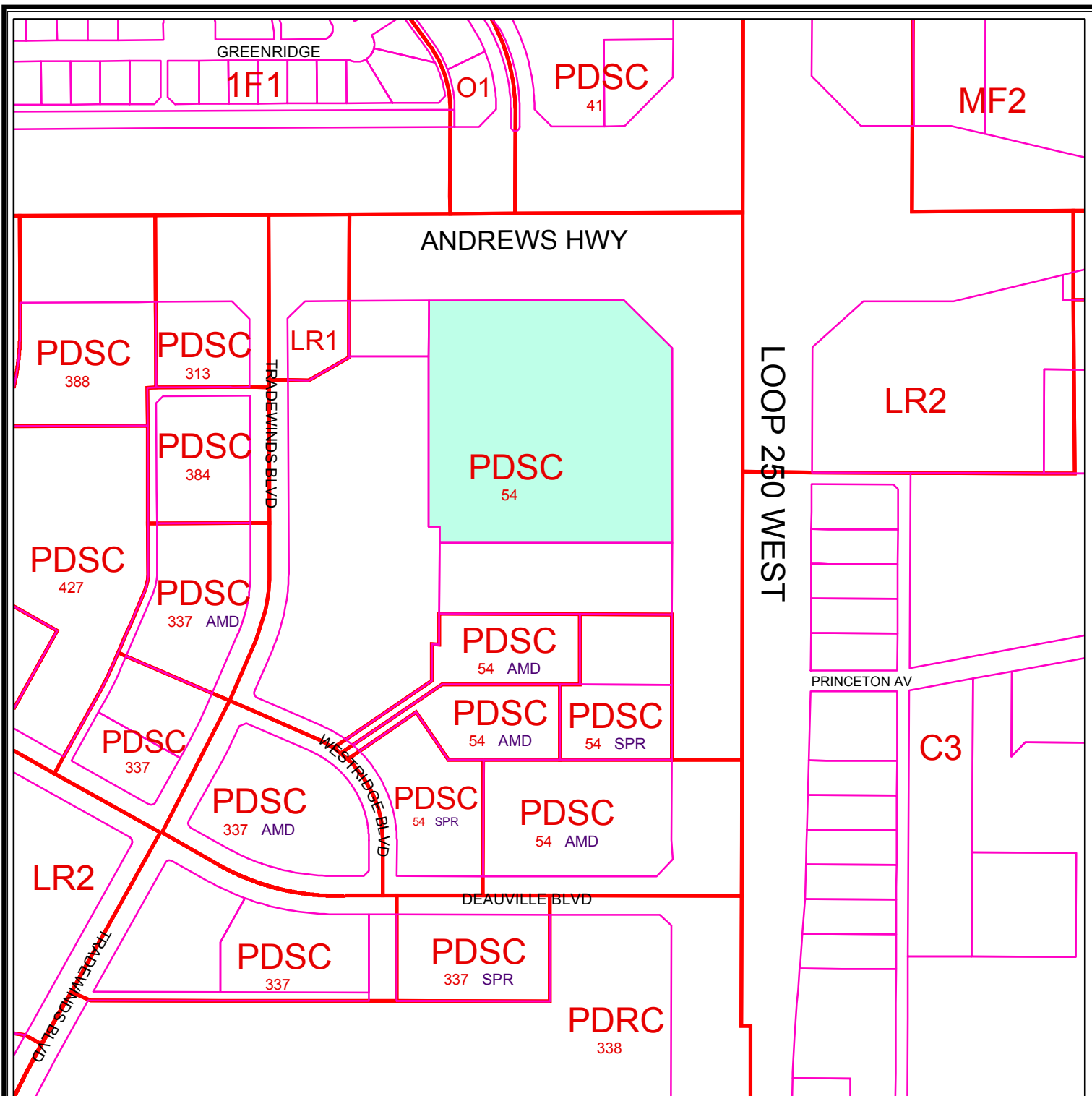
Consider a request for a zone change from PD, Planned District for a Shopping Center, to LR-2, Local Retail District on Lot 3, Block 2; Westridge Park Addition, Section 3, City and County of Midland, Texas.

LEGEND

-  CITY LIMITS
-  200 FT. LEGAL NOTICE LIMIT
-  PARCEL
-  PUBLIC BLDGS
-  ACCESSORY BLDGS



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ZONING MAP

Z - 13 - 045

Scale: 1" = 400'

Consider a request for a zone change from PD, Planned District for a Shopping Center, to LR-2, Local Retail District on Lot 3, Block 2; Westridge Park Addition, Section 3, 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

© THE CITY OF MIDLAND 2013; THE CITY OF MIDLAND SHALL NOT BE RESPONSIBLE FOR ANY DECISIONS BASED UPON THE USE OF THIS DATA. WHILE THIS DATA IS MADE AVAILABLE TO THE PUBLIC, IT WAS CREATED FOR INTERNAL USE BY THE CITY OF MIDLAND WHICH MAKES NO CLAIM AS TO ITS ACCURACY OR COMPLETENESS. THIS DATA IS NOT DESIGNED TO BE USED AS A PRIMARY TOOL IN PERMITTING, CITING, OR OTHER DECISIONS BASED SOLELY ON THE INFORMATION CONTAINED HEREIN.





City Council Agenda

Approved for Agenda:
jnichols
City Manager's Office

MEETING DATE: 11/26/2013

TO: City Council / City Manager

FROM: Gary Saunders, Transportation Manager

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

Purpose:

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

Recommended City Council Action

☒ Approve ☐ Deny ☐ Directional / Informational

Fiscal Impact:

Approximately \$4500.00 for installation cost of signs including materials, equipment and labor.

Discussion:

The Legal Department has prepared an ordinance to be considered on second reading authorizing the installation of stop signs at various intersections within the City of Midland.

This ordinance has been requested to assign right-of-way for the motorist at each intersection in compliance with the Texas Manual on Uniform Traffic Control Devices. The proposed intersections for installation of stop signs are as follows:

On Alamosa Ct. @ Gunnison Dr.

On Barton Springs Ct. @ Barton Creek Rd.

On Blanco Dr. @ Llano Ct.

On Blanco Dr. @ Medina Dr.

On Blanco Dr. @ Oak Creek Dr.

On Carbondale Ct. @ Gunnison Dr.

On Coliseum Ct. @ Riverfront Dr.

On Colt Ct. @ Candlestick Dr.

On Comiskey Ct. @ Riverfront Dr.

On Crosley Ct. @ Avalon Dr.

On Crosley Ct. @ Candlestick Dr.

On Golf Course Rd. @ Elkins Rd.

On Griffith Ct. @ Candlestick Dr. /Nolan Ryan Dr.

On Hall Of Fame Blvd. @ Avalon Dr.

On Hall Of Fame Blvd. @ Shea Ln. /Riverfront Dr.

On Llano Ct. @ Barton Creek Rd.

On Medina Dr. @ Barton Creek Rd.

On Medina Dr. @ Sabine Dr.

On Memorial Ct. @ Riverfront Dr.

On Mesa Dr. @ Storey Dr.

On Mile High Ln. @ Wagner Dr.

On Navasota Dr. @ Sabine Dr.

On Olympic Ct. @ Candlestick Dr.

On Pedernales Dr. @ Medina Dr.

On Rangers Ct. @ Candlestick Dr.

On Rio Grande Ave. @ Crowley Blvd.

On Riverfront Dr. @ Wagner Dr.

On Sabine Dr. @ Crowley Blvd.

On Three Rivers Ln. @ Riverfront Dr.

On Wagner Dr. @ Three Rivers Ln.

Staff recommends approval of this ordinance.

ORDINANCE NO. _____

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

WHEREAS, the Council finds that the unusual character and volume of traffic on various intersecting streets within the City require that operators of motor vehicles traveling along said streets to stop before entering said intersections; and

WHEREAS, the Council finds it to be in the public interest to authorize and require the establishment of stop signs at said intersections;

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

SECTION ONE. In addition to all other stop signs, stop signs at the intersections enumerated in the following list are hereby ordered to be erected and are hereby validated and fully authorized, whether the same have already been placed and are existing upon said intersections, or shall be placed there hereafter, and all persons operating vehicles upon or over the streets of the City of Midland shall obey such stop signs. All streets located in the column under the word “On” are the streets on which stop signs are hereby ordered and authorized at their intersection with the streets listed on the same line and in the column immediately to the right headed by the word “At”.

ON

Alamosa Ct.
Barton Springs Ct.
Blanco Dr.
Blanco Dr.
Blanco Dr.
Carbondale Ct.
Coliseum Ct.
Colt Ct.
Comiskey Ct.
Crosley Ct.

AT

Gunnison Dr.
Barton Creek Rd.
Llano Ct.
Medina Dr.
Oak Creek Dr.
Gunnison Dr.
Riverfront Dr.
Candlestick Dr.
Riverfront Dr.
Avalon Dr.

Crosley Ct.
Golf Course Rd.
Griffith Ct.
Hall of Fame Blvd.
Hall of Fame Blvd.
Llano Ct.
Medina Dr.
Medina Dr.
Memorial Ct.
Mesa Dr.
Mile High Ln.
Navasota Dr.
Olympic Ct.
Pedernales Dr.
Rangers Ct.
Rio Grande Ave.
Riverfront Dr.
Sabine Dr.
Three Rivers Ln.
Wagner Dr.

Candlestick Dr.
Elkins Rd.
Candlestick Dr./Nolan Ryan Dr.
Avalon Dr.
Shea Ln./Riverfront Dr.
Barton Creek Rd.
Barton Creek Rd.
Sabine Dr.
Riverfront Dr.
Storey Dr.
Wagner Dr.
Sabine Dr.
Candlestick Dr.
Medina Dr.
Candlestick Dr.
Crowley Blvd.
Wagner Dr.
Crowley Blvd.
Riverfront Dr.
Three Rivers Ln.

SECTION TWO. That the Traffic Engineer is hereby authorized and directed to erect and install appropriate signs and markings at the designated locations in conformance with the State Highway Department's Manual and Specifications, indicating and carrying out the provisions of this ordinance.

SECTION THREE. The provisions of this ordinance are to be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances that are directly inconsistent with or in direct conflict with any of the provisions of this ordinance are hereby expressly repealed but only to the extent of any such inconsistency or conflict.

SECTION FOUR. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this ordinance. The Council of the City of Midland hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

SECTION FIVE. The penalty for violation of this ordinance shall be in accordance with the general penalty provisions contained in Section 1-3-1 of the City Code of Midland, Texas, which provides for a fine not exceeding two hundred dollars (\$200.00).

SECTION SIX. The City Secretary is hereby authorized and directed to publish the descriptive caption of this ordinance in the manner and for the length of time prescribed by the law as an alternative method of publication.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the _____ day of _____, A.D., 2013; and passed to second reading on motion of Council member _____, seconded by Council member _____, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

The above and foregoing ordinance was read in full and finally adopted by the following vote upon motion of Council member _____, seconded by Council member _____, on the _____ day of _____, A.D., 2013, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2013.

W. Wesley Perry, Mayor

ATTEST:

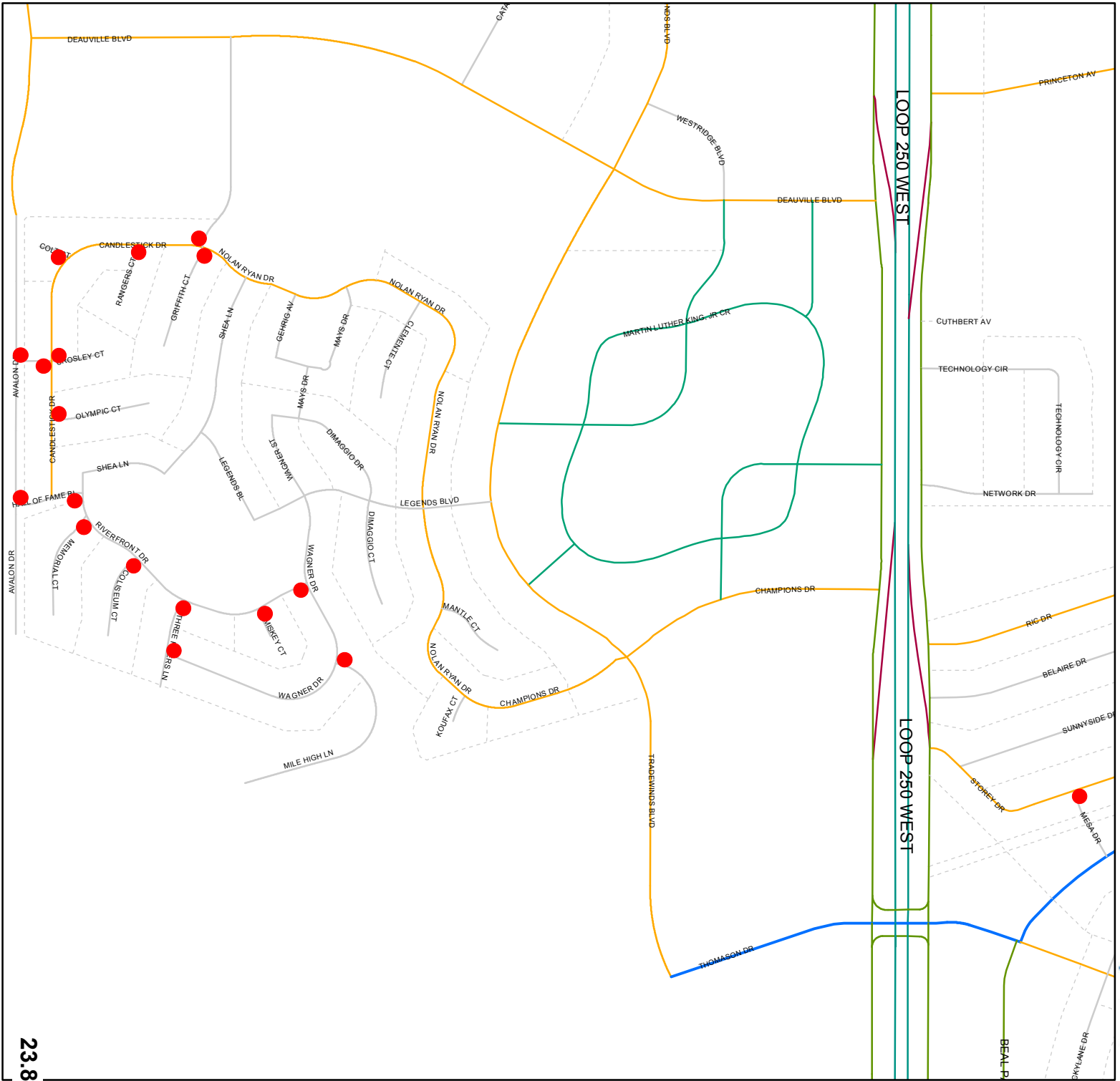
Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

Gary Saunders, Transportation Manager

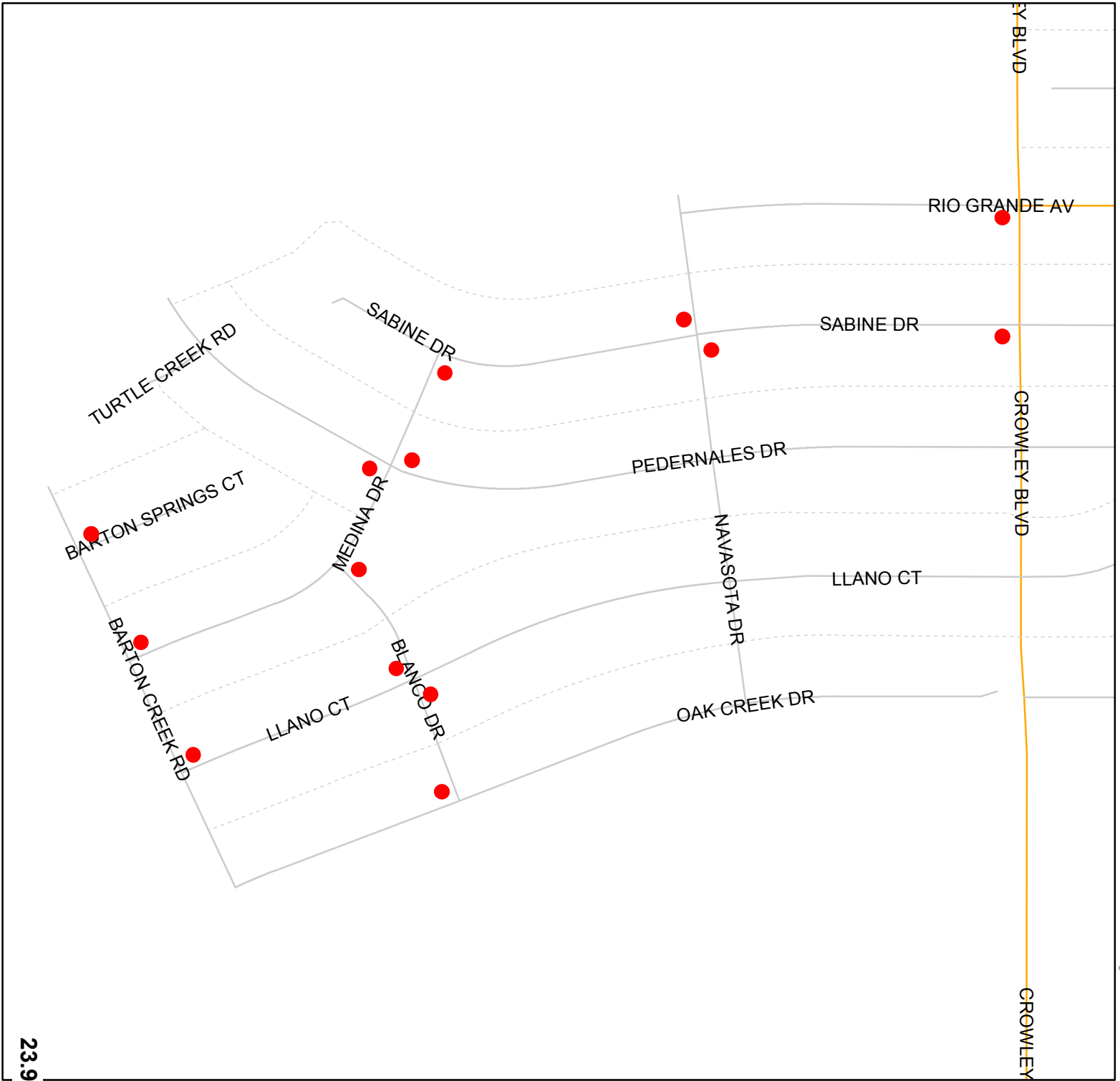
APPROVED AS TO FORM:

Keith Stretcher, City Attorney



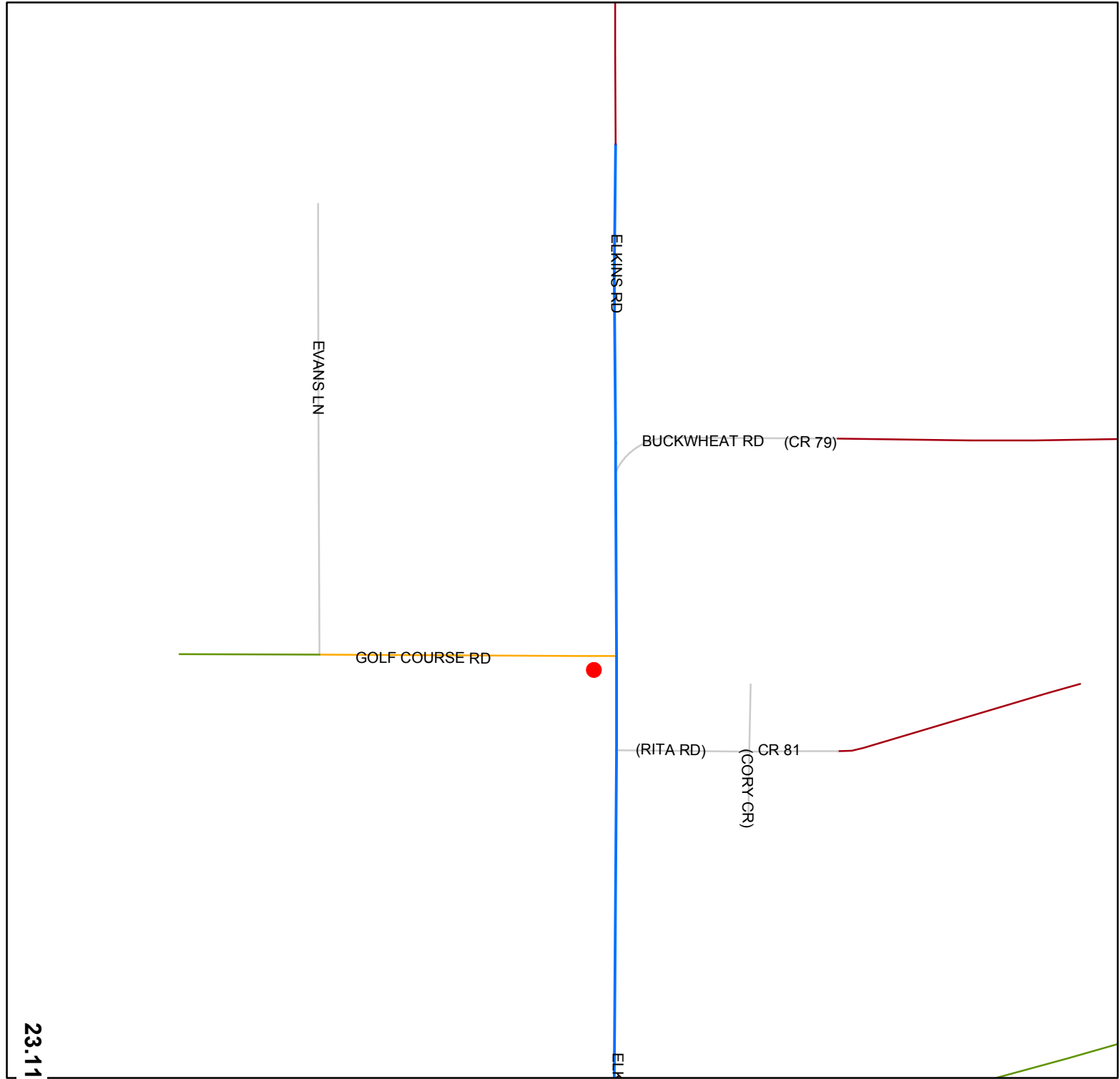
● Proposed Stop Sign Installation





● Proposed Stop Sign Installation





● Proposed Stop Sign Installation





City Council Agenda

Approved for Agenda:
rpatrick
City Manager's Office

MEETING DATE: November 26, 2013

TO: CITY COUNCIL/CITY MANAGER

FROM: Jim Compton, Planning Division Manager

SUBJECT: Hold a public hearing at approximately 10:30 a.m. and consider an ordinance on a request by Real Property Resources for a zone change from FD, Future Development District and PD, Planned District for a Housing Development to Amended Planned District for a Housing Development on a 46.722-acre tract out of Section 37, 38 and 48, Block 40, T-1-S, T&P RR Company Survey, Midland County, Texas (Generally located on the south extension of Avalon Drive, approximately 700 feet south of Hall of Fame Boulevard) District 4

Purpose:

Hold a public hearing at approximately 10:30 a.m. and consider an ordinance on a request by Real Property Resources for a zone change from FD, Future Development District and PD, Planned District for a Housing Development to Amended Planned District for a Housing Development.

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

There is no cost to the City to process this application.

Discussion:

This zone change is associated with the next phase of the Legends Park neighborhood that is being constructed by Betenbough Homes. The plat contains 46.7-acres and 178 residential lots. While the lots meet the minimum size and area requirements of the 1F-3, One-Family Dwelling District, the plat has lots oriented with the rear of the lots facing Avalon Drive. This condition is prohibited unless a decorative screening fence and landscaping is constructed in a common area that screens the rear of the lots from public view. The plat has such a common area. The screening fence is described on the

attached Exhibit A. It is planned to be a six-foot tall solid wooden fence with masonry pilasters placed on 16-foot centers, and the area between the fence and the curb will be landscaped in a desert theme. This design is identical to the fence already constructed on the northern part of this neighborhood. The Planning and Zoning Commission voted on November 4, 2013 to recommend approval of this request, and no opposition has been reported.

Attachments:

November 4, 2013 P&Z Staff Report
Proposed Ordinance and Exhibit A

ORDINANCE NO.

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 40.498-ACRE TRACT OF LAND OUT OF SECTIONS 37, 38 AND 48, BLOCK 40, T-1-S, T&P RR CO. SURVEY, A 5.954-ACRE TRACT OF LAND OUT OF SECTION 37, BLOCK 40, T-1-S, T&P RR CO. SURVEY, AND A 0.270-ACRE TRACT OF LAND OUT OF SECTION 37, BLOCK 40, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED FD, FUTURE DEVELOPMENT DISTRICT, IN PART, AND PD, PLANNED DISTRICT FOR A HOUSING DEVELOPMENT, IN PART, TO BE USED AS AN AMENDED PLANNED DISTRICT FOR A HOUSING DEVELOPMENT (GENERALLY LOCATED ON THE EAST SIDE OF THE SOUTH EXTENSION OF AVALON DRIVE, APPROXIMATELY 700 FEET SOUTH OF HALL OF FAME BOULEVARD); 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 for a Housing Development, set out hereinafter and subject to the conditions and restrictions set out hereinafter;

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

SECTION ONE. That Chapter 1, Title XI, of the City Code of Midland, Texas, and the official zoning map of the City of Midland, Texas, are hereby amended insofar as the

hereinafter described property is concerned, which is presently zoned FD, Future Development District, in part, and PD, Planned District for a Housing Development, in part, and it shall be used as an Amended Planned District for a Housing Development, subject to the special conditions and restrictions hereinafter set out, said property being described as follows:

A 40.498-acre tract of land out of Sections 37, 38 and 48, Block 40, T-1-S, T&P RR Co. Survey, a 5.954-acre tract of land out of Section 37, Block 40, T-1-S, T&P RR Co. Survey, and a 0.270-acre tract of land out of Section 37, Block 40, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas. Said tracts being more specifically described by metes and bounds in Exhibits "B", "C", and "D", which are attached hereto and incorporated herein.

SECTION TWO. That said property shall be subject to the following special conditions and restrictions:

1. That the use and development of this property shall conform to the regulations of the 1F-3, One-Family Dwelling District, except as otherwise stated below.
2. That the screening fence illustrated on Exhibit "A", which is attached hereto and incorporated herein, shall be constructed between the rear of any residential lot and an abutting public right-of-way and located in a common area set forth on the associated subdivision plat.
3. That a Certificate of Occupancy shall not be issued for any structure on a residential lot where the rear of the lot abuts a public right-of-way until the fence described herein is fully constructed.

SECTION THREE. That the definitions given in the zoning regulations contained in the City Code of the City of Midland, Texas, shall be applicable to such of those terms as are used herein.

SECTION FOUR. The provisions of this ordinance are to be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent with or in conflict with any of the provisions of this ordinance are hereby expressly repealed to the extent of any such inconsistency or conflict.

SECTION FIVE. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not

affect the validity of the remaining portions of this ordinance. The Council of the City of Midland hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

SECTION SIX. The penalty for violation of this ordinance shall be in accordance with the general penalty provisions contained in Section 1-3-1 of the City Code of Midland, Texas, which provides for a fine not exceeding two thousand dollars (\$2,000.00).

SECTION SEVEN. The City Secretary is hereby authorized and directed to publish the descriptive caption of this ordinance in the manner and for the length of time prescribed by the law as an alternative method of publication.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the ____ day of _____, A.D., 2013; and passed to second reading on motion of Council member _____, seconded by Council member _____, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

The above and foregoing ordinance was read in full and finally adopted by the following vote upon motion of Council member _____, seconded by Council member _____, on the ____ day of _____, A.D., 2013, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS ____ day of _____, A.D., 2013.

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

Robert Patrick, Assistant to the City Manager

APPROVED AS TO FORM:

Keith Stretcher, City Attorney



Stanford Surveying Company

P.O. Box 8490
Midland, TX 79708
Office 432-699-5708
Fax 432-699-5510

www.stanfordsurveying.com

TRACT 1

METES AND BOUNDS DESCRIPTION of a 40.498 Acre Tract of Land being 40.135 acres out of a 40.498 Acre Tract of Land, as recorded in Instrument No. 2013-5263, Official Public Records, Midland County, Texas, and a 0.363 Acre Tract of Land described as Exhibit B as recorded in Instrument No. 2013-8477, Official Public Records, Midland County, Texas, located in Section 37, Section 38, and Section 48, Block 40, T-1-S, T. & P. RR. Co. Survey, Midland County, Texas.

BEGINNING at (N=10689414.20 & E=1728297.74) a 1/2" iron rod and plastic cap marked "RPLS 4413" found in the west line of Section 37, the east line of Section 38, Block 40, T-1-S, T. & P. RR. Co. Survey, Midland County, Texas, the east line of a 634.887 acre tract of land as recorded in Volume 3131, Page 210, Official Public Records, Midland County, Texas, the southwest corner of a 108.712 acre tract of land as recorded in Instrument No. 2012-3638, Official Public Records, Midland County, Texas, for the northwest corner of a 40.498 acre tract of land as recorded in Instrument No. 2013-5263, Official Public Records, Midland County, Texas, and the northwest corner of this tract from which a 1/2" iron rod and plastic cap marked "RPLS 4413" found for the northwest corner of the 108.712 acre tract of land bears N 14°25'48" W a distance of 2417.76 feet;

THENCE, along the north boundary line of the 40.498 acre tract of land and the south boundary line of the 108.712 acre tract of land, S 84°27'35" E a distance of 2349.72 feet to a 1/2" iron rod and plastic cap marked "RPLS 4413" found in the north ROW line of a 40 foot wide pipeline easement as recorded in Volume 42, Page 289, Midland County Deed Records, the northeast corner of the 40.498 acre tract of land, the most southerly corner of the 108.712 acre tract of land and the northeast corner of this tract;

THENCE, along the east boundary line of the 40.498 acre tract of land, S 30°42'19" E a distance of 20.00 feet to a point in the center of said pipeline easement for the southeast corner of the 40.498 acre tract of land and the southeast corner of this tract, from which a City of Midland Control Point marked "43/93" bears S 12°53'34" E a distance of 9436.9 feet;

THENCE, along the south boundary line of the 40.498 acre tract of land and the centerline of said pipeline easement, S 59°17'41" W at a distance of 35.46 feet cross the south line of said Section 37 and the north line of said Section 48, Block 40, T-1-S, T. & P. RR. Co. Survey, Midland County, Texas, continuing for a total distance of 2499.30 feet to a 3/4" galvanized iron pipe and plastic cap marked "RPLS 4413" set in the west line of said Section 48, the east line of Section 47, Block 40, T-1-S, T. & P. RR. Co. Survey, Midland County, Texas, and the east line of the 634.887 acre tract of land for the southwest corner of this tract, from which a 1" black iron pipe found for the southwest corner of said Section 48 and the southeast corner of said Section 47 bears S 14°16'09" E a distance of 4659.26 feet;

THENCE, along the west line of said Section 48, the east line of said Section 47, the east boundary line of the 634.887 acre tract of land and the west boundary line of the 40.498 acre tract of land, N 14°16'09" W a distance of 156.99 feet to a point of curve to the right in the west line of said Section 48, the east line of said Section 47, the east boundary line of the 634.887 acre tract of land, the west boundary line of the 40.498 acre tract of land, the most southerly corner of a 0.363 acre tract of land described as Exhibit A as recorded in Instrument No. 2013-8477, Official Public Records, Midland County, Texas, and a corner of this tract;



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Midland, TX 79708
Office 432-699-5708
Fax 432-699-5510

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THENCE, along the east boundary line of the 0.363 acre tract of land described as Exhibit A, with a curve to the right having a radius of 1500.00 feet, delta angle of $17^{\circ}58'42''$ and an arc length of 470.67 feet (chord bearing $N 05^{\circ}16'48'' W$ a distance of 468.74 feet), to a point for a corner of the 0.363 acre tract of land described as Exhibit A and a corner of this tract;

THENCE, along the east boundary line of the 0.363 acre tract of land described as Exhibit A, $N 03^{\circ}42'33'' E$ at a distance of 59.38 feet pass the north line of said Section 48 and the south line of said Section 38, for the northeast corner of the 0.363 acre tract of land described as Exhibit A and the southwest corner of a 0.363 acre tract of land described as Exhibit B, as recorded in Instrument No. 2013-8477, Official Public Records, Midland County, Texas, from which a 1" black iron pipe found for the southeast corner of said Section 38 bears $N 75^{\circ}19'36'' E$ a distance of 91.64 feet and a 1" black iron pipe found for the northwest corner of said Section 48 bears $S 75^{\circ}19'36'' W$ a distance of 91.57 feet, continuing for a total distance of 114.29 feet to a point of curve to the left for a corner of the 0.363 acre tract of land described as Exhibit B and a corner of this tract;

THENCE, along the west boundary line of the 0.363 acre tract described as Exhibit B, with a curve to the left having a radius of 1500.00 feet, delta angle of $18^{\circ}08'21''$ and an arc length of 474.88 feet, (chord bearing $N 05^{\circ}21'37'' W$ a distance of 472.90 feet), to a point in the west line of said Section 37, the east line of said Section 38, the east line of the 634.887 acre tract of land for the most northerly corner of the 0.363 acre tract of land described as Exhibit B and a corner of this tract;

THENCE, along the west line of said Section 37, the east line of said Section 38, the east line of the 634.887 acre tract of land and the west boundary line of the 40.498 acre tract of land, $N 14^{\circ}25'48'' W$ a distance of 326.76 feet to the POINT OF BEGINNING.

Bearing, Distances and Coordinates are based upon the Texas State Plane Coordinate System NAD 83 Central Zone and are relative to the City of Midland GPS Control Monuments as provided by the City of Midland. Acreages shown are surface values.

This document was prepared under 22 TAC 663.21, and is not to be used to convey or establish interest in real property except those rights and interest implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared.

AUG 30 2013
CITY OF MIDLAND
PLANNING DIVISION OFFICE



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TRACT 2

METES AND BOUNDS DESCRIPTION of a 5.954 Acre Tract of Land out of a 108.712 acre tract of land, as described in Instrument No. 2012-3638, Official Public Records, Midland County, Texas, located in Section 37, Block 40, T-1-S, T. & P. RR. Co. Survey, Midland County, Texas.

BEGINNING at (N=10689284.36' & E=1730799.85') a 1/2" iron rod and plastic cap marked "RPLS 4413" found in the north ROW line of a 40 foot wide pipeline easement as recorded in Volume 42, Page 289, Midland County Deed Records, for the southwest corner of Legends Park, Section 3, an addition to the City of Midland, being a subdivision of 20.226 acres of land in Section 37, Block 40, T-1-S, T. & P. RR. Co. Survey, Midland County, Texas, as recorded in Cabinet I, Page 106, Plat Records, Midland County, Texas, the southeast corner of a 108.712 acre tract of land, as described in Instrument No. 2012-3638, Official Public Records, Midland County, Texas, located in Section 37, Block 40, T-1-S, T. & P. RR. Co. Survey, Midland County, Texas, and for the southeast corner of this tract, from which a City of Midland Control Point marked "43/93" bears S 11°50'25" E a distance of 9515.67 feet;

THENCE, along the north ROW line of said 40 foot wide pipeline easement and the south line of the 108.712 acre tract of land, S 59°17'41" W a distance of 190.00 feet to a 1/2" iron rod and plastic cap marked "RPLS 4413" found in the north ROW line of said 40 foot wide pipeline easement, the most southerly corner of the 108.712 acre tract of land, the northeast corner of a 40.498 acre tract of land, as described in Instrument No. 2013-5263, Official Public Records, Midland County, Texas, and the southwest corner of this tract;

THENCE, along the north line of the 40.498 acre tract of land and the south line of the 108.712 acre tract of land, N 84°27'35" W a distance of 652.04 feet to a 1/2" iron rod and plastic cap marked "RPLS 4413" set in the north line of the 40.498 acre tract of land and the south line of the 108.712 acre tract of land for the southwest corner of this tract;

THENCE N 73°05'13" E a distance of 201.82 feet to a 1/2" iron rod and plastic cap marked "RPLS 4413" set for a corner of this tract;

THENCE N 25°41'24" E a distance of 350.98 feet to a 1/2" iron rod and plastic cap marked "RPLS 4413" set for a corner of this tract;

THENCE N 76°41'19" E a distance of 12.59 feet to a 1/2" iron rod and plastic cap marked "RPLS 4413" set at a point of curve to the left and for a corner of this tract;

THENCE with a curve to the left having a radius of 245.00 feet, delta angle of 35°04'30" and an arc length of 149.98 feet, (chord bearing N 68°40'51" W 147.65 feet) to a 1/2" iron rod and plastic cap marked "RPLS 4413" found for a corner of Legends Park, Section 4, an addition to the City of Midland, being a subdivision of 18.183 acres of land in Section 37, Block 40, T-1-S, T. & P. RR. Co. Survey, Midland County, Texas, as recorded in Cabinet I, Page 129, Plat Records, Midland County, Texas, and for a corner of this tract;





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THENCE, along the boundary line of Legends Park, Section 4, N 00°33'50" W a distance of 60.14 feet to a 1/2" iron rod and plastic cap marked "RPLS 4413" found for a corner of Legends Park, Section 4, and a corner of this tract;

THENCE, along the boundary line of Legends Park, Section 4, N 48°03'12" W a distance of 18.81 feet to a 1/2" iron rod and plastic cap marked "RPLS 4413" found for a corner of Legends Park, Section 4, and for the northwest corner of this tract, from which a City of Midland Control Point marked "191/158" bears N 35°56'47" W a distance of 4913.50 feet;

THENCE, along the boundary line of Legends Park, Section 4, N 45°49'51" E a distance of 173.99 feet to a 1/2" iron rod and plastic cap marked "RPLS 4413" found in the west boundary line of Legends Park, Section 3, the east boundary line of the 108.712 acre tract of land, for a corner of Legends Park, Section 4, and the northeast corner of this tract;

THENCE, along the west boundary line of Legends Park, Section 3, and the east boundary line of the 108.712 acre tract of land, S 43°25'06" E a distance of 76.48 feet to a found 1/2" iron rod and plastic cap marked "RPLS 4413" found for a corner of Legends Park, Section 3, and the 108.712 acre tract of land for a corner of this tract;

THENCE, along the west boundary line of Legends Park, Section 3, and the east boundary line of the 108.712 acre tract of land, S 62°06'40" E a distance of 387.62 feet to a found 1/2" iron rod and plastic cap marked "RPLS 4413" found for a corner of Legends Park, Section 3, and the 108.712 acre tract of land for a corner of this tract;

THENCE, along the west boundary line of Legends Park, Section 3, and the east boundary line of the 108.712 acre tract of land, S 23°52'17" E a distance of 15.71 feet to a found 1/2" iron rod and plastic cap marked "RPLS 4413" found for a corner of Legends Park, Section 3, and the 108.712 acre tract of land for a corner of this tract;

THENCE, along the west boundary line of Legends Park, Section 3, and the east boundary line of the 108.712 acre tract of land, S 14°22'07" W at a distance of 172.32 feet pass a 1/2" iron rod and plastic cap marked "RPLS 4413" found for a corner of Legends Park, Section 3, and the 108.712 acre tract of land, continuing for a total distance of 341.24 feet to a point for a corner of this tract;

THENCE S 86°39'26" E at a distance of 141.68 feet pass a 1/2" iron rod and plastic cap marked "RPLS 4413" found for a corner of Legends Park, Section 3, and the 108.712 acre tract of land, continuing for a total distance of 165.64 feet to the POINT OF BEGINNING.

Bearing, Distances and Coordinates are based upon the Texas State Plane Coordinate System NAD 83 Central Zone and are relative to the City of Midland GPS Control Monuments as provided by the City of Midland. Acreages shown are surface values.



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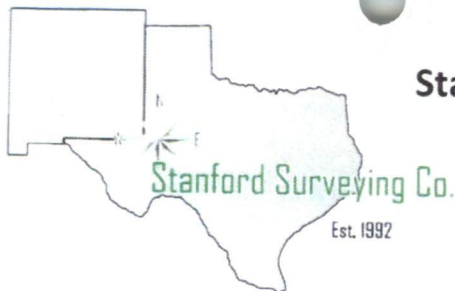
Fax 432-699-5510

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Michael L. Stanford





Stanford Surveying Company

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Office 432-699-5708
Fax 432-699-5510

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TRACT 3

METES AND BOUNDS DESCRIPTION of a 0.270 Acre Tract of Land out of a 108.712 acre tract of land, as described in Instrument No. 2012-3638, Official Public Records, Midland County, Texas, located in Section 37, Block 40, T-1-S, T. & P. RR. Co. Survey, Midland County, Texas.

BEGINNING at (N=10689457.65 & E=1730676.42) a ½" iron rod and plastic cap marked "RPLS 4413" found for a corner of Legends Park, Section 3, an addition to the City of Midland, being a subdivision of 20.226 acres of land in Section 37, Block 40, T-1-S, T. & P. RR. Co. Survey, Midland County, Texas, as recorded in Cabinet I, Page 106, Plat Records, Midland County, Texas, a corner of a 108.712 acre tract of land, as described in Instrument No. 2012-3638, Official Public Records, Midland County, Texas, located in Section 37, Block 40, T-1-S, T. & P. RR. Co. Survey, Midland County, Texas, and for the most northerly corner of this tract;

THENCE, along the west boundary line of Legends Park, Section 3 and the east boundary line of the 108.712 acre tract of land, S 30°04'06" E a distance of 198.63 feet to a ½" iron rod and plastic cap marked "RPLS 4413" found for a corner of Legends Park, Section 3, and a corner of the 108.712 acre tract of land and for the most southeast corner of this tract;

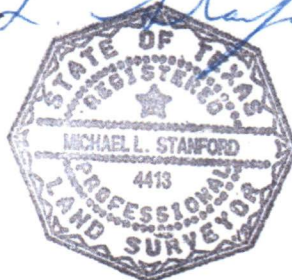
THENCE N 86°39'26" W a distance of 141.68 feet to a point for the southwest corner of this tract;

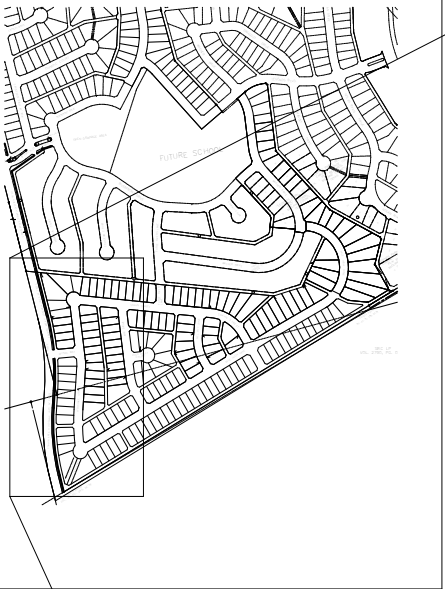
THENCE N 14°22'07" E a distance of 168.92 feet to the POINT OF BEGINNING.

Bearing, Distances and Coordinates are based upon the Texas State Plane Coordinate System NAD 83 Central Zone and are relative to the City of Midland GPS Control Monuments as provided by the City of Midland. Acreages shown are surface values.

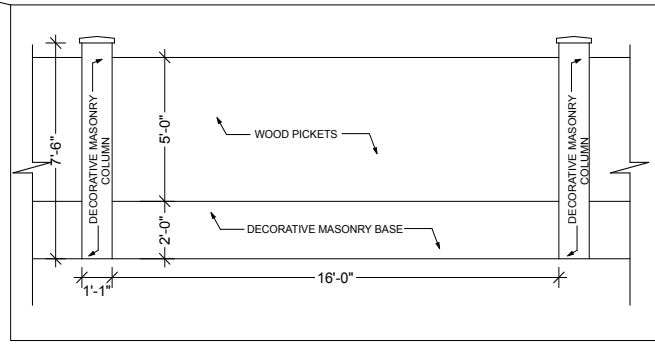
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Michael L. Stanford

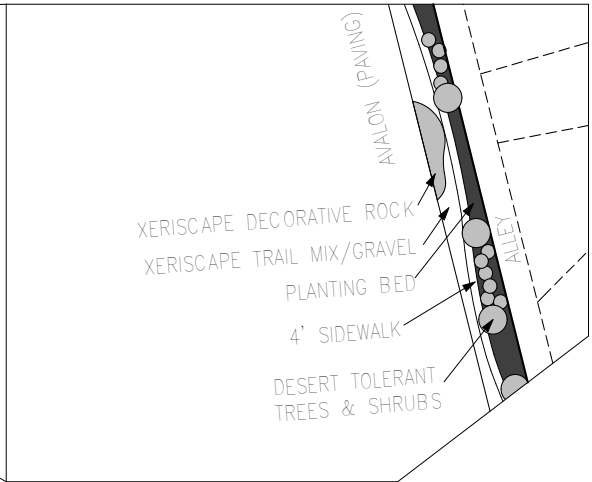




FENCE ELEVATION FOR
AVALON COMMON AREA H



AVALON COMMON AREA DETAIL



**BETTENBOUGH
HOMES**

PLAN: LEGENDS PARK SECTION 8

ADDRESS:

CUSTOMER: BETTENBOUGH HOMES

D1

**COMMON AREA
DETAIL**

PLANNING AND ZONING COMMISSION

November 4, 2013

CASE: Z-13-041.

REQUEST: Hold a public hearing and consider a request for a zone change from FD, Future Development District and PD, Planned District for a Housing Development to a PD, Planned District for a Housing Development.

APPLICANT/OWNER: Real Property Resources, Inc.

REPRESENTATIVE: Keith Smith.

LEGAL DESCRIPTION: A 46.722-acre tract out of Sections 37, 38 and 48, Block 40, T-1-S, T&P RR Company Survey, Midland County, Texas.

LOCATION: Generally located at the south extension of Avalon Drive, approximately 700 feet south of Hall of Fame Boulevard.

DETAILS OF REQUEST:

1. This is a request to rezone land that will be located within a plat to be called Legends Park, Section 8. The majority of this land is zoned FD District (40.498 acres). A portion is already zoned Planned District for a Housing Development (5.954 acres), as is a smaller tract (0.27 acres). The purpose of this application is to consolidate all of these parcels under the same zoning ordinance, which matches the preliminary plat. The Commission must first recommend approval of this request before it can consider the associated preliminary plat.

SURROUNDING ZONING AND LAND USE:

2. This property is bounded on the south and west by the City limit. It is bounded on the north and east sides by the Legends Park neighborhood.

ANALYSIS:

3. The plat associated with this proposed development has lots backing toward Avalon Drive, an arterial street. This is a condition the Subdivision Code prohibits unless the plat includes a decorative fence to screen the rear of the lots from view from Avalon Drive. The fence must be constructed within a common area created on the plat, and be owned and maintained by a Home Owners

Association. The applicant has submitted the attached Exhibit A to ensure the character of the screening fence. It illustrates a six-foot solid wood fence with masonry pilasters on 16-foot centers. This fence will be the same design as previously constructed along Legends Park. There will also be desert landscaping installed between the curb line and the screening fence. Since it will match the existing fences used for a similar screening requirement, we find this fence to be satisfactory.

STAFF RECOMMENDATION:

Staff recommends approval of this request for zone change from FD, Future Development District and PD, Planned District for a Housing Development to PD, Planned District for a Housing Development, subject to the following conditions:

- A. That this property shall be subject to the regulations of the 1F-3, One-Family Dwelling District, except as otherwise stated below.
- B. That the screening fence illustrated on Exhibit A shall be constructed between the rear of any residential lot and an abutting public right-of-way, within a common area to be established on the associated plat.
- C. No Certificate of Occupancy shall be issued to any structure on a residential lot where the rear of the lot abuts a public right-of-way until the fence described in Section B above is fully constructed.

Jim Compton, Planning Division Manager

Attachments:

Application
Maps
Exhibit A

Case Number: 2-13041

CITY OF MIDLAND

Planning Division

APPLICATION TO CHANGE ZONING CLASSIFICATION

Real Property Resources Inc 806-797-9494 Kelly.OwBetenbaugh.com
 Applicant Name (Phone/e-mail)

6305 82nd St Lubbock Tx 79424
 Address Zip Code

See Above
 Property Owner Name (Phone/e-mail)

Address Zip Code

Keith Smith 432-230-4221 Keith.S@betenbaugh.com
 Representative Name (Phone/e-mail)

Same as Above
 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. 40.498 Acre Tract of Land in Sections
37, 38 + 48 BIK 40, T-1-S, T+P RR Co Survey
Midland County Tx

PRESENT ZONE: FD REQUESTED ZONE: PDSF
 (List by tracts if more than one district is requested)

Reason for Zone Change Request: To develop Single Family Homes

Present Use of Property: VACANT LAND

Proposed Use of Property: Single Family Homes

How will zone change affect the public health, safety and welfare? NA

Describe how conditions affecting the property have changed since present zoning designation:
Still VACANT LAND - Surrounding Property has been developed
to Single Family

Is a Specific Use Permit with Term for alcoholic beverages sales needed? Yes ☒ No

APPLICATION FEES:

- Single, standard zone change: **\$400**. Multiple, standard zone change: add **\$100** per additional district.
- Single PD, Planned District zone change: **\$550**. Multiple PD proposal: add **\$100** per district.
- If a Traffic Impact Analysis is required, a fee of up to \$500.00 will be assessed.

SITE PLAN SUBMITTALS *(if applicable):*

16 copies (FOLDED) of the PD site plan: _____

Site Plan in digital format .pdf and .jpg: _____

SIGNATURE *(by property owner only - authorized agent must sign affidavit below)*

Property Owner (signature):  Date: 8/27/13

If an Agent is authorized by the property owner to file and execute the application on behalf of the property owner, the Agent must complete the affidavit below.

STATE of TEXAS
COUNTY OF MIDLAND

Before me, the undersigned authority, on this day personally appeared

_____ who, being by me duly sworn, upon oath says: That (s)he is authorized by _____, the owner of the above described property, to fully represent him/her in this application and that (s)he had the legal right, power and authority to sign said owner's name hereto as his/her attorney in fact.

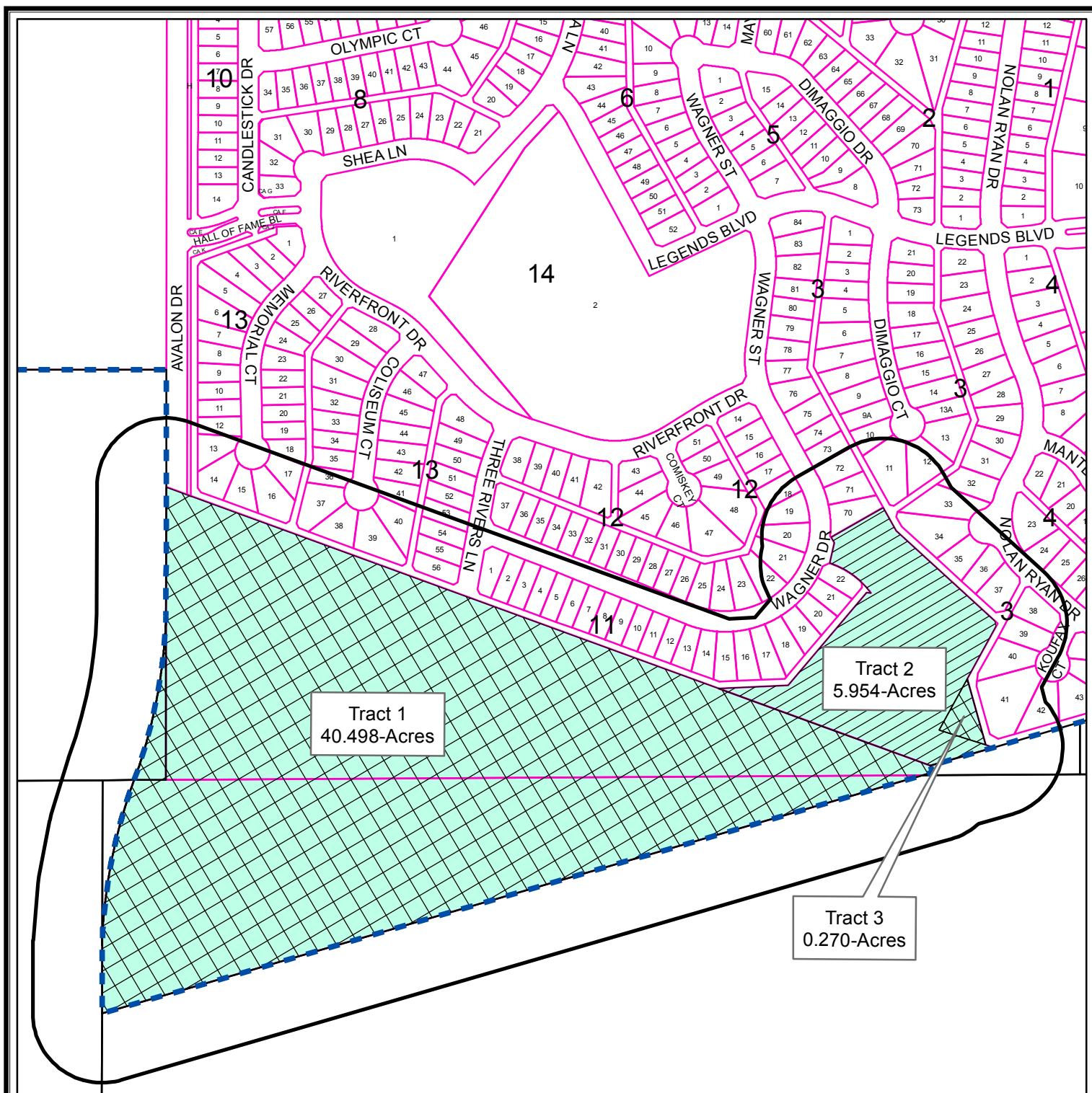
Authorized Agent (signature)

Subscribed and sworn to before me, this _____ day of _____, 20 __, to certify which witness my hand and seal of office.

NOTARY PUBLIC, MIDLAND COUNTY, TEXAS

FOR OFFICE USE ONLY	
Rec'd By: <u>TJS</u>	Date: <u>8/30</u>
Assigned: <u>JC</u>	
For: <u>P+Z</u>	On: <u>11/4/13</u>

****Application will not be considered for scheduling until reviewed by a planner.****



PROPERTY OWNER NOTIFICATION MAP

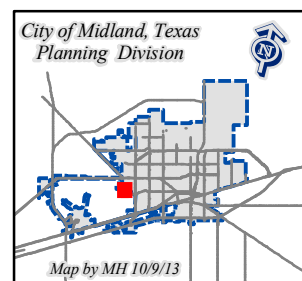
Consider a request for a zone change from FD, Future Development District, to PD, Planned District for a Housing Development on a 40.498-acre tract of land (Tract 1) out of Sections 37, 38 and 48; from PD, Planned District for a Housing Development, to an Amended Planned District on a 5.954-acre tract of land (Tract 2) and from PD, Planned District for a Housing Development, to an Amended Planned District on a 0.270-acre tract of land (Tract 3) all out of Section 37, both out of Block 40, T-1-S, T & P RR Co. Survey, City and County of Midland, Texas.

Z - 13 - 041

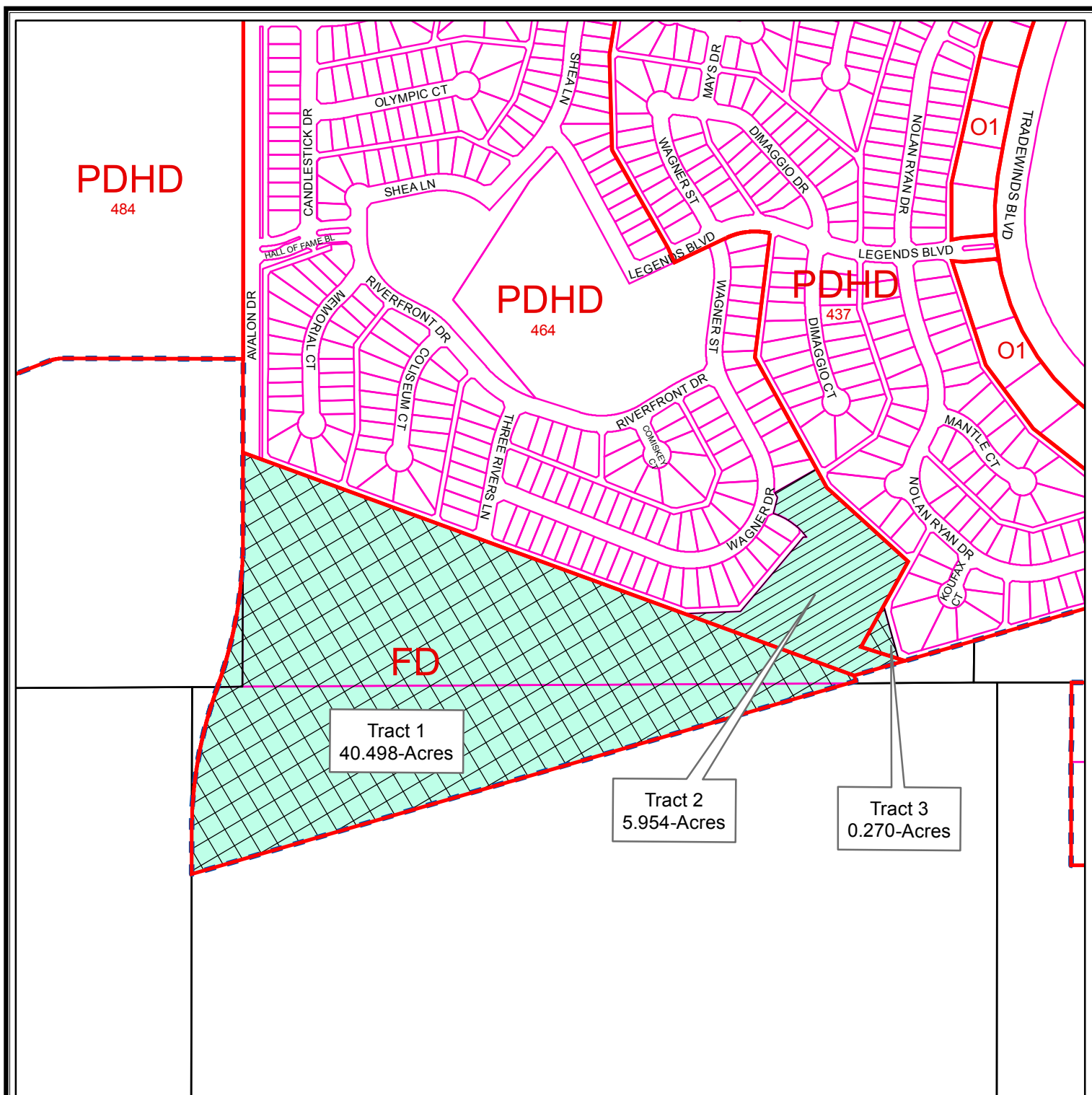
Scale: 1" = 450'

LEGEND

- CITY LIMITS
- COUNTY PARCEL
- CITY PARCEL
- PRIVATE BLDGS
- ACCESSORY BLDGS



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ZONING MAP

Consider a request for a zone change from FD, Future Development District, to PD, Planned District for a Housing Development on a 40.498-acre tract of land (Tract 1) out of Sections 37, 38 and 48; from PD, Planned District for a Housing Development, to an Amended Planned District on a 5.954-acre tract of land (Tract 2) and from PD, Planned District for a Housing Development, to an Amended Planned District for a Housing Development on a 0.270-acre tract of land (Tract 3) all out of Section 37, both out of Block 40, T-1-S, T & P RR Co. Survey, City and County of Midland, Texas.

Z - 13 - 041

LEGEND

Scale: 1" = 500'

 ZONING

CITY LIMITS

 CITY PARCELS

 COUNTY PARCELS

ZONING DISTRICTS:

FD FUTURE DEVELOPMENT
PD PLANNED DISTRICT
AE AGRICULTURE ESTATE
CE COUNTRY ESTATE
IF1, IF2, IF3 ONE-FAMILY DWELLING
MH MOBILE HOME DWELLING
TH TOWNHOUSE DWELLING
2F TWO-FAMILY DWELLING
MF1, MF2 MULTIPLE FAMILY DWELLING

BP BUSINESS PARK
P PARKING
O1, O2 OFFICE
NS NEIGHBORHOOD SERVICE
LR1, LR2, LR3 LOCAL RETAIL
C1, C2, C3 COMMERCIAL
IP, IP1, IP2, IP3 INDUSTRIAL PARK
LI LIGHT INDUSTRY
HI HEAVY INDUSTRY

BP BUSINESS PARK
P PARKING
O1, O2 OFFICE
NS NEIGHBORHOOD SERVICE
LR1, LR2, LR3 LOCAL RETAIL
C1, C2, C3 COMMERCIAL
IP, IP1, IP2, IP3 INDUSTRIAL PARK
LI LIGHT INDUSTRY
HI HEAVY INDUSTRY

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City Council Agenda

Approved for Agenda:

City Manager's Office

MEETING DATE: November 26, 2013

TO: CITY COUNCIL/CITY MANAGER

FROM: Jim Compton, Planning Division Manager

SUBJECT: Hold a public hearing at approximately 10:33 a.m. and consider an ordinance on a request by Vision Health Specialties for a zone change from PD, Planned District for Shopping Center, to O-1, Office District, on a 0.287-acre tract of land out of Section 18, Block 39, T-1-S, T&P RR Co. Survey and on Lot 2A, Block 45, Fairmont Park Addition, Section 23, City and County of Midland, Texas. (Generally located on the west side of N. Midland Drive, approximately 780 feet south of W. Loop 250 North.) – District 1.

Purpose:

Hold a public hearing at approximately 10:33 a.m. and consider an ordinance on a request by Vision Health Specialties for a zone change from PD, Planned District for Shopping Center, to O-1, Office District.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Direction/Informational

Fiscal Impact:

No City funds are required to process this request.

Discussion:

The applicant's property is located on the west side of Midland Drive, 780 feet south of W. Loop 250 North, and adjacent to the Northwest Drainage Channel. The applicant wishes to expand the existing Vision Health Specialties building to the north, and, thus, must replat and rezone the property. A portion of the drainage channel easement to the north was previously vacated, so the property will have to be replatted to include this vacation. The current zoning of the property is a Planned District for a Shopping

Center, which includes an approved site plan with several restrictions. Rather than amend the site plan, staff recommended the applicant rezone the property to an O-1, Office District. We find the zone change request to be reasonable as the O-1 District is appropriate for professional and administrative uses such as the existing use on the site; the O-1 District would be more restrictive than the initial LR-2 underlining zoning of the Planned District; and because rezoning to an Office District would reduce the need for a site plan, and would allow greater flexibility to the owner. Staff will still have the opportunity to review the site administratively to ensure it meets all City Code requirements. No opposition was received. The Planning and Zoning Commission voted unanimously for approval, and staff concurs.

Attachments:

Application
Maps
November 4, 2013 Staff Report
Metes and Bounds
Proposed Ordinance

ORDINANCE NO. _____

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 0.287-ACRE TRACT OF LAND OUT OF SECTION 18, BLOCK 39, T-1-S, T&P RR CO. SURVEY, AND LOT 2A, BLOCK 45, FAIRMONT PARK ADDITION, SECTION 23, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A SHOPPING CENTER, TO BE USED AS AN O-1, OFFICE DISTRICT (GENERALLY LOCATED ON THE WEST SIDE OF NORTH MIDLAND DRIVE, APPROXIMATELY 780 FEET SOUTH OF WEST LOOP 250 NORTH; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

WHEREAS, the City Planning and Zoning Commission and the Governing Body of the City of Midland, in compliance with the City Charter and the State law with reference to the creation of Districts under the zoning ordinance regulations and zoning map, have given the requisite notices by United States mail, publication and otherwise; and after a full and fair hearing to all of the property owners generally and particularly to those interested persons situated in the affected area and in the vicinity thereof, the Governing Body finds that the public health, safety and general welfare will be best served by the creation of an O-1, Office District, as set out hereinafter;

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

SECTION ONE. That Chapter 1, Title XI, of the City Code of Midland, Texas, and the official zoning map of the City of Midland, Texas, are hereby amended insofar as the hereinafter described property is concerned, which is presently zoned PD, Planned District for a Shopping Center, and it shall be used as an O-1, Office District, said property being described as follows:

A 0.287-acre tract of land out of Section 18, Block 39, T-1-S, T&P RR Co. Survey, and Lot 2A, Block 45, Fairmont Park Addition, Section 23, City and County of Midland, Texas, said 0.287-acre tract being more specifically described by metes and bounds in Exhibit "A", which is attached hereto and incorporated herein.

SECTION TWO. That the definitions given in the zoning regulations contained in the City Code of the City of Midland, Texas, shall be applicable to such of those terms as are used herein.

SECTION THREE. The provisions of this ordinance are to be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent with or in conflict with any of the provisions of this ordinance are hereby expressly repealed to the extent of any such inconsistency or conflict.

SECTION FOUR. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this ordinance. The Council of the City of Midland hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

SECTION FIVE. The penalty for violation of this ordinance shall be in accordance with the general penalty provisions contained in Section 1-3-1 of the City Code of Midland, Texas, which provides for a fine not exceeding two thousand dollars (\$2,000.00).

SECTION SIX. The City Secretary is hereby authorized and directed to publish the descriptive caption of this ordinance in the manner and for the length of time prescribed by the law as an alternative method of publication.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the _____ day of _____, A.D., 2013; and passed to second reading on motion of Council member _____, seconded by Council member _____, by the following vote:

Council members voting “AYE”:

Council members voting "NAY":

The above and foregoing ordinance was read in full and finally adopted by the following vote upon motion of Council member _____, seconded by Council member _____, on the _____ day of _____, A.D., 2013, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2013.

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

Robert Patrick, Assistant to the City Manager

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

DESCRIPTION

OF A

VACATED AND ABANDONED PARCEL PER ORDINANCE 8313
VOL. 2525, PG. 214, DEED RECORDS OF MIDLAND CO., TEXAS

A tract of land situated within Section 18, Block 39, Township 1 South, T. & P. RR. Co. Survey, Midland County, Texas and being the same tract of land as described in Ordinance No. 8313 as filed for record in Volume 2525 at Page 214 of the Deed Records of Midland County, Texas. Said tract of land being more particularly described by metes and bounds as follows:

Beginning at a 1/2" rebar with a cap marked "West Co Midland" found, on the West right-of-way line of N. Midkiff Drive, for the Northeast corner of Lot 2A, Block 45, Fairmont Park Addition, Section 23 and addition to the City of Midland, Texas according to the map or plat thereof filed for record in Cabinet E at Page 157 of the Plat Records of Midland County, Texas;

Thence S 75°35'36" W, along the common boundary line of the tract of land herein described and the aforementioned Lot 2A, 270.07 feet to a 1/2" rebar with a cap marked "West Co Midland" found for a point of curvature;

Thence Southwesterly 30.00 feet, along the arc of a curve to the left, having a radius of 940.00 feet, a central angle of 01°49'43" and a chord which bears S 74°40'44" W, 30.00 feet to a 1/2" rebar with a cap marked "West Co Midland" found for the common North corner of said Lot 2A and Lot 1, Block 45, Fairmont Park Addition, Section 10 an addition to the City of Midland, Texas according to the map or plat thereof filed for record in Cabinet F at Page 88 of the Plat Records of Midland County, Texas;

Thence N 14°24'24" W, 24.01 feet to a 1/2" rebar with a cap marked "West Co Midland" found for the Northwest corner of the tract of land herein described;

Thence N 68°42'03" E, 302.29 feet to a 1/2" rebar with a cap marked "West Co Midland" found, on the above-mentioned West right-of-way line, for the Northeast corner of the tract of land herein described;

Thence S 14°22'05" E, along the aforementioned West right-of-way line, 59.81 feet to the Point of Beginning.

Said tract of land containing 12,509 square feet or 0.287 acre, more or less.



CASE NO. 2-13-047

PLANNING AND ZONING COMMISSION

November 4, 2013

CASE: Z-13-047, Vision Health Specialties.

REQUEST: Hold a public hearing and consider a request for a zone change from PD, Planned District for Shopping Center, to O-1, Office District.

OWNER: Vision Health Specialties.

REPRESENTATIVE: Maverick Engineering.

LEGAL DESCRIPTION: On a 0.287-acre tract of land out of Section 18, Block 39, T-1-S, T&P RR Co. Survey and on Lot 2A, Block 45, Fairmont Park Addition, Section 23, City and County of Midland, Texas.

LOCATION: Generally located on the west side of N. Midland Drive, approximately 780 feet south of W. Loop 250 North.

CURRENT ZONING: PD, Planned District for Shopping Center.

ASSOCIATED CASE: P-13-089, Fairmont Park Addition, Section 46.

DETAILS OF REQUEST:

1. The applicant's property, location of the Vision Health Specialties building, is located on the west side of Midland Drive, 780 feet south of W. Loop 250 North, and adjacent to the Northwest Drainage Channel. The applicant wishes to expand the building, and in order to do so, the property must be replatted and rezoned. The current zoning of the property is a Planned District for a Shopping Center, which includes an approved site plan that limits the building envelop and limits the building to 6,000 square feet, as well as other restrictions. The proposed expansion would violate the current Planned District. Rather than amending the Planned District, staff recommended the applicant rezone the property to an O-1, Office District. The O-1 District allows for medical offices, so the current use of the property would meet this requirement.

SURROUNDING ZONING AND LAND USE:

2. This applicant's property is about 780 feet south of Loop 250 North, particularly directly south of the Northwest Drainage Channel, and west of Midland Drive.

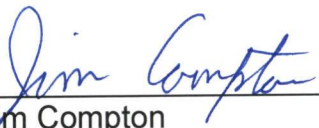
The properties to the north, west, and south of the property are all zoned PD, Planned District for Shopping Center. The buildings to north include Sonic and Staples, and to the west and south is the location of Home Depot, Target, and Western National Bank. To the east across Midland Drive are a 1F-2 and 1F-3, One-Family Dwelling Districts.

ANALYSIS:

3. The property was last replatted as Fairmont Park Addition, Section 23, on October 1998. It was zoned as PD, Planned District for Shopping Center, with an underlining zoning of LR-2, Local Retail District, also in October 1998. In May 2005, a vacation abandoning a portion of the drainage channel easement was approved and sold to the property owner. The building already exists on the property, but the applicants are now wishing to expand to the north. The property will need to be replatted to include the portion of the drainage channel which was vacated and will need to be rezoned. Instead of amending the Planned District and going through the site plan approval process, staff recommended the rezoning to an O-1, Office District. According to the Comprehensive Plan, office land uses are appropriate for professional and administrative uses, such as with the existing use of the building on the site. Additionally, the O-1 District would be more restrictive than the initial LR-2 District, which is the underlining zoning of the Planned District. Staff will also have the opportunity to review the site administratively to ensure it meets all City Code requirements. Finally, rezoning to an Office District would reduce the burden of a site plan, and would allow for greater flexibility to the owners by not restricting the site to specific conditions in an ordinance. For these reasons, we find the zone change request to be reasonable.

STAFF RECOMMENDATION:

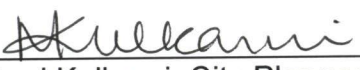
Staff recommends approval of this request for a zone change from PD, Planned District for Shopping Center, to O-1, Office District.



Jim Compton
Planning Division Manager
Department of Development Services

Attachments:

Application
Maps



Madhuri Kulkarni, City Planner
Department of Development Services

Case Number: Z-13-047

CITY OF MIDLAND
Planning Division

APPLICATION TO CHANGE ZONING CLASSIFICATION

Maverick Engineering - Stephen Marcum 432-262-0616 smarcum@maverick-eng.com
Applicant Name (Phone/e-mail)

P.O. Box 6040 Midland, Tx 79704
Address Zip Code

Vision Health Specialties 432-352-0788 chad@midland-dci.com
Property Owner Name (Phone/e-mail)

4109 N. Midland Drive Midland, Tx 79707
Address Zip Code

Same as Applicant
Representative Name (Phone/e-mail)

Address Zip Code
Street address and Legal Description of property (complete Lot, Block, and Subdivision Name or if unplatted, attach a Metes and Bounds description with surveyor's seal). Each district must be described separately. 4109 N. Midland Drive
Lot 2A in block 45, Fairmont Park, Section 23

PRESENT ZONE: PDSC REQUESTED ZONE: 01
(List by tracts if more than one district is requested)

Reason for Zone Change Request: Addition to existing building,
rezone to correct use.

Present Use of Property: Office - Vision Health Specialties (VHS)

Proposed Use of Property: Office - VHS

How will zone change affect the public health, safety and welfare? It will not
impact public health.

Describe how conditions affecting the property have changed since present zoning designation:
A portion of the drainage easement was never used,
addition to the building will make better use of vacant land.

Is a Specific Use Permit with Term for alcoholic beverages sales needed? Yes ☒ No

APPLICATION FEES:

- Single, standard zone change: \$400. Multiple, standard zone change: add \$100 per additional district.
- Single PD, Planned District zone change: \$550. Multiple PD proposal: add \$100 per district.
- If a Traffic Impact Analysis is required, a fee of up to \$500.00 will be assessed.

SITE PLAN SUBMITTALS (if applicable):

16 copies (FOLDED) of the PD site plan:

Site Plan in digital format .pdf and .jpg:

✓
✓

SIGNATURE (by property owner only - authorized agent must sign affidavit below)

Property Owner (signature): _____ Date: _____

If an Agent is authorized by the property owner to file and execute the application on behalf of the property owner, the Agent must complete the affidavit below.

STATE of TEXAS
COUNTY OF MIDLAND

Before me, the undersigned authority, on this day personally appeared

Stephen Marcum who, being by me duly sworn, upon oath says: That (s)he is authorized by Vision Health Specialties 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.

[Signature]

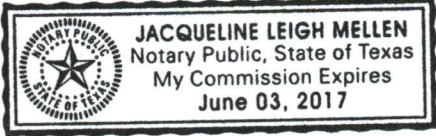
Authorized Agent (signature)

Subscribed and sworn to before me, this 8 day of OCTOBER, 20 13, to certify which witness my hand and seal of office.

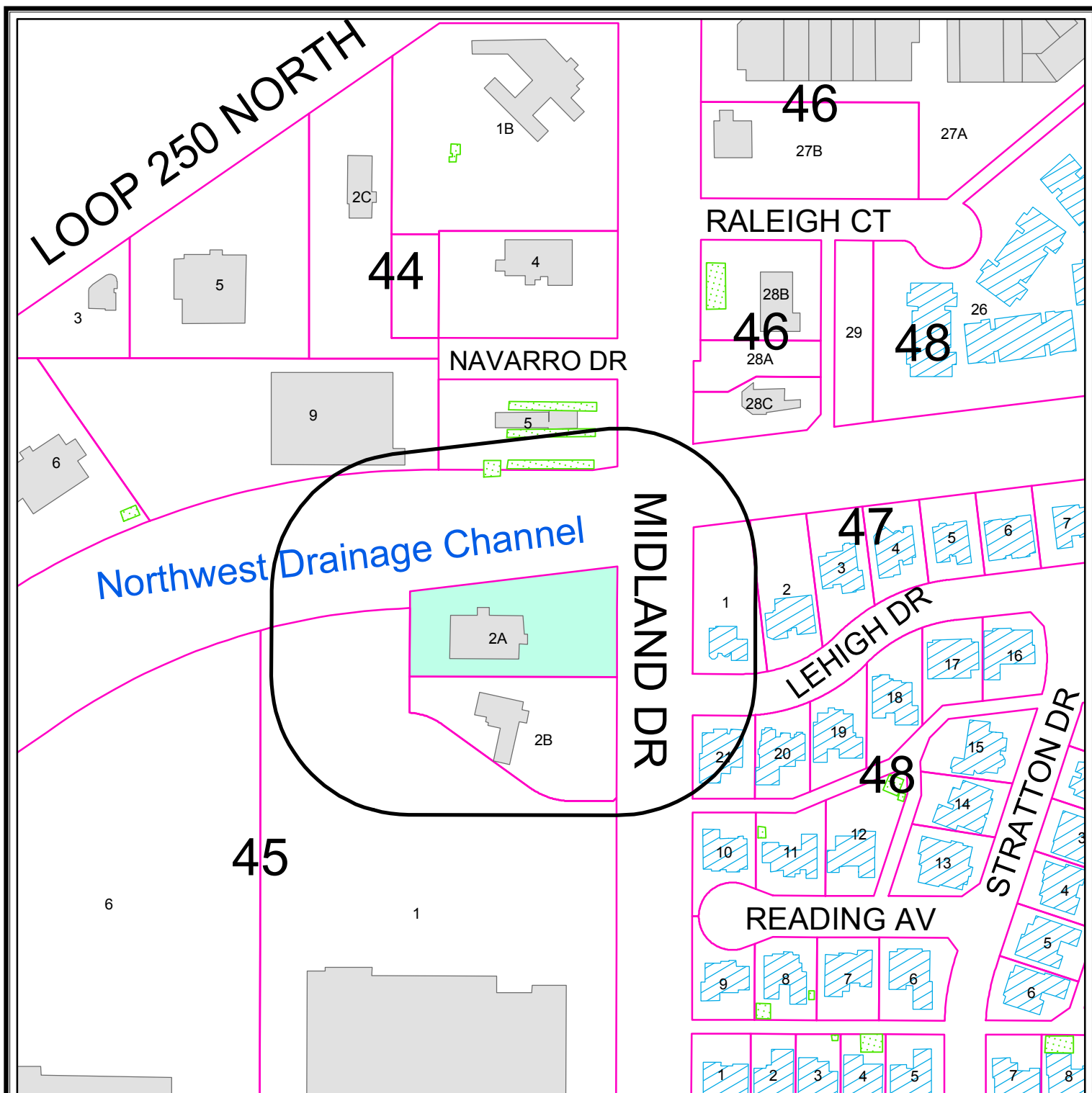
(Jim)

Jacqueline Leigh Mellen
NOTARY PUBLIC, MIDLAND COUNTY, TEXAS

FOR OFFICE USE ONLY	
Rec'd By: _____	Date: _____
Assigned: <u>MK</u>	
For: <u>P&Z</u>	On: <u>11/4/13</u>



****Application will not be considered for scheduling until reviewed by a planner.****



PROPERTY OWNER NOTIFICATION MAP

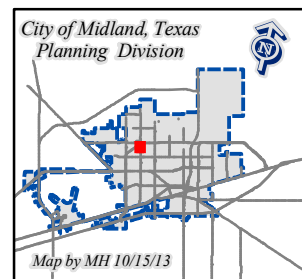
Z - 13 - 047

Scale: 1" = 200'

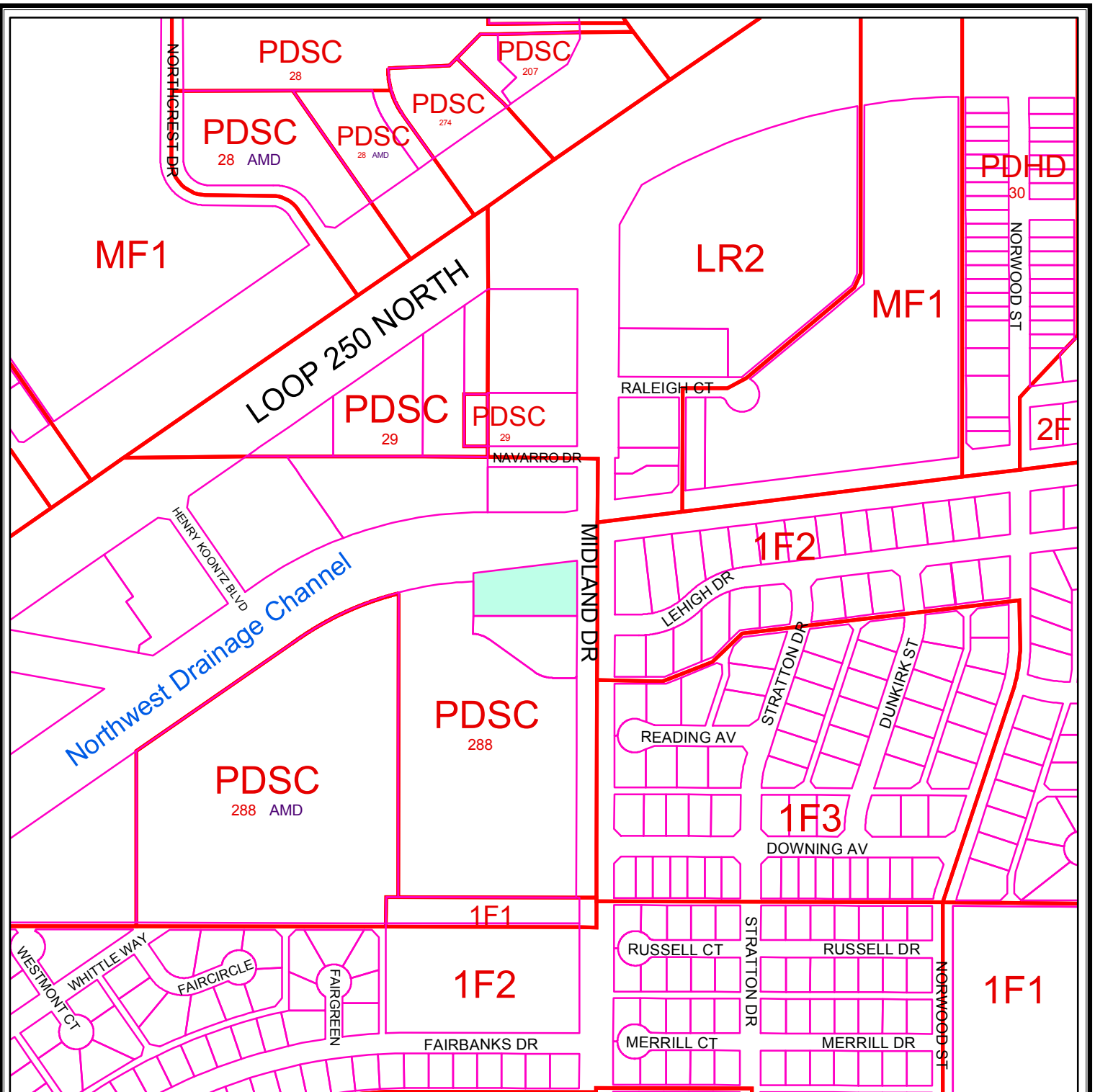
Consider a request for a zone change from PD, Planned District for a Shopping Center, to O-1, Office District on a 0.287-acre tract of land out of Section 18, Block 39, T-1-S, T & P RR Co. Survey and on Lot 2A, Block 45, Fairmont Park Addition, Section 23, City and County of Midland, Texas.

LEGEND

- CITY LIMITS
- 200 FT. LEGAL NOTICE LIMIT
- PARCEL
- PUBLIC BLDGS
- PRIVATE BLDGS
- ACCESSORY BLDGS



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ZONING MAP

Z - 13 - 047

Scale: 1" = 400'

Consider a request for a zone change from PD, Planned District for a Shopping Center, to O-1, Office District on a 0.287-acre tract of land out of Section 18, Block 39, T-1-S, T & P RR Co. Survey and on Lot 2A, Block 45, Fairmont Park Addition, Section 23, 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:
rpatrick
City Manager's Office

MEETING DATE: November 26, 2013

TO: CITY COUNCIL/CITY MANAGER

FROM: Jim Compton, Planning Division Manager

SUBJECT: Hold a public hearing at approximately 10:39 a.m. and consider an ordinance on a request by Nemecio Torres for an Amended Specific Use Permit With Term for the sale of all alcoholic beverages, for on-premises consumption, in a restaurant, on a 6,369 square foot portion of the west 24.25 feet of Lot 9 and all of Lots 10-12, Block 65, Original Town, City and County of Midland, Texas. (Generally located on the southeast corner of the intersection of W. Wall Street and S. Colorado Street.)

Purpose: Hold a public hearing at approximately 10:39 a.m. and consider an ordinance on a request by Nemecio Torres for an Amended Specific Use Permit With Term for the sale of all alcoholic beverages, for on-premises consumption, in a restaurant, on a 6,369 square foot portion of the west 24.25 feet of Lot 9 and all of Lots 10-12, Block 65, Original Town, City and County of Midland, Texas. District – 2.

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

There is no cost to the City to process this request.

Discussion:

The applicant received approval from the City Council for a Specific Use Permit in 2007 for on-premise consumption of alcohol in a restaurant. Nemecio Torres now wishes to expand the area of alcoholic beverage sales from 2,285 square feet to 3,625 square feet. Therefore, they have submitted this request to amend the existing permit. The restaurant floor area is approximately 3,625 square feet and the seating capacity is 240. At the November 4, 2013 the Planning and Zoning Commission meeting the Commission approved the request for the Specific Use Permit.

Attachments: Proposed Ordinance, Exhibit A & B

ORDINANCE NO. _____

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS A 6,369 SQUARE FOOT PORTION OF THE WEST 24.25 FEET OF LOT 9 AND ALL OF LOTS 10-12, BLOCK 65, ORIGINAL TOWN, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTHEAST CORNER OF THE INTERSECTION OF WEST WALL STREET AND SOUTH COLORADO STREET), WHICH IS PRESENTLY ZONED C-1, CENTRAL AREA DISTRICT, BY PERMITTING SAID PROPERTY TO BE USED UNDER A SPECIFIC USE PERMIT WITH TERM FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A RESTAURANT FOR ON-PREMISES CONSUMPTION; MAKING SAID PERMIT SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

WHEREAS, the City Planning and Zoning Commission and the Governing Body of the City of Midland, Texas, in compliance with the City Charter and the State law with reference to the granting of specific use permits under the zoning ordinance regulations and zoning map, have given the requisite notices by United States mail, publication and otherwise; and after holding due hearings affording a full and fair hearing to all of the property owners generally, and particularly to those interested persons situated in the affected area and in the vicinity thereof, the Governing Body of the City of Midland finds that the public convenience will be best served by the granting of a Specific Use Permit With Term, set out hereinafter, on the property described in Section One hereof;

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

SECTION ONE. That the zoning use classification of the following described property, which is presently zoned C-1, Central Area District, to-wit:

A 6,369 square foot portion of the west 24.25 feet of Lot 9 and all of Lots 10-12, Block 65, Original Town, City and County of Midland, Texas;

is hereby changed to permit said property to be used under a Specific Use Permit With Term

for the sale of all alcoholic beverages for on-premises consumption in a restaurant, together with the uses permitted in the present C-1, Central Area District.

SECTION TWO. That said property shall be subject to the following conditions and restrictions:

- A. That the restaurant shall be limited to 3,625 contiguous square feet in area and a maximum seating capacity of 240.
- B. That the days and hours of alcoholic beverage sales and consumption shall be limited to Monday through Saturday from 10:30 a.m. to 12:00 a.m. (Midnight), and Sunday from 12:00 p.m. (Noon) to 12:00 a.m. (Midnight).
- C. That the sale and on-premise consumption of alcoholic beverages shall conform to all applicable laws established by the City of Midland and the State of Texas.
- D. That the applicant shall obtain a Certificate of Occupancy to ensure compliance with the conditions of this permit.

SECTION THREE. The provisions of this ordinance are to be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances, inconsistent with or in conflict with any of the provisions of this ordinance are hereby expressly repealed to the extent of any such inconsistency or conflict.

SECTION FOUR. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this ordinance. The Council of the City of Midland hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

SECTION FIVE. The penalty for violation of this ordinance shall be in accordance with the general penalty provisions contained in Section 1-3-1 of the City Code of Midland, Texas, which provides for a fine not exceeding two thousand dollars (\$2,000.00).

SECTION SIX. The City Secretary is hereby authorized and directed to publish the descriptive caption of this ordinance in the manner and for the length of time prescribed by

the law as an alternative method of publication.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the _____ day of _____, A.D., 2013; and passed to second reading on motion of Council member _____, seconded by Council member _____, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

The above and foregoing ordinance was read in full and finally adopted by the following vote upon motion of Council member _____, seconded by Council member _____, on the _____ day of _____, A.D., 2013, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2013.

W. Wesley Perry, Mayor

ATTEST:

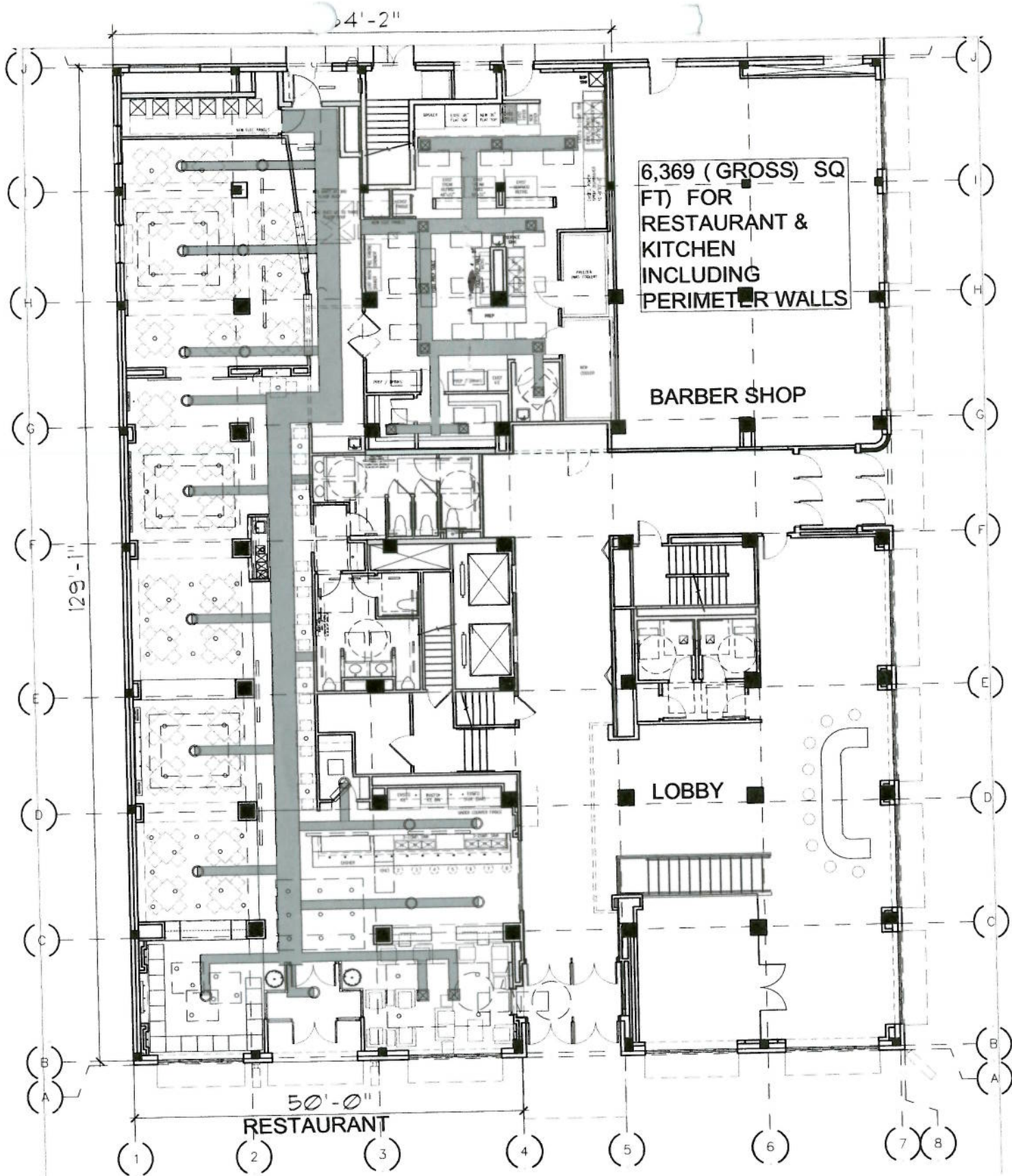
Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

Robert Patrick, Assistant to the City Manager

APPROVED AS TO FORM:

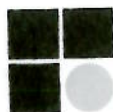
Keith Stretcher, City Attorney



ASD-02 - 11.07.12

OCT - 7 2013

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Jason S Dean Architects, LLC
ARCHITECTURE | PLANNING
MIDLAND | ODESSA
JASONSOTTDEAN.COM
JASON@JASONSDEAN.COM
214.417.7035

CANCUN GRILL



NEMECKO TORRES & JAVIER VALLÉS
223 W. WALL STREET, SUITE 121, MIDLAND, TEXAS

CITY OF MIDLAND
PLANNING DEPARTMENT

CASE NO. S-13-015 26.6

PLANNING AND ZONING COMMISSION

November 4, 2013

CASE: S-13-015, Nemecio Torres.

REQUEST: Hold a public hearing and consider a request for a Specific Use Permit with Term for on-premise consumption of alcoholic beverages in a restaurant.

APPLICANT: Nemecio Torres.

OWNER: Nemecio Torres.

LEGAL DESCRIPTION: 6,369 square foot portion of the west 24.25 feet of Lot 9 and all of Lots 10-12, Block 65, Original Town, City and County of Midland, Texas.

LOCATION: Generally located on the southeast corner of the intersection of W. Wall Street and S. Colorado Street.

CURRENT ZONING: C-1, Central Area District.

DETAILS OF REQUEST:

1. The applicant received approval of a Specific Use Permit in 2007 for on-premise consumption of alcohol in a restaurant. They now wish to expand the area of alcoholic beverage sales from 2,285 square feet to 3,625 square feet. Therefore, they have submitted this request to amend the existing permit. The restaurant floor area is approximately 3,625 square feet and the seating capacity is 240.

SURROUNDING ZONING AND LAND USE:

2. The proposed SUP is located in a C-1 District. Southeast across the Union Pacific Railroad is C-3 District. Located to the west of the site is a Planned District for a Housing Development. There are 12 businesses that serve alcohol within a mile radius of the restaurant.

ANALYSIS:

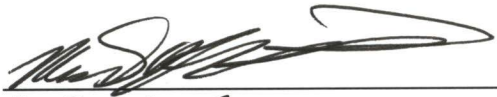
3. The Cancun Grill has 3,625 contiguous square feet of floor area. The City of Midland Building Official has determined that the maximum seating capacity is 240 seats. Cancun Grill has an existing Special Use Permit

that was to be renewed in June 2013. However, it was determined that because of the restaurant expansion a new Special Use Permit is required. The previous Special Use Permit allowed for a maximum 2,285 contiguous square feet in area and a maximum seating capacity not exceed 80 people.

STAFF RECOMMENDATION:

Staff recommends approval of this request for a Specific Use Permit with Term for the sale of all alcoholic beverages for on-site consumption in a restaurant, together with the uses permitted in the present C-1, Central Area District; we recommend that any approval be subject to the following conditions:

1. That the restaurant shall not exceed 3,625 contiguous square feet of floor area and a maximum seating capacity of 240.
2. That the days and hours of alcoholic beverage sales shall be limited to Monday through Saturday from 10:30 a.m. to 12:00 midnight, and Sunday from 12:00 noon to 12:00 midnight.
3. That the use and operation of this restaurant shall conform with all the laws of the State of Texas and the regulations pertaining to the sale and consumption of alcoholic beverages specified in Section 11-1-10(c)(1) of the Midland City Code as amended from time to time.
4. The applicant shall obtain a Certificate of Occupancy to ensure the conditions of this permit are followed.



Jim Compton *FCM*
Planning Division Manager
Department of Development Services



Robert Baronti, Jr., AICP
Sr. Planner
Department of Development Services

Attachments:

Application
Map

Case Number: 513015**CITY OF MIDLAND**
Planning Division**APPLICATION FOR A SPECIFIC USE PERMIT WITH TERM**
FOR THE SALE OF ALCOHOLIC BEVERAGES
FOR ON-PREMISE CONSUMPTION

NEMECIO TORRES 932-770-7982 NTORRES44@HOTMAIL.COM
Applicant Name Phone/e-mail
223 W WALL MIDLAND TX 79703
Address Zip Code

Property Owner Name Phone/e-mail
Address Zip Code

Operator (if different from Applicant or Property Owner) Phone/e-mail
Carmona Grill 932-618-0390
Address Zip Code

Type of Business: RESTAURANT BAR
(Restaurant, Bar, Lounge, Nightclub, etc.)

Street address and Legal Description of property on which SUP is desired (complete Lot, Block, and Subdivision name, or if unplatted, attach a Metes and Bounds description with surveyor's seal.)

223 W WALL MIDLAND TX 79703

Current Zoning: _____

Seating Floor Area: 3,625 FT Max. Seating Capacity: ~~100~~ 240

Proposed hours and days of alcoholic beverage sales LUNCH 11:00 TO 1:45
DINNER 5:30 TO 9:00 PM

Reason for request: SALE OF ALCOHOLIC BEVERAGE
WITH FOOD AT THE RESTAURANT

Restroom fixtures: Men - Toilets / Urinals / Bathroom Sinks /
EXPANDED OF POT Women - Toilets / Bathroom Sinks /

REQUIRED SUBMITTALS

1. Application fee: \$300 ✓.
2. Site plan - 16 copies (FOLDED) _____.
3. On a CD in .pdf and .jpg digital format _____.

SIGNATURES:Applicant: Nemecio Torres

Date: _____

Property Owner: LundyDate: 9.12.13

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

Nemecio Torres who, being by me duly sworn, upon oath says: That (s)he is authorized by Nemecio Torres, the owner of the above described property, to fully represent him/her in this application and that (s)he had the legal right, power and authority to sign said owner's name hereto as his/her attorney in fact.

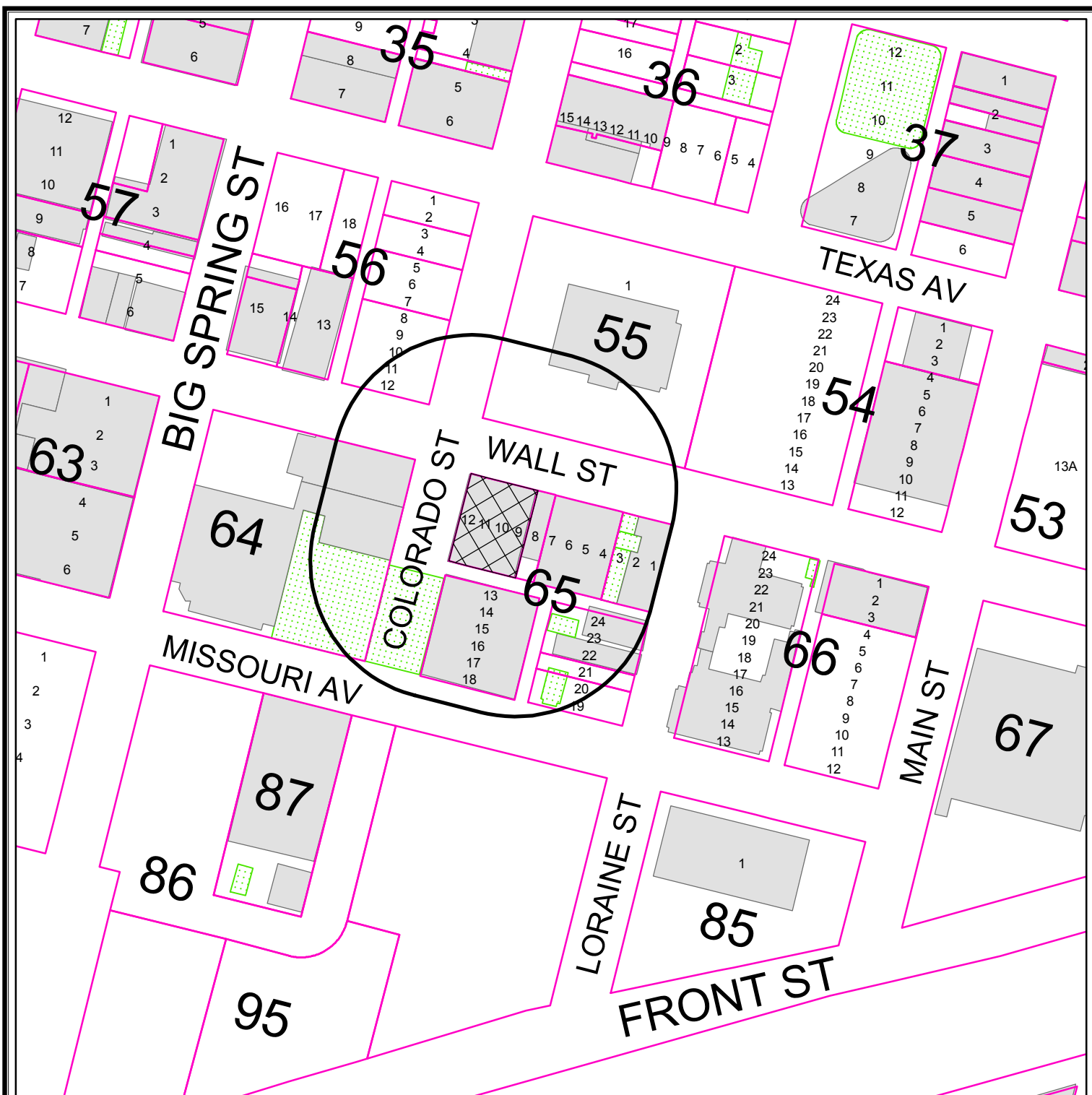
Subscribed and sworn to before me, this 18 day of September, 20 13, to certify which witness my hand and seal of office.

Lora Iglesias
NOTARY PUBLIC, MIDLAND COUNTY, TEXAS

FOR OFFICE USE ONLY	
Rec'd By: <u>MM</u>	Date: <u>10-7-13</u>
Assigned: <u>BB</u>	
For: <u>P&Z</u>	On: <u>11/4/13</u>



****Application will not be considered for scheduling until reviewed by a planner.****



PROPERTY OWNER NOTIFICATION MAP

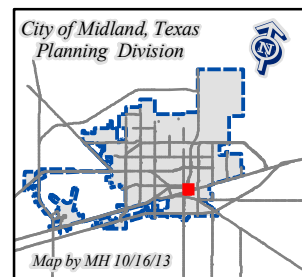
S - 13 - 015

Scale: 1" = 200'

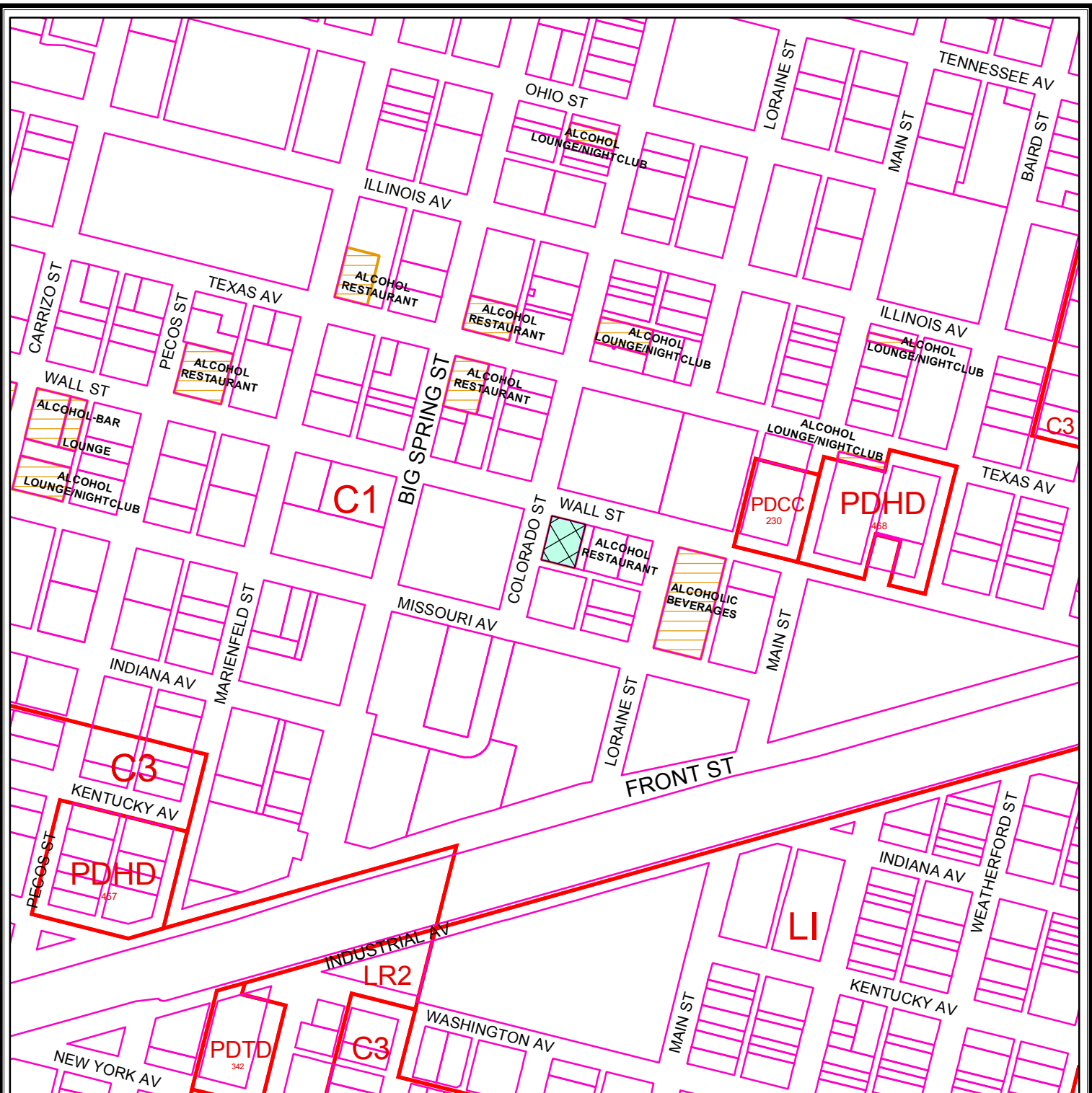
Consider a request for an Amended Specific Use Permit With Term for the sale of all alcoholic beverages, for on-premises consumption, in a restaurant, on a 6,369 square foot portion of the west 24.25 feet of Lot 9 and all of Lots 10 - 12, Block 65, Original Town, City and County of Midland, Texas.

LEGEND

- CITY LIMITS
- 200 FT. LEGAL NOTICE LIMIT
- PARCEL
- PUBLIC BLDGS
- ACCESSORY BLDGS



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ZONING MAP

S - 13 - 015

Scale: 1" = 400'

Consider a request for an Amended Specific Use Permit With Term for the sale of all alcoholic beverages, for on-premises consumption, in a restaurant, on a 6,369 square foot portion of the west 24.25 feet of Lot 9 and all of Lots 10 - 12, Block 65, Original Town, City and County of Midland, Texas.

LEGEND

 ZONING PARCELS SPECIFIC USE PERMITS

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:
rpatrick
City Manager's Office

MEETING DATE: November 26, 2013

TO: CITY COUNCIL/CITY MANAGER

FROM: Jim Compton, Planning Division Manager

SUBJECT: Hold a public hearing at approximately 10:42 a.m. and consider a resolution for a variance from the Subdivision Code concerning the requirement to pave an alley for rear entry access on the east 79.14 feet of Lot 17 and the west 15.7 feet of Lot 18, Block 2, West Way, City and County of Midland, Texas. (Generally located on the north side of Humble Avenue, approximately 400 feet west of Lanham Street.) – District 3.

Purpose:

Hold a public hearing at approximately 10:42 a.m. and consider a resolution for a variance from the Subdivision Code concerning the requirement to pave an alley for rear entry access.

Recommended City Council Action

☐ Approve

☐ Deny

☒ Direction/Informational

Fiscal Impact:

No City funds are required to process this request.

Discussion:

The applicant's property is located at 2508 Humble Avenue, within a large 1F-1, One-Family Dwelling District, in the West Way subdivision. The applicant is requesting a variance from Section 11-2-5 of the Subdivision Code regarding the requirement to pave an alley to allow for rear entry vehicular access to a proposed shop on the northeast corner of the property, as shown in Exhibit A. There are other houses within this block that include accessory buildings accessed by vehicles (without satisfying the alley paving requirement). The Subdivision Code states that the Commission or Council shall not approve variances unless the request meets four requirements: that the

granting of the variance will not be detrimental to the public safety, health, or welfare; that the request for the variance is due to particular physical surroundings or topographical nature of the land or a circumstance that would result in a particular hardship to the owner; that the variance will not vary from the provisions of the City Code and Comprehensive Plan unless amended as prescribed by law; and that the variance will not have the effect of preventing orderly subdivision of other land in the area. The applicant's request failed to prove any hardship as required in the second condition, which reads:

"Because of the particular physical surroundings, shape or topographical nature of the land, the conditions upon which the request for a variance is based are unique to the property for which the variance is sought and are neither applicable generally to other property nor are created by the owner. Because of these unique circumstances, strict application of these regulations would result in a particular hardship to the owner, as distinguished from mere inconvenience, conflict with the owner's preference, or interference with ability to maximize profits."

Staff recommended denial of the applicant's request to the Planning and Zoning Commission on November 4, 2013. This request does not satisfy all conditions of the Subdivision Code needed to grant the variance. Despite any potential neighborhood acceptance, the nature of a variance is to make a request to be exempt from an established code, and should not be approved if it nullifies the intent and purpose of the Code's regulations. The Planning and Zoning Commission approved this variance on a 5-1 vote. Staff believes this request is a judgment matter to be determined by the City Council.

RESOLUTION NO. _____

RESOLUTION GRANTING A VARIANCE FOR THE EAST 79.14 FEET OF LOT 17 AND THE WEST 15.7 FEET OF LOT 18, BLOCK 2, WEST WAY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTH SIDE OF HUMBLE AVENUE, APPROXIMATELY 400 FEET WEST OF LANHAM STREET), BY PERMITTING ACCESS TO SAID PROPERTY FROM AN UNPAVED ALLEY THAT DOES NOT CONFORM TO CITY OF MIDLAND STANDARD SPECIFICATIONS

WHEREAS, the owner of the property described herein has applied for a variance to allow for access from an unpaved alley that does not conform to City of Midland standard specifications; and

WHEREAS, the City Council finds the granting of the variance will not be detrimental to the public safety, health, or welfare or injurious to other property; and

WHEREAS, the City Council finds because of the particular physical surroundings, shape or topographical nature of the land, the conditions upon which the request for the variance is based are unique to the property for which the variance is sought and are neither applicable generally to other property nor are created by the owner; because of these unique circumstances, strict application of these regulations would result in a particular hardship to the owner, as distinguished from mere inconvenience, conflict with the owner's preference, or interfere with the ability to maximize profits; and

WHEREAS, the City Council finds the variance will not in any manner vary the provisions of Title XI, Chapter 1 of the Midland City Code, as amended, or the comprehensive plan, except that those documents may be amended in the manner prescribed by law; and

WHEREAS, the City Council finds the variance will not have the effect of preventing the orderly subdivision of other land in the area in accordance with the provisions of this Title XII, Chapter 2 of the Midland City Code;

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

THAT a variance is hereby granted for the property described as the east 79.14 feet of Lot 17 and the west 15.7 feet of Lot 18, Block 2, West Way, City and County of Midland, Texas. Said variance shall allow for access from an unpaved alley that does not conform to City of Midland standard specifications.

On motion of Council member _____, seconded by Council member _____, the above and foregoing resolution was adopted by the City Council of the City of Midland at a regular meeting on the _____ day of _____, A.D., 2013, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

Courtney Sharp, City Manager

APPROVED AS TO CONTENT
AND COMPLETENESS:

Robert Patrick, Assistant to the City Manager

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

Humble Ave.

93' 6"

43' 4"

18'

7' 3"

5' 3"

82'

2508 Humble

34' 8"

6' 3"

covered
Patio

Cinder
Block
Fence

24'

Shop being
built

26'

5'

6'

RECEIVED

SEP 24 2013

CITY OF MIDLAND
PLANNING DEPARTMENT

14' 2"

Existing
Shed

11' 3"

3' 4"

6' 6"

Proposed Rear
Access.

Cinder Block Fence
to be removed

EXHIBIT

A

SITE PLAN

Alley

CASE NO. E-13-002 27.5

PLANNING AND ZONING COMMISSION

November 4, 2013

CASE: E-13-003, William Barrick.

REQUEST: Hold a public hearing and consider a variance to the Subdivision Code concerning the required paving of an alley for rear entry access.

APPLICANT/OWNER: William Barrick.

LEGAL DESCRIPTION: On the east 79.14 feet of Lot 17 and the west 15.7 feet of Lot 18, Block 2, West Way, City and County of Midland, Texas.

LOCATION: Generally located on the north side of Humble Avenue, approximately 400 feet west of Lanham Street.

CURRENT ZONING: 1F-1, One-Family Dwelling District.

DETAILS OF REQUEST:

1. The applicant, Mr. Barrick, is requesting a special exception/variance from the Subdivision Code for the paving requirement of an alley for rear entry access. The property is within the West Way subdivision in a large 1F-1, One-Family Dwelling District. The applicant's home has front entry access onto Humble Avenue. Mr. Barrick is proposing to build a shop in his backyard on the northeast corner of his property, and wishes to add rear entry access for the shop. Chapter 11-2-5 of the City's Subdivision code states that "alleys shall be improved according to the City of Midland standard specifications. An alley shall not provide access to vehicle garages, carports, or parking areas or business loading areas unless it has been constructed with a paved surface, conforming to said standard specifications, to an appropriate point of access to the street system as determined by the City engineer..."

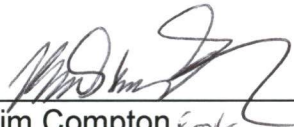
ANALYSIS:

2. The applicant is requesting rear entry access to their property from an alley without satisfying the paving requirement of the City's Subdivision regulations. In order to approve this request, the City's Subdivision Regulations state that the Planning and Zoning Commission shall not approve variances unless it shall make findings based upon the evidence presented to it in each specific case that:
 - a. The granting of the variance will not be detrimental to the public safety, health, or welfare or injurious to other property.

- b. Because of the particular physical surroundings, shape or topographical nature of the land, the conditions upon which the request for a variance is based are unique to the property for which the variance is sought and are neither applicable generally to other property nor are created by the owner. Because of these unique circumstances, strict application of these regulations would result in a particular hardship to the owner, as distinguished from mere inconvenience, conflict with the owner's preference, or interference with ability to maximize profits.
- c. The variance will not in any manner vary the provisions of Title XI, Chapter 1 of the Midland City Code, as amended, or comprehensive plan, except that those documents may be amended in the manner prescribed by law.
- d. The variance will not have the effect of preventing the orderly subdivision of other land in the area in accordance with the provisions of this Chapter.

STAFF RECOMMENDATION:

Staff is recommending denial of the applicant's request as it violates the paving provision of "Chapter 2 – Plats and Subdivisions" of the City Code. Despite any potential neighborhood acceptance, the nature of a variance is to make a request to be exempt from an established code. Further, the request does not satisfy condition B listed under Paragraph 2 above. The Planning and Zoning Commission must approve each of the four findings to grant the variance, according to the Subdivision Chapter regulations. Additionally, a variance shall not be approved if the result would nullify the intent and purpose of the regulations in the City Code.



Jim Compton
Planning Division Manager
Department of Development Services

Attachments:

Application
Maps
Exhibit A (Site Plan)



Madhuri Kulkarni, City Planner
Department of Development Services

CASE #:

E-13-1003

CITY OF MIDLAND

Planning Division

Variance
~~SPECIAL EXCEPTION APPLICATION~~

William Barrick 2508 Humble Ave 79705 432-218-9402
 NAME OF APPLICANT ADDRESS ZIP PHONE

OWNER OF PROPERTY ADDRESS ZIP PHONE
 SAME (humblemth@aol.com)

NOTE: ATTACH SITE PLAN (FOLDED) APPLICATION FEE: \$400.00

ADDRESS AND LEGAL DESCRIPTION OF PROPERTY FOR WHICH APPLICATION IS MADE: (COMPLETE LOT AND BLOCK DESCRIPTION OR IF NOT A LOT IN A RECORDED PLAT, ATTACH A METES AND BOUNDS DESCRIPTION)

2508 Humble Ave LOT: 017E/79.14 AND LOT: 018W/15.7
 Midland, TX 79705 Block 2 - West Way Addition

ZONING OF PROPERTY: IF1

THE PROPERTY QUALIFIES AS AN EXCEPTION TO THE CITY CODE BECAUSE:

- ☒ a. IT IS AN EXPANSION OF A NONCONFORMING USE
☒ b. EXISTENCE OF NONCONFORMING STRUCTURES IN AREA
☒ c. ARCHITECTURAL OR OTHER PROJECTIONS OF A MINOR EXTENT

William Barrick 9-9-13
 PROPERTY OWNER DATE

BY: _____
 (IF APPLICABLE-SEE NOTE)

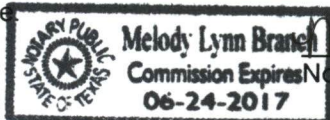
NOTE: IF PROPERTY OWNER IS TO BE REPRESENTED BY AUTHORIZED AGENT, THE AGENT SHOULD SIGN THE PROPERTY OWNER AND HIS OWN NAME ON THE LINE PROVIDED ABOVE AND COMPLETE THE AFFIDAVIT BELOW.

State of Texas)
 County of Midland)

Before me, the undersigned authority, on this day personally appeared _____ who, being duly sworn, upon oath says: That he is authorized by _____, the owner of the above described property, to fully represent him in this application and that he has the legal right, power and authority to sign said owner's name hereto as his attorney in fact.

Signature of Affiant

Subscribed and sworn to before me, by the said _____ this 10th day of Sept, 2013 to certify which witness my hand and seal of office



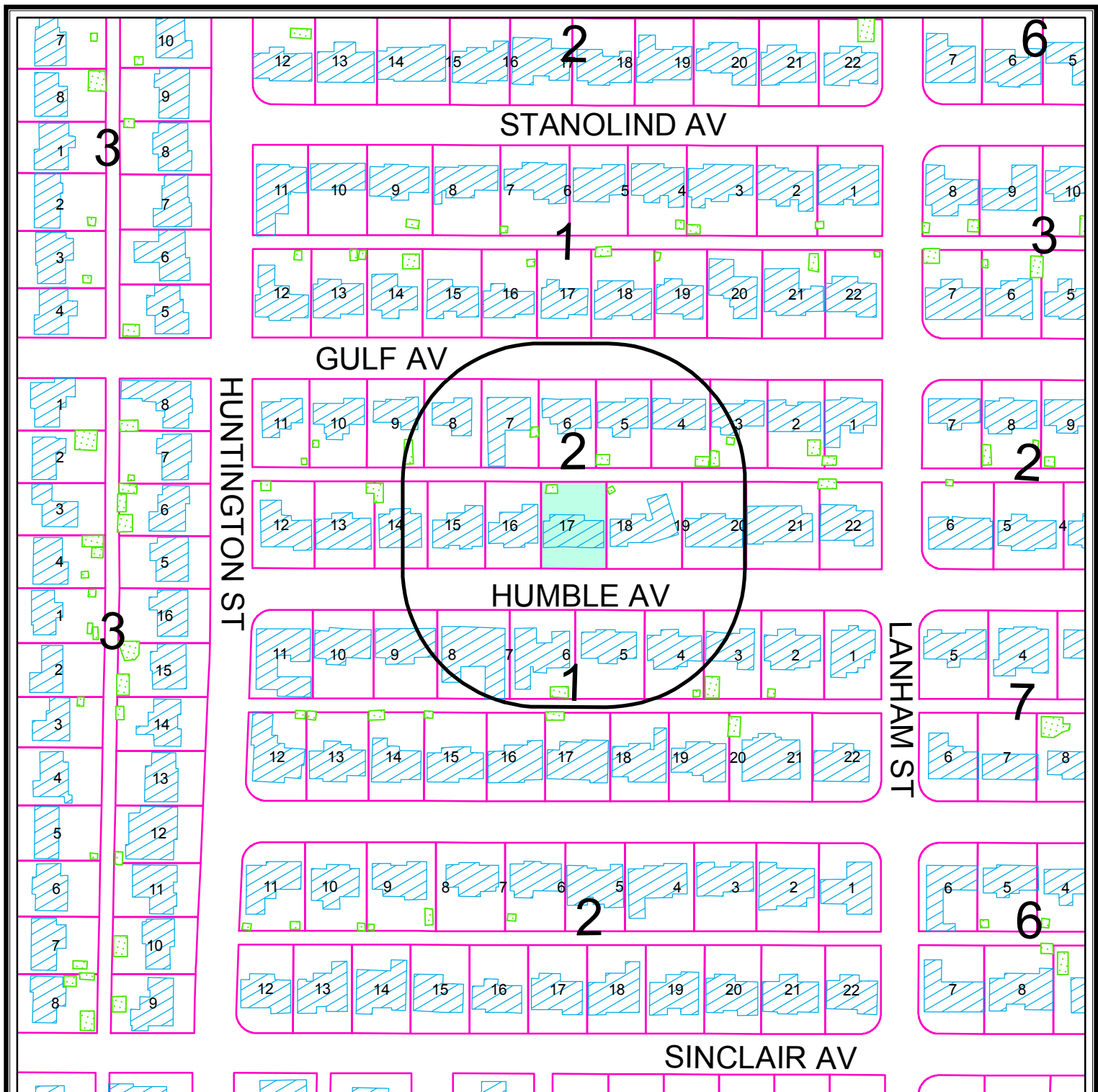
Melody Lynn Branch
 Notary Public, Midland County, Texas

Application will not be considered for scheduling until reviewed by a planner.

FOR OFFICE USE ONLY

Rec'd By: [Signature] Date: 9/24
 Assigned: MK
 For: [Signature] On: 9/14/13

(revised 5/2/11)



PROPERTY OWNER NOTIFICATION MAP

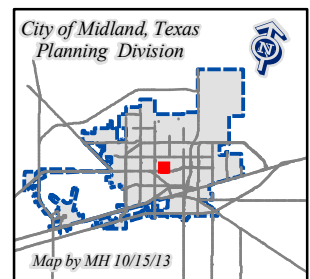
E - 13 - 003

Scale: 1" = 200'

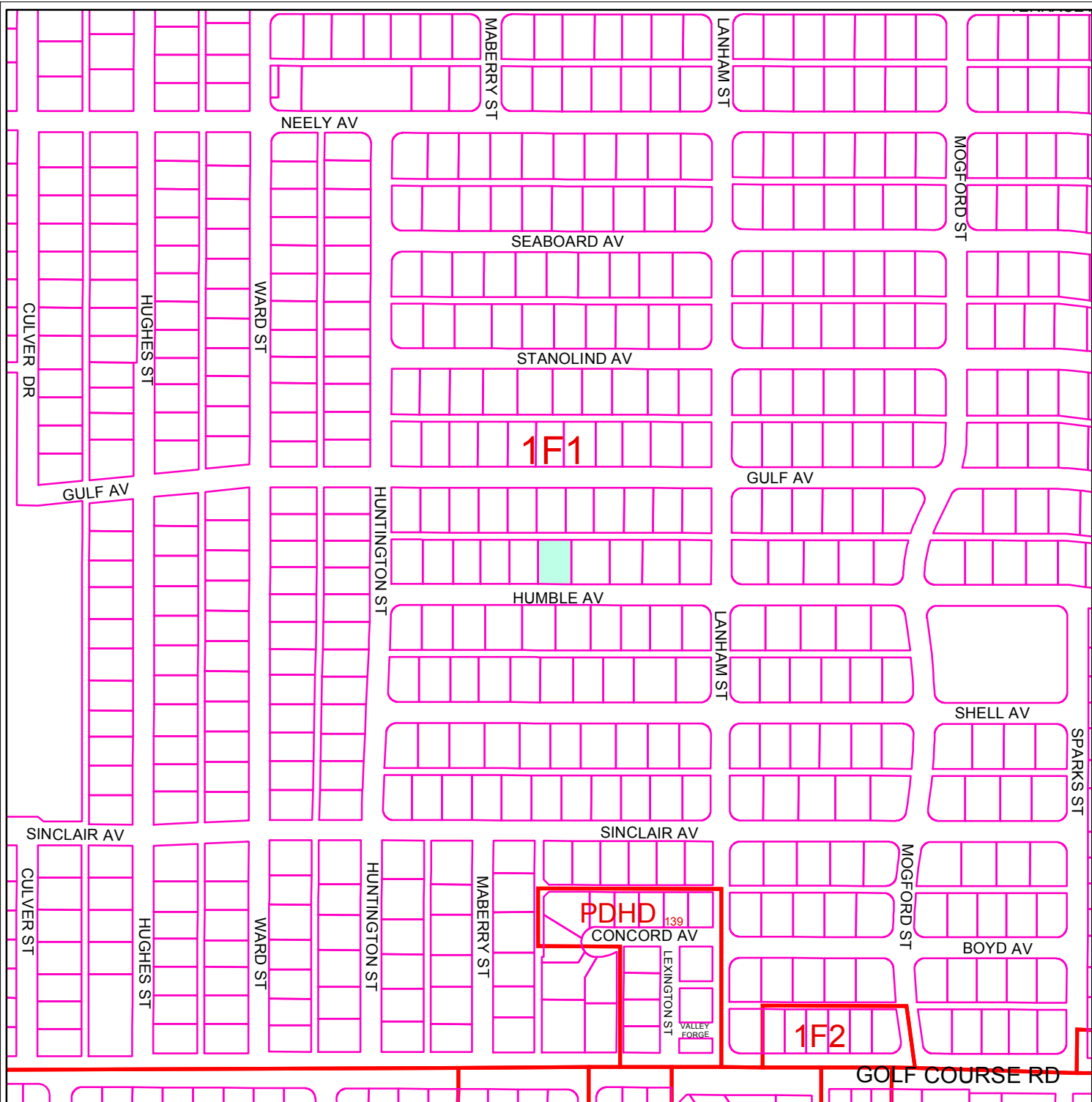
Consider a request for a variance to the Subdivision Code concerning the required paving for an alley for rear entry access on the east 79.14 feet of Lot 17 and the west 15.7 feet of Lot 18, Block 2, West Way, City and County of Midland, Texas.

LEGEND

- CITY LIMITS
- 200 FT. LEGAL NOTICE LIMIT
- PARCEL
- PRIVATE BLDGS
- ACCESSORY BLDGS



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ZONING MAP

E - 13 - 003

Scale: 1" = 400'

Consider a request for a variance to the Subdivision Code concerning the required paving for an alley for rear entry access on the east 79.14 feet of Lot 17 and the west 15.7 feet of Lot 18, Block 2, West Way, City and County of Midland, Texas.

LEGEND

ZONING PARCELS

ZONING DISTRICTS:

FD	FUTURE DEVELOPMENT	BP	BUSINESS PARK
PD	PLANNED DISTRICT	P	PARKING
AE	AGRICULTURE ESTATE	01, 02	OFFICE
CE	COUNTRY ESTATE	NS	NEIGHBORHOOD SERVICE
1F1, 1F2, 1F3	ONE-FAMILY DWELLING	LR1, LR2, LR3	LOCAL RETAIL
MH	MOBILE HOME DWELLING	C1, C2, C3	COMMERCIAL
TH	TOWNHOUSE DWELLING	IP, 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:
rpatrick
City Manager's Office

MEETING DATE: 11/26/2013

TO: City Council / City Manager

FROM: Steve Thorpe, Building Official

SUBJECT: Consider a resolution approving the 2012 International Building Code, with amendments; the 2012 International Mechanical Code, with amendments; the 2012 International Plumbing Code, with amendments; the 2012 International Fuel Gas Code, with amendments; and the 2012 International Residential Code, with amendments as public records; and providing that all codes shall be put on file in the office of the City Secretary for a minimum of thirty (30) days before any action is taken by the City Council.

Purpose:

Consider a resolution approving the 2012 International Building Code, with amendments; the 2012 International Mechanical Code, with amendments; the 2012 International Plumbing Code, with amendments; the 2012 International Fuel Gas Code, with amendments; and the 2012 International Residential Code, with amendments as public records; and providing that all codes shall be put on file in the office of the City Secretary for a minimum of thirty (30) days before any action is taken by the City Council.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Directional / Informational

Fiscal Impact:

none

Discussion:

The City Council appointed Code Change Committee has recently completed their review of the 2012 editions of the International Building, Mechanical, Plumbing, Fuel Gas and Residential Codes and proposed amendments. These codes regulate the design, construction and inspection of all building construction within the city. The committee recommends adoption of these codes with the proposed amendments.

The currently adopted codes are the 2009 editions. The model codes are published in three-year cycles. Therefore the proposed codes are the most current available. The committee also supports the Building Official's recommendation to not move forward with adoption of the 2012 International Energy Efficiency Code until the State Energy Conservation Office makes their recommendation for adoption statewide.

An effective date of April 1, 2014 is recommended, this will provide adequate time for notification to architects, engineers, designers, contractors and suppliers of any new requirements.

attachments: proposed amendments

RESOLUTION NO. _____

RESOLUTION APPROVING THE 2012 INTERNATIONAL BUILDING CODE, WITH AMENDMENTS; THE 2012 INTERNATIONAL MECHANICAL CODE, WITH AMENDMENTS; THE 2012 INTERNATIONAL PLUMBING CODE, WITH AMENDMENTS; THE 2012 INTERNATIONAL FUEL GAS CODE, WITH AMENDMENTS; THE 2012 INTERNATIONAL RESIDENTIAL CODE, WITH AMENDMENTS; AND PROVIDING THAT ALL CODES SHALL BE PUT ON FILE IN THE OFFICE OF THE CITY SECRETARY FOR A MINIMUM OF THIRTY (30) DAYS BEFORE ANY ACTION IS TAKEN BY THE CITY COUNCIL

WHEREAS, several changes and amendments to the International Building Code, International Mechanical Code, International Plumbing Code, International Fuel Gas Code, and the International Residential Code (collectively, the “International Codes”) have been approved by the International Code Council, Inc., and incorporated into the 2012 Editions of the International Codes; and

WHEREAS, the 2012 Editions of the International Codes, with amendments, are before the City Council at this time and have been examined and read by the members; and

WHEREAS, the City Council deems it to be in the public interest to declare the International Codes, with amendments as public records;

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

SECTION ONE. That the 2012 International Building Code, 2012 International Mechanical Code, 2012 International Plumbing Code, 2012 International Fuel Gas Code, and 2012 International Residential Code as approved and published by International Code Council, Inc., a copy of each code being before the Council and having been examined and approved by the Council, are hereby officially approved and adopted as a public records of the City of Midland, Texas.

SECTION TWO. That the 2012 Editions of the International Codes, with amendments, authenticated by the signature of the Mayor and City Secretary and impression

of the City Seal, are hereby made a part of this resolution and are hereby ordered filed herewith as a public record in the Office of the City Secretary for a minimum of thirty (30) days before any action is taken 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., 2013, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

Courtney Sharp, City Manager

APPROVED AS TO CONTENT AND
COMPLETENESS

Steve Thorpe, Building Official

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

Building Code Amendments

Chapter 1 BUILDING CODE*

4-1-1. Purpose.

The purpose of this Chapter is to provide minimum standards, provisions and requirements for safe construction, alteration, repair, equipment, use and occupancy, location, maintenance, removal and demolition of every building or structure or any appurtenances connected or attached to such buildings, or structures within the City. All such buildings and structures hereafter constructed, altered, repaired, equipped, used and occupied, removed or demolished within the corporate limits of the City shall conform to the requirements of this Chapter and to the specifications, rules and regulations herein contained.

(Ord. No. 8609, § 1, 2-12-2008; Ord. No. 8667, § 1, 9-9-2008)

4-1-2. Code adopted.

~~The specifications, rules and regulations contained in Chapter 1 through 35 and Appendices A, B, C, D, and G of the 20032009 International Building Code, published by the International Code Council Inc., 5203 Leesburg Pike, Suite 708, Falls Church, Virginia, 22041-3401 500 New Jersey Ave, NW, 6th floor, Washington, DC 20001, a copy of which authenticated by the signatures of the Mayor and City Secretary and the impression of the City Seal, and made a public record by resolution of the Council, passed at a regular meeting on the 8th day of November, 2005 ___ day of (month), 2010, is on file in the City Secretary's office, are hereby adopted as the Building Code of the City as fully as if copied at length in this Chapter and are hereby incorporated herein by reference and made a part of this Chapter.~~

~~(Ord. No. 8609, § 1, 2-12-2008; Ord. No. 8667, § 1, 9-9-2008)~~

The specifications, rules and regulations entitled 2012 International Building Code together with appendices A,B,C and G as promulgated and published by the International Code Council, Inc, are hereby adopted as the Building Code as fully as if copied at length in this Chapter and are hereby incorporated herein by reference and made a part of this Chapter.

4-1-3. Changes and additions to adopted building code.

Notwithstanding any provisions of this Chapter or said adopted Building Code to the contrary, the latter is adopted with certain changes, additions and deletions thereto so that the following sections and provisions thereof shall hereafter read as follows, to wit:

101.1 Title. These regulations shall be known as the Building Code of the City of Midland, hereinafter referred to as "this code."

101.4.4 Property Maintenance. Delete Section **101.4.4** in its entirety.

103.2 Appointment. Delete 103.2 as written and substitute following:

103.2 Appointment. The Building Official, Assistant Building Official, Inspectors and other personnel shall be appointed in accordance with the personnel policies of the City and shall be subject to all personnel rules and regulations of the City of Midland.

105.1.1 Annual Permit. Delete 105.1.1 as written and substitute following:

105.1.1 Fence Permit Required. A building permit shall be obtained prior to the erection or construction of any fence or wall to be located within the front yard or the side yard adjacent to a street (public or private) of any lot or tract, as such yard is required by Title XI, Chapter 1, Zoning, of the Midland City Code.

105.1.2 Annual Permit Records. Delete 105.1.2 in its entirety.

105.2 Work Exempt from Permit. Delete the following numbers from the exemptions:

105.2 Delete no. 1, 2, and 6.

105.8 Add a new Section 105.8 as follows:

105.8 Contractor's Responsibilities:

(a) It shall be the duty of every contractor or builder, who is engaged in the construction, erection, alteration or repair of buildings or structures, residential or commercial, subject to the provisions of this Code, to give good and sufficient bond in the sum of ten thousand dollars (\$10,000.00) to be approved by the City Attorney, conditioned to conform to the Building Regulations of this Section, and other ordinances and laws of the City of Midland in reference to buildings and related construction and site requirements. The bond herein required shall include the bonds required for early clearance procedures as required by Section 9 of this Title and Chapter and with the sidewalk, driveway and curb bond required by this Code with no increase in amounts.

(b) No building permit shall be issued by the Building Official unless and until a bond as herein provided has been tendered to and approved by the Building Official by the person or firm requesting such permit.

(c) Nothing in this Code shall prevent a homeowner from maintaining, altering or adding to his home within his own property boundaries provided such work is done by himself for the exclusive benefit of his family. Such privilege does not convey the right to violate any of the provisions of this Code, nor is it to be

construed as exempting any such property owner from obtaining a permit and paying the required fees therefore.

105.8.1 Add a new Section 105.8.1 as follows:

105.8.1 Construction Site Debris. It shall be the responsibility of each permit holder to make provisions for containment of building materials, construction debris, and all other trash and debris generated within the property boundaries. The particular method, which may include but is not limited to refuse containers, roll-offs, fenced areas or other types of wire enclosures, shall be specified by the applicant prior to obtaining a building permit. The applicant may specify City of Midland container service if available, provided it is a container assigned for use at the particular job site. Said container may only be used for materials for which it is suitable, as determined by the City Sanitation Division or as specified by Title 8, Chapter 6 of the Midland City Code. Blowing trash, paper, building material packaging, and other construction site related debris, allowed to collect or accumulate outside the property boundaries for which a permit has been issued, in other than an approved container, shall constitute a violation of this section of the City of Midland Code. Such violations shall be subject to enforcement provisions as provided for in the Building Code, including stop work order, revocation of permit and fine.

109.2 Schedule of Permit Fees. : add to the end of section the following, “See Fee Schedule Ordinance 8818.”

109.6 Refunds. Delete section 109.6 as written and substitute the following: Refunds shall be in accordance with Fee Schedule Ordinance 8818.

113.4 Add a new Section-113.4 as follows:-

113.4 Terms of Office. Members of the Board shall serve four (4) year terms beginning and ending on September 30, of the appropriate years. The terms of office of the Board members shall be staggered so that no more than 1/3 of the Board is appointed or replaced in any 12-month period. The City Council may from time to time appoint members for terms of lesser duration than four (4) years when necessary in order to comply with the terms of this Code Section or to fill the remainder of an unexpired term. A member may be removed from office by the City Council for any reason. If a Board member is absent for more than 25% of the duly called meetings in any period of 12 consecutive months or absent for more than two (2) duly called meetings in any period of 12 consecutive months, whichever is greater, for any reason other than a medical reason which prevents the member's attendance, that member shall be disqualified and automatically removed from serving as a Board member. The term "duly called meetings" includes all meetings of the Board and all meetings of subcommittees of the Board on which the member serves.

1101.2 Design. Amend Section 1101.2 Design to read as follows:

1101.2 Design. Buildings and facilities shall be designed and constructed to be accessible in accordance with the Texas Accessibility Standards, pursuant to Article 9102, Texas Civil Statutes, as promulgated by the Texas Department of Licensing and Regulation.

3308.1.2 Add new Section 3308.1.2 as follows:

3308.1.2. Insurance Required. The person or persons in Section 3308.1 desiring to use streets or public property for the storage or handling of equipment shall provide the City with an owner's, landlord's, and tenant's liability policy of insurance naming the City as the named insured, with limits of not less than five hundred thousand dollars (\$500,000.00) bodily injury and one hundred thousand dollars (\$100,000.00) property damage, protecting the City from liability that is or may be imposed on it as owner of such street, sidewalk, or other public property under the laws of this State on account of or in any way arising out of any such use of such public streets, sidewalks or other public property, such insurance policy to remain in force and effect until such time as the use of such public property by such persons has ceased.

3308.1.3 Add new Section 3308.1.3 as follows:

3308.1.3 Street/Sidewalk Permit. Building permits shall not include permission to occupy any part of the public street, sidewalks or alleys with building materials or equipment without first obtaining a permit for the use of public streets, sidewalks or alleys from the Building Official before operations have commenced. The fee for said permit shall be per the Fee Schedule Ordinance 8818. The permit for street, sidewalk or alley occupancy shall be only for the duration of construction or such lesser time as the Building Official may determine.

3308.1.4 Add new Section 3308.1.4 as follows:

3308.1.4 Waiver. Up to one-third (1/3) of the width of the street right of way adjacent to the property on which the building being erected and for which a permit has been issued may be occupied in connection with the building construction provided that the free flow of traffic is not significantly impeded. If the street in front of the property adjoining such building is to be used for similarly limited storage, a due waiver of claim against the applicable governing authority for damages on account of such use, issued by the owner of such property, must be filed with the Building Official before such use shall be allowed.

3308.1.5 Add new Section 3308.1.5 as follows:

3308.1.5 Street Repair - Special Permit Requirements

(a) When any application is made pursuant to the provisions of Section 105 of this Code for a permit for the construction, enlargement or alteration of any building or structure, the owner, authorized agent or contractor applying for such permit shall, as a condition to the granting of such permit, pay to the City the fee specified in subsection (b) hereof to cover the unusual wear and tear to public

streets, alleys and/or sidewalks growing out of the construction activities performed by said applicant or anyone in any way under his or its supervision and direction, including the use, movement, parking, loading and/or placement of cranes and other heavy construction equipment and vehicles or trailers laden with construction materials.

(b) The fee specified in subsection (a) above shall be per the Fee Schedule Ordinance.

(c) In addition to the above, any damaged or deteriorated concrete, curb, gutter and paved sidewalk areas abutting the property of the construction site and associated with the project will be replaced or put in new condition by the applicant prior to issuance of final approval of the project by the Building Official.

(d) All proceeds from the special fee set out in subsection (b) above shall be credited to the Street Improvement Fund.

4-1-4. Site requirements.

The following site requirements shall be satisfied or committed prior to a building permit being issued for any new construction or substantial addition to the development or redevelopment of a new parcel of land.

(A) *Sidewalk construction and permits therefor required:*

1. *Sidewalks required.* Sidewalks shall be constructed within all street rights of way adjacent to all tracts or lots at the time of their INITIAL DEVELOPMENT to the full length of the property line of the lot or tract involved. Sidewalks shall be constructed within all street rights of way adjacent to all lots or tracts, which were initially developed without sidewalks when SUBSEQUENT DEVELOPMENT exceeds 25% of the existing floor area and also exceeds one thousand (1,000) square feet in floor area. On properties situated at the corner of intersections, sidewalks are required both on the front and side along the full length of the tract or lot involved on which development is being made and such sidewalks shall be connected to the street pavement, if existing, at all street intersections. Sidewalks will be located and constructed as specified in Section 9-4-1 of the City Code. No such sidewalks shall be constructed until a permit approved by the Director of Development Services of the City has been secured, as provided for in Title IX, "Public Ways and Property", Chapter 4, "Sidewalks, Driveways and Curbs", of the Midland City Code. If sidewalks, in good condition, exist adjacent to the developed property, newly constructed sidewalks must provide connections thereto.

The Building Official of the City shall not issue any final electrical or gas clearance or certificate of occupancy and completion until all sidewalks required to be constructed have been finally completed and approved by the Director of Development Services of the City, except pursuant to Section 4-1-9 of the Midland City Code.

2. *Exception.* Where either side of a street, between two (2) intersecting streets, is seventy-five percent (75%) or more developed and has no existing sidewalks, then no sidewalks shall be required in the remaining undeveloped portion. This exception shall also apply to cul-de-sacs which are seventy-five percent (75%) or more developed and have no existing sidewalks.

(B) *Parking and loading areas:*

1. *Barriers required along streets and alleys.* Where an off-street parking, loading or vehicle storage area is to be paved or modifications to such area are to be made adjacent to a public street or alley, the paved area shall not project into the public right of way unless a curb, multiple wheel stops, or other effective barrier(s) shall be erected to prevent parked or stored vehicles from encroaching into said right of way, except in one and two family developments. However, if existing conditions would make such a restriction unreasonably difficult to satisfy, the City Manager may issue a permit for an encroachment into the right of way of a street when he determines that the following conditions will be met:

(a) The encroachment will not create a traffic hazard and adequate space for pedestrian traffic will be maintained.

(b) Barriers as specified above are provided to prevent encroachment beyond the line authorized by the permit.

(c) The permit conditions of Section 10-1-10(A)5.(a)(1) are met.

Parking provided by encroachment into a public right-of-way shall not be considered off-street parking in determining satisfaction of any requirement for such parking.

2. *Access to alleys.* Where required or non-required parking spaces and loading spaces are permitted which depend upon an alley for access, the abutting property shall have a permanent opening of not more than twenty-five (25) feet (25) per separately owned parcel. All additional access shall be granted by joint alley use agreement authorized by the City Manager. Such agreement shall provide for a fee to the per the Fee Schedule Ordinance 8818 and shall be revocable by the City Manager upon his determination that the access must be revoked or impaired to accommodate some other public purpose. Such agreement shall be effective for one year from the date of issuance and shall automatically renew from year to year upon payment of the prescribed fee, as said fee may be amended from time to time, unless said agreement is earlier revoked as provided for herein above.

3. *Parking, Loading Areas, and Traffic Patterns.* A building permit shall be required for any new parking area or change in the arrangement of an existing parking area. Where any structure is to be built or improved, the permit may be considered part of the building permit for the structure. In applying for such permit, the applicant shall provide a site plan showing the location and arrangement of the parking areas, to include parking areas, aisles, driveways and abutting street paving, with locations of nearby median openings and street intersections. A permit shall not be given by the Building Official for the construction of any building or parking area where said building or parking area is to be changed and such change will affect or change the traffic pattern entering and exiting the property where such building or parking area is located, unless and until the Director of Development Services reviews such traffic patterns and makes appropriate recommendations as to the proper control of such traffic to provide safe entry to and exit from the abutting rights of way and to provide that the traffic capacity of the abutting rights of way is retained. The recommendations of the Director of Development Services shall be in accordance with all City Ordinances and City engineering specifications concerning traffic control and the use of the public rights of way, and such recommendations shall include the location, size and construction of entryways and exit ways along the rights of way abutting such property. All such recommendations of the

Director of Development Services shall be conditions of the permit issued by the Building Official.

(C) *Creation of a building site:*

1. No permit for the construction of a building or buildings upon any tract or parcel of land shall be issued until a building site, building tract or building lot has been created by complying with one of the following conditions:

(a) The lot or tract is represented as a separate lot or tract on a plat of record, properly approved by the Planning and Zoning Commission and filed in the Plat Records of Midland County, Texas.

(b) The site, plot or tract is all or part of a site plan officially approved by the Planning and Zoning Commission or City Council, which site plan provides all utility and drainage easements, alleys, street and other public improvements necessary to meet the normal requirements for platting including the designation of building areas and access provisions, and such easements, alleys and streets have been required and properly dedicated and the necessary public improvements provided.

(D) *Refuse collection:* Where dedicated alleys are not conveniently located for refuse service to a lot or tract, a building permit shall not be issued for such lot or tract until a plan for locations of refuse collection within the property and a guarantee of access to such locations has been submitted by the permit applicant or property owner and found satisfactory by the Utilities Director or his designated representative. Except upon specific permission of the Utilities Director, locations adjacent to public streets shall not be acceptable.

(E) *Site plan review:* In the event that Section 11-2-5(B) of this Code shall be applicable to the proposed development of a lot, no building permit shall be issued until approval of the site plan required by said Section 11-2-5(B)8 is obtained.

(Ord. No. 8609, § 1, 2-12-2008; Ord. No. 8667, § 1, 9-9-2008)

4-1-5. Exceptions.

Notwithstanding the provisions of Section 4-1-4, if it is shown to the satisfaction of the City Council that any of the requirements of said Section 4-1-4, if complied with, would work a hardship on the developer and that the requirement would not be in the best interest and general welfare of the public, the said City Council may make exception to, or grant variances from such requirements. Provided further that the Planning and Zoning Commission, in its review of subdivision plats, shall have the authority to waive the requirements for sidewalk construction adjacent to one or both sides of cul-de-sac or short loop streets only, in areas zoned for one-family or two-family dwellings.

(Ord. No. 8609, § 1, 2-12-2008; Ord. No. 8667, § 1, 9-9-2008)

4-1-6. Minimum floor elevation.

The finished first floor elevation of any residential building or structure hereafter constructed in the City shall be not less than twelve inches (12") above the grade established by the City for the top of the street curb at its lowest point abutting the lot or tract on which such building or structure is constructed. However, if a driveway, walkway or any other facility for ingress or egress is constructed on a lot or tract, for which the standard curb must be removed or lowered, the finished first floor elevation must be at least twelve inches (12") above the highest point of the top of the curb

adjacent to the constructed driveway, walkway, ingress or egress. The condition that results in the highest floor elevation will govern the final first floor elevation. (Ord. No. 8609, § 1, 2-12-2008; Ord. No. 8667, § 1, 9-9-2008)

4-1-7. Minimum mobile home anchoring standards, floodprone areas.

The following requirements shall be applicable to mobile homes placed within any special flood hazard area, as is shown on the current Department of Housing and Urban Development Flood Hazard Boundary Map for Midland, Texas, a copy of which is on file in the office of the City Secretary, and these requirements shall be in addition to any other requirements found in the adopted International Building Code:

- (A) Over-the-top ties shall be provided at each of the four (4) corners of the mobile home, with two (2) additional ties per side at intermediate locations and mobile homes less than fifty feet (50') long requiring one (1) additional tie per side.
- (B) Frame ties shall be provided at each corner of the mobile home with five (5) additional ties per side at intermediate points and mobile homes less than fifty feet (50') long requiring four (4) additional ties per side.
- (C) All components of the anchoring system shall be capable of carrying a force of four thousand eight hundred (4,800) pounds.

(Ord. No. 8609, § 1, 2-12-2008; Ord. No. 8667, § 1, 9-9-2008)

4-1-8. Early clearance procedure.

(A) Upon application from a contractor or appropriate party, the Building Official shall issue an early clearance permit for the connection of gas and electric utility service to a new residential structure and gas and electric utility connection and occupancy of a new commercial structure prior to the issuance of the certificate of occupancy and completion if the following conditions are met:

1. All facilities necessary for the connection of and distribution of utility service must be completed in conformity with the applicable Codes.
2. The applicant for such early clearance permit shall have on file with the Building Official a bond in the amount of ten thousand dollars (\$10,000) for all structures in a form approved by the City Attorney and collectable in the event the contractor either allows a residential structure to be occupied prior to the issuance of a certificate of occupancy and completion or fails to obtain a certificate of occupancy and completion for a commercial structure in a timely manner. Such bond shall be combined with the general contractor's bond required by Section 105.8 of the Building Code as amended by Section 4-1-3 of this Title and Chapter with no increase in amounts.

(B) In the event an applicant for an early clearance permit receives the same and shall subsequently violate its terms, or if one otherwise violates the requirements regarding obtaining a certificate of occupancy and completion, that applicant shall not be allowed any further building permits or early clearance permits until the permitted structure is brought into full Code compliance and issued a certificate of occupancy and completion.

(C) An early clearance permit shall be issued for one hundred eighty (180) days for commercial units and for ninety (90) days for residential units. Commercial unit permits may be renewed by the City Manager once for ninety (90) days upon showing of extenuating circumstances. On the expiration of the early clearance permit, the Building Official shall inspect the structure for its eligibility for issuance of a certificate of

occupancy and completion. Should the building fail to qualify for a certificate of occupancy and completion, it must be vacated immediately.

(D) For purposes of this Section, the term "occupy" or "occupied" shall mean any use by or possession of a structure affected by this Section, including the mere use for storage of furniture, by any person other than the builder. This term shall also include any use by the builder other than for construction and building purposes.

(E) **Manufactured Home Skirting Deposit:** For any location and installation of a manufactured home as a fixed dwelling, where compliance with the use regulations pertaining to such location in an "MH", Manufactured Home Dwelling District, is required, the owner of said manufactured home may make application to the Building Official for a certificate of completion of the installation prior to the installation of a continuous skirt with vents as required, provided the location and installation of said manufactured home according to all other applicable provisions of the Zoning Code and all construction codes has been completed, and provided further, the owner posts a deposit per the Fee Schedule Ordinance 8818. A forfeiture of the deposit shall occur in the event that a continuous skirt with vents has not been installed as required prior to the expiration of a period of thirty (30) days from the date of issuance of a certificate of completion. If prior to the expiration of said thirty (30) day period, the owner requests an inspection of the completed installation of a continuous skirt with vents and upon inspection the Building Official or his representative determines that the requirement for said skirt has been satisfied, the owner shall be entitled to a full refund of the deposit. However, in the event that the deposit is forfeited, the owner of the manufactured home is in no way released from the requirement of having continuous skirting installed. Any occupancy of a manufactured home which does not have the required continuous skirt with vents after the expiration of the thirty (30) day period shall constitute a violation of this Code.

(Ord. No. 8609, § 1, 2-12-2008; Ord. No. 8667, § 1, 9-9-2008)

4-1-9. Street improvement fee.

(A) In addition to the building permit fees required by the City Building Code, and the City Residential Code, a separate street improvement fee shall be paid to the in accordance with the Fee Schedule Ordinance 8818. This fee applies to all new construction, additions, alterations and remodels. All proceeds from the street improvement fee shall be deposited in one budget account. The account shall be designated as the "Street Repair Improvement and New Street and Sidewalk Installation Fund." The fee is assessed at the time a building permit is issued by the City.

The purpose of the fund is to cover a portion of the unusual wear and tear to public streets, alleys and/or sidewalks growing out of construction activity and to cover a portion of the construction costs of unpaved public streets, (including curb and gutters), alleys and/or sidewalks.

This section is adopted under Section 395.081 of the Texas Local Government Code. The City of Midland will benefit from allowing the landowner to connect to the capital improvements while promoting the health, safety, and public welfare and providing for efficient and well-planned urban growth and development. All repairs or construction improvements adjoin or are within 11 miles of the developed property. The 11 miles is the specified distance required by Section 395.081.

(B) Any person wishing to appeal the payment of this fee may do so. Any person may appeal to the City Manager, or his designee, prior to paying the fee or after paying the fee. If a person wishes to appeal after payment of the fee, the person shall appeal to the City Manager, or his designee, in writing within ten calendar days of paying the fee. The City Manager, or his designee, shall provide a full and meaningful review process. The City Manager, or his designee, shall provide a fair opportunity for people to challenge the accuracy and legal validity of their fee obligation. The City Manager, or his designee, shall also provide a clear and certain remedy for any erroneous or unlawful fee collection to ensure that the opportunity to contest the fee is a meaningful one. Options that the City Manager, or his designee, shall consider in providing a clear and certain remedy are a refund of any excess fee paid, as well as other factors such as ensuring that a person may continue the operation of his or her business. Any person may appeal to the City Manager, or his designee, if the person believes that he or she cannot afford the fees. The person may seek an exemption from all or part of the fee.

The City Manager, or his designee, shall make his decision within ten days of receiving the appeal in writing. The City Manager, or his designee, shall ensure that a person has all rights under Section 395.081 of the Texas Local Government Code. A person shall incur no financial hardship by exercising his or her right to appeal.

(C) The purpose of this fee is to regulate the application and granting of building permits for members of the public that request such permits, and needed streets, alleys, and sidewalks to serve the community. Said fees shall not be demanded from the public by financial penalties, loss of livelihood, or damage to a business. Individuals who pay the fee will benefit in no less a way from the completion of public streets, alleys, and sidewalks, than any other member of the public. The expense of maintaining and installing public streets, alleys, and sidewalks, greatly outweighs whatever secondary revenue is collected through the generation of this permit fee.

(D) The City Council members of the CDBG Committee shall prepare a schedule of unpaved public streets, alleys, and sidewalks for review by the City Council in January and June of each year. The Council may review said schedule and authorize and direct the installation and/or rehabilitation of paved public streets, alleys, or sidewalks on selected public property that meets the criteria of subsection (a) above.

(Ord. No. 8393, §§ 2--6, 4-11-2006; Ord. No. 8609, § 1, 2-12-2008; Ord. No. 8666, §§ 3--6, 9-9-2008)

Mechanical Code Amendments

4-10-2. Code adopted.

~~The specifications, rules and regulations entitled "2003 International Mechanical Code **2009 International Mechanical Code**", and Appendix "A" as promulgated and published by the International Code Council, Inc., 5203 Leesburg Pike, Suite 708, Falls Church, Virginia 22041 3401 **500 New Jersey Ave, NW 6th floor Washington DC 20001**, a copy of which, authenticated by the signature of the Mayor and City Secretary and the impression of the Corporate Seal, is on file in the City Secretary's office, are hereby adopted as the Mechanical Code as fully as if copied at length in this Chapter and are hereby incorporated herein by reference and made a part of this Chapter.~~

~~(Ord. No. 8370, § 1, 1-10-2006)~~

The specifications, rules and regulations entitled 2012 International Mechanical Code together with appendix A, as promulgated and published by the International Code Council, Inc, are hereby adopted as the Mechanical Code as fully as if copied at length in this Chapter and are hereby incorporated herein by reference and made a part of this Chapter.

4-10-3. Changes and additions to adopted mechanical code.

Notwithstanding any provisions of this Chapter or said adopted "Mechanical Code" to the contrary, the latter is adopted with certain changes, additions and deletions thereto so that the following sections and provisions thereof shall hereafter read as follows:

101.1 Title. Amend Section 101.1 to read as follows:

101.1 Title. These regulations shall be known as the Mechanical Code of the City of Midland, hereinafter referred to as "this code".

106.1.1 Homeowners Permit. Add new Section 106.1.1 to read as follows:

106.1.1 Homeowners Permit. Nothing in this Code shall prevent a homeowner from extending, replacing, altering or repairing mechanical equipment within his own property boundaries providing such work is done by himself and is used exclusively by him or his family. A homeowner shall not be required to obtain a bond or a license; however, such privilege does not convey the right to violate any of the provisions of this Code, nor is it to be construed as exempting any such property owner from obtaining a permit and paying the required fees therefor.

106.5.2 Fee Schedule. Amend Section 106.5.2 to read as follows: The fees for all gas systems work shall be as indicated in the Fee Schedule Ordinance 8818

106.5.3 Fee Refunds. . Delete 106.5.3 as written and substitute the following:
Refunds- Refunds shall be in accordance with Fee Schedule Ordinance 8818.

108.4 Violation Penalties. Delete Section 108.4 in its entirety.

108.5 Stop Work Orders. Amend Section 108.5 to read as follows:

108.5 Stop Work Orders. Upon notice from the code official that mechanical work is being done contrary to the provisions of this code or in a dangerous manner, such work shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to the owner's agent, or to the person doing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the code official shall not be required to give a written notice prior to stopping the work. Any person who shall continue any work on the system after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to a fine in accordance with Section Four of this ordinance [Ord. No. 8370].

109.1 Application for appeal. Amend to read as follows:

109.1 Application for appeal. Any person shall have the right to appeal a decision of the of code official to the board of appeals, per the International Building Code section 113.

Delete sections 109.2- 109.7

4-10-4. Appeals.

Whenever the owner of a building or structure, or its duly authorized agent or the applicant for a mechanical permit is aggrieved by any order or decision of the Mechanical Inspector or the Mechanical Official made in connection with his administration of this Chapter, he may appeal such decision or order to the Board of Appeals (provided for in the Building Code of the City), and said Board shall proceed to hear and decide any such appeals in the same manner as it now hears appeals from decisions made under said Building Code. Said Board of Appeals shall have the same power and authority over appeals from the Mechanical Code and the same rules and regulations shall apply as are full set out in said Building Code.

(Ord. No. 8370, § 1, 1-10-2006)

Plumbing Code Amendments

4-3-2. Code adopted.

The specifications, rules and regulations entitled "~~2003 International Plumbing Code~~" **2009 International Plumbing Code**, together with appendices B, C, D, E, F, and G as promulgated and published by the International Code Council, Inc, **500 New Jersey Ave, NW 6th floor, Washington, DC 2001**, are hereby adopted as the Plumbing Code as fully as if copied at length in this Chapter and are hereby incorporated herein by reference and made a part of this Chapter.

~~(Ord. No. 8369, § 1, 1-10-2006)~~

4-3-3. Changes and additions to adopted plumbing code.

Notwithstanding any revisions of this Chapter or said adopted "Plumbing Code" to the contrary, the latter is adopted with certain changes, additions and deletions thereto so that the following sections and provisions thereof shall hereafter read as follows:

101.1 Title. Amend Section 101.1 to read as follows:

101.1 Title. These regulations shall be known as the International Plumbing Code of the City of Midland hereinafter referred to as "this code."

106.1.1 Irrigators and home owners. Add new Section 106.1.1 to read as follows:

106.1.1. Irrigators and Home Owners.

(A) Notwithstanding any provisions of this Code to the contrary, any "licensed irrigator" or "licensed installer", as defined in Tex. Water Code § 34.001, shall be allowed to make connections to private or public raw or potable water supply or water supply systems. However, any such person desiring to make such connection shall be subject to the same regulations, requirements and penalties imposed by this Code upon master plumbers doing like work, and any work shall conform to the specifications, rules and regulations contained herein. Any such connection shall be considered to be "plumbing" as defined in Section 202 herein.

(B) Nothing in this Code shall prevent a homeowner from extending, replacing, altering or repairing a plumbing system within his own property boundaries providing such work is done by himself and is used exclusively by him or his family. Such privilege does not convey the right to violate any of the provisions of this Code, nor is it to be construed as exempting any such property owner from obtaining a permit and paying the required fees therefor.

106.2 Add new exemption 3 to read as follows:

106.2 Exempt Work.

3. Repair of routine under slab water leaks may be made without obtaining a permit or an inspection.

106.4.1 Add new Section 106.4.1 to read as follows:

106.4.1 Bond Required. Before any person shall engage in the business of plumbing in the City, he shall first obtain the required State license and deposit with the City a good and sufficient bond in the sum of Ten Thousand Dollars (\$10,000.00) to be approved by the City Attorney, or provide proof of insurance in the amount of \$300,000.00 in accordance with Sec. 15(b) of the State of Texas Plumbing License Law. Said bond shall be conditioned that the person engaged in the plumbing business will faithfully observe all the laws pertaining to plumbing, drain laying, blasting and excavating; further, that the City shall be indemnified and saved harmless from all claims arising from accidents and damage of any character whatsoever caused by the negligence of such person engaged in the plumbing business, or by their agents or employees and that such person will maintain in a safe condition for a period of one (1) year all ditches and excavations which may be opened in the performance of any plumbing work, and further that all dirt and other material excavated will be replaced in a good condition with similar materials. Where such excavation is made in an unpaved street, or any street paved with chert or macadam the word "street" as herein used, shall apply to sidewalks, curbs, gutters and street paving.

106.6.2 Fee Schedule. Amend Section 106.6.2 to read as follows:

~~106.6.2 Fee Schedule.~~ **add to the section the following, See Fee Schedule Ordinance.**

~~(A) New Construction or Additions, Alterations and Repairs: No fee shall be paid pursuant to this Section for permits issued for plumbing work in connection with the construction of new buildings or structures, or for additions, alterations or repairs where a building permit is required. The Building Code, Section 4-1-3 of the City Code, as amended, provides for the payment of a composite fee at the time of application for a building permit to cover the cost of all permits to be issued in connection with such construction.~~

~~(B) The following fees shall be required for the issuance of plumbing permits where such permits are not issued in connection with a building permit:~~

- ~~1. Minimum fee . . . \$25.00~~
- ~~2. Furnace, unit heater, wall heater . . . 25.00~~
- ~~3. Each additional furnace, unit heater, wall heater . . . 5.00~~
- ~~4. Hot water heater . . . 25.00~~
- ~~5. Each additional water heater . . . 5.00~~

- ~~6. Water softener . . . 25.00~~
- ~~7. Lawn sprinkler (vacuum breaker) . . . 25.00~~
- ~~8. Replace water line, repair water line . . . 25.00~~
- ~~9. Replace sewer line, repair sewer line . . . 25.00~~
- ~~10. Replumb any building or structure02/sq. ft.~~
- ~~11. Reinspection (Red Tag) . . . 25.00~~
- ~~12. Fire suppression (sprinkler)02/sq.ft.
(sprinklered area)~~
- ~~13. Backflow assembly device . . . 25.00~~
- ~~14. Each additional device (same property) . . . 5.00~~

~~(C) Refund of plumbing permits:~~

- ~~1. There shall be no refund made on a minimum permit fee.~~
- ~~2. All refunds will be subject to a \$25.00 processing fee.~~
- ~~3. No refund shall be made on any permit once work has commenced.~~

106.6.3 Fee Refunds. Delete Section 106.6.3 in its entirety. ***Refunds, delete 106.6.3 as written and substitute the following***
Refunds, Refunds shall be in accordance with Fee Schedule Ordinance.

108.4 Violation Penalties. Delete Section 108.4 in its entirety.

108.5 Stop Work Orders. Amend Section 108.5 to read as follows:

108.5 Stop Work Orders. Upon notice from the code official, work on any plumbing system that is being done contrary to the provisions of this code or in a dangerous or unsafe manner shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to the owner's agent, or to the person doing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the code official shall not be required to give a written notice prior to stopping the work. Any person who shall continue any work in or about the structure after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to a fine in accordance with Section Four of this Ordinance [Ord. No. 8369].

109 Means of Appeal. ~~Delete Section 109 in its entirety.~~ **109.1 insert after ...code official to the board of appeals, per International Building Code section 113,....**

109.1 Application for appeal. A person shall have the right to appeal a decision of the of code official to the board of appeal, per the International Building Code section 113.

Delete from 109.1 ~~An application for appealafter the notice was served.~~

Delete sections 109.2- 109.7

305.6.1 Sewer Depth. Amend Section 305.6.1 to read as follows:

305.6.1 Sewer Depth. Building sewers shall be minimum of twelve inches (12") below grade.

312.2 Drainage and Vent Water Test. Amend Section 312.2 to read as follows:

312.2 Drainage and Vent Water Test. A water test shall be applied to the drainage system either in its entirety or in sections. If applied to the entire section, all openings in the piping shall be tightly closed, except the highest opening, and the system shall be filled with water to point of overflow. If the system is tested in sections, each opening shall be tightly plugged except the highest openings of the section under test, and each section shall be filled with water, but no section shall be tested with less than a three foot (3') head of water. In testing successive sections, at least the upper three feet (3') of the next proceeding section shall be tested so that no joint or pipe in the building, except the uppermost three feet (3') of the system, shall have been submitted to a test of less than a three foot (3') head of water. The water shall be kept in the system, or in the portion under test, for at least fifteen (15) minutes before inspection starts. The system shall then be tight at all points.

312.6 Gravity Sewer Tests. Amend Section 312.6 to read as follows:

312.6 Gravity Sewer Tests. Gravity sewer tests shall consist of plugging the end of the building sewer at the point of connection with the public sewer, filling the building sewer with water, testing with not less than three feet (3') head of water and maintaining such pressure for fifteen (15) minutes.

605.3. Water Service Pipe. Add new Section 605.3. Exception to read as follows:

605.3. Exception. Fire Suppression Laterals. Fire suppression laterals shall be ~~cast~~ **ductile** iron water pipe, conforming with ANSI/AWWA C151/A21.51-96.

Table 605.3 Water Service Pipe. Add the following footnotes to Table 605.3.

Footnote 1. Copper or copper-alloy tubing shall be minimum Type "L" for underground water supply systems.

Footnote 2. Plastic water pipe used for water service shall terminate thirty-six inches (36") from the water meter. The water service pipe shall be connected to the water meter with not less than thirty six inches (36") of minimum Type "L" copper.

Table 605.4 Water Distribution Pipe. Add the following footnote to Table 605.4.

Footnote 1. Copper or copper-alloy tubing shall be minimum Type "L" when used under slabs.

608.1.1 Backflow Ordinance. Add new Section 608.1.1 to read as follows:

608.1.1 Backflow Ordinance. All potable water supply systems shall conform to Title VIII, Chapter 9, of the Midland City Code (Ordinance No. 7605) for purposes of cross connection and backflow prevention.

Table 608.1 Application of Backflow Preventers. Add the following footnote to Table 608.1

Footnote 1. The potable water supply to lawn irrigation systems shall be protected against backflow by one of the following testable devices: pressure vacuum breaker, double check valve, reduced pressure principal backflow preventer (RPZ).

~~*706.3.1 Heel or Side Inlet Bend.* Add new Section 706.3.1 to read as follows:~~

~~*706.3.1 Heel or Side Inlet Bend.* A heel or side inlet quarter bend shall not be used.~~

904.1 Roof Extension. Amend Section 904.1 to read as follows:

904.1 Roof Extension. All open vent pipes that extend through a roof shall be terminated at least twelve inches (12") above the roof, except that where a roof is to be used for any purpose other than weather protection, the vent extensions shall be run at least seven feet (7') above the roof.

~~*917.1.1 Exception.* Add new Section 917.1 to read as follows:~~

~~*917.1.1 Exception.* Air admittance valves shall be used when approved by the code official and when the vent system is included as part of an engineered plumbing system.~~

1003.1.21 Sewer Sampling Outlet. Add new Section 1003.1.21 to read as follows:

1003.1.2 Sewer Sampling Outlet. In any occupancy required to have a grease interceptor or separator, a sewer sampling outlet shall be provided at an accessible point downstream from the building and any additional traps, interceptors, or separators required for the pretreatment. A clean out, which meets the location requirements above, may serve as a sampling outlet.

1003.10.1 Midland Health Department. Add new Section 1003.10.1 to read as follows:

1003.10.1 Midland Health Department. Interceptors shall be maintained in accordance with City of Midland Health Department regulations.

(Ord. No. 8369, § 1, 1-10-2006)

~~4-3-4. Appeals.~~

~~Whenever the owner of a building or structure or its duly authorized agent, or the applicant for a plumbing permit is aggrieved by any order or decision of the Plumbing~~

~~Inspector or the Building Official made in connection with their administration of this Chapter, he may appeal such decision or order to the Board of Appeals (provided for in the Building Code of the City), and said Board shall proceed to hear and decide any such appeals in the same manner as it now hears appeals from decisions made under said Building Code, and said Board of Appeals shall have the same power and authority over appeals from the Plumbing Code and the same rules and regulations shall apply as are fully set out in said Building Code.~~

~~(Ord. No. 8369, § 1, 1-10-2006)~~

Chapter 4 Gas Code

4-4-2. Code adopted.

~~The specifications, rules and regulations entitled "2003 International Fuel Gas Code 2009 International Fuel Gas Code" together with Appendices A, B, C, and D as promulgated and published by the International Code Council Inc., 5203 Leesburg Pike, Suite 708, Falls Church, Virginia, 22041-3401 500 New Jersey Ave, NW 6th floor Washington, DC 20001, a copy of which authenticated by the signatures of the Mayor and City Secretary and the impression of the City Seal, and made a public record by resolution of the City Council, passed at a regular meeting on November 8, 2005, is on file in the City Secretary's office, are hereby adopted as the Gas Code of the City as fully as if copied at length in this Chapter and are hereby incorporated herein by reference and made a part of this Chapter.~~
~~(Ord. No. 8371, § 1, 1-10-2006)~~

The specifications, rules and regulations entitled 2012 International Fuel Gas Code together with appendices A,B,C and D as promulgated and published by the International Code Council, Inc, are hereby adopted as the Gas Code as fully as if copied at length in this Chapter and are hereby incorporated herein by reference and made a part of this Chapter.

4-4-3. Changes and additions to adopted gas code.

Notwithstanding any revisions in this chapter or said adopted "Gas Code" to the contrary, the latter is adopted with certain changes, additions and deletions thereto so that the following Sections and provisions thereof shall hereafter read as follows to wit:

101.1 Title. Amend Section 101.1 to read as follows:

101.1 Title. These regulations shall be known as the Gas Code of the City of Midland, hereinafter referred to as "this code".

106.1.1 Bond and License. Add new Section 106.1.1 as follows:

106.1.1 Bond and License.

(a) No person shall engage in or work at the installation, extension or alteration of consumer's gas piping or gas appliances until he has executed and delivered to the Building Official a good and sufficient bond in favor of the City in the penal sum of ten thousand dollars (\$10,000.00) with corporate surety, conditioned for the faithful performance of all such work, entered upon or contracted for, in strict accordance and compliance with the provisions of this Chapter. The bond herein required shall be for a period of not less than twelve (12) months and shall be on forms provided by the City Building Official. This bond, in form and substance as herein required, shall be given by such person to cover all such work as shall be done during the term of the bond. In lieu of said bond, the City shall accept proof

of insurance in the amount of \$300,000.00 in accordance with Sec. 15.(b) of the State of Texas Plumbing License Law.

(b) Upon approval of said bond, the person desiring to do such work shall be a master plumber properly licensed by the Texas State Board of Plumbing Examiners, or in the case of liquefied petroleum gas piping installations, such person shall be licensed by the Railroad Commission of Texas.

(c) Nothing in this Code shall prevent a homeowner from installing or repairing his own appliances or installing, extending, replacing, altering or repairing gas piping within his own property boundaries providing such work is done by himself and is used exclusively by him or his family. A homeowner shall not be required to obtain a bond or a license; however, such privilege does not convey the right to violate any of the provisions of this Code, nor is it to be construed as exempting any such property owner from obtaining a permit and paying the required fees therefor.

106.6.2 Fee Schedule. Amend Section 106.6.2 to read as follows: The fees for all gas systems work shall be as indicated in the Fee Schedule Ordinance 8818

106.6.3-Fee Refunds. Delete 106.6.3 as written and substitute the following:
Refunds- Refunds shall be in accordance with Fee Schedule Ordinance 8818

108.4 Violation Penalties. Delete Section 108.4 in its entirety.

108.5 Stop Work Orders. Amend Section 108.5 to read as follows:

108.5 Stop Work Orders. Upon notice from the code official that work is being done contrary to the provisions of this code or in a dangerous or unsafe manner, such work shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to the owner's agent, or to the person doing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the code official shall not be required to give a written notice prior to stopping the work. Any person who shall continue any work on the system after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to a fine in accordance with Section Four of this ordinance [Ord. No. 8371].

109.1 Application for appeal. Amend to read as follows:

109.1 Application for appeal. Any person shall have the right to appeal a decision of the of code official to the board of appeals, per the International Building Code section 113.

Delete sections 109.2- 109.7

309.2 Connections. Amend Section 309.2 to read as follows:

309.2 Connections. All electrical connections between gas appliances and the building wiring shall conform to the National Electrical Code and to Title IV, Chapter 2, of the Midland City Code.

403.6 Plastic pipe, tubing, and fittings. Amend Section 403.6 to read as follows:

403.6. Plastic pipe, tubing, and fittings. Plastic pipe, tubing, and fittings shall be used outside underground only, and shall conform with ASTM D 2513. Pipe shall be marked "gas" and ASTM D 2513. Plastic pipe may be connected at the end of the thirty-six inch (36") metallic pipe service line and extended to within thirty-six inches (36") of the building where it shall be connected to metallic pipe and riser. The manufacturer's recommendations for the joining of plastic pipe shall be observed. See Section 404.8 for requirements of protection against corrosion.

406.4 Test pressure measurement. Amend Section 406.4 to read as follows:

406.4 Test pressure measurement. Test pressure shall be measured with an ounce gauge, manometer or with a mercury gauge designed and calibrated to read, record or indicate a pressure loss due to leakage during the pressure test period. The source of pressure shall be isolated before the pressure tests are made.

406.4.1 Test pressure. Amend Section 406.4.1 to read as follows:

406.4.1 Test Pressure. Low pressure (not in excess of 0.5 psi (3.5kPa) gas piping shall withstand a pressure of not less than 1 1/2 times the proposed maximum working pressure, but not less than 5.88 psi (40.5kPa), ninety (90) ounces, or twelve inches (12") of mercury for a period of not less than ten (10) minutes without showing any drop in pressure. Higher pressure piping (2 psi gas) shall withstand a pressure of at least 10 psi (68.8kPa) or twenty inches (20") of mercury for a period of not less than ten (10) minutes without showing any drop in pressure.

409.1.4 Service Line Shutoff Valve. Add new Section 409.1.4 to read as follows:

409.1.4 Service Line Shutoff Valve. An approved shutoff valve shall be installed above ground outside on the service line at the building entrance on all new gas line installations and on all replaced gas lines.
(Ord. No. 8371, § 1, 1-10-2006)

4-4-6. Appeals.

Whenever the owner of a building or structure or his duly authorized agent, or the applicant for any permit required by this Chapter, is aggrieved by any order or decision of the Gas Inspector or the Building Official made in connection with their administration of this Chapter, he may appeal such decision or order to the Board of Appeals (provided for in the Building Code of the City) and said Board shall proceed to hear and decide any such appeals in the same manner as it now hears appeals from decisions made under said Building Code, and said Board of Appeals shall have the same power and authority over appeals from the Gas Code and the same rules and regulations shall apply as are fully set out in the Building Code.

(Ord. No. 8371, § 1, 1-10-2006)

Residential Code Amendments

4-11-2. Code adopted.

~~The specifications, rules and regulations contained in Chapter 1 through 43 and Appendices A, B, C, D, E, J, and L of the 2003 **2009** International Residential Code, published by the International Code Council, Inc., 5203 Leesburg Pike, Suite 708, Falls Church, Virginia, 22041 3401 **500 New Jersey Ave, NW 6th floor Washington DC 20001**, a copy of which authenticated by the signatures of the Mayor and City Secretary and the impression of the City Seal, and made a public record by resolution on the 8th day of November, 2005, is on file in the City Secretary's office, are hereby adopted as the Residential Code of the City as fully as if copied at length in this Chapter and are hereby incorporated herein by reference and made a part of this Chapter.~~

~~(Ord. No. 8372, § 1, 1-10-2006)~~

The specifications, rules and regulations entitled 2012 International Residential Code together with appendices A,B,C, D, E, J, N, P and Q, as promulgated and published by the International Code Council, Inc, are hereby adopted as the Residential Code as fully as if copied at length in this Chapter and are hereby incorporated herein by reference and made a part of this Chapter.

4-11-3. Changes and additions to adopted residential code.

Notwithstanding any provisions of this Chapter or said adopted Residential Code to the contrary, the latter is adopted with certain changes, additions and deletions thereto so that the following sections and provisions thereof shall hereafter read as follows, to wit:

R101.1 Title. Amend Section R101.1 to read as follows:

R101.1 Title. These provisions shall be known as the Residential Code for One-and Two-Family Dwellings of the City of Midland, and shall be cited as such and will be referred to herein as "this code".

R103.2 Appointment. Amend Section 103.2 to read as follows:

R103.2. Appointment. The Building Official, Assistant Building Official, Inspectors and other personnel shall be appointed in accordance with the personnel policies of the City and shall be subject to all personnel rules and regulations of the City of Midland.

R105.2 Work Exempt From Permit. Amend Section 105.2 to read as follows:

R105.2. Work Exempt From Permit. Delete the following:

Building: No.'s 1, 2, 3, 4, 5.

Add the following:

#11. Tree forts or other play structures supported partially or entirely by a tree.

R105.8 Contractor's Responsibilities. Amend Section 105.8 to read as follows:

R105.8 Contractor's Responsibilities:

(a) It shall be the duty of every contractor or builder, who is engaged in the construction, erection, alteration or repair of residential buildings or structures, subject to the provisions of this Code, to give good and sufficient bond in the sum of ten thousand dollars (\$10,000.00) to be approved by the City Attorney, conditioned to conform to the Building Regulations of this Section, and other ordinances and laws of the City of Midland in reference to buildings and related construction and site requirements. The bond herein required shall include the bonds required for early clearance procedures as required by Section 9 of this Title and Chapter and with the sidewalk, driveway and curb bond required by this Code with no increase in amounts.

(b) No building permit shall be issued by the Building Official unless and until a bond as herein provided has been tendered to and approved by the Building Official by the person or firm requesting such permit.

(c) Nothing in this Code shall prevent a homeowner from maintaining, altering or adding to his home within his own property boundaries provided such work is done by himself for the exclusive benefit of his family. Such privilege does not convey the right to violate any of the provisions of this Code, nor is it to be construed as exempting any such property owner from obtaining a permit and paying the required fees therefore.

R108.2 Schedule of Permit Fees. Amend Section 108.2 to read as follows: The fees for all gas systems work shall be as indicated in the Fee Schedule Ordinance 8818.

R108.5 Refunds. Delete 108.5 as written and substitute the following:

Refunds- Refunds shall be in accordance with Fee Schedule Ordinance 8818

R112.1 General- Delete section R112.1 and replace with the following: Application for appeal. A person shall have the right to appeal a decision of the code official to the board of appeals, per International Building Code section 113. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or an equally good or better form of construction is

proposed. The application shall be filed on a form obtained from the code official within 20 days after the notice was served.

Delete sections R112.2- 112.4 in their entirety

Table R301.2(1) Climatic and Geographic Design Criteria. Amend Table R301.2(1) to read as follows:

TABLE INSET:

Ground Snow Load	3.5 PSF
Basic Wind Speed	90 MPH
Topographic effects _____ Seismic Design Category	No _____ A
Weathering	Moderate
Frost Line Depth	12 inches
Termite	Moderate to Heavy
Decay (DELETE)	Slight to Moderate (DELETE)
Winter Design Temp _____ Ice Barrier Underlayment Required	<u>21 degrees F</u> _____ No
Flood Hazards	Adoption Date NFIP 09/27/91
	Current FIRM 09/15/05
Air Freezing Index	1500 or less
Mean annual Temp	65 F

Delete section R313 Automatic Fire Sprinkler systems in its entirety.

Delete Chapter 11- Energy Efficiency in its entirety. Title 4 Chapter 12 Energy Code shall be the Energy Code for the city.

G2417.4 (406.4) Test Pressure Measurement. Amend Section G2417.4 to read as follows:

G2417.4 (406.4) Test Pressure Measurement. Test pressure shall be measured with an ounce gauge, manometer or with a mercury gauge designed and calibrated to read, record or indicate a pressure loss due to leakage during the test period. The source of pressure shall be isolated before the pressure tests are made.

G2417.4.1 (406.4.1) Test Pressure. Amend Section G2417.4.1(406.4.1) to read as follows:

G2417.4.1 (406.4.1) Test Pressure. Low pressure (not in excess of 0.5 psi) gas piping shall withstand a pressure of not less than 1 1/2 times the proposed maximum working pressure, but not less than 5.88 psi, ninety (90) ounces, or

twelve inches (12") of mercury for a period of not less than ten (10) minutes without showing any drop in pressure. Higher pressure piping (2-psi gas) shall withstand a pressure of at least 10 psi or twenty inches (20") of mercury for a period of not less than ten (10) minutes without showing any drop in pressure.

G2420.1.4 (409.1.4) Service Line Shutoff Valve. Add new Section G2420.1.4(409.1.4) to read as follows:

G2420.1.4 (409.1.4) Service Line Shutoff Valve. An approved shutoff valve shall be installed above ground outside on the service line at the building entrance on all new gas line installations and on all replaced gas lines.

P2503.4 Building Sewer Testing. Amend Section P2503.4 to read as follows:

P2503.4 Building Sewer Testing. Building sewer tests shall consist of plugging the end of the building sewer at the point of connection with the public sewer, filling the building sewer with water, testing with not less than three feet (3') head of water and maintaining such pressure for fifteen (15) minutes.

P2902.1.1 Backflow Ordinance. Add new Section 2902.1.1 to read as follows:

P2902.1.1 Backflow Ordinance. All potable water supply systems shall conform to Title VIII, Chapter 9, of the Midland City Code (Ordinance No. 7605) for purposes of cross connection and backflow prevention.

TableP2905.4 Water Service, Pipe. Add the following footnotes to Table P 2905.4

Footnote 1. Copper or copper-alloy tubing shall be minimum Type "L" for underground water supply systems.

Footnote 2. Plastic water pipe used for water service shall terminate thirty-six inches (36") from the water meter. The water service pipe shall be connected to the water meter with not less than thirty-six inches (36") of minimum Type "L" copper.

P2905.20 Underground Joints. Add a new Section P2905.20 to read as follows:

P2904.20 Underground Joints. For purposes of repair only, joints in polybutylene (PB) plastic pipe or tubing underground or under a concrete floor slab shall be installed using heat fusion, in accordance with the manufacturer's installation instructions. Joints in copper pipe or tubing installed in a concrete floor slab or under a concrete floor slab on grade shall be installed using wrought-copper fittings and brazed joints.

P3103.1 Roof Extension. Amend Section P3103.1 to read as follows:

P3103.1 Roof Extension. All open vent pipes that extend through a roof shall be terminated at least twelve inches (12") above the roof, except that where a roof is to be used for any purpose other than weather protection, the vent extensions shall be run at least seven feet (7') above the roof.

4-11-4. Appeals.

Whenever the owner of a building or structure or its duly authorized agent, or the applicant for a building permit is aggrieved by any order or decision of the Building Official made in connection with their administration of this Chapter, he may appeal such decision or order to the Board of Appeals (provided for in the Building code of the City), and said Board shall proceed to hear and decide any such appeals in the same manner as it now hears appeals from decisions made under said Building Code, and said Board of Appeals shall have the same power and authority over appeals from the Residential Code and the same rules and regulations shall apply as are fully set out in said Building Code.



City Council Agenda

Approved for Agenda:
rpatrick
City Manager's Office

MEETING DATE: 11/26/2013

TO: City Council / City Manager

FROM: Steve Thorpe, Building Official

SUBJECT: Appeal of the Building Official's denial of a temporary sign permit

Purpose:

An appeal of the Building Official's denial of a temporary sign permit to place a sign on property within the City of Midland.

Recommended City Council Action

☐ Approve ☒ Deny ☐ Directional / Informational

Fiscal Impact:

none

Discussion:

An application has been submitted requesting approval of a temporary sign permit. The proposed sign is a 91 square feet electronic video board with full color spectrum lighting and will advertise multiple businesses not located on the property. The sign does not meet City of Midland Code of Ordinances Title 11, Section 7a-11-(D) 1, 2, 4 and 9. Item 1 states a temporary sign may be used for on-premise advertising only. Item 2 states that an "Electronic Message Center" as a temporary sign is prohibited. Item 4 limits the size of the sign to 35 square feet. Item 9 allows for the lighting to be white light.

RESOLUTION NO. _____

**RESOLUTION AUTHORIZING THE ISSUANCE OF A
TEMPORARY SIGN PERMIT TO FOTOVYBES INC.
("APPLICANT") FOR THE PLACEMENT OF A
TEMPORARY SIGN ON PROPERTY WITHIN THE
CITY OF MIDLAND; SAID PERMIT WAS DENIED BY
THE BUILDING OFFICIAL AND THIS RESOLUTION IS
AN APPEAL TO THE MIDLAND CITY COUNCIL**

WHEREAS, pursuant to Section 11-7a-15 of the Midland City Code, the applicant for a temporary sign permit for the placement of a temporary sign on property within the City of Midland has filed an appeal regarding the Building Official's denial of said permit application; and

WHEREAS, the City Council finds it to be in the public interest to authorize the issuance of said permit to the applicant;

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

THAT the City Manager, or his designee, is hereby authorized and directed to issue, on behalf of the City of Midland, Texas, a temporary sign permit to the applicant for the placement of a temporary sign on property within the City of Midland. A copy of said permit is attached hereto and incorporated herein as Exhibit "A".

On motion of Council member _____, seconded by Council member _____, the above and foregoing resolution was adopted by the City Council of the City of Midland at a regular meeting on the _____ day of _____, A.D., 2013, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

Courtney Sharp, City Manager

APPROVED AS TO CONTENT
AND COMPLETENESS:

Robert Patrick, Assistant to the City Manager

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

TEMPORARY SIGN PERMIT

This documentation hereby constitutes a permit, issued in accordance with Midland City Code Section 11-7a-11, to place or locate a temporary sign on property within the City of Midland as set forth in the application of Fotovybes Inc. (Applicant), dated October 25, 2013, and filed with the City of Midland Building Official.

All operations done under this permit shall be done and accomplished in accordance with the applicable provisions of Title 11, Chapter 7a of the Midland City Code.

In addition to all other applicable regulations, this permit and any temporary sign placed or located on property within the City of Midland pursuant to this permit must conform to the following conditions:

1. A temporary sign may be used for on-premise or off-premise advertising only.
2. A temporary sign placed on a lot or tract within the City shall be for a time period not to exceed ninety-six (96) consecutive hours.
3. The sign area of a temporary sign shall not exceed one hundred (100) square feet, and shall substantially conform to Exhibit "A", which is attached hereto and incorporated herein.
4. A temporary sign shall be contained on the property of the legal business and shall not extend into the City right-of-way or be located in any visibility clearance area. In no event shall such sign be erected or placed less than ten (10) feet from the back of the curb.
5. Ground signs shall be secured with a minimum of four separate points by metal pins and/or sandbags, where necessary. Such metal pins must penetrate the ground by a distance of not less than ten (10) inches.
6. Temporary signs may be lighted with white light or lights only, and such light or lights shall not be of a flashing, intermittent, moving or similarly lighted type. Exterior lighting shall be shielded to prevent glare.
7. Notwithstanding any provisions to the contrary contained within the Midland City Code, all electrical connections to temporary signs shall be three-prong (grounded) type using grounded, all-weatherproof outlets. Electrical cords must be all-weatherproof type and may not exceed ten (10) feet in length unless they are then run in conduit. In addition, such cords must be so positioned as to not impact vehicular traffic.
8. The issuance of this permit grants no property rights to the applicant.
9. Either party may terminate this permit at will for no or any reason upon giving the other party at least thirty (30) days' written notice. The parties to this permit understand and agree that it is in either party's sole discretion to cancel this permit during the term of the permit without penalty to the cancelling party. The parties have bargained for the flexibility of terminating this permit upon tender of the requisite notice at any time during the term of the permit.

Temporary Sign Permit

10. The applicant shall pay a \$50.00 non-refundable fee to the City.

This permit shall be effective from November 18, 2013, until May 18, 2014. This permit shall automatically renew for a term of eight (8) months unless rescinded by the Midland City Council.

EXECUTED THIS _____ day of _____, 2013.

CITY OF MIDLAND, TEXAS

By: _____
Courtney Sharp, City Manager

APPLICANT

By: _____

Printed Name: _____

Title: _____

Exhibit "A"

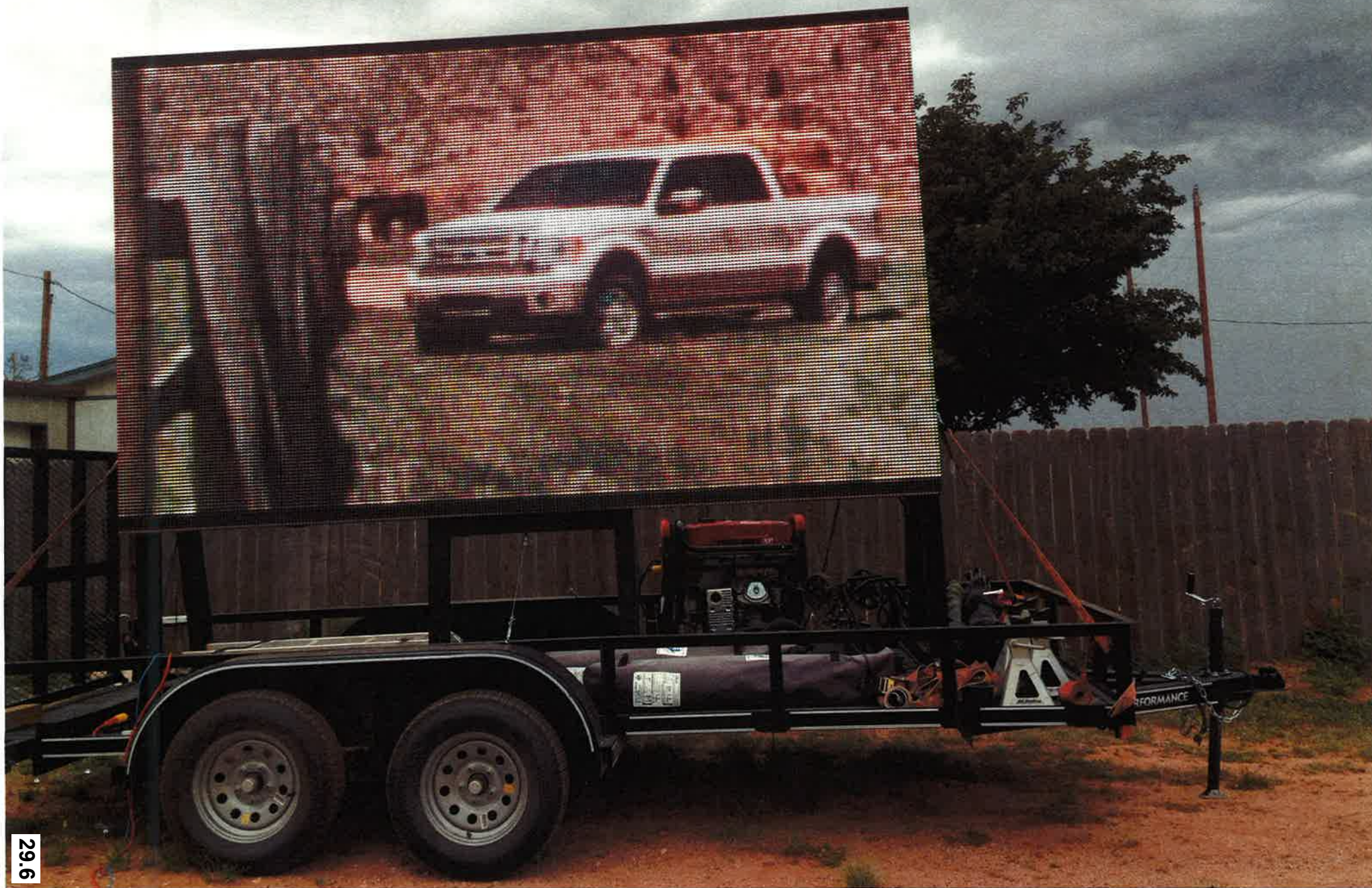


Exhibit "A"





City Council Agenda

Approved for Agenda:
rpatrick
City Manager's Office

MEETING DATE: November 26, 2013

TO: CITY COUNCIL/CITY MANAGER

FROM: Jim Compton, Planning Division Manager

SUBJECT: Continue consideration of an ordinance on a request by the Davidheiser Family Trust for a Specific Use Permit Without Term for a RV Park on a 15.00-acre tract of land out of Section 1, Block 39, T-2-S, T&P RR Co. Survey, City and County of Midland, Texas. (Generally located on the north side of E. Interstate Hwy 20, approximately 1,300 feet west of S. Fairground Road – District 2.)

Purpose:

Continue consideration of an ordinance on a request by the Davidheiser Family Trust for a Specific Use Permit without Term for a RV Park on a 15.00-acre tract of land out of Section 1, Block 39, T-2-S, T&P RR Co. Survey, City and County of Midland, Texas

Recommended City Council Action

☐ Approve

☐ Deny

☒ Direction/Informational

Fiscal Impact:

There is no cost to the City for processing this application.

Discussion:

The applicant wishes to construct a RV park northwest of I-20 and north of E. Taylor Avenue. The property is within a BP-I-20 Business Park District. All vacation travel trailer parks are required to receive a SUP in any district. The proposed site will have 131 full pad lots. This application is proposing a RV park that will have approximately 131 RV lots. The maximum allowed lot for 15 acres per City code is 180 lots. The internal road network will be made up of a combination of pavement and gravel. There will be four bath houses on site and one building. Setbacks will be 60' from E. Taylor Avenue and the property to the east. I-20 to the south will be 50'. All of these conditions which are shown on Exhibit A are consistent with all City Code Requirements. At the November 12 City Council meeting, the Council voted to defer consideration of this item to allow the developer to submit additional items such as fencing along I-20, signage, and landscape plans. However as of the agenda submittal deadline staff has not received or reviewed these requested documents. Staff will provide an update at the November 26, 2013 meeting.

Attachments: Maps, P & Z Reports, Site Plan (Exhibit A)

ORDINANCE NO. _____

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF A 15.00-ACRE TRACT OF LAND OUT OF SECTION 1, BLOCK 39, T-2-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTH SIDE OF EAST INTERSTATE HIGHWAY 20, APPROXIMATELY 1,300 FEET WEST OF SOUTH FAIRGROUNDS ROAD), WHICH IS PRESENTLY ZONED BP, I-20 BUSINESS PARK DISTRICT, BY PERMITTING SAID PROPERTY TO BE USED UNDER A SPECIFIC USE PERMIT WITHOUT TERM FOR A RECREATIONAL VEHICLE (RV) PARK; MAKING SAID PERMIT SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

WHEREAS, the City Planning and Zoning Commission and the Governing Body of the City of Midland, Texas, in compliance with the City Charter and the State law with reference to the granting of specific use permits under the zoning ordinance regulations and zoning map, have given the requisite notices by United States mail, publication and otherwise; and after holding due hearings and affording a full and fair hearing to all of the property owners generally, and particularly to those interested persons situated in the affected area and in the vicinity thereof, the Governing Body of the City of Midland finds that the health, safety and general welfare will be best served by the granting of a Specific Use Permit Without Term, set out hereinafter, subject to the special conditions and restrictions set out hereinafter on the property described in Section One hereof;

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

SECTION ONE. That the zoning use classification of the following described property, which is presently zoned BP, I-20 Business Park District, to wit:

A 15.00-acre tract of land out of Section 1, Block 39, T-2-S, T&P RR Co. Survey, City and County of Midland, Texas, said tract being more specifically described by metes and bounds in Exhibit "B", which is attached hereto and incorporated herein.

is hereby changed to permit same to be used under a Specific Use Permit Without Term for a Recreational Vehicle (RV) Park, together with the uses permitted in a BP, I-20 Business Park District, subject to the following conditions:

1. That the RV Park shall conform to the conditions on Exhibit “A”, which is attached hereto and incorporated herein.
2. That this development shall have two primary access points and one secondary access point. The secondary access point may be off the northern side of the property at East Taylor Street or King Street; provided, however, that the access from East Taylor Street or King Street must be emergency access only unless the street is paved to current City of Midland standards.
3. That access to East Taylor Street shall be physically barricaded except for emergency access.
4. That all Texas Department of Transportation permits shall be approved before a building permit may be issued.
5. That a solid waste pad easement shall be dedicated on the final plat of this property.
6. That this property shall be platted before any construction permits may be issued.

SECTION TWO. 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 THREE. The provisions of this ordinance are to be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances, inconsistent with or in conflict with any of the provisions of this ordinance are hereby expressly repealed to the extent of any such inconsistency or conflict.

SECTION FOUR. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this ordinance. The Council of the City of Midland hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more

sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

SECTION FIVE. The City Secretary is hereby authorized and directed to publish the descriptive caption of this ordinance in the manner and for the length of time prescribed by the law as an alternative method of publication.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the _____ day of _____, A.D., 2013; and passed to second reading on motion of Council member _____, seconded by Council member _____, by the following vote:

Council members voting “AYE”:

Council members voting “NAY”:

The above and foregoing ordinance was read in full and finally adopted by the following vote upon motion of Council member _____, seconded by Council member _____, on the _____ day of _____, A.D., 2013, at a regular meeting of the City Council:

Council members voting “AYE”:

Council members voting “NAY”:

PASSED AND APPROVED THIS _____ day of _____, A.D., 2013.

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

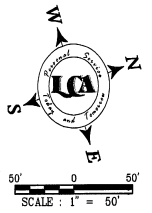
Robert Patrick, Assistant to the City Manager

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

DAVIDHEISER RV PARK

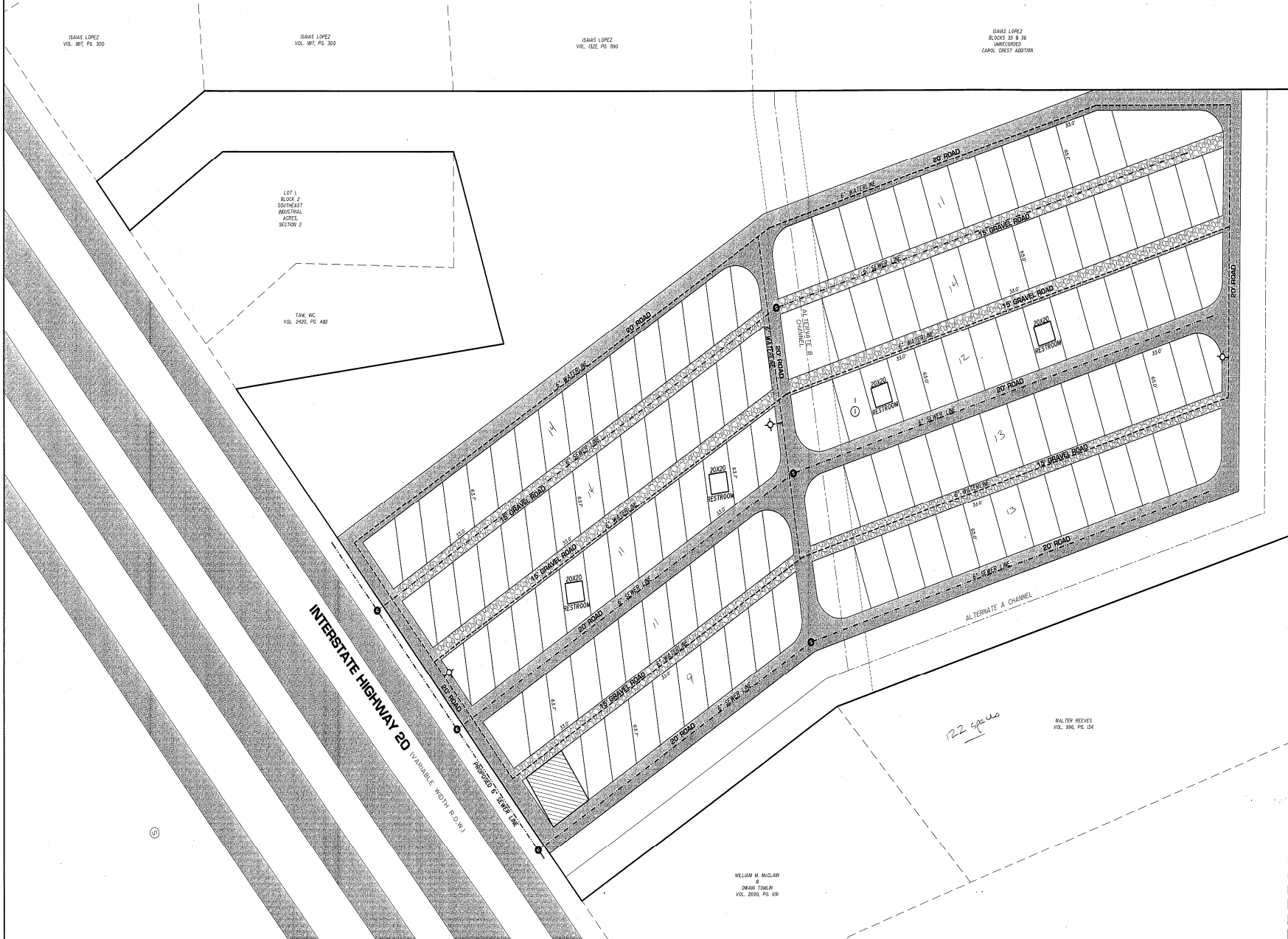
LOT 2, BLOCK 2 SOUTHEAST INDUSTRIAL ACRES, SECTION 3
CITY AND COUNTY OF MIDLAND, TEXAS



EX. 6" WL

LEGEND

- PROPOSED BUILDING
- PROPOSED GRAVEL ROAD
- PROPOSED PAVEMENT
- PROPOSED FIRE HYDRANT
- PROPOSED SEWER MANHOLE
- PROPOSED SEWER CLEAN OUT
- PROPOSED WATER LINE
- PROPOSED SEWER LINE



E. TAYLOR AVENUE (50' R.O.W.)



ENVIRONMENTAL • CIVIL ENGINEERING • LAND SURVEYING

FIRM # 001363

**521 NORTH TEXAS • ODESSA, TEXAS 79761
(432) 332-5058 or 580-8812 • FAX (432) 332-8812**

Legal Description
Of a 15.00 Acre Tract Located in
Section 1 Block 39, T-2-S
T&P RR Co. Survey
Midland County, Texas

Boundary Being More Particularly Described as Follows:

BEGINNING at (Y=10,689,022.53' and X=1,765,091.27') the southeast corner of in the south right-of-way line of East Taylor Avenue for the northwest corner of this tract.

THENCE S 70°41'05" E with the south right-of-way line of East Taylor Avenue, a distance of 439.25 feet to a 1/2" iron rod for the northeast corner of this tract and being the northwest corner of a 2.24 acre tract as recorded in Volume 3135, Page 336, Deed Records, Midland County, Texas;

THENCE S 01°09'30" W with the west line of said 2.24 acre tract, a distance of 551.05 feet to a 1/2" iron rod at the southwest corner of said 2.24 acre tract and the northwest corner of a 1.68 acre tract as recorded in Volume 2690, Page 691, Official Records, Midland County, Texas and being a point of deflection for this tract;

THENCE S 14°04'58" E along the west line of said 1.68 acre tract, a distance of 352.10 feet to a point in the north right-of-way line of Interstate Highway 20 and at the southwest corner of said 1.68 acre tract and being the southeast corner of this tract;

THENCE S 70°32'28" W along the north right-of-way line of said Interstate Highway 20, a distance of 644.87 feet to a point being the southeast corner of a 0.71 acre tract as recorded in Volume 2420, Page 482, Deed Records, Midland County, Texas and being a point of deflection for this tract;

THENCE N 10°40'15" E along the east line of said 0.71 acre tract, a distance of 313.05 feet to a 1/2" iron rod at the northeast corner of said 0.71 acre tract and being an interior ell corner for this tract;

THENCE N 88°08'54" W along the north line of said 0.71 acre tract, a distance of 198.96 feet to a point at the northwest corner of said 0.71 acre tract and the northwest corner of Lot 1, Block 2, Southeast Industrial Acres, Section 2, as recorded in Cabinet D, Page 101, Plat Records of Midland County, Texas and being an interior ell corner of this tract;

THENCE S 19°00'34" W along the west line of said Lot 1, Block 2 a distance of 266.98 feet to a point at the most westerly northwest corner of said Lot 1, Block 2 and being a point of deflection for this tract;



THENCE S 18°12'55" E along the west line of said Lot 1, Block 2 a distance of 134.06 feet to a point in the north right-of-way line of said Interstate Highway 20 and being the southwest corner of said Lot 1, Block 2 and being an exterior ell corner of this tract;

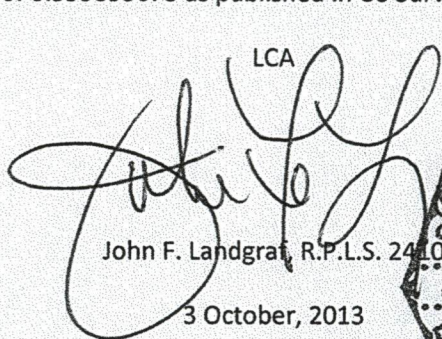
THENCE S 70°32'28" W along the north right-of-way line of said Interstate Highway 20 a distance of 61.60 feet to a point at the southeast corner of a 1.01 acre tract as recorded in Volume 1817, Page 300, Deed Records, Midland County, Texas and being the southwest corner of this tract;

THENCE N 13°22'09" W along the east line of said 1.01 acre tract a distance of 173.42 feet to a point at the northeast corner of said 1.01 acre tract and being a point of deflection for this tract;

THENCE N 19°00'34" E a distance of 1237.56 feet to the Point of Beginning, said tract containing 15.00 acres of land.

Bearings, distances and coordinates are relative to the Texas Coordinate System, 1983 NAD, Central Zone, based on the City of Midland GPS Control Monument "LAM 20" with a theta angle of -00°53'17" with a combined grid factor of 0.999893673 as published in US Survey feet.

LCA


John F. Landgraf, R.P.L.S. 2410
3 October, 2013



PLANNING AND ZONING COMMISSION

November 4, 2013

CASE: S-13-013, Davidheiser RV Park.

REQUEST: Hold a public hearing and consider a request for a Specific Use Permit for RV Park.

APPLICANT: LCA.

OWNER: Davidheiser Family Trust, LLC.

LEGAL DESCRIPTION: A 15.00-acre tract of land out of Section 1, Block 39, T-2-S, T & P RR Co. Survey, City and County of Midland, Texas.

LOCATION: Generally located on the north side of E. Interstate Hwy 20, approximately 1,300 feet west of S. Fairground Road.

CURRENT ZONING: BP-I-20 Business Park District.

ASSOCIATED CASE: P-13-063, Southeast Industrial Acres.

DETAILS OF REQUEST:

1. The applicant wishes to construct a RV park northwest of I-20 and north of E. Taylor Avenue. The property is within a BP-I-20 Business Park District. All vacation travel trailer parks are required to receive a SUP in any district. The proposed site will have 131 full pad lots.

SURROUNDING ZONING AND LAND USE:

2. The property is located within a BP-I-20 Business Park District. To the north across E. Taylor Avenue, is LI-Light Industrial District. To the east, south, and west is BP-I-20 Business Park District. West of the property is zoned BP-I-20 Business Park District

ANALYSIS:

3. Title 5, Chapter 5, "Mobile Homes and Vacation Travel Trailers" of Midland's City Code, lists all requirements that must be met prior to approval of a vacation travel trailer park. Some of the key elements are as follows:

- Density:

The maximum allowed density shall be 12 travel trailers per acre.

- Sanitation facilities: Vacation travel trailer parks shall provide water closets, baths or showers and other sanitation facilities which shall conform to the following:

- (a) The sanitation facilities for males and females shall be either in separate buildings, or shall be separated in in the same buildings and ventilated at all times with screened openings. These service buildings shall be maintained in clean, slightly condition and kept free of any condition that could menace the health of any occupant. Service buildings shall be located not closer than five feet nor farther than 200 feet from vacation travel trailer space.

- Toilet facilities:

- (1) Males – Toilet facilities for males shall consist of not less than one flush water closet for every 15 vacation travel trailers, one urinal for every 15 vacation travel trailers, and one shower with individual dressing accommodations for every ten vacation travel trailers.
- (2) Females - Toilet facilities for females shall consist of not less than one flush water closet for every ten vacation travel trailers and one shower with individual dressing accommodations for every ten vacation travel trailers.

- Setbacks and Space Requirements:

- Between mobile structures: 10 Feet.
- End-to-end parking: 6 Feet.
- From permanent structures (excluding individual storage structures, patio roofs and carports): 10 Feet.
- From patio roof or carport of one mobile structure to adjacent mobile structures: 3 Feet.
- Rear and side park property lines: 5 Feet.
- Front park property lines: 15 Feet.
- From interior streets: 10 Feet.
- From cul-de-sac streets: 10 Feet.

- Space width: 25 Feet.
- Lighting:
 - Entrances and exits to mobile home parks and vacation travel trailer parks shall be lighted with one or more luminaries (or fixtures) totaling at least 7,700 lumens.
 - The interior area of mobile home parks or vacation travel trailer parks shall be lighted to 0.5 candle average maintained. All luminaries shall be mounted 15 feet to 25 feet above ground.

DICUSSION:

This application is proposing a RV park that will have approximately 131 RV lots. The maximum allowed lot for 15 acres per City Code is 180. The internal road network will be made up of a combination of pavement and gravel. There will be four bath houses on site and one building. Setbacks will be 60' from E. Taylor Avenue and the property to the east. I-20 to the south will be 50'. Staff finds that the conditions of this proposal satisfy all City Code requirements. Because of its proximity to the I-20 corridor staff feels this is an appropriate location for the proposed RV Park.

STAFF RECOMMENDATION:

Staff recommends approval of this request for a Specific Use Permit for RV Park; we recommend that any approval be subject to the following conditions:

- A. The development of an RV Park on this property shall conform to the conditions shown on Exhibit A in all respects.**
- B. This development will require two primary access points and one secondary access point. The secondary access point may be off the northern side of the property at E. Taylor Street or King Street however, the access to E. Taylor Street or King Street must be emergency access only unless the street is paved to current city standards.**
- C. That based on the deferral approved at the November 13, 2012 City Council meeting. Access to E. Taylor must be physically barricaded save emergency access.**
- D. That all TxDot permits are approved before a building permit will be issued.**

E. That a solid waste pad easement be dedicated on the final plat;

F. That this property is platted before any construction permits are issued.



Jim Compton *for*
Planning Division Manager
Department of Development Services



Robert Baronti, Jr., AICP
Sr. Planner
Department of Development Services

Attachments:

Application
Map
Exhibit A

CITY OF MIDLAND
Planning Division**SPECIFIC USE PERMIT APPLICATION**

LCA 432-332-5058
Applicant Name Contact Phone #s
521 N. Texas – Odessa, Texas 79761
Address Zip Code
Email address: lca@lcaodessa.com

Davidheiser Family Trust, LLC
Property Owner Name Contact Phone #s
1222 Calle Las Casas – Thousand Oaks, CA 91360
Address Zip Code
Email address: _____

Campbell Development, LLC 817-676-4187
Operator (if different from Applicant or Property Owner) Contact Phone #s
P.O. Box 79478 – Ft. Worth, Texas 76179
Address Zip Code

Type of Permit: RV SUP with Term: Yes No
(For Office Use)

Street address and Legal Description of property on which SUP is desired (complete Lot, Block, and Subdivision, or if unplatted, attach a Metes and Bounds description with surveyor's seal.)
Lot 2, Block 2, Southeast Industrial Acres, Section 3

Current Zoning: BP

Maximum Floor Area: See Site Plan Max. Occupancy: See Site Plan

Proposed hours and days of use or operation: 24 Hours

Reason for request: RV Park in BP Zoning

Applicant's opinion as to why the request will not adversely affect the public safety, health, morals, general welfare, and convenience: This property is located on Interstate 20 and in an industrial area and is a good location for this use.

REQUIRED SUBMITTALS

1. Application fee: **\$300.** (80% of fee will be refunded if no P&Z public hearing is called; if no City Council public hearing is called, then 30% of fee will be refunded.)
2. Site plan – 16 copies (FOLDED)
3. On a CD in .pdf and .jpg format.

SIGNATURES:

Applicant: _____

Date: 30 Aug 2013

Property Owner: _____

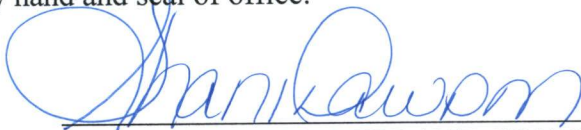
Date: 30 Aug 2013

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 Joe M. Tucker who, being by me duly sworn, upon oath says: That (s)he is authorized by Brenda Davidheiser, the owner of the above described property, to fully represent him/her in this application and that (s)he had the legal right, power and authority to sign said owner's name hereto as his/her attorney in fact.

Subscribed and sworn to before me, this 30th day of August, 2013, to certify which witness my hand and seal of office.



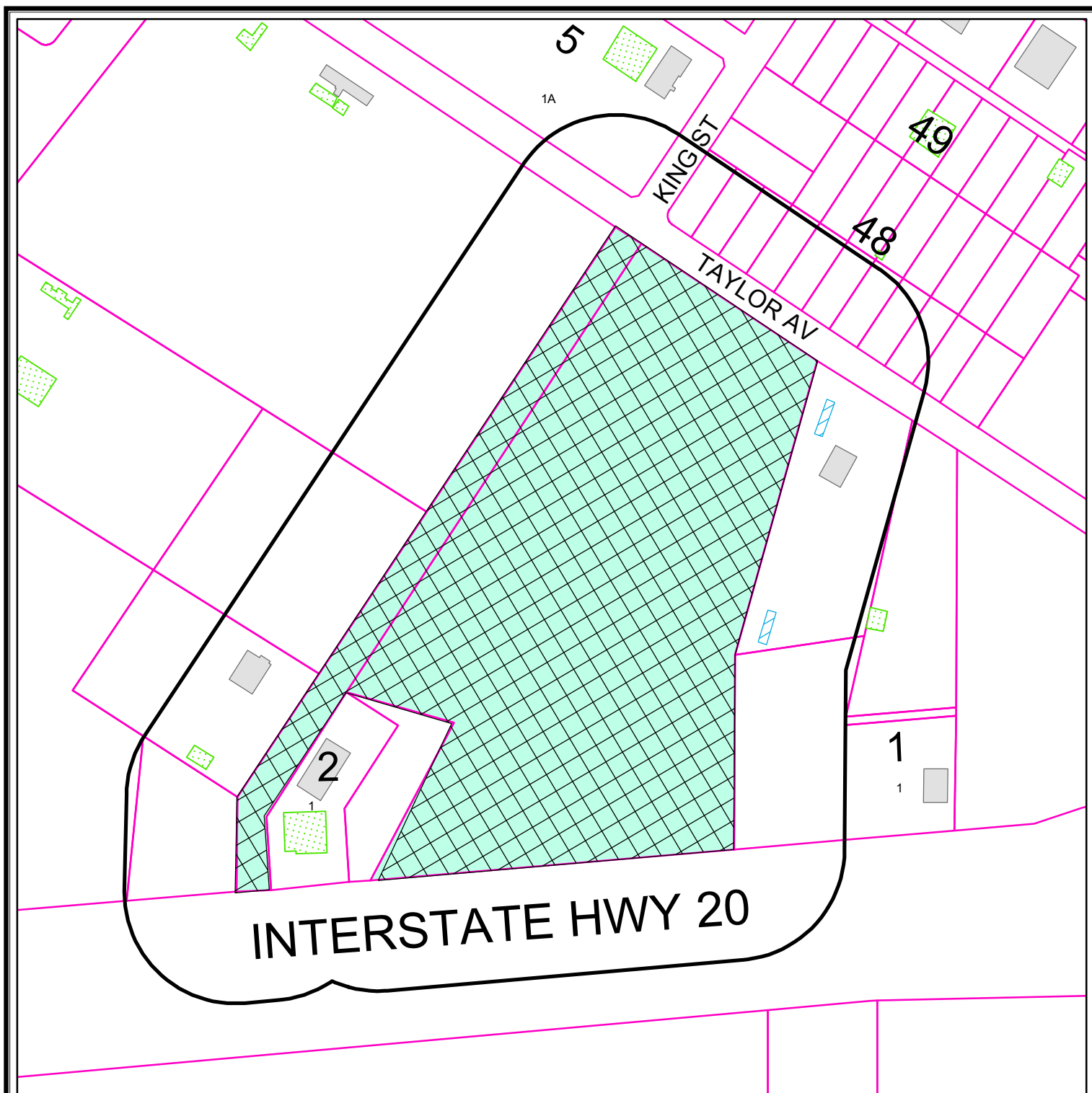
NOTARY PUBLIC, MIDLAND COUNTY, TEXAS



FOR OFFICE USE ONLY

Rec'd By: BB Date: 8.30.13
Assigned: BB
For: P+Z On: 11/4/13

****Application will not be considered for scheduling until reviewed by a planner.****



PROPERTY OWNER NOTIFICATION MAP

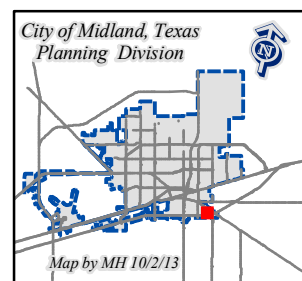
S - 13 - 013

Scale: 1" = 250'

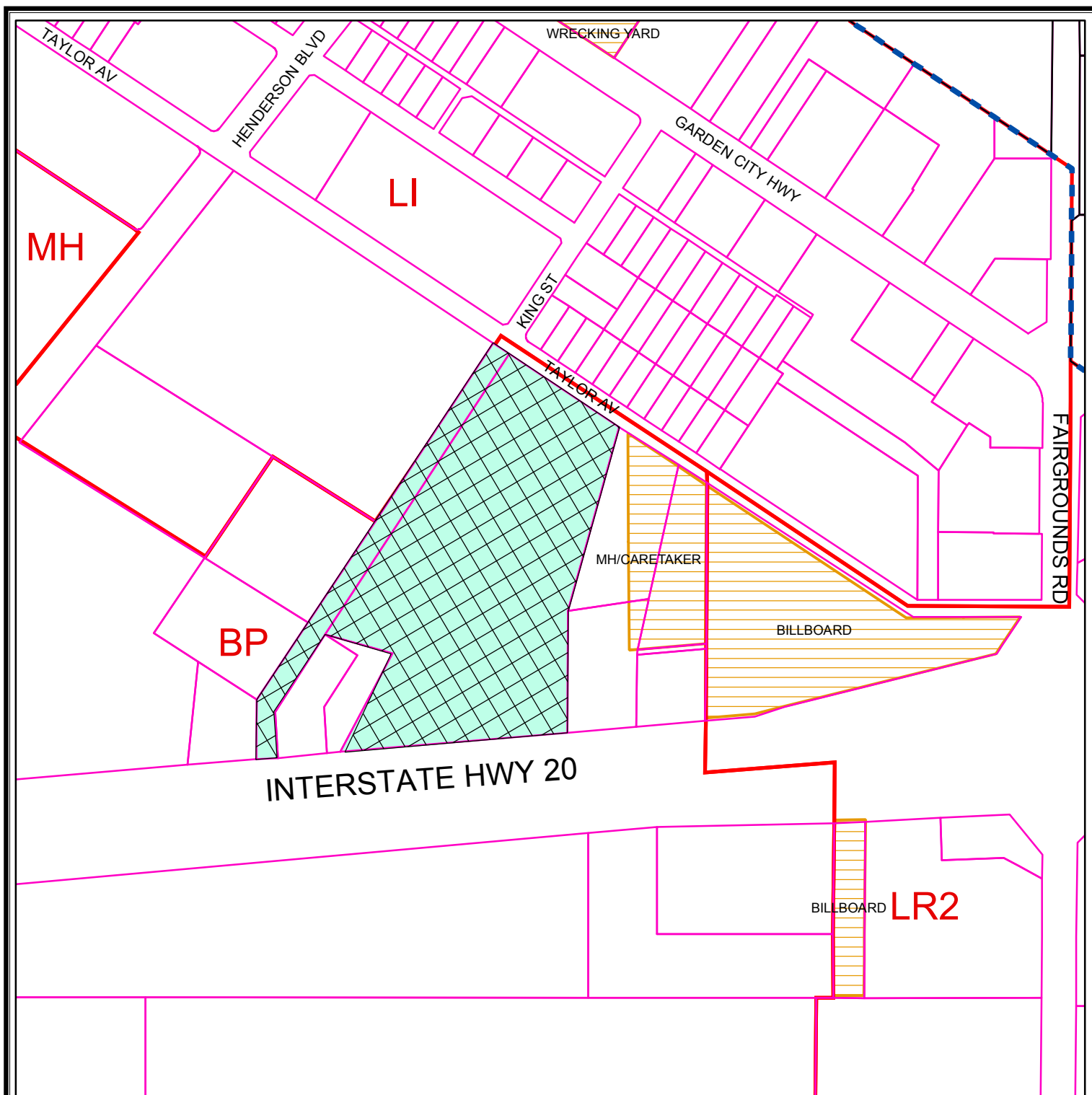
Consider a request for a Specific Use Permit Without Term for a RV Park on a 15.00-acre tract of land out of Section 1, Block 39, T-2-S, T & P RR Co. Survey, City and County of Midland, Texas.

LEGEND

- CITY LIMITS
- 200 FT. LEGAL NOTICE LIMIT
- PARCEL
- PUBLIC BLDGS
- PRIVATE BLDGS
- ACCESSORY BLDGS



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ZONING MAP

S - 13 - 013

Scale: 1" = 400'

Consider a request for a Specific Use Permit Without Term for a RV Park on a 15.00-acre tract of land out of Section 1, Block 39, T-2-S, T & P RR Co. Survey, City and County of Midland, Texas.

LEGEND

 ZONING	 CITY PARCELS	 COUNTY PARCELS
 SPECIFIC USE PERMITS	 CITY LIMITS	

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:
rpatrick
City Manager's Office

MEETING DATE: November 26, 2013

TO: CITY COUNCIL/CITY MANAGER

FROM: Jim Compton, Planning Division Manager

SUBJECT: Consider an ordinance on a request by Midland Visions 2000 for the vacation of Right-Of-Way, being a 0.05-acre portion of the S. Calhoun Street and E. Washington Avenue adjacent to Lot 12, Block 22, Greenwood Addition, Third, Fourth, and Fifth Sections City and County of Midland, Texas (Generally located on the southeast corner of the intersection of S. Calhoun Street and E. Washington Avenue.) District - 2

Purpose: Consider an ordinance on a request by for Midland Visions 2000 the vacation of Right-Of-Way being a 0.05-acre portion S. Calhoun Street and E. Washington Avenue adjacent to Lot 12, Block 22, Greenwood Addition, Third, Fourth, and Fifth Sections City and County of Midland, Texas

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

MCAD list the value of this easement at \$3962.50. However, since we are working with Midland Visions 2000 a non-profit organization, staff recommends that no compensation be required.

Discussion:

The applicant Midland Visions 2000 is requesting to vacate the above described Right-Of-Way being a 0.05-acre portion of the Right-Of-Way of S. Calhoun Street and E. Washington Avenue adjacent to Lot 12, Block 22, Greenwood Addition, Third, Fourth, and Fifth Sections City and County of Midland, Texas. The applicant wishes to add a second structure to the property. Staff recommends approval of this request.

ATTACHMENTS:

Application

Maps

Proposed Ordinance

ORDINANCE NO.

AN ORDINANCE VACATING AND ABANDONING A 0.05-ACRE PORTION OF SOUTH CALHOUN STREET AND EAST WASHINGTON AVENUE RIGHTS-OF-WAY ADJACENT TO LOT 12, BLOCK 22, GREENWOOD ADDITION, THIRD, FOURTH AND FIFTH SECTIONS, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTHEAST CORNER OF THE INTERSECTION OF SOUTH CALHOUN STREET AND EAST WASHINGTON AVENUE); ADOPTING THE APPRAISAL BY THE CITY MANAGER OF \$3,962.50; WAIVING THE FEE FOR THE COST OF THE RIGHT-OF-WAY; AND ORDERING RECORDATION BY THE CITY SECRETARY

WHEREAS, it has been determined by the Midland City Council that a 0.05-acre portion of South Calhoun Street and East Washington Avenue rights-of-way adjacent to Lot 12, Block 22, Greenwood Addition, Third, Fourth and Fifth Sections, 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 \$3,962.50, 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 waive the fee for the cost of the right-of-way in light of the abutting property owner's status as a nonprofit organization; 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 0.05-acre portion of South Calhoun Street and East Washington Avenue rights-of-way adjacent to Lot 12, Block 22, Greenwood Addition, Third, Fourth and Fifth Sections, 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 the fee for the cost of the right-of-way vacated and abandoned herein to the adjoining property owner is hereby waived in light of the abutting property owner’s status as a nonprofit organization.

SECTION THREE. That upon the City’s receipt of the sum set forth in Section Two hereof, the City Secretary is hereby authorized and directed to file a certified copy of this Ordinance with the County Clerk of Midland County, Texas, for purposes of recording in the Official Records of Midland County, Texas.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the _____ day of _____, A.D., 2013; and passed to second reading on motion of Council member _____, seconded by Council member _____, by the following vote:

Council members voting “AYE”:

Council members voting “NAY”:

The above and foregoing ordinance was read in full and finally adopted by the following vote upon motion of Council member _____, seconded by Council member _____, on the _____ day of _____, A.D., 2013, at a regular

meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2013.

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

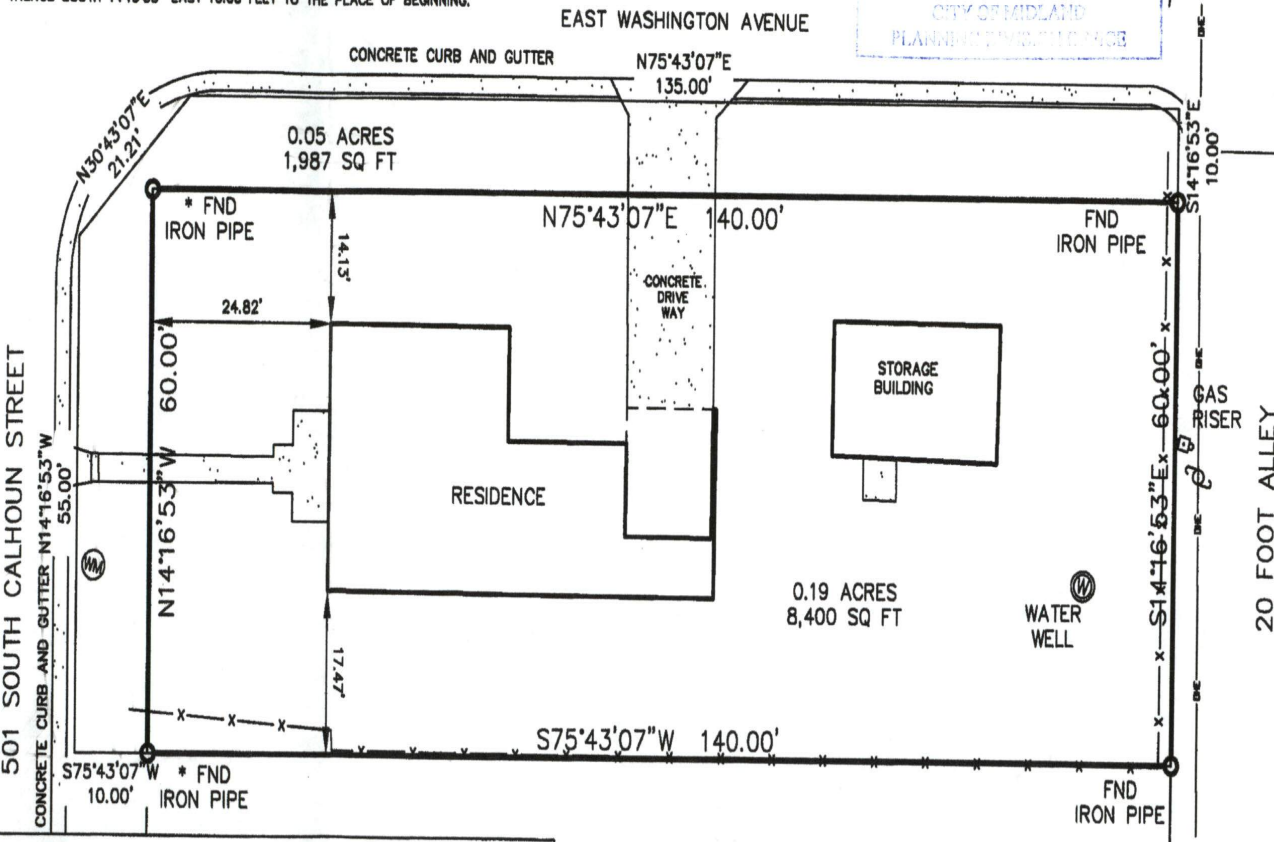
Robert Patrick, Assistant to the City Manager

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

FIELD NOTE DESCRIPTION OF THE SURVEY OF AN 0.05-ACRE (1,987 SQUARE FEET) VACATION OF THE SOUTH 10 FEET OF EAST WASHINGTON AVENUE AND THE EAST 10 FEET OF SOUTH CALHOUN STREET, ADJACENT TO LOT 12, BLOCK 22, GREENWOOD ADDITION, THIRD, FOURTH AND FIFTH SECTIONS, AN ADDITION TO THE CITY AND COUNTY OF MIDLAND, TEXAS, DESCRIBED AS FOLLOWS:

BEGINNING AT AN IRON PIPE FOUND FOR NORTHEAST CORNER OF SAID LOT 12 FOR THE MOST EASTERLY SOUTHEAST CORNER OF THIS TRACT;
 THENCE SOUTH 75°43'07" WEST 140.00 FEET TO AN IRON PIPE FOUND FOR THE NORTHWEST CORNER OF SAID LOT 12;
 THENCE SOUTH 14°16'53" EAST 60.00 FEET TO AN IRON PIPE FOUND FOR THE MOST SOUTHERLY SOUTHEAST CORNER OF THIS TRACT;
 THENCE SOUTH 75°43'07" WEST 10.00 FEET TO A POINT FOR THE SOUTHWEST CORNER OF THIS TRACT;
 THENCE NORTH 14°16'53" WEST 55.00 FEET TO A CUT BACK FOR THE MOST WESTERLY NORTHWEST CORNER OF THIS TRACT;
 THENCE NORTH 30°43'07" EAST 21.21 FEET TO A POINT FOR THE MOST NORTHERLY NORTHWEST CORNER OF THIS TRACT;
 THENCE NORTH 75°43'07" EAST 135.00 FEET TO A POINT FOR THE NORTHEAST CORNER OF THIS TRACT;
 THENCE SOUTH 14°16'53" EAST 10.00 FEET TO THE PLACE OF BEGINNING.



RECEIVED

NOV - 1 2013

CITY OF MIDLAND
PLANNING DEPARTMENT

FOR FLOOD INSURANCE RATING PURPOSES: THIS PROPERTY LIES WITHIN FLOOD INSURANCE ZONE DESIGNATION "X" AS DEPICTED ON FLOOD INSURANCE RATE MAP (FIRM) NUMBER 48329-C0208E, MIDLAND COUNTY, TEXAS AND INCORPORATED AREAS EFFECTIVE DATE, SEPTEMBER 16, 2005, AS ISSUED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA). CENSUS TRACT NO. 15

TO THE LIENHOLDERS, MIDLAND VISIONS 2000 (OWNER) OF THE PREMISES AND TO THE ISSUING TITLE INSURANCE UNDERWRITER: THE UNDERSIGNED DOES HEREBY CERTIFY THAT THIS SURVEY WAS MADE ON THE GROUND OF THE PROPERTY LEGALLY DESCRIBED HEREON AND THAT THERE ARE NO KNOWN DISCREPANCIES, CONFLICTS, SHORTAGES IN AREA, BOUNDARY LINE CONFLICTS, ENCROACHMENTS, OVERLAPPING OF IMPROVEMENTS, EASEMENTS OR RIGHTS-OF-WAY, EXCEPT AS SHOWN HEREON.

DATED THIS 24TH DAY OF SEPTEMBER, 2013.

RJ DAUM
TEXAS RPLS 4826



SURVEY PLAT

LOT 12

BLOCK 22

AND AN 0.05-ACRE (1,987 SQUARE FEET) VACATION OF THE SOUTH 10 FEET OF EAST WASHINGTON AVENUE AND THE EAST 10 FEET OF SOUTH CALHOUN STREET, ADJACENT TO LOT 12, BLOCK 22

GREENWOOD ADDITION
THIRD, FOURTH AND FIFTH SECTIONS

AN ADDITION TO THE CITY OF MIDLAND,
AS PER PLAT OF RECORD IN
CABINET "C", PAGE 56, PLAT RECORDS,
MIDLAND COUNTY, TEXAS

SCALE: 1" = 20'

PROJECT: 73963MV
JOB NO.: 73,963

SCHUMANN ENGINEERING CO., INC.

REGISTERED PROFESSIONAL LAND SURVEYORS
LICENSED STATE LAND SURVEYORS

REGISTERED PROFESSIONAL CIVIL ENGINEERS
TEXAS AND NEW MEXICO

Civil Engineering ~ Land Surveying

408 N. PECOS STREET - P. O. BOX 504
MIDLAND, TEXAS 79702-0504

Office (432) 684-5548
Fax (432) 684-6973

NOTES:

BEARINGS AND DISTANCES SHOWN ARE GRID BASED ON GPS OBSERVATIONS AND CONFORM TO THE "TEXAS COORDINATE SYSTEM" TEXAS CENTRAL ZONE, NORTH AMERICAN DATUM OF 1983.

THIS SURVEY WAS PREPARED WITHOUT BENEFIT OF TITLE COMMITMENT. NOT ALL EASEMENTS OR MATTERS OF TITLE MAY BE SHOWN.

* ASTERISK DENOTES CONTROLLING MONUMENT

MONUMENTS ARE A 1/2" REINFORCING BAR SET WITH YELLOW PLASTIC CAP STAMPED "SCHUMANN ENGINEERING" UNLESS OTHERWISE NOTED.



Office of the City Manager

November 18, 2013

Midland City Council
City of Midland, Texas

RE: Request for vacation of a 0.05-acre portion of South Calhoun Street and East Washington Avenue rights-of-way adjacent to Lot 12, Block 22, Greenwood Addition, Third, Fourth and Fifth Sections, 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 \$3,962.50.

Very truly yours,

Courtney Sharp
City Manager

Exhibit "B"

L:\Ordinances\Planning\Vacate & Abandon\2013\Calhoun Street & Washington Avenue, Blk 22, Greenwood 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:
10 ft. from the north of 501 S. Calhoun
10 ft from NW side of 501 S. Calhoun
- II.** Reason for Request: so that the property can be a multi-
dwelling premise. To add a second structure to
property
- 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:
All changes will only be made to property owned by
Midland Visions 2000.

IV. REQUIRED ITEMS:

1. Applicant(s) Information:
Name: Midland Visions 2000 / Cary Love
Address: 1212 E. Wadley Ave Phone: 432-687-3138
Midland TX 79705
City State Zip Code
2. Sealed metes and bounds description of property to be vacated (included on the map) and total square feet of vacation. Include ownership, legal-and deed information for adjacent property owners.
3. Application Fee: **\$300.00**
- Required items attached? Date Received: 1. 2. 3. MC 11/1/13

The City of Midland will take no action on this request, until items 1-3 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: Shelly M. for Cary Lee

Date: 10/29/13

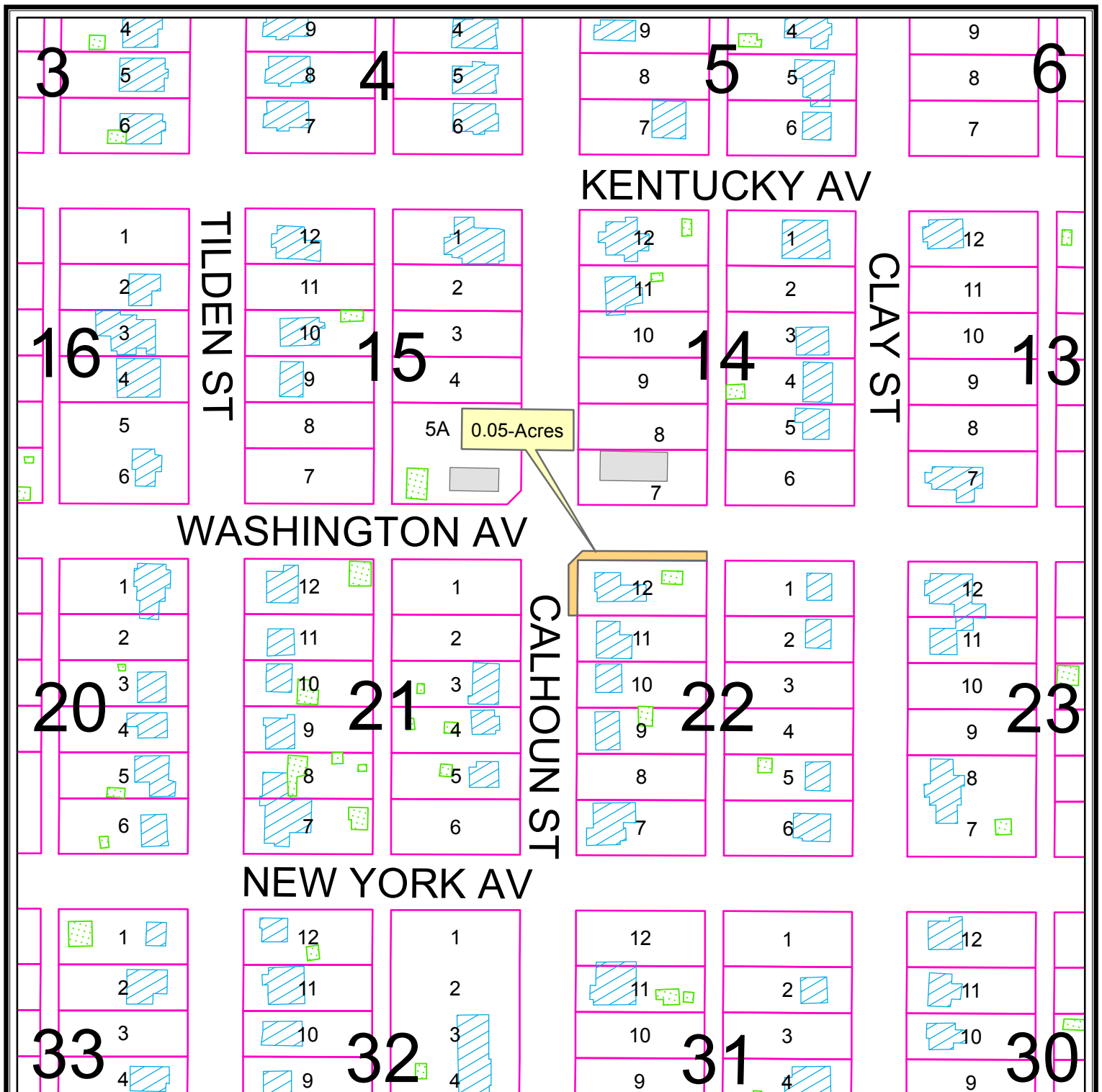
Signature of Other Affected Property Owners: _____

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>ME</u>	Date: <u>11/1/13</u>
Assigned: <u>BB</u>	
For: <u>CC</u>	On: <u>11/26/13</u>

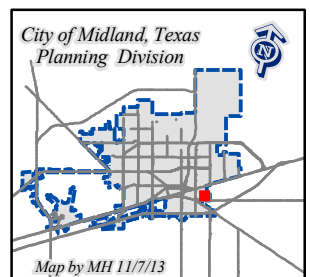


LOCATION MAP

V - 13 - 018

Scale: 1" = 150'

Consider a request for the vacation of a 0.05-acre portion of the rights-of-way of S. Calhoun Street and E. Washington Avenue adjacent to Lot 12, Block 22, Greenwood Addition, Third, Fourth & Fifth, Sections, City and County of Midland, Texas.



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City Council Agenda

Approved for Agenda:

City Manager's Office

MEETING DATE: November 26, 2013

TO: CITY COUNCIL/CITY MANAGER

FROM: Jim Compton, Planning Division Manager

SUBJECT: Consider a motion directing staff to begin the annexation of Lot 3, Block 5, Pecan Acres Addition, Section 5 and of Lots 4A & 4B, Block 5, Pecan Acres Addition, Section 7, Midland County, Texas.

Purpose: Consider a motion directing staff to begin the annexation Lot 3, Block 5, Pecan Acres Addition, Section 5 and of Lots 4A & 4B, Block 5, Pecan Acres Addition, Section 7, Midland County, Texas. Upon the request of the property owner.

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

Additional land to be developed under City regulations in an expanded growth area.

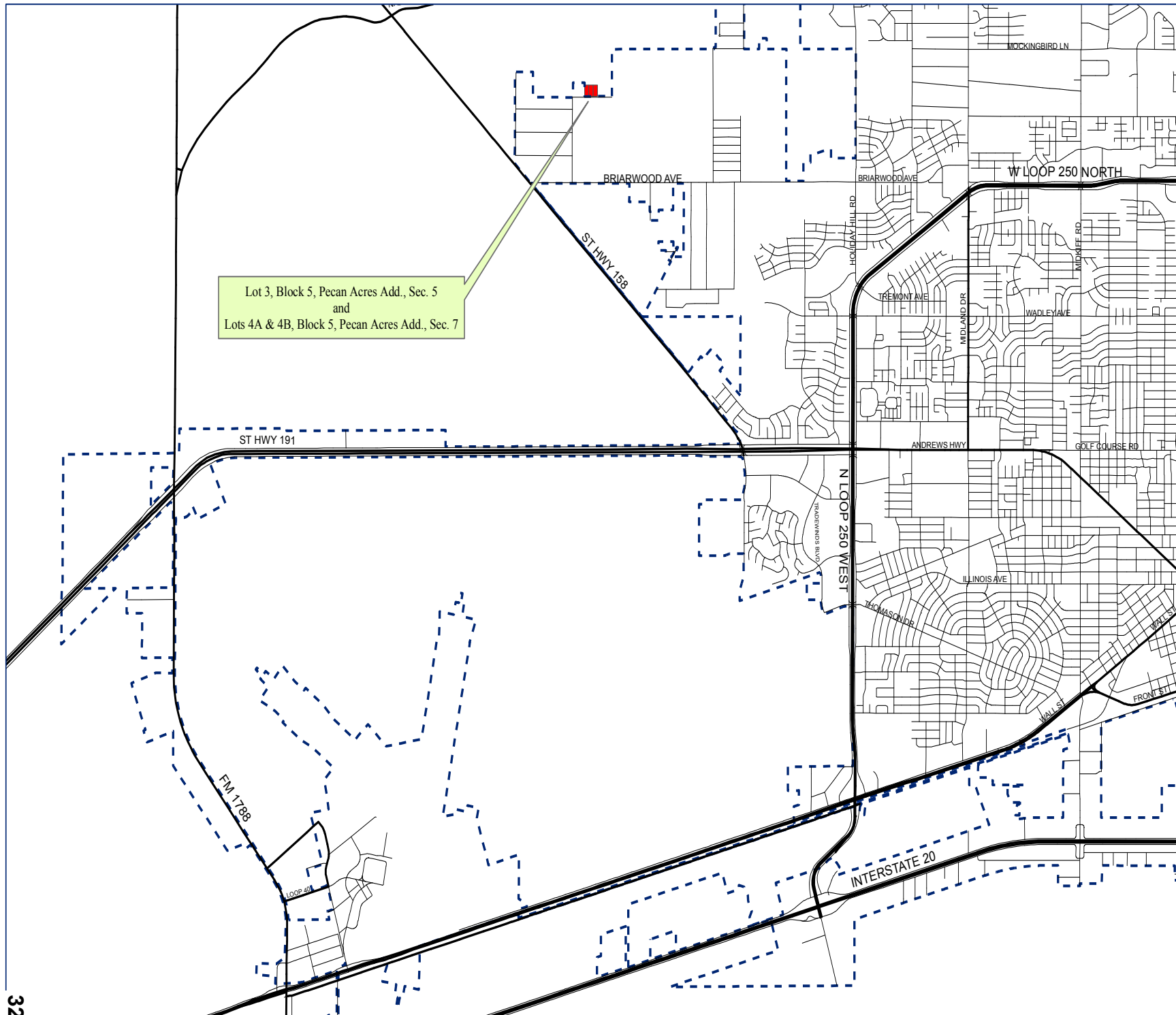
Discussion:

Staff has met with the owner's representative and discussed development in this area located at FM 1788 and Loop 40 (adjacent to the U.S. Post Office) and has received an application and materials to begin the platting process. The owner would like to be annexed into the City for the benefit of City services. This is considered a voluntary annexation in accordance with the Agricultural Exemption Agreement that is currently in effect on this property.

Staff is requesting Council's direction to add this land parcel to the proposed annexation.

Attachment:

Location map



Proposed Annexation

November 26, 2013

LEGEND

- Streets
- City Limits
- Annexation Tract



PLANNING DIVISION

Map by MH

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City Council Agenda

Approved for Agenda:
THudson
City Manager's Office

MEETING DATE: 11/26/2013

TO: City Council / City Manager

FROM: Regina Stephenson, Purchasing Manager

SUBJECT: Consider a resolution approving a contract with Dailey and Wells Communications, Inc. for a P25 800 MHz Simulcast Trunked Land Mobile Radio System for the Communication and Information Systems Department.

Purpose:

Approval of a resolution authorizing the execution of a contract with Dailey and Wells Communications, Inc. for a P25 800 MHz Simulcast Trunked Land Mobile Radio System.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Directional / Informational

Fiscal Impact:

\$9,149,719.00 from the 2012 GPCO-Communications System Bond Fund and the 2014 GPCO-Communications System Bond Fund

Discussion:

Resolution 2012-228 approved the issuance of a request for proposals for a city-wide public safety and public works radio system. We received two (2) proposals. After viewing demonstrations from the companies, requesting best and final offers and then extensive review by the evaluation team and the consultant, staff recommends contracting with Dailey and Wells Communications, Inc. Please see the attached memo from Sharlett Chowning, Chief Information Officer, for further discussion.

Therefore, please consider a resolution authorizing the execution of a contract with Dailey and Wells Communications, Inc. of San Antonio, Texas for a total cost of \$9,149,719.00.

CITY OF MIDLAND
Communication and Information Services Department
Interoffice Memorandum

To: Regina Stephenson, Purchasing Manager
From: Sharlett Chowning, CIO
Date: November 26, 2013
Subject: Consider a resolution approving the award of a Radio System

In July of 2012, Council authorized the release of a Request for Proposal (RFP) for a P25 800 Megahertz Simulcast Trunked Land Mobile Radio System. The existing radio system is not compliant with 2015 APCO regulations regarding interoperable communications with other agencies and mutual aid response. This P25 system will allow communications among all P25 compliant systems.

Two vendors responded to the RFP and an evaluation committee was created. Serving on the committee were J.R. Smith and Jeff Darr (Police), Allen Moore (Fire), Patrick Repman (Fire and Emergency Management), Robert Patrick (CMO), Eva Luna (Dispatch), David Flores (Radio Systems), Sharlett Chowning (CISD) and Justin Millican (Airport). The RFP and its addendums contained over 400 functionalities and requirements that the City had determined were needed.

Demonstrations of each vendor's proposals were held in August. Subsequently, additional questions were asked of each vendor. Each committee member ranked the criteria as outlined in the RFP. It was determined by a clear majority that negotiations should proceed with Dailey Wells.

Negotiations were held and individual issues were discussed, including pricing. The result is the contract we bring you today. In the opinion of the committee, Dailey Wells is the best solution for the City of Midland. They have addressed all of the functionality required and have continued to be the leading vendor throughout the process.

The evaluation committee recommends the Council approve the contract with Dailey Wells for the P25 800 Megahertz Simulcast Trunked Land Mobile Radio System in the amount of \$9,149,719.

RESOLUTION NO. _____

RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT FOR THE IMPLEMENTATION OF A P25 800 MHz SIMULCAST TRUNKED LAND MOBILE RADIO SYSTEM WITH DAILEY & WELLS COMMUNICATIONS, INCORPORATED, OF SAN ANTONIO, TEXAS, AT A TOTAL COST OF \$9,149,719.00; AND THE CONTRACT IS FOR A CITY-WIDE PUBLIC SAFETY AND PUBLIC WORKS RADIO SYSTEM AND RELATED SYSTEMS

WHEREAS, the City Manager approved plans and specifications and authorized advertisement for bids for the implementation of a P25 800 MHz simulcast trunked land mobile radio system; and

WHEREAS, the bids for said radio system were opened, with the lowest and most responsible bid being submitted from Dailey & Wells Communications, Inc., in the amount of \$9,149,719.00;

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 for the implementation of a P25 800 MHz simulcast trunked land mobile radio system, with Dailey & Wells Communications, Inc., at an estimated total price not to exceed \$9,149,719.00, said contract being on file in the office of the City Secretary, referenced by the date and number of this Resolution.

SECTION TWO. That upon proper receipt of invoices or statements approved by the City Manager, the City Treasurer is hereby authorized and directed to pay Dailey & Wells Communications, Inc. for the work referenced herein from funds available in the Radio System Upgrade Project (9018) budget account.

On motion of Council member _____, seconded by Council member _____, the above and foregoing resolution was adopted by the City Council of the City of Midland at a regular meeting on the _____ day of _____, A.D., 2013, by

the following vote:

Council members voting “AYE”:

Council members voting “NAY”:

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

Courtney Sharp, City Manager

APPROVED AS TO CONTENT
AND COMPLETENESS:

Regina Stephenson, Purchasing Manager

Sharlett Chowning, Chief Information Officer

APPROVED AS TO FORM:

Keith Stretcher, City Attorney



City Council Agenda

Approved for Agenda:
THudson
City Manager's Office

MEETING DATE: 11/26/2013

TO: City Council / City Manager

FROM: Regina Stephenson, Purchasing Manager

SUBJECT: Consider a resolution approving an agreement with RCC Consultants, Incorporated, to provide consulting services to conduct Phase 3 of the Radio Replacement Project at a cost of \$248,905.50 for the Communication and Information Systems Department.

Purpose:

Approval of a resolution for a professional services agreement for consulting services to conduct Phase 3 of the radio replacement project.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Directional / Informational

Fiscal Impact:

\$248,905.50 from the 2014 GPCO Communications System Bond Fund

Discussion:

Staff is requesting assistance with Phase 3 of the radio project. Phase 3 will include implementation, testing and acceptance of a new P25 800 MHz simulcast trunked land mobile radio system for the City of Midland. RCC Consultants, Inc. was the consultant for Phase 1 (development of the request for proposals) and Phase 2 (evaluation of the proposals) for this radio project. Please see the attached memo from Sharlett Chowning, Chief Information Officer for more information.

Therefore, please consider a resolution authorizing an agreement with RCC Consultants, Inc. of The Woodlands, Texas for Phase 3 of the radio project for a total cost of \$248,905.50.

CITY OF MIDLAND
Communications and Information Services Department
Interoffice Memorandum

Date: November 26, 2013
To: Regina Stephenson, Purchasing Manager
From: Sharlett Chowning, Chief Information Officer
Subject: Contract to Hire a Consultant to Assist with Radio Implementation

City staff requests a contract be entered into between RCC Consultants, Inc. and the City to conduct Phase III, Implementation, Testing and Acceptance of the P25 800 MHz Simulcast Trunked Land Mobile Radio System. Phase I was completed three years ago and the information was used to produce the resulting RFP. Phase II is being completed with the contract being presented to Council today. RCC has been involved throughout the multi-year project and has brought expertise that is only acquired through twenty years of experience with various wireless communications projects.

CISD is recommending the award of a contract to RCC Consultants, Inc. for assistance with the implementation, testing and acceptance of the P25 800 MHz Simulcast Trunked Land Mobile Radio System.

RESOLUTION NO.

**RESOLUTION APPROVING AN AGREEMENT WITH
RCC CONSULTANTS, INCORPORATED, TO PROVIDE
CONSULTING SERVICES TO CONDUCT PHASE 3 OF
THE RADIO REPLACEMENT PROJECT AT A COST OF
\$248,905.50; AND THE CONSULTANTS WILL
IMPLEMENT, AND TEST A NEW P25 800 MHZ
SIMULCAST TRUNKED LAND MOBILE RADIO
SYSTEM**

WHEREAS, a request for proposals was issued for consulting services to conduct Phase 3 of the Radio Replacement Project; and

WHEREAS, RCC Consultants, Inc., proposes to provide said services at a cost of \$248,905.50; and

WHEREAS, the City Council finds it to be in the public interest to execute a contract with RCC Consultants, Inc., for said services;

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

SECTION ONE. That the City Manager and City Secretary are hereby authorized and directed to execute and attest, respectively, on behalf of the City of Midland, a contract with RCC Consultants, Inc., for said services at a cost of \$248,905.50, 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 RCC Consultants, Inc., pursuant to the terms of said contract from funds available in the Radio System Upgrade Project (9018) 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., 2013, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

Courtney Sharp, City Manager

APPROVED AS TO CONTENT
AND COMPLETENESS:

Regina Stephenson, Purchasing Manager

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

PROFESSIONAL CONSULTANT SERVICES AGREEMENT
7267-14

THIS AGREEMENT is effective this 27th day of November , 2013, by and between the **City of Midland, Texas** ("City") and **RCC Consultants, Inc.**, a Delaware corporation with headquarters offices at 100 Woodbridge Center Drive - Suite 201, Woodbridge, New Jersey 07095-1125 ("RCC").

W I T N E S S E T H:

In consideration of the mutual promises herein contained, the parties hereto, intending to be legally bound, agree as follows:

ARTICLE I - Scope of Work

RCC shall perform the services set forth in the document entitled, *Scope of Work and Fees*, annexed hereto as Appendix "A" and incorporated herein by this reference (the "SOW"). The SOW shall not be modified except by written agreement of the parties hereto. Anything herein to the contrary notwithstanding, if and to the extent City requests RCC to perform additional services not included in the SOW, absent a further written agreement between the parties, City shall compensate RCC for the performance of such additional services on a time and material basis in accordance with RCC's hourly rate schedule then in effect and the provisions of Article II hereof.

ARTICLE II – Fees and Expenses

As compensation for the services performed under this Agreement, City shall pay RCC a fee in accordance with this Agreement and the SOW. City shall reimburse RCC for all costs incurred by RCC for travel, lodging, meals, and other out-of-pocket expenses related to the services performed under this Agreement and for third-party products and services procured by RCC on City's behalf at RCC's cost therefor, plus an administrative charge equal to ten percent (10%) of such costs. Each month during the term hereof, RCC will submit to City an invoice for the services performed and expenses incurred during the previous month. City shall pay RCC the amount on each such invoice within thirty (30) days of receipt and approval by the City Manager. City and RCC agree that Texas Government Code, Chapter 2251, Payment for Goods and Services, does not waive governmental immunity.

ARTICLE III - Submission of Reports

During the term of this Agreement, RCC shall provide to City or its designee such oral or written reports as the latter may reasonably require, and as are specified in the SOW.

ARTICLE IV - Period of Performance

The performance of the Phase III services set forth in the SOW shall commence as soon as practicable after the execution and delivery of this Agreement by both parties. RCC shall not

commence any other phase of work unless and until it has received from City a written notice to proceed with such work. Subject to the provisions of ARTICLE VII hereof, this Agreement shall terminate upon delivery by RCC of materials and reports specified in the SOW, and payment to RCC by City for all services performed and expenses incurred in connection with this Agreement.

ARTICLE V - Independent Contractor

It is expressly understood and agreed that RCC shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant or employee of City; that RCC shall have exclusive control of and the exclusive right to control the details of the services and work performed hereunder, and all persons performing the same; and shall be solely responsible for the acts and omissions of its officers, agents, employees, contractors and subcontractors; that the doctrine of respondeat superior shall not apply as between City and RCC, its officers, agents, employees, contractors and subcontractors; and that nothing herein shall be construed as creating a partnership or joint enterprise between City and RCC. No person performing any of the work and services described hereunder by RCC shall be considered an officer, agent, servant or employee of City. Further, it is specifically understood and agreed that nothing in this Agreement is intended or shall be construed as creating a "Community of Pecuniary Interest" or "An Equal Right of Control" which would give rise to vicarious liability. RCC 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. City does not have the power to direct the order in which the work is done. City shall not have the right to control the means, methods or details of the RCC's work. RCC shall assume exclusive responsibility for the work. RCC is entirely free to do the work in its own way.

ARTICLE VI - Notice

Any notice, request or other communication to either party by the other concerning the terms and conditions of this Agreement shall be in writing and shall be deemed given when actually received by the addressee, having been hand delivered or sent postage prepaid, by certified or registered United States mail, return receipt requested, addressed as follows:

If to RCC:	RCC Consultants, Inc. 100 Woodbridge Center Drive - Suite 201 Woodbridge, New Jersey 07095-1125 Attn: Michael W. Hunter President and Chief Executive Officer
------------	---

If to City:	Midland City Hall 300 North Loraine Midland, Texas 79701 Attn: City Manager
-------------	--

The person and the place to which notices are to be mailed to either party may be

changed from time to time by notice given in accordance with the provisions of this ARTICLE VI.

ARTICLE VII - Termination

Either party may terminate this Agreement at will, for no or any reason, upon giving the other party at least One-Hundred-Eighty (180) days written notice. The parties to this Agreement understand and agree that it is in either party's sole discretion to cancel the Agreement during the term of the Agreement without penalty to the other party. All work and services under this Agreement shall be suspended immediately upon termination of the Agreement becoming effective. The parties have bargained for the flexibility to terminate the Agreement upon giving the requisite notice.

ARTICLE VIII - Confidentiality

RCC shall not publish, copyright, or otherwise disclose or permit to be disclosed or published, the results of any reports to City concerning the work to be performed pursuant to this Agreement, or any particulars thereof, including forms or other materials developed exclusively for City in connection with the performance by RCC of its services hereunder during the period of this Agreement, without prior written approval of City. RCC, cognizant of the sensitive nature of much of the data supplied by City, agrees to protect the confidentiality of any information designated by City to be privileged or proprietary except to the extent that (i) such information enters the public domain, (ii) is obtained by RCC from independent third parties not subject to any confidentiality or similar agreement with City, or (iii) disclosure of such information is required by law, rule or regulation or the valid order of a court or administrative agency.

ARTICLE IX - Personnel

A. Notwithstanding the provisions of ARTICLE V hereof, RCC will assign qualified professional personnel and other RCC support staff, as necessary, to complete the services contemplated by this Agreement. In the event that the employment of any such person should be terminated prior to the termination hereof, then in such event RCC shall, at its discretion, assign such other persons, as necessary, to complete the services.

B. City understands and agrees that RCC has a significant investment in the recruitment, training, and deployment of its personnel and that, if such personnel are hired directly by City, then RCC will incur substantial direct costs to recruit, train, and deploy new personnel of similar quality and experience and will suffer concomitant disruption of its business interests. Therefore, in order to preserve and further the positive business relationship between City and RCC, it is agreed that, during the term hereof and for a period of one (1) year after the completion or earlier termination of this Agreement: (1) If City hires, or induces any other person, firm or entity to hire, an RCC employee, or any person that was an RCC employee within the preceding three-month period, then City will pay a release fee to RCC equivalent to the greater of: (a) thirty percent (30%) of the annual compensation (including salary, bonus, and

other compensation such as sales commission and deferred compensation) that City or such other person, firm or entity has agreed to pay to such person; or (b) the actual costs incurred by RCC in connection with the recruitment, training, and deployment of a new RCC employee of substantially equal skills and experience. (2) Such release fee will be billed by RCC to City when the candidate formally accepts the position offered by City or such other person, firm, or entity and is due and payable upon receipt of RCC's invoice.

ARTICLE X - Indemnity

RCC WILL INDEMNIFY AND HOLD HARMLESS AND DEFEND CITY AND ALL OF CITY'S OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, LOSSES, PROPERTY DAMAGE AND EXPENSES OF ANY CHARACTER WHATSOEVER, INCLUDING REASONABLE ATTORNEY'S FEES, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY, ON ACCOUNT OF ANY NEGLIGENT ACT OF RCC, ITS AGENTS OR EMPLOYEES, OR ANY SUBCONTRACTOR, ARISING OUT OF, OR RESULTING FROM, RCC'S USE OF, OR ACTIVITIES ON, THE AGREEMENT PREMISES, AND RCC WILL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST CITY OR ANY OF ITS OFFICERS, AGENTS OR EMPLOYEES, INCLUDING REASONABLE ATTORNEY'S FEES. RCC SHALL INDEMNIFY AND HOLD HARMLESS AND DEFEND CITY AND ALL OF CITY'S OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS CLAIMS, DAMAGES, PERSONAL INJURIES, PROPERTY DAMAGE, LOSSES, AND EXPENSE OF ANY CHARACTER WHATSOEVER INCLUDING REASONABLE ATTORNEY'S FEES, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY, ON ACCOUNT OF ANY NEGLIGENT ACT OF CITY, CITY'S OFFICERS, AGENTS AND EMPLOYEES, WHETHER SUCH NEGLIGENT ACT WAS THE SOLE PROXIMATE CAUSE OF THE INJURY OR DAMAGE OR A PROXIMATE CAUSE JOINTLY AND CONCURRENTLY WITH RCC OR RCC'S EMPLOYEES, AGENTS OR SUBCONTRACTORS NEGLIGENCE, IN THE EXECUTION, SUPERVISION AND OPERATIONS GROWING OUT OF OR IN ANY WAY CONNECTED WITH THE PERFORMANCE OF THIS AGREEMENT AND RCC WILL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST CITY OR ANY OF CITY'S OFFICERS, AGENTS OR EMPLOYEES, INCLUDING ATTORNEY'S FEES.

ARTICLE X-A - Liability

In no event shall RCC be liable for lost profits, special, incidental, consequential, or indirect damages suffered by City. The parties agree that in no event will RCC's liability exceed the amount of compensation paid to RCC by City, or RCC's insurance coverage, whichever is less.

ARTICLE XI – Taxes, Unemployment Insurance and Related Items

RCC hereby accepts full and exclusive responsibility for the payment of any and all contributions or taxes, or both, for any unemployment insurance, medical and old age retirement benefits, pensions, and annuities now or hereinafter imposed under any law of the United States or any State, which are measured by the wages, salaries or other remuneration paid to persons employed by RCC on the work covered by this Agreement or in any way connected therewith; and RCC shall comply with all administrative regulations and rulings thereunder with respect to any of the aforesaid matters; and RCC shall reimburse City for any of the aforesaid contributions or taxes, or both, or any part thereof, if by law City may be required to pay the same or any part thereof.

ARTICLE XII - General

A. Modifications - This Agreement or any part thereof may not be modified, except by written agreement of the parties signed by the duly authorized representatives of the parties.

B. No Waiver - No omission or delay by either party to this Agreement at any time to enforce any right or remedy reserved to it, or to require performance of any of the terms of this Agreement, shall be a waiver of any such right or remedy to which either party is entitled, nor shall it in any way affect the right of either party to enforce such provisions thereafter.

C. 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

D. Severability - If any provisions of this Agreement shall be held to be invalid, illegal or unenforceable, the validity of all other provisions hereof shall in no way be affected thereby.

E. Successors and Assigns – Neither party shall, 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 other party. Notwithstanding the foregoing, upon written notice to the City, RCC shall have the right, upon forty-five (45) days written notice to City, to assign this agreement and its rights and obligations hereunder to RCC's parents, subsidiaries or affiliates or to any partnership in which RCC or any parent, subsidiary or affiliate of RCC is a general partner, or to a successor of RCC by consolidation or merger or to a purchaser of all, or substantially all, of RCC's assets. This Agreement shall inure to the benefit of the parties and their respective permitted successors and assigns.

F. Force Majeure - In the event that performance by either party of any of its obligations or undertakings under this Agreement shall be interrupted or delayed by any occurrence not occasioned by the conduct of either party hereto, whether such occurrence be an act of God such as lightning, earthquakes, floods or other like causes, the common enemy, the

result of war, riot, strike, lockout, civil commotion, sovereign conduct, explosion, fire or the act or conduct of any person or persons not a party to or under the direction or control of a party hereto, then such performance shall be excused for such period of time as is reasonably necessary after such occurrence to remedy the effects thereof.

G. Entire Agreement - This Agreement constitutes the entire Agreement between the parties and supersedes all previous agreements and understandings relating to the services to be performed under this Agreement.

H. Counterparts – This Agreement may be signed in any number of counterparts, each of which shall be deemed an original, but which together shall constitute one and the same instrument.

I. 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, RCC or his legal representative, shall give the City Manager, or any other reasonable official of 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 and fifty (150) 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 RCC will settle, the physical and mailing addresses of RCC at the time and date the claim was presented and the physical and mailing addresses of RCC for the six months immediately preceding the occurrence of such damages, and the names and addresses of the witnesses upon whom RCC 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 City from any liability whatsoever. City is under no obligation to provide notice to RCC that RCC's notice is insufficient. City reserves the right to request reasonable additional information regarding the claim. Said additional information shall be supplied within thirty (30) days after receipt of notice. The statutory prerequisites outlined herein constitute jurisdictional requirements pursuant to Section 271.154 of the Texas Local Government Code and Section 311.034 of the Texas Government Code. Notwithstanding any other provision, RCC's failure to comply with the requirements herein shall perpetually bar RCC'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. RCC agrees that the requirements of this entire Agreement are reasonable.

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

K. Third-party Beneficiary - 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.

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

Commercial General Liability (including contractual liability):

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

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

Worker's Compensation: Statutory limits

Employers' Liability: \$500,000.00 per accident or occurrence

The Commercial General Liability shall be on a per project aggregate, including completed operations, and shall be on an occurrence basis.

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

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

All insurance required pursuant to this Agreement shall provide for a waiver of subrogation in favor of the City. All insurance required pursuant to this Agreement, except for Worker's Compensation Insurance, shall name the City as an additional insured on a claims occurred basis. City shall be provided the notice by RCC's insurance provider not later than thirty (30) days prior to any reduction or termination of such coverage.

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

The parties agree that, prior to the execution of the Agreement, RCC shall provide one or more certificates of insurance specifically stating that these requirements have been met and subject to the approval of the City. The City shall not be required to provide any insurance whatsoever pursuant to this Agreement.

RCC 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.

M. RELEASE - NOTWITHSTANDING ANY OTHER PROVISIONS, RCC 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 RCC 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.

N. ATTORNEY'S FEES - BY EXECUTING THIS AGREEMENT, RCC AGREES TO WAIVE AND DOES HEREBY KNOWINGLY, CONCLUSIVELY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY CLAIM IT HAS OR MAY HAVE IN THE FUTURE AGAINST THE CITY, REGARDING THE AWARD OF ATTORNEY'S FEES, WHICH ARE IN ANY WAY RELATED TO THE AGREEMENT, OR THE CONSTRUCTION, INTERPRETATION OR BREACH OF THE AGREEMENT. RCC SPECIFICALLY AGREES THAT IF RCC 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, RCC AGREES TO ABANDON, WAIVE AND RELINQUISH ANY AND ALL RIGHTS TO THE RECOVERY OF ATTORNEY'S FEES TO WHICH RCC MIGHT OTHERWISE BE ENTITLED.

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

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

O. PROMPT PAY ACT - The City and RCC agree that Texas Government Code, Chapter 2251, Payment for Goods and Services (the "Prompt Pay Act") does not waive governmental immunity.

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

ATTEST/WITNESS:

CITY OF MIDLAND

By: _____

By: _____

Name: _____

Name: _____

Title: City Secretary_____

Title: _____

ATTEST/WITNESS:

RCC CONSULTANTS, INC.

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

STATE OF _____ §

§

COUNTY OF _____ §

§

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

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

Notary Public, State of _____

Printed Name

My Commission Expires:_____

APPENDIX A

Scope of Work and Fees



November 8, 2013

Ms. Sharlett Chowning, CGCIO
Chief Information Officer
City of Midland, Texas
601 N. Loraine
Midland, Texas

Dear Ms. Chowning:

RCC Consultants, Inc. (RCC) appreciates the opportunity to provide the City of Midland with this consulting and engineering services proposal for Phase III of the City's trunked radio system replacement project. Throughout the past 20 years, RCC has provided consulting and engineering services to the City of Midland for its various wireless communications projects.

RCC has assisted hundreds of cities and counties across the country in the successful development, procurement, and implementation of new 800 MHz trunked radio systems. More importantly, within Texas, RCC has recently been selected for similar P25 system projects with the Lower Colorado River Authority (LCRA), with the cities of Odessa, Houston, Dallas, Dallas County, College Station, Carrollton, Addison, Farmers Branch, and Coppell, Plano, McKinney, Mesquite, Garland, and Frisco in which existing radio systems are being replaced with new P25 trunked radio systems similar to the system that Midland is now considering. We are in the final stages of successfully completing the implementation of the City of Houston's new \$130 million forty-eight site 700 / 800 MHz P25 Phase 2 TDMA simulcast trunked radio system. The new system has been on the air and in full operation with over 15,000 radio users on it for several months.

No other consulting firm has the combined project experience and in-depth knowledge of the City of Midland's operations and radio system than RCC. The selection of RCC to assist the City in replacement of its aging EDACS system will help ensure that the City develops its new system consistent with its needs and requirements and in the most economical manner possible.

The Phase III scope of work that follows has been prepared based on our current understanding of the City's project. For project continuity purposes, the same RCC personnel involved in Phases I and II of the project will continue to be involved in system implementation and acceptance testing.

RCC Consultants, Inc.

9450 Grogans Mill Road • Suite 155 • The Woodlands, TX 77380 • Office (281) 999-1441 • Fax (281) 292-9409



Once you have reviewed the enclosed information I would be pleased to answer any questions you may have or to consider any changes to the scope of work that may be needed. I can be reached in our Houston office at (281) 999-1441, or via email at gmunchrath@rcc.com.

Thank you for the opportunity to provide you and the other members of the City's project team with this consulting services proposal. We look forward to assisting the City in the successful implementation of its new P25 trunked radio system.

Sincerely,

A handwritten signature in blue ink that reads "G. Munchrath".

Gregory A. Munchrath, P.E.
Senior Vice President & Western Division Manager

GAM:pmm



Section

1

Phase III Scope of Work

Project Workplan for System Implementation & Acceptance Testing

The purpose of this scope of work is to provide the City of Midland with a proposal for RCC's continued consulting and engineering support to help facilitate a successful P25 system implementation, system acceptance testing and system cutover. The City's new P25 system will utilize new P25 Phase 2 TDMA linear simulcast technology which has recently entered the market place. RCC has extensive system development, implementation, and acceptance testing experience in both P25 Phase 1 FDMA and P25 Phase 2 TDMA simulcast systems. Four months ago, RCC assisted the City of Houston in the successful cutover of their new \$130 million 48 site P25 Phase 2 simulcast trunked radio system. The cutover followed a five year system implementation program in which RCC was involved in on a near full-time basis. In fact, RCC has served as the City of Houston's consulting firm since the first day of the project in 2003. The Houston system is currently the largest and most advanced municipal P25 Phase 2 TDMA trunked radio system in the world. The complex radio coverage testing portion of the system acceptance program was developed by RCC and involved 200 full-time personnel which included 30 field test teams and 15 dispatch teams testing system coverage on-street and in 4,600 buildings over a period of 12 weeks. RCC provided 50 personnel for the testing process.

P25 linear simulcast technology is new to the City of Midland. In a simulcast system communicated messages are simultaneously transmitted from all of the City's repeater sites on the same frequency at the same time. In ordinary systems, transmitting on the same frequency at the same time results in heavy radio interference. To overcome this problem, simulcast systems utilize special high-stability equipment and site synchronization techniques to avoid the harmful internal system interference. Accordingly, the successful implementation of simulcast systems requires a strong understanding of the technology and the measures needed to avoid simulcast time delay interference. Many of the local radio shops throughout the country and in Texas have little or no experience with P25 Phase 2 technology.

RCC has extensive simulcast system development, implementation, and acceptance testing experience that will be invaluable to the City of Midland as it embarks on implementation of its new P25 Phase 2 linear simulcast trunked radio system. RCC has served as the consulting firm of choice in many simulcast trunked radio systems throughout the country. More importantly to Midland, many of those simulcast projects have been right here in Texas including the following:

- City of Houston P25 Phase 2 TDMA 48 site system
- City of Dallas and Dallas County P25 Phase 2 TDMA
- City of San Antonio and Bexar County
- City of Austin P25
- Cities of Carrollton, Addison, Farmers Branch, and Coppell (The Metrocrest) P25 Phase 2 TDMA
- City of Plano P25



- City of McKinney P25
- City of Frisco P25
- Montgomery County P25
- Montgomery County Hospital District P25
- City of Mesquite P25 Phase 2 TDMA
- City of Garland P25 Phase 2 TDMA
- Williamson County
- Jefferson County
- City of Abilene
- City of Wichita Falls, and
- Galveston County (system shared by 60 entities)

The scope of work that follows it intended to provide the City of Midland with independent and objective implementation support to assist the City Team in monitoring and overseeing the vendor's implementation work and to participate in and oversee the critical system staging process and system acceptance testing of the City's new P25 trunked radio system. RCC's services are not intended to replace or overlap with the work to be provided by the selected radio system vendor. RCC's advice and counsel is intended to support the City team in monitoring the system installation and assisting the City identifying and resolving project issues that will inevitably arise in this project just as they do in other similar projects.

Because RCC always has several similar projects underway in Texas and throughout the country, it is not at all unusual for our staff to become aware of potential implementation issues or problems before the vendor's local project team is. Consequently, RCC is often able to help mitigate or in some cases avoid the problems entirely which can reduce the City's project risk and save time, money, and aggravation. In one of our recent Texas P25 Phase 2 simulcast projects, our project team identified a major system problem and notified the City's project manager of the problem before the vendor's project team was even aware that the problem existed. By providing the City's project manager with advance notice of the issue, we were able to quickly engage the vendor in solving the problem early, at a time when it could be addressed much more easily. RCC's early identification of the problem helped avoid a major schedule delay of at least six months and the problem was resolved early-on in an orderly manner instead of in a crisis mode that would have occurred later in the project. RCC brings this level of support to the Midland project.

The following pages contain a suggested scope of work for Phase III of the project. The scope has been based upon our 30 years of corporate experience in projects of this nature and our current understanding of the City's project. That said, we are available to discuss and possibly modify the scope of work, if needed, to help ensure that it meets the City of Midland's needs and requirements.



Phase III – Project Management of Implementation and Acceptance Testing

The purpose of Phase III is to successfully install, acceptance test, and successfully cutover to the new system in a smooth and coordinated manner.

The following project tasks are currently included in the Phase III scope of work. We are available to discuss the specifics of the work plan at the City's convenience.

Task 1—Implementation Initiation & Mobilization

The purpose of Task 1 will be to formally mobilize and engage the RCC project staff and prepare for Phase III startup. Mobilization includes project planning for project startup. For project continuity purposes, the RCC staff involved in Phase II will also be involved in Phase III, along with other RCC support personnel as needed.

RCC's project manager will develop a Phase III PowerPoint presentation for the project initiation meeting with the City's Project Team, RCC, and the selected vendor's representatives. The purpose of the kickoff meeting will be to do the following:

- Officially begin system implementation;
- Determine and identify who will be involved from each of the participating entities throughout project implementation;
- Review and discuss the statement of work contained in the system contract documents including roles and responsibilities of both the vendor and the City;
- Review and discuss the implementation schedule and project milestones to be completed along the way;
- Review and discuss payment terms tied to the vendor's milestone performance.
- Establish project reporting requirements and frequencies (e.g., status reports formats, frequency and method), and

RCC staff will attend and participate in the kickoff meeting at a location to be selected by the City.

Task 2—Attend & Participate in Detailed Design Review (DDR) Process

Following contract execution, a Detailed System Design Review (DDR) will be conducted with the selected vendor to thoroughly discuss their proposed system configuration and equipment in detail prior to the ordering and manufacturing of the system's equipment and software. Detailed system design documents identifying required customization mutually accepted by both the vendor and the City must be prepared by the vendor and delivered to the City Team for analysis. RCC will work with the City Team to review the vendor's DDR documents and will participate in the DDR project meetings and discussions. RCC has estimated that two RCC personnel will be needed for two (2) days of on-site review followed by two (2) additional days (1 person) for a follow up DDR review following revision of the initial DDR documents to address City concerns or updates.



In the event that additional assistance is needed by the City Team beyond the amounts specified above, RCC can provide any reasonable level of support needed.

Task 3– Provide Day-to-Day Project Implementation Support

The purpose of Task 2 is to provide the City Project Team with day-to-day project management and implementation support for a range of project issues including:

Reviewing and discussing implementation tasks and issues including:

- Support for the evaluation and resolution of day-to-day project issues that arise;
- Periodic project meetings to review / discuss and resolve project issues. Some project meetings will be conducted on-site in Midland and some by conference call depending upon the nature and duration of the meeting.
- Site development / installation issues and site design packages to include;
 - Review and approval of vendor's site development packages for each site;
 - Periodic site inspections of the vendor's work, site development, preparation, installation of site improvements, equipment shelters, towers, power, surge suppression, grounding systems, and radio equipment;
 - Assistance in resolving site development issues that arise;
- Dispatch console configuration planning and development support for each department;
- System fleet mapping and development of talkgroup planning;
- Radio interoperability planning with Odessa, the County, and other entities of interest to the City;
- Planning and development of radio programming templates;
- Microwave system connectivity and configuration issues;
- System redundancy and fallback systems, and
- Failure mode planning, review and analysis;

RCC has tentatively assumed that Phase III will be completed within 13 months of execution of a contract for the new system. For budgeting purposes, Task 3 tentatively includes the following levels of support:

- **13 Monthly Project Meetings** - The current scope of work includes an RCC representative attending and supporting a monthly project status meeting in Midland or by conference call as needed each month throughout the 13 month implementation period.
- **Day-to-day support (above and beyond monthly project meetings)** – This task currently includes an average of 24 hours of support per month throughout the 13 month implementation period. Activity will vary by month depending on the level of work scheduled.



Task 4—Review Vendor’s Monthly Project Status Reports

As part of assisting the City, RCC’s project manager will review the vendor’s monthly project status report reflecting the progress and known implementation issues that have arisen during each monthly reporting period. When appropriate, recommendations for problem resolution will be provided on a case-by-case basis. RCC will work with the City Team and selected vendor to monitor, track, and help resolve issues or problems that arise during system implementation.

Task 5 – Attend & Participate in System Staging

Once the vendor has manufactured and assembled the radio system infrastructure, the system will be staged at location acceptable to the City. Staging involves assembling and installing the radio system infrastructure at the staging area for City review and initial operational testing purposes. RCC recommends that designated members of the City Team attend the factory staging event. RCC staff will attend and assist the City participants in asking relevant questions and looking for potential system problems or issues during the staging event.

The staging testing is conducted to help identify system problems that should be resolved prior to shipping the system to Midland. Such problems are almost always best resolved at the staging facility which is staffed by system specialists with considerably more experience than the local radio repair shops have in the Midland area. As a point of interest, completion of staging and shipment of the system to the City is usually a sizeable payment milestone. The cost estimate that follows includes four days of time for the following:

- Review and discussion of the vendor’s system testing plan that will drive the testing process during staging;
- Attendance at the actual staging event;
- Follow up on system issues uncovered during staging testing.

Task 6 – FCC 800 MHz Licensing Assistance

The City’s FCC licenses will need to be modified to reflect the additional repeater sites in the new system. FCC licensing assistance is currently the responsibility of the successful vendor. The new system cannot be placed on the air for testing until the City’s 800 MHz FCC licenses have been modified / reconfigured, frequency coordinated, and approved by the FCC. To help avoid licensing problems, RCC will have one of its FCC Licensing Specialists review the FCC licensing documents prepared by the successful vendor to help verify that the licensing and frequency coordination forms have been properly and timely prepared for submission to the Frequency Coordinator and the FCC.

It is important to note that whenever additional repeater sites are added to an existing system, relicensing the City’s existing radio channels can in some cases present problems. Radio channels are licensed on a shared basis with co-channel licensees (other users) licensed to use the same channels at locations beyond 70 miles from the City’s current sites. If new sites are added, the new sites may encroach upon the FCC’s required 70 mile separation of the co-channel users which can potentially be a problem. As soon as the DDR has been completed, the City Team and the selected vendor will know specifically what licensing changes are needed.



RCC will also review the FCC microwave license applications for timeliness and errors prior to the microwave vendor submitting them to the Frequency Coordinator and FCC. Licensing problems can significantly delay system completion and cutover. A peer review of the licensing documents prior to submittal to the Frequency Coordinators and the FCC can help head off licensing problems before they occur. The microwave system vendor will be ultimately responsible for the microwave frequency coordination and FCC licensing work and to see that the City is granted the proper microwave channel license(s).

On some occasions, the FCC may require the City to provide additional information or answer unexpected questions. For applications review, typically 1 day of RCC's time is needed unless the applications are found to have errors. Beyond that, two additional days have been included to address other issues that might arise.

Task 7 – Assist City Team in Acceptance Testing of the New System

RCC personnel will work closely with the City Team to help ensure that the new system and equipment are appropriately tested prior to final system acceptance. Acceptance testing requires an in-depth understanding of the following:

- The City's system requirements outlined in the system RFP and subsequent project documents such as the system contract and acceptance testing program;
- The final system configuration outlined in the system contract with the vendor;
- The scope and meaning of the system acceptance process, the testing procedures, well defined pass / fail criteria to help avoid vendor disputes at the completion of the testing process, and keen eye for the execution of testing procedures and interpretation of the test results.

Such review and testing should include site development, equipment installation, two-way radio and microwave radio equipment testing, required programming and functionality, system reliability and failure modes, microwave performance testing, radio coverage testing, dispatch console testing, sampled user radio equipment verification and proof of performance testing.

Reliable coverage is the cornerstone of any public safety radio system. There are numerous nuances in the coverage testing process that can skew testing results in the vendor's favor. RCC has found that without oversight the vendors will sometimes "bend the rules" when it comes to executing the testing. This must be addressed to make sure that the testing is appropriate and valid. For example:

Radio orientation

Orienting the test person wearing the test radio on the belt to always stand in a position that makes sure that the radio's antenna faces directly toward the closest repeater site makes the test call easier to pass because the person's body is never between the radio's antenna and the closest repeater site.

Hand holding the radio at belt level

Another trick involves holding the radio in-hand at belt level when making a test call instead of wearing the radio in the required carrying device. Hand holding the radio can increase the



distance between the radio's antenna and the tester's body by an inch or so making the test call easier to complete successfully.

Allowing excessive retries

Allowing for excessive radio "retries" when a test call has not been completed successfully on the first attempt can also skew the test results. It's not unusual for vendors to claim that they are "entitled" to a free "retry" if they fail a test call's first attempt in a particular test grid. They want to be able to retry the call after moving a few steps from the location of the first attempt and then if the retry is successful, they want to consider that test location to be a pass, even though it took two tries to successfully complete the test call.

Accepting a retry in every test grid means that if there were 500 test grids and a vendor had to successfully communicate in 95% of the grids, with a retry allowed in every grid, they could literally fail every first test call in each grid and would then only need to be successful in 95% of the retries or the "second attempts" to pass grids. This means that they could fail the first 500 test calls and then only have to pass 475 of the retries to claim 95% reliability. In reality under those circumstances, the vendor would have only passed 475 attempts out of 1,000 which is only 47.5% of the actual test calls made. While it is unlikely that the vendor would actually fail every first attempt in every test grid, it does point out the need to place a limit on the number of retries that can be allowed during the testing process.

Bi-directional coverage testing

Some vendors proposed to only make test calls from dispatch to field personnel which does not effectively test the system. Test calls should be made outbound to field personnel, inbound to dispatch personnel and radio to radio between field personnel. Believe it or not, RCC has seen some vendors refuse to test radio to radio transmissions, which speaks volumes about the proposed system's capabilities.

RCC has 30 years of corporate experience in coverage testing in all 50 states of the US. RCC can assist the City of Midland in developing and conducting a robust testing program.

Prior to final acceptance, a contiguous multi-week system reliability test should be successfully completed without a major system failure to help ensure that the new system is stable and ready for use by the City departments. Should there be a "major system failure" within the period of the system reliability test, the vendor will be instructed to address the failure, provide a cure for the problem, and once that has properly implemented, the system reliability test will start over at day one.

The procedures and results of the acceptance testing program will be monitored by RCC. The vendor will provide a summary of the test results to the City and RCC for review. As part of testing, the vendor will be provided a list of identified discrepancies that require correction. Upon satisfactory completion of the acceptance test process, RCC will recommend whether or not the City should approve the Final System Acceptance.

In projects of this nature, it is not unusual to have a small list of minor punch-listed issues that need attention and resolution following system acceptance. Items on that list generally do not hold up system acceptance, subject to City approval. At final acceptance the City officially takes ownership of the system and the system's warranty period begins.



For project budgeting, RCC assumes that the selected vendor will successfully pass all system acceptance tests the first time and that retesting of the system or subsystems will not be needed. This is a reasonable assumption based upon prior RCC projects of a similar nature. In the event that retesting is needed, RCC can provide that additional support at additional cost.

Task 8 – Support System Cutover

RCC will assist the City Team and system vendor in the development of an appropriate system cutover plan that will minimize operational impact as much as is reasonably possible. RCC will also work with the City Team and selected vendor to be on-site for the actual system cutover and the first day of service in case system issues arise following cutover. In addition to the preparation for cutover, RCC usually recommends one RCC person on-site for two days, one day for final cutover preparations, one day for the actual cutover.

Task 9 – Project Closeout

The purpose of Task 9 is to close out Phase III. RCC will meet with the City's Project Manager to close out any remaining project issues, project files and RCC billing.



Section

2 Professional Fees & Expenses

This cost proposal has been based on RCC's current understanding of the project, our experience in similar engagements, the enclosed Phase III scope of work, and on the assumptions which are listed below. Professional fees may by mutual agreement, be adjusted if the scope of work is modified or the project schedule is extended for reasons beyond RCC's control. RCC's support will be provided on a time and materials basis.

In any project of this nature that involves development of new repeater (tower) sites or working with the Federal Communications Commission (FCC), there is a potential for unexpected issues to arise that may require additional project time and related expenses to address. Such issues might include:

- Tower site acquisition for repeater sites needed to meet coverage requirements. One of the most common reasons for delays in projects of this nature is the acquisition and development of new tower sites because of the many issues that are involved in site development including land acquisition, permitting, environmental studies, neighborhood concerns, weather related problems, etc.;
- Vendor delays in manufacturing and assembling the system;
- Changes in the FCC's position and rules for the use of 800 MHz radio spectrum (frequencies);
- Significant changes in the City's organization or the City's project team that might impact project direction or pace, and
- Vendor difficulties and delays in delivering the proposed equipment, functionality or successfully passing the System Acceptance Testing process may result in unscheduled project delays.

If such issues arise and impact the project schedule or scope, RCC staff will discuss them with the City's Project Manager as needed. If RCC sees that additional project time, fees or expenses are needed, RCC will prepare a quotation as needed.

As in our previous work with the City, invoices will be issued monthly based on the work performed during the previous month and invoices are due within thirty (30) days.

Out-of-pocket expenses will be included in the monthly invoices and will be billed at actual plus an administrative fee of 10% to cover miscellaneous reimbursable expenses. Out-of-pocket expenses typically include project-related travel and per diem, and printing of project documents. We will help ensure that such expenses are reasonable and necessary and we will utilize our corporate discounts whenever possible to help reduce our expenses. We have found that airfares and hotel rooms in Midland are at a premium due to the robust economy in the area. We have done our best to estimate out of pocket expenses based on current rates, but may need to adjust expenses if the travel costs continue to rise in the area.

Any meetings or project tasks needed beyond those specifically addressed in RCC's workplan are currently out of scope, but should such a need arise, RCC will provide the City with a



quotation to address the need. The current project budget includes the following number of trips to Midland:

- Task 1 – 1 trip, two people, one day;
- Task 2 – 1 trip, one person two days;
- Task 3 – 13 trips, one person, one day per trip;
- Task 4 – No trips to Midland for this task;
- Task 5 – 1 trip, one person, 1 day;
- Task 6 – No trips to Midland for this task;
- Task 7 – 8 trips, 31 person-days in Midland;
- Task 8 – 1 trip, one person, two days, and
- Task 9 – No trips to Midland for this task.

To help be the most responsive to the City of Midland, RCC needs to be able to move personnel, project hours / fees and related expenses between project tasks as long as the scope of work remains the same and the amount billed to the City does not exceed the contract total for Phase III support. Additional terms and conditions are subject to RCC Consultant's Services agreement already in place with the City.

A cost summary sheet for Phase III has been provided in the following page.



Phase III Professional Fees and Expenses

FINANCIAL SHEET (included in Cost Proposal to Client)



November 8, 2013

RCC CONSULTANTS, INC. TECHNICAL SERVICES CONTRACT
Development of P25 Trunked Radio System
City of Midland, TX
Phase III System Implementation & Acceptance Testing

Direct Engineering Expenses			
	Hours	Rate	Subtotal
Vice President General Manager	68	\$ 250.00	\$ 17,000.00
Managing Consultant	1016	\$ 185.00	\$ 187,960.00
Administrative Assistant	40	\$ 70.00	\$ 2,800.00
Total			\$ 207,760.00

Travel and Per Diem Expenses		
	Rate	Subtotal
24 Round Trip Airline Fares #1 @	\$ 640.00	\$ 15,360.00
2 Round Trip Airline Fares #2 @	\$ 800.00	\$ 1,600.00
53 Man Days per Diem @	\$ 265.00	\$ 14,045.00
53 Days Rental Vehicle @	\$ 100.00	\$ 5,300.00
2000 Miles @	\$ 0.55	\$ 1,100.00
Total		\$ 37,405.00
General and Administrative Fee	10%	\$ 3,740.50
Miscellaneous Expenses		\$ -
Total		\$ 248,905.50

WHY CHOOSE RCC?

RCC will help you plan and implement solutions that address your mission-critical communications needs, today and tomorrow.

We differentiate ourselves in three key areas:

EXPERIENCE

For 30 years, RCC has focused on helping local governments and public safety agencies meet their communications needs. With more than 4,000 successful projects, our teams are some of the most experienced in the industry, and use the latest technologies to maximize return on investment for our clients.

TECHNOLOGY

Our broad range of technical expertise includes the assessment, planning, design, procurement and implementation of everything your agency will need to take advantage of new technologies.

INDEPENDENCE

RCC is completely neutral, unbiased and independent, focused only on providing the best custom solution for you.

RCC Consultants – Supporting the public safety community since 1983.



RCC Consultants Inc.
100 Woodbridge Center Drive
Woodbridge, New Jersey 07095
toll-free 800.247.4796
tel +1.732.404.2400
fax +1.732.404.2556

www.rcc.com
info@rcc.com



PUBLIC SAFETY CONSULTING SERVICES

Public safety agencies rely on their communications systems every day to connect first responders and transfer mission critical information. Whether handling a routine call or responding to an emergency, first responders need to be confident that their communications systems will work the way they need them to.

That's where RCC Consultants can help. With many of our consultants being former law enforcement officers, firefighters, EMTs and dispatchers, we know that reliable communications can mean the difference between life and death. As experts in the full lifecycle of communications for public safety agencies, we provide independent expertise at every step of the way for our clients.

From planning, designing and implementing the next generation public safety communications networks to the operations and staffing of communications centers for rapid and efficient response...we help ensure our clients have the communications they need, when they need it.

Trusted Partners for 30 Years

For three decades, RCC has been a trusted advisor to public safety clients around the world. From our start designing and deploying the first national commercial wireless mobile data network in the 1980s, we have grown into a nationally recognized consulting firm, named Top Consultant in 2011 by MissionCritical Communications.

Working on more than 4,000 projects has taught us that there is no "one size fits all" solution. While we leverage best practices from across our broad experience, we provide a custom solution to every single client.

Our 130 employees provide unbiased advice for any phase of a mission critical communications project – from helping our clients determine what they need, to assisting them in procuring the right solution at the best price, to ensuring the solution is properly implemented. We are dedicated to serving those who serve, and helping public safety agencies get the most out of their mission-critical communications systems.



TECHNICAL EXPERTISE

As budgets decrease but service expectations increase, we know that our public safety clients are expected to do more with less. To help our clients get the most for their money, our consultants and engineers provide creative and insightful guidance to create the solution that best meets their needs, within their budget. And we don't just focus on today's needs, but also future growth. By thinking beyond the current horizon, we help ensure our clients get the greatest return on their investment.

RCC is strongly committed to maintaining core competencies that are important to public safety. From Land Mobile Radio to Broadband to Information Systems, our consultants and engineers provide a disciplined, experienced approach to every engagement – across a broad spectrum of technologies.

OUR SERVICES

- Needs Assessment
- Strategic Planning
- System Design
- Procurement Support
- Implementation Management
- Project & Program Management
- Regulatory Support
- Quality Assurance
- Budgeting & Grant Support



EXPERIENCED PROFESSIONALS

Our consultants and engineers understand our clients' needs because we've been there. We are former police officers, firefighters, EMTs, dispatchers, communications center managers. Our team of 130 full-time professionals has diverse experience that is directly relevant to our public safety clients.

We are especially proud of the tenure of our team – RCC's employees have an average of 11.5 years with the firm. This longevity ensures we retain a deep wealth of knowledge and expertise in staffing for our projects. And, the personnel assigned to our projects are our employees, not subcontractors. This provides our clients with the most reliable and focused resource possible for their projects.

OUR EXPERTISE

Interoperable Radio

- HF, VHF, UHF, 700 MHz, 800 MHz, 900 MHz
- Land Mobile Radio P25
- Conventional, Simulcast, Trunked, Wide Area
- Microwave Radio Systems
- Coverage Prediction and Verification
- RFI Resolution
- CONOPS and SOPs
- RICP, TICP, SCIP
- HSEEP-Compliant Training and Exercises

Broadband & LTE

- Network Assessment
- Site & Equipment Inventory
- RAN Design
- Coverage & Capacity Planning
- Drive Testing
- Traffic Modeling
- Budget & Funding Models
- Opt-In/Out Decision

DAS & In-Building Coverage

- Site Surveys and Coverage Requirements
- Feasibility Studies
- FCC Regulatory Support
- DAS Design and Validation (iBwave Design Level 3 Certified)
- RFP Development
- System Integrator Selection
- WSP Agreements

Communications Centers

- Consolidation and Co-Location Plans
- Staffing and Operations Studies
- Space Planning
- Dispatch Console Design
- Computer Aided Dispatch (CAD)
- Records Management Systems (RMS)
- Mobile Data Computing (MDC)
- Automatic Vehicle Location (AVL)
- Geographic Information Systems (GIS)
- Intelligent Transportation Systems
- Traffic Management Systems
- Mass Transit Communications Systems

Next Generation 9-1-1

- Feasibility Studies
- Strategic and Transition Planning
- Call Traffic Forecasting
- Staffing Analysis
- System Design/Specification
- IP Network Design
- Data Normalization

Towers & Antenna Sites

- Site Inspection and Acquisition
- Zoning and Permitting
- Search Ring Analysis
- Construction Management
- Lightning Protection, Grounding, Bonding
- Equipment Shelter and Room Design
- Security and Alarm Systems
- Backup Power and Fuel Systems
- Site Management
- Locating Tenants
- Lease Negotiation and Billing

Business & Management Consulting

- Project and Program Management
- Budgeting and Financial Analysis
- Grants Support
- Regulatory Support
- TeleCare, Including Call Invoice Auditing

30 YEARS OF EXPERIENCE

Since 1983, more than 1,500 clients around the world have relied on RCC to solve their most challenging communications problems. As completely independent and vendor-neutral, we are focused only on providing the best custom solutions to our clients.

Here are a few examples of how we have recently helped public safety clients with their mission critical communications needs:

Dallas/Fort Worth International Airport:

We assisted in the first-ever public demonstration of the P25 ISSI interoperability bridge, between the Dallas Motorola P25 system and the airport Harris P25 system.

CREST: We tracked down and solved the coverage problems for 36 emergency response agencies in the high-traffic British Columbia Capital Region.

Charlotte, NC: We helped plan, design and launch the first hosted-core LTE network solution in the country, funded with a BTOP grant.

Houston, Texas: We helped the City of Houston save 30% on the world's largest municipal P25 system.

Fairfax County, Virginia: We helped design the space plan to house the Virginia State Police, Virginia Department of Transportation, and Fairfax County's Police, Fire & Rescue, and Office of Emergency Management under one roof at the McConnell Public Safety and Transportation Operations Center.

CalSIEC: We helped improve interoperability among 120 agencies in the seven-county Central Planning Area of the California Statewide Interoperability Executive Committee.

Next Generation 9-1-1: We are helping Kentucky and Massachusetts create statewide NG9-1-1 plans and ESInets.

West Virginia: We developed a plan to deploy a broadband infrastructure over the 700 MHz spectrum for a statewide public safety wireless broadband network.

Philadelphia, PA: We assisted in the procurement, implementation, operation and upgrading of the city's 800 MHz radio system.

St. Louis Area: We developed a TICP with governance, SOPs and HSEEP-compliant exercises for STARRS, encompassing St. Louis and seven counties in two states.

Grant Assistance: We have helped our clients obtain more than \$15 million in grants to fund their mission-critical communications projects.

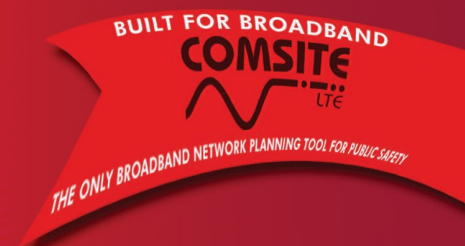
FCC Licensing: We have researched, compiled and filed more than 10,000 FCC applications for licensing of land mobile radio, microwave and WiMax systems.



TOOLS FOR PUBLIC SAFETY

RCC is the only consulting firm that has created specialized tools for public safety communications.

Our ComSITE suite of tools includes:



COMSITELTE

A robust tool to design LTE networks, including traffic analysis, usage simulations and budgeting.

COMSITEDESIGN

A wireless network planning, design and optimization tool in one scalable PC platform small enough for field technicians to use.

COMSITEPRO

The only tool on the market specifically designed to help identify, analyze, locate and resolve radio frequency interference (RFI).

COMSITEMPE

A non-ionizing radio frequency (RF) emission evaluator that predicts the Maximum Permissible Exposure (MPE) potential to humans at or near wireless communications sites.

COMSITE9-1-1E

A cutting-edge tool to determine the location data accuracy of wireless E9-1-1 calls to your PSAP.

COMSITEMANAGER

A comprehensive tool that manages all of your wireless radio communications site information.





City Council Agenda

Approved for Agenda:
csharp
City Manager's Office

MEETING DATE: 11/26/2013

TO: City Council / City Manager

FROM: Jim Nichols, Assistant City Manager

SUBJECT: Consider an Ordinance Amending Water and Sewer Rates and Ordering Publication.

Purpose:

Consider an Ordinance Amending Title III, "Departments", Chapter 1, "Water Department", Section 2 "Rates", Subsection (A), "Customers Inside of City Limits", of the City Code of Midland, Texas and ordering publication.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Directional / Informational

Fiscal Impact:

Increasing Water and Sewer Rates will increase the revenues to the Water and Sewer Fund and provide necessary funding for the continued operation of the water and sewer utilities.

Discussion:

Based on the City of Midland FY 2013/14 budget for the Water Sewer Fund, current water and sewer rates will not meet expected expenditures. City staff hired Water Resources Management, LLC, a consulting firm, to review the current rate structure, project future water demands and sewer use, and recommend a new water and sewer rate structure to meet the water and sewer revenue requirements.

The consultants have calculated a Water and Sewer revenue requirement for the current fiscal year of \$53,788,62.00 (\$11.8 million for wastewater and \$42 million for water annually). The proposed rate structure to provide the necessary revenues is included in the Utility Rate Assessment Study, developed by Water Resources. However, in summary, our residential wastewater rate would change from a fixed charge of \$17.82 to a base rate for all customers of \$17.65 (including 2,000 gallons of use) and a volumetric rate of \$0.71 per 1,000 gallons (based on average winter water use each year). Water base rates would change from \$14.71 to \$17.50 for residential and commercial customers and from \$11.95 to \$14.25 for apartment customers. The water base rate will still include 2,000 gallons of use. The volumetric rates would change from \$3.50 to \$4.95 per 1,000 gallons for water use between 2,001 - 10,000 gallons; \$4.60 to \$6.50 per 1,000 gallons for water use between 10,001 - 25,000; \$6.20 to \$8.75 per 1,000 gallons for water use over 25,000 gallons. The residential 5x multiplier rate would be changed from \$31.00 per 1,000 gallons for usage over 40,000 gallons to \$43.75 per 1,000 gallons for usage over 50,000 gallons.

In addition, staff is recommending an automatic 5% rate escalation effective October 1 of 2014 and 2015 to ensure that the necessary funding levels are maintained in the Water and Sewer Fund. This escalation rate will be reevaluated in 2016 to determine what level it should be set to as this will depend heavily on the degree of water consumption of our customers over the next 2 years.

Staff recommends approval of the new water and sewer rates proposed with an effective date of January 1, 2014.

ORDINANCE NO. _____

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

WHEREAS, the City Council of the City of Midland, Texas, finds it to be in the public interest to revise and change the rates or charges for water and sewer services provided by the City of Midland;

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

SECTION ONE. That Title III, “Departments,” Chapter One, “Water Department” Section 2, “Rates,” of the City Code of Midland, Texas, shall be amended to hereafter read as follows:

3-1-2 RATES:

(A) *Customers Inside of City Limits:*

1. *Water Rates:* The monthly water rates or charges for services furnished by the City’s waterworks system shall be as follows:
 - (a) Except for sub-section (b) below, for all customers other than apartments, the following charges shall apply:
 - i. The minimum charge shall be \$17.50 for the first 2,000 gallons or less;
 - ii. \$4.95 per 1,000 gallons for all water usage exceeding 2,000 gallons up to 10,000 gallons;
 - iii. \$6.50 per 1,000 gallons for all water usage exceeding 10,000 gallons up to 25,000 gallons;
 - iv. \$8.75 per 1,000 gallons for all water usage exceeding 25,000 gallons up

to 50,000 gallons;

v. \$43.75 per 1,000 gallons for all water usage exceeding 50,000 gallons.

(b) For all non-residential customers other than apartments, with non-irrigation demands for January and February exceeding 10,000 gallons per month (as determined by the City Manager or his designee), and who are also identified on Attachment “A,” the following charges shall apply:

i. The minimum charge shall be \$17.50 for the first 2,000 gallons or less;

ii. \$4.95 per 1,000 gallons for all water usage exceeding 2,000 gallons up to 10,000 gallons;

iii. \$6.50 per 1,000 gallons for all water usage exceeding 10,000 gallons up to 25,000 gallons;

iv. \$8.75 per 1,000 gallons for all water usage exceeding 25,000 gallons.

v. The City Manager may amend Attachment “A” as he finds necessary.

vi. All non-residential customers other than apartments who use water furnished by the City’s waterworks system for outside landscape irrigation purposes shall have installed, by the City, a separate water meter with separate water lines used exclusively for irrigation purposes.

a. Said water meter must be installed by the City, at the customer’s expense.

b. The City shall own said water meter.

c. It is the customer’s responsibility to install any necessary water lines, fittings and appurtenances thereto necessary to connect to customer’s outside landscape irrigation system, at customer’s expense, according to City’s specifications.

d. All non-residential customers, other than apartments, operating prior to the effective date of this ordinance shall have until May 1, 2018, to meet the requirements of this ordinance.

e. The penalty for violation of this section 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 five hundred dollars (\$500.00).

- (c) All water rates will increase by 5.0% on October 1, 2014, and again on October 1, 2015, unless otherwise modified by the City Council.
- (d) For apartments, the minimum charge shall be \$14.25 per unit for the first 2,000 gallons or less per unit such that the minimum charge for an apartment complex of 100 units would be \$1,425.00 for the first 200,000 gallons or less of water used. Apartment units shall be calculated pursuant to Subsection (B) of this Section.

2. *Sewer Rates:* The monthly rates or charges for services to users of the City's sewer system shall be as follows:

- (a) Residential
 - (1) \$17.65 per month minimum, plus
 - (2) \$0.71 per 1,000 gallons for water usage greater than 2,000 gallons.
- (b) Commercial
 - (1) \$17.65 per month minimum, plus
 - (2) \$0.71 per 1,000 gallons for water usage greater than 2,000 gallons.

(B) *Customers outside of City limits:* All customers, except for those qualifying for industrial rates, who obtain water or sewer service outside the City limits shall pay 1.5 times the rates charged to customers inside the City limits.

SECTION TWO. The provisions of this ordinance are to be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent with or in conflict with any of the provisions of this ordinance are hereby expressly repealed to the extent of any such inconsistency or conflict.

SECTION THREE. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not

affect the validity of the remaining portions of this ordinance. The Council of the City of Midland hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

SECTION FOUR. The 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 law as an alternative method of publication.

SECTION FIVE. The City Manager shall notify all customers outside the City limits of the rate changes as required by state law.

SECTION SIX. That this ordinance shall be effective on January 1, 2014.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the _____ day of _____, A.D., 2013; and passed to second reading on motion of Council member _____, seconded by Council member _____, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

The above and foregoing ordinance was read in full and finally adopted by the following vote upon motion of Council member _____, seconded by Council member _____, on the _____ day of _____, A.D., 2013, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2013.

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

James R. Nichols, Assistant City Manager

APPROVED AS TO CONTENT
AND COMPLETENESS:

Matt Irvin, Acting Assistant Utilities Director

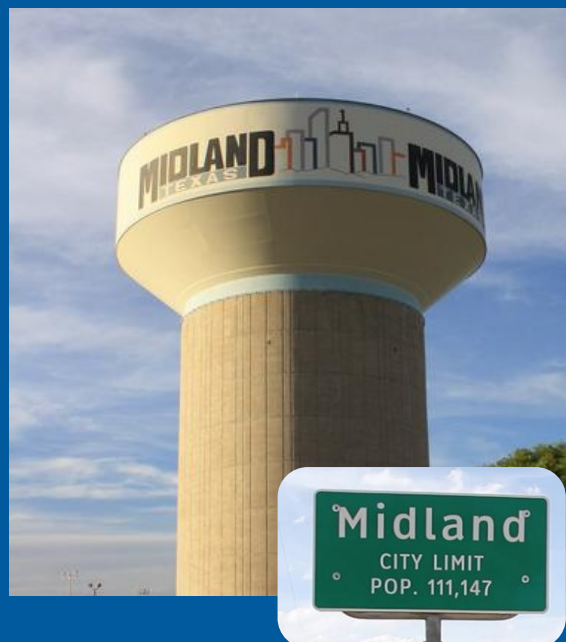
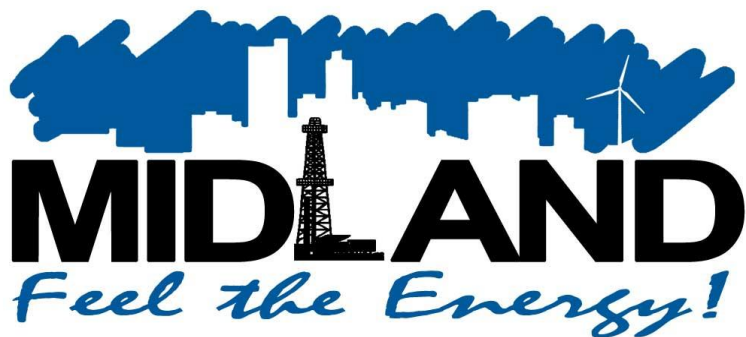
APPROVED AS TO FORM:

Keith Stretcher, City Attorney



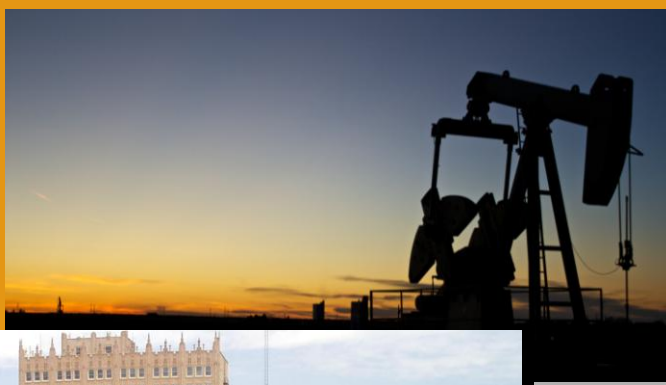
November 13, 2013

Prepared for:



FINAL REPORT

Utility Rate Assessment Study



Prepared by



8705 Shoal Creek Blvd., Suite 101, Austin, TX 78757
Phone (512) 420-9841, Fax (512) 420-9237





November 12, 2013

Mr. Courtney Sharp
City Manager
City of Midland
300 N. Loraine
Midland, Texas 79701

Re: FY 2013-14 Rate Assessment Study

Dear Mr. Sharp,

Water Resources Management, LLC (WRM) is pleased to present our findings and recommendations for the FY 2013-14 Water and Wastewater Rate Assessment Study that we have conducted on behalf of the City of Midland. The project team has reviewed available data and interviewed City staff. From this review, we were able to develop recommended rates for FY 2013-14.

The enclosed report details the methodology utilized by WRM during the course of our rate assessment analysis, and describes our findings.

It has been a pleasure working with the City of Midland. Your staff has been very efficient at answering our questions and filling data requests. Please feel free to contact our office with any questions or comments regarding this report, at (512) 420-9841.

Sincerely,

Nelisa Heddin
Vice President



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CITY OF MIDLAND TEXAS

FY 2013-14 Water and Wastewater Rate Assessment Study

Water Resources Management, LLC (WRM) is pleased to present to the City of Midland (City) the results of a rate assessment conducted for the City's Water and Wastewater Utility. The project team's main objective was to review the City's historical rate calculations and assist the City in designing FY 2013-14 rates based on the City's *current* water rate setting methodology and the City's proposed plan to move to a flow or volumetric based rate for all sewer customers.

WRM has met the goals and objectives of this study by utilizing the following work-plan:

-  Review current rate setting methodology.
-  Review historical financial and usage data.
-  Analyze historical consumption patterns and conduct a trending analysis to project usage in FY 2013-14.
-  Design rates that fully recover the City's costs associated with providing service.

FY 2013-14 Water and Wastewater Revenue Requirement

The City of Midland has a combined utility fund to account for the water and wastewater operations. The City's water and wastewater revenue requirement is based on the City's FY 2013-14 Proposed Budget minus depreciation. Based on our review of historical usage data and projections of future use on the system, the City's current rates are not projected to adequately recover the cash needs of the water and wastewater utility. With the help of City staff, WRM has designed rates that generate the revenue from water and sewer sales that meet the combined revenue requirement for FY 2013-14 of \$53,788,624. The revenue requirement (revenue that needs to be generated from water and sewer sales) is the total budgeted expenses (without depreciation) minus all other budgeted revenue sources (interest, tap fees, rentals, penalties, etc).



SEWER RATE DESIGN

FY 2013-14 Sewer Rate Design

In FY 2012-13, the City charged inside city residential customers (including apartment units) a monthly flat sewer rate of \$17.82. Inside city commercial customers were charged a monthly base rate of \$17.82 and a decreasing volumetric rate for flow 25,000 gallons to 500,000 gallons of \$.71 per thousand gallons and above 500,000 gallons of \$.54 per thousand gallons.

In FY 2012-13, the City began the process of moving to a residential volumetric rate based on a resident's measured winter water use average. During the winter months, the primary use of water is typically for indoor household purposes, not irrigation. This water use is a good estimate of the amount of wastewater being discharged into the sewer system. WRM used the 2012 Residential winter average data provided by the City as well as the Commercial and Apartment usage for CY 2012 to design the proposed FY 2013-14 sewer rates.

WRM recommends moving to one monthly base rate for all customers and a volumetric rate based on the winter average for residential and 100% of water consumption for commercial and apartment users. The City's monthly sewer base rate includes 2,000 gallons per customer or apartment unit. WRM proposes the sewer rate increase and rate structure change as listed in Table 1.

Table 1: Current and Proposed Sewer Rates for all Inside City Customers

Sewer Rates (Inside City Customers)	FY 2012-13 Rates	FY 2013-14 Proposed Rates (New Structure)
Residential Flat Rate per Unit (includes Apartments)	\$17.82	
Commercial Base Rate for Water Consumption under 25,000 gallons	\$17.82	
Commercial Rate per 1,000 gallon of Water Consumption between 25,000 & 500,000	\$0.71	
Commercial Rate per 1,000 gallon of Water Consumption over 500,000	\$0.54	
All Customers Monthly Base Rate (includes 2,000 gallons per connection/unit)		\$17.65
All Customers Volumetric Rate per 1,000 gallons*		\$0.71

*The charge for Residential customers is based on their winter average.

WRM estimates that the revenue generated by the change in sewer rates would be approximately \$11.8 million dollars, an increase of about \$1.5 million dollars compared to the estimated revenue generated by the current rate design. The project team analyzed the monthly impact to a range of customers within the City limits. Table 2 below shows the impact to those customers and their average monthly sewer bills.

Table 2: Monthly Sewer Bill Analysis (Inside City Customers)

Monthly Sewer Bill	FY 2012-13 Rates	FY 2013-14 Proposed Rates (New Structure)	Monthly Bill \$ Increase
Residential (5,000 gallons)	\$17.82	\$19.78	\$1.96
Residential (10,000 gallons)	\$17.82	\$23.33	\$5.51
Commercial (50,000 gallons)	\$36.28	\$51.73	\$15.45
Commercial (200,000 gallons)	\$142.78	\$158.23	\$15.45



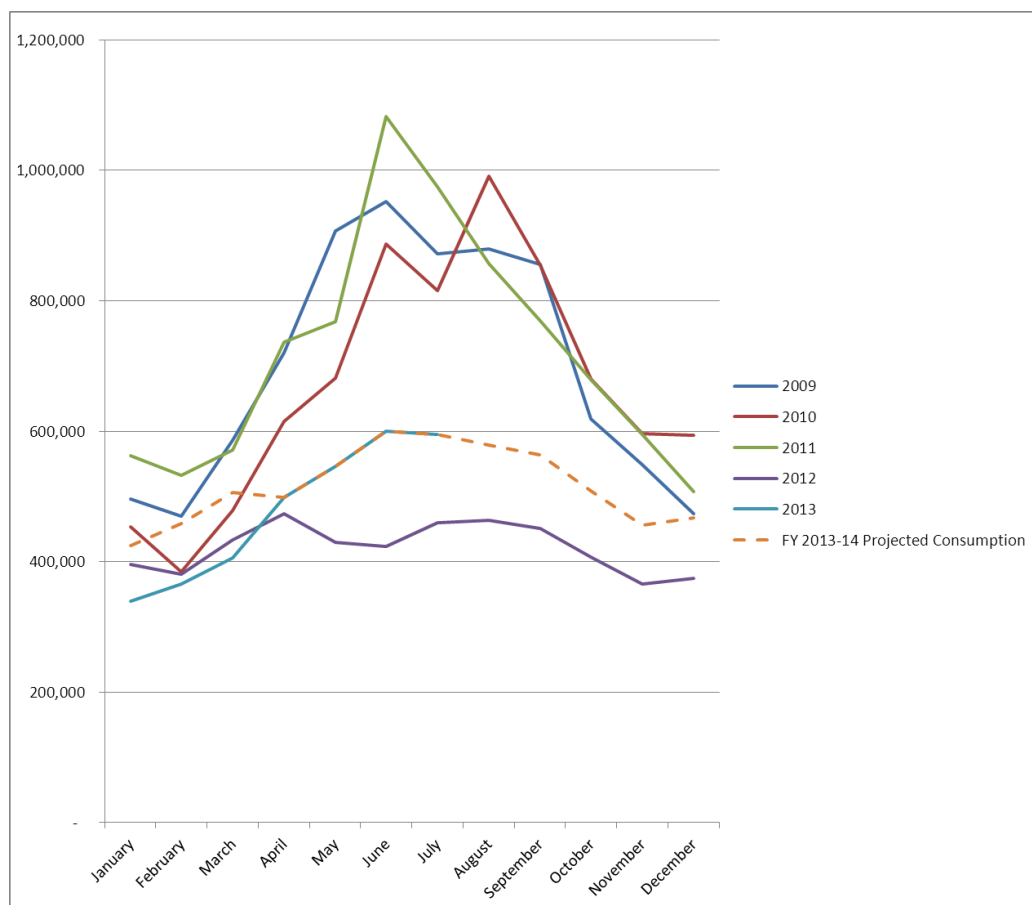
Historical and Projected Water Consumption Analysis

Due to the ongoing drought throughout Texas and water supply shortages, the City implemented strong water conservation measures. As well as restricting outdoor water use, the City also implemented a 5X multiplier on the top two tiers of users at the beginning of FY 2011-12. Due to these measures, the City reduced City supplied water consumption by 35% between FY 2010-11 and FY 2011-12. The City made adjustments to the 5X multiplier at the beginning of FY 2012-13 and again in May 2013. The May 2013 adjustment changed the 5X multiplier rate to only Residential customers and only those Residential customers using above 40,000 gallons. As a result, it is projected that future water consumption should increase from the most recent history.

In the analysis of water consumption data, WRM recognized a trending rise in water usage during the summer months of FY 2012-13. This rise is likely a result of the change in the threshold for the multiplier that was put into effect in May 2013. However, the usage is still low compared to the usage in 2009 through 2011 before the 5X multiplier was implemented; indicating a possible long-term change in consumption patterns.

WRM trended the consumption based on historical data and the increased water usage after May 2013, which assumes that the upward trend in consumption would continue. This analysis resulted in projected water sales of 6.2 billion gallons of water. The City's historical consumption as well as the trending consumption projection are shown below in Graph 1.

Graph 1: Historical and Projected Water Consumption (000s Gallons)



During this analysis, WRM also analyzed the usage within the City's tiered rate blocks. WRM has provided in Table 3 the percentage of annual bills that fall into each rate block for Residential and Commercial customers in the twelve month period beginning August 2012.

Table 3: Percent of Annual Bills, Residential and Commercial, in Rate Blocks (August 2012-July 2013)

Rate Blocks	% of Annual Bills in Rate Block
Gallons 2,000 and under	17.68%
Gallons 2,001 to 10,000	57.57%
Gallons 10,001 to 25,000	19.67%
Gallons 25,001 to 40,000	2.86%
Above 40,000	2.23%
Total	100.00%



WATER RATE DESIGN

FY 2013-14 Water Rate Design

The City's FY 2012-13 monthly base rate for water was \$14.71 per month for residential and commercial customers and \$11.95 per unit for apartment customers. The City's monthly base rate includes 2,000 gallons per customer or apartment unit. The volumetric rate for all customers is an inclining block rate structure. Table 4 below provides the City's FY 2012-13 volumetric rate structure.

Table 4: FY 2012-13 Volumetric Rate Structure

Volumetric Rate (per 1,000 gallons)	FY 2012-13 Rates
Gallons 2,000 and under	Included
Gallons 2,001 to 10,000	\$3.50
Gallons 10,001 to 25,000	\$4.60
Gallons Above 25,000	\$6.20
Residential Only 5X Multiplier (Above 40,000)	\$31.00

WRM designed the water rates to recover the remaining FY 2013-14 revenue requirement of approximately \$42 million dollars. WRM used the City's current rate structure with the City requested change of increasing the 5X multiplier to charge residential customers using above 50,000 gallons. Table 5 outlines WRM's proposed rate increases based on the projected water consumption of 6.2 billion gallons of water for the study year which assumes an upward trend of water consumption based on the increase in usage around May 2013.

Table 5: Proposed Water Rates for Inside City Customers

Monthly Base Rate and Volumetric Rates (per 1,000 gallons) (Inside City Customers)	FY 2012-13 Rates	FY 2013-14 Proposed Rates
Residential and Commercial Monthly Base Rate (includes 2,000 gallons)	\$14.71	\$17.50
Apartment Monthly Base Rate per Unit (includes 2,000 gallons per unit)	\$11.95	\$14.25
Gallons 2,000 and under	Included	Included
Gallons 2,001 to 10,000	\$3.50	\$4.95
Gallons 10,001 to 25,000	\$4.60	\$6.50
Gallons Above 25,000	\$6.20	\$8.75
Residential Only 5X Multiplier (Above 40,000)	\$31.00	
Residential Only 5X Multiplier (Above 50,000)		\$43.75

The project team analyzed the monthly impact to a range of water customers within the City limits. Table 6 below outlines the impact to those customers and their average monthly water bills.



Table 6: Monthly Water Bill Analysis (Inside City Customers)

Monthly Water Bill	FY 2012-13 Rates	FY 2013-14 Proposed Rates	Monthly Bill \$ Increase
Residential (5,000 gallons)	\$25.21	\$32.35	\$7.14
Residential (10,000 gallons)	\$42.71	\$57.10	\$14.39
Commercial (50,000 gallons)	\$266.71	\$373.35	\$106.64
Commercial (200,000 gallons)	\$1,196.71	\$1,685.85	\$489.14



RECOMMENDATIONS

Recommendation

In order to meet annual cash flow requirements for the water and wastewater utility, WRM recommends approving the following increases to the water and sewer rates as outlined in Tables 7 and 8.

Table 7: Proposed Water Rates for Inside City Customers

Water Monthly Base Rate and Volumetric Rates (per 1,000 gallons) (Inside City Customers)	FY 2013-14 Proposed Rates
Residential and Commercial Monthly Base Rate (includes 2,000 gallons)	\$17.50
Apartment Monthly Base Rate per Unit (includes 2,000 gallons per unit)	\$14.25
Gallons 2,000 and under	Included
Gallons 2,001 to 10,000	\$4.95
Gallons 10,001 to 25,000	\$6.50
Gallons Above 25,000	\$8.75
Residential Only 5X Multiplier (Above 50,000)	\$43.75

Table 8: Proposed Sewer Rates for Inside City Customers

Sewer Rates (Inside City Customers)	FY 2013-14 Proposed Rates (New Structure)
All Customers Monthly Base Rate (includes 2,000 gallons per connection/unit)	\$17.65
All Customers Volumetric Rate per 1,000 gallons*	\$0.71

*The charge for Residential customers is based on their winter average.





8705 Shoal Creek Blvd., Suite 101, Austin, TX 78757

Phone (512) 420-9841,

Fax (512) 420-9237



ANIMAL SERVICES ADVISORY COMMISSION
(Advisory)
Membership - 6; Terms - 4 Years)

SPECIAL COMPOSITION REQUIREMENTS: 1 Licensed Veterinarian, 1 County or Municipal Official, 1 Employee of an Animal Welfare Org., 1 Animal Shelter Employee, 2 Citizens

MEMBER	TERM EXPIRE SEPT. 2013?	ATTEN-DANCE %	MEETINGS ATTENDED (Out of 2)	ELIGIBLE FOR ANOTHER TERM	BOARD MEMBER'S PHONE #	COUNCIL NOTES
Vacancy	No	0%	0	No		
Dr. Tom Green (Veterinarian)	Yes	50%	1	Yes		
Laura Hollifield	Yes	0%	0	Yes		
Justin Petty	Yes	0%	0	Yes		
Paul O'Neill	Yes	100%	2	Yes	685-7422	
Kelly Spencer	No	50%				

APPLICANTS: (Listed Alphabetically)

APPLICANT'S NAME	NUMBER OF BOARDS APPLIED FOR	COUNCIL NOTES
Molly S. Clark	Only this board	
Laura Beth Clodfelter	Only this board	
Robert R. "Robin" Donnelly	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: Molly S Clark
 Address: 23 Suffolk Dr
Midland Texas 79705
 (City) (State) (Zip)

Date: 8-27-13

Phone: 683-4517 (Home)
559-6338 (Business)

Email: clarkclane@aol.com

I am ☒ I am not ☐ a U.S. Citizen

Please tell us about yourself:

I have lived in Midland 30 years.

Are you a graduate of Midland High? ☐ yes ☒ no

Occupation: Office Manager

Professional and/or Community Activities:

Oil & Gas Office Manager, Production Clerk, Bookkeeper for Family Business. My community Service work includes, United Way,
Project Graduation, Little League Baseball, MHS Football Boosters, Fannin, SJ, MFHS & MHS PTA member & Officer, PTA Lifeline
Member

What is your personal vision for the City?

I would love to see the city of Midland grow into its population by providing affordable housing for the new residents, building
walking, running & biking trails for residence, and building a recreational facility for our youth to hang out, getting them off the
streets. I would love to see our city become more conservationist minded.

Please specify any time constraints you may have.

I volunteer at Midland High and work part-time but am very flexible.

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:

Animal Services Advisory Commission

Please tell us why you are interested in serving on this board or commission.

I love Midland, was born and raised here and want to make it a better place. I love animals and have helped many find their way
home. I have lived both in the county & City and know the challenges Animal Control faces with strays. I want to help with

those challenges so we can continue to improve our animal control services & the life of the animals involved.

What contribution would you most like to make?

Adding new ideas and improving on existing ones. Animal Control has made such an improvement in their services to Midland and the animals involved in the last few years because of new ideas that have been introduced. I would like to build on those improvements. Having 2 rescue dogs gives me insight into the challenges faced by our city.

Additional pertinent information or references:

I have an MBA in Marketing which gives me the education to provide structure to the new ideas and implement them further.

References: Pat Schneider 686-2082, Dana Gellejos 425-0308

(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

Melley S. Clark

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

2013-044



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: Laura Beth Clodfelter
Address: 4315 Ferncliff Ave
Midland Texas 79707
(City) (State) (Zip)

Date: 10/22/2013
Phone: 432-853-4414 (Home)
432-683-7387 (Business)
Email: LauraBeth19951@att.net

I am ☒ I am not ☐ a U.S. Citizen

Please tell us about yourself:

I have lived in Midland 7 years.

Are you a graduate of Midland 101? ☐ yes ☒ no

Occupation: Shelter Manager

Professional and/or Community Activities:

Started a Humane Education program in local schools to educate children about proper care of animals. Have hosted numerous fundraisers for Lone Star Sanctuary. Involved heavily with volunteer work at MCA.

What is your personal vision for the City?

A community that embraces change and supports each other. I also would like to see Midland become a no-kill animal haven.

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:

Animal Services Advisory Commission

Please tell us why you are interested in serving on this board or commission.

I believe my extensive knowledge and training in veterinary medicine as well as my years served as manager at Lone Star Sanctuary give me the qualifications needed to help make positive changes in the community where animals are concerned.

What contribution would you most like to make?

I would like to see Midland become a true no-kill city.

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

Laura Beth Clodfelter

Digitally signed by Laura Beth Clodfelter
DN: cn=Laura Beth Clodfelter, o=Lone Star Sanctuary for
Animals, ou=Lone Star Sanctuary for Animals,
email=laurabeth19951@att.net, c=US
Date: 2013.10.22 09:35:35 -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: Robert R. "Robin" Donnelly

Address: 4905 Castleford Rd.

Midland Texas 79705
(City) (State) (Zip)

I am ☒ I am not ☐ a U.S. Citizen

Please tell us about yourself:

I have lived in Midland ³⁷ years.

Professional and/or Community Activities:

Midland County Commissioner Pct 2

City of Midland Airport Advisory Board

Midland Rotary Club

What is your personal vision for the City?

To be the best, most liveable place in Texas.

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:

Animal Services Advisory Commission

Please tell us why you are interested in serving on this board or commission.

I work closely with the City of Midland Animal control for the County

Date: 11/11/2013

Phone: 432-682-5899 (Home)

432-683-6293 (Business)

Email: rrdonnelly@hotmail.com

Are you a graduate of Midland 101? ☒ yes ☐ no

Occupation: Landman/County Commissioner

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

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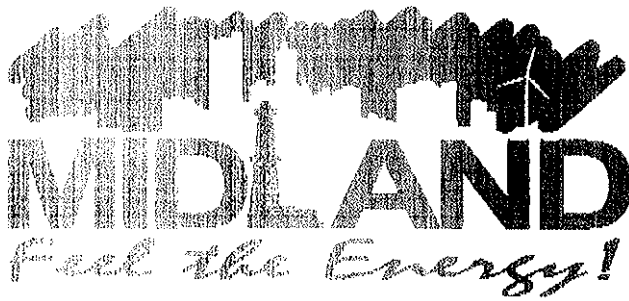
BUILDING CODES REVIEW COMMITTEE
(Membership – 9; Terms – 2 Years)

SPECIAL COMPOSITION REQUIREMENTS:

MEMBER	TERM EXPIRE DEC. 2013?	ATTEN- DANCE %	MEETINGS ATTENDED	ELIGIBLE FOR ANOTHER TERM	BOARD MEMBER'S PHONE #	COUNCIL NOTES
James Rigger	Yes			No		NOT MEETINGS
Chris Repman	Yes			No		
John Cooper	Yes			No		
Bill Routh	Yes			No		
Tom Woodruff	Yes			No		
Ron Ainsworth	Yes			No		
Walter Pate	Yes			No		
Robert Harrington	Yes			No		
Jerry Morales	Yes			No		

APPLICANTS: (Listed Alphabetically)

APPLICANT'S NAME	NUMBER OF BOARDS APPLIED FOR	COUNCIL NOTES
Lewis Hassler	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: Lewis Hassler
Address: 2304 Loop40
City: _____ State: Texas Zip: 79706
(City) (State) (Zip)

Date: 8/13/2013
Phone: 432-254-1311 (Home)
432-617-6544 (Business)
Email: lewis.hassler@stateenergy.com

I am ☒ I am not ☐ a U.S. Citizen

Please tell us about yourself:

I have lived in Midland 3 years.

Are you a graduate of Midland High? ☐ Yes ☒ No

Occupation: Operations Supervisor Alamos Energy

Professional and/or Community Activities:

Leadership Midland, have participated in supporting local non profit groups as well as leadership Odeasa

What is your personal vision for the City?

To see Midland continue to grow, prosper and provide a safe living environment for all citizens.

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.org/)

(1) Name of Board/Commission:

Building Codes Review

Zoning Board committee

Parks and Recreation

Please tell us why you are interested in serving on this board or commission.

I want to serve my community and learn more about the Permian Basin region,

What contribution would you most like to make?

Just to make a difference and give back to community.

Additional pertinent information or references:

Stephanie Merila Midland Chamber

Paul Reynolds Atmos Energy

Cody Childers Nabors Energy co

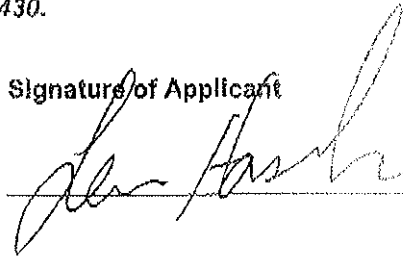
(2) Name of Board/Commission:

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

CITY DEVELOPMENT ADVISORY COMMITTEE
(Advisory)
(Membership - 5; Terms - 2 Years Expiring 2 Even & 3 Odd)

SPECIAL COMPOSITION REQUIREMENTS: None

MEMBER	TERM EXPIRE SEPT. 2013?	ATTEN- DANCE %	MEETINGS ATTENDED (Out of 3)	ELIGIBLE FOR ANOTHER TERM	BOARD MEMBER'S PHONE #	COUNCIL NOTES
Vacancy						
Nellwyn Barnett	No					
Avery I. Pullins	No					
Reggie Lawrence	No					
Tim Bryson	No	67%	2	Yes		8/22/13 Mr. Bryson called and wants to serve again.

APPLICANTS: (Listed Alphabetically)

APPLICANT'S NAME	NUMBER OF BOARDS APPLIED FOR	COUNCIL NOTES
Delma Eckert	One other board	
Chase Gardaphe	One other board	
Lewis Hassler	Two other boards	
Thomas Johnston	One other board	
Jeremy Lukas	Only this board	
Garrett Market	One other board	
Heather Massey	One other board	
R. Shaun Rainey	One other board	
Joshua Sparks	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: Delma Eckert

Address: 4704 Mimosa Ct

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 ⁸ years.

Professional and/or Community Activities:

UTPB Alumni

Stonegate Fellowship

PTA at Carver Elementary School

What is your personal vision for the City?

I would like to see a city with growth that accommodates the needs of young families so that citizens will have a community that serves their needs and also attract a family oriented community.

Please specify any time constraints you may have.

I have a full time job but it is flexible.

Date: 9/3/2013

Phone: 4325708972 (Home)

4325708972 (Business)

Email: delma.eckert@yahoo.com

Are you a graduate of Midland 101? ☐ yes ☒ no

Occupation: Administrative Manager

Please list below the Board(s) or Commission(s) on which you are interested in serving:

(You can find a complete and current list on the City's website at www.midlandtexas.gov)

(1) Name of Board/Commission:

City Development Advisory Committee

Please tell us why you are interested in serving on this board or commission.

The development and growth of Midland is important to me and my family.

What contribution would you most like to make?

I would like to voice opinions and concerns of city development as shared by other young professional families.

Additional pertinent information or references:

(2) Name of Board/Commission:

Midland Center Advisory Board

What contribution would you most like to make?

Through my employment I understand issues regarding employment of personnel and operating budgets.

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

Delma Eckert

Digitally signed by Delma Eckert
DN: cn=Delma Eckert, o, ou,
email=delma.eckert@yahoo.com, c=US
Date: 2013.09.03 11:10:54 -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](#)

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**APPLICATION FOR CITY OF MIDLAND
BOARDS/COMMISSIONS/COMMITTEES**

07-16-12P93921-ARNV

As an applicant for a City board, commission, or committee, please be advised that all information on this application is subject to the Texas Open Records Act and will be available to the public.

PLEASE TYPE OR PRINT CLEARLY:

Name: Chase Gardaphe

Address: 1320 N. Fairgrounds Rd.

Midland TX 79706

(City) (State) (Zip)

I am ☒ I am not ☐ a U.S. Citizen

Please tell us about yourself:

I have lived in Midland < 1 years.

Professional and/or Community Activities:

I am involved in the development of Stonegate Manufactured Housing Community to provide truly affordable housing to the residents of Midland. I am also involved in the Midland Polo Club.

Date: 05/22/2013

Phone: (832) 766-3656 (Home)

(432) 242-1552 (Business)

Email: Chase.Stonegate@gmail.com

Are you a graduate of Midland 101? ☐ yes ☒ no

Occupation: Real Estate Development

What is your personal vision for the City?

I would like to see a shift in the city to the East to allow downtown to be the true center of the city. I would also like to help Midland become an exciting and innovative city that is able to provide housing for people in all occupations.

Please specify any time constraints you may have.

None

Please list below the Board(s) or Commission(s) on which you are interested in serving:

(You can find a complete and current list on the City's website at www.midlandtexas.gov)

(1) Name of Board/Commission:

City Development Advisory Committee

Please tell us why you are interested in serving on this board or commission.

I want to be involved with the city and encourage younger citizens to get involved in the future of Midland.

What contribution would you most like to make?

Additional pertinent information or references:

(2) Name of Board/Commission:

Planning and Zoning Commission

What contribution would you most like to make?

I would like to help ensure that Midland is growing in the right direction and that the development that is approved is something the City of Midland will be proud of 10, 15 and 50 years down the road.

Additional pertinent information or references:

Applications are maintained on file in the City Secretary's office for a period of one year. Should you need additional information, please call us at 432-685-7430.

Signature of Applicant



Applications may be submitted online via email or print in order to send by mail or fax:

City of Midland

City Secretary's Office

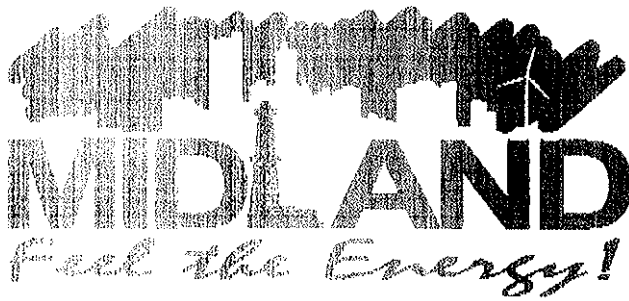
PO Box 1152

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: Lewis Hassler
Address: 2304 Loop40
City: _____ State: Texas Zip: 79706
(City) (State) (Zip)

Date: 8/13/2013
Phone: 432-254-1311 (Home)
432-617-6544 (Business)
Email: lewis.hassler@stateenergy.com

I am ☒ I am not ☐ a U.S. Citizen

Please tell us about yourself:

I have lived in Midland 3 years.

Are you a graduate of Midland High? ☐ Yes ☒ No

Occupation: Operations Supervisor Alamos Energy

Professional and/or Community Activities:

Leadership Midland, have participated in supporting local non profit groups as well as leadership Odessa

What is your personal vision for the City?

To see Midland continue to grow, prosper and provide a safe living environment for all citizens.

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.net/)

(1) Name of Board/Commission:

Building Codes Review

Zoning Board committee

Parks and Recreation

Please tell us why you are interested in serving on this board or commission.

I want to serve my community and learn more about the Permian Basin region,

What contribution would you most like to make?

Just to make a difference and give back to community.

Additional pertinent information or references:

Stephanie Merila Midland Chamber

Paul Reynolds Atmos Energy

Cody Childers Nabors Energy co

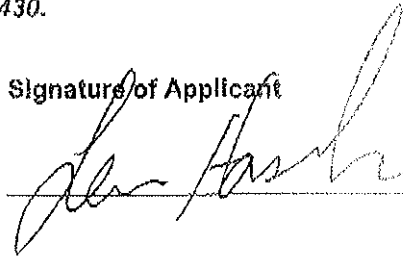
(2) Name of Board/Commission:

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



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: Thomas Johnston

Address: 6208 Sequoia

Midland TX 79707

(City)

(State)

(Zip)

Date: 11/11/13

Phone: 432-934-3333 (Home)

432-688-8200 (Business)

Email: realestateranch@aol.com

I am ☒ I am not ☐ a U.S. Citizen

Please tell us about yourself:

Are you a graduate of Midland 101? ☒ yes ☐ no

I have lived in Midland 8 years.

Occupation: Real Estate Broker

Professional and/or Community Activities:

Director
Permian Basin Builder Association, Leadership Midland, Permian
Basin Realtors - Director, Ducks Unlimited

What is your personal vision for the City?

Structured Growth + New Ideas into 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:

City Development + Advisory
MDC

Please tell us why you are interested in serving on this board or commission.

I have time + expertise in these areas coupled w/ a desire
to serve

What contribution would you most like to make?

I'm very vocal + want to see my City grow properly

Additional pertinent information or references:

Warren York + Carolyn Arnold, Street Doss

(2) Name of Board/Commission:

Permian Basin Builders Association
Permian Basin Realtors Association
Leadership Midland

What contribution would you most like to make?

Sound Advice to the Board from a Real Estate/Developer outlook

Additional pertinent information or references:

I have a strong need to serve.

Applications are maintained on file in the City Secretary's office for a period of one year. Should you need additional information, please call us at 432-685-7430.

Signature of Applicant



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City of Midland

City Secretary's Office

PO Box 1152

Midland, TX 79702

FAX: (432) 685-7433



APPLICATION FOR CITY OF MIDLAND BOARDS/COMMISSIONS/COMMITTEES

As an applicant for a City board, commission, or committee, please be advised that all information on this application is subject to the Texas Open Records Act and will be available to the public.

PLEASE TYPE OR PRINT CLEARLY:

Name: Jeremy Lukas

Address: 11601 B West County Rd 33

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:

Fairmont Park Church of Christ(advertising board, song leader), His Kids, Face the Race, NMSS Awareness Night, MDA Awareness

Date: 2/5/2013

Phone: 432-978-3742 (Home)

432-520-2255 (Business)

Email: jlukas@midlandrockhounds.org

Are you a graduate of Midland 101? ☐ yes ☒ no

Occupation: Assistant GM-Midland RockHounds

What is your personal vision for the City?

To grow and diversify our local economy through new local business, outside franchise and national companies, and become the hub

Draw and diversify our Midlanders demographics by attracting new families, cultures, and ethnicity groups to the Permian Basin.

To help Midland keep up with the times(strike iron while it's hot) through improved infrastructure, amenities, affordable housing, and f

Please specify any time constraints you may have.

after 5pm April-September

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 Board

Please tell us why you are interested in serving on this board or commission.

I have been in West Texas for 11 years now, with 6 years of those spent in Midland. I am excited for the future of the city, but acknow

I would like to improve and utilize current buildings and places of businesses, work to bring in and attract outside vendors and franchi

What contribution would you most like to make?

Facilitate and work with local businesses, strategize with local people in not only creating a long-term plan, but short term plans as we

Additional pertinent information or references:

Reference- Monty Hoppel (Midland RockHounds)

Pat Darden (Legacy Reserves)

Scott Sheppard (Fairmont Park Church of Christ)

(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

Jeremy Lukas

Digitally signed by Jeremy Lukas
DN: cn=Jeremy Lukas, o=Midland RockHounds,
ou, email=jlukas@midlandrockhounds.org, c=US
Date: 2013.02.05 16:42:43 -06'00'

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: Garrett Market

Address: 4307 Ferncliff Ave

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 20 years.

Professional and/or Community Activities:

I was born and raised in Midland, Texas and am overjoyed to have the opportunity to start a family in my hometown. I currently serve as Vice-President of Midland County Young Republicans and I am an active member of Young Professionals of Midland and Young Professionals in Energy. I have volunteered throughout the community at various different organizations such as the Bush home.

What is your personal vision for the City?

I believe Midland is one of the greatest communities in America. I want to see Midland continue to grow and prosper, but also make wise long term decisions that will impact our children and grandchildren.

Please specify any time constraints you may have.

Available weekdays between 11:00 a.m. and 1:00 p.m. as well as anytime after 5:00 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:

City Development Advisory Committee

Please tell us why you are interested in serving on this board or commission.

I would like to see the city make financially wise and effective decisions to solve the issues we are faced with, such as traffic and housing. Serving on this committee, I feel I could provide insightful input to make the city of Midland a better community.

Date: 11/1/2013

Phone: 432-425-1605 (Home)

432-221-0435 (Business)

Email: garrettmarket@gmail.com

Are you a graduate of Midland 101? ☐ yes ☒ no

Occupation: Lease Analyst at Concho Resources

What contribution would you most like to make?

I bring the mind set that will analyze all angles of the issues and make decisions that will be in the best interests of Midland in the near and long term.

Additional pertinent information or references:

Reference- Sue Brannon - 432-694-5586 or 432-559-0769

(2) Name of Board/Commission:

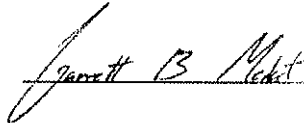
Hotel/Motel Tax Advisory Board

What contribution would you most like to make?**Additional pertinent information or references:**

Reference- Sue Brannon - 432-694-5586 or 432-559-0769

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

2013-018



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: Heather Massey

Address: 400 W. Illinois Suite 1630

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 ² years.

Professional and/or Community Activities:

Leadership Midland Graduate 2013 MAAS Committee

Just obtained my Texas Real Estate License

Young Professionals of Midland Member

What is your personal vision for the City?

Continued growth and development especially in the downtown area.

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 Board

Please tell us why you are interested in serving on this board or commission.

If feel it best ties into my vision for the development and continued growth in Midland.

Date: 8/19/2013

Phone: 4325590058 (Home)

4326874414 (Business)

Email: hjmassey@gmail.com

Are you a graduate of Midland 101? ☐ yes ☒ no

Occupation: Executive Assistant to Scooter Brown

What contribution would you most like to make?

Help shape the development of Midland, buy attracting new businesses & revitalizing the downtown area.

Additional pertinent information or references:

Scooter Brown 432-687-4414

Stephanie Martin 432-934-4734

(2) Name of Board/Commission:

Midland Center Advisory Board

What contribution would you most like to make?

Help the Midland Center expand with the changing community. Making sure it has up to date facilities, technology etc.

Additional pertinent information or references:

Brad Barnett (Midland Center)

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

Heather Massey

Digitally signed by Heather Massey
DN: cn=Heather Massey, o=Haley Properties, ou=Haley
Properties, email=hmassey@haleyproperties.com, c=US
Date: 2013.08.19 12:03:18 -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: R. Shaun Rainey

Address: 7 Bristol Court

Midland Texas 79705

(City) (State) (Zip)

I am ☒ I am not ☐ a U.S. Citizen

Please tell us about yourself:

I have lived in Midland 2.5 years.

Professional and/or Community Activities:

President Elect of the Midland County Young Lawyers Association; Member of the State Bar of Texas, State Bar of New Mexico,

Midland County Bar Association, Texas Young Lawyers Association, St. Luke's United Methodist Church

2013 Graduate of Leadership Midland

Date: 9/1/2013

Phone: 254-2203 (Home)

687-8688 (Business)

Email: srainey@cbtd.com

Are you a graduate of Midland 101? ☐ yes ☐ no

Occupation: Attorney, Cotton, Bledsoe, Tighe & Dawson, P.C.

What is your personal vision for the City?

Growing up in West Texas, there is a sense of community and respect which brought me back upon the completion of my law and undergraduate degrees. In order to maximize the ample opportunity and continue to foster West Texas values which make this home Midland must work to structure growth and development to meet the needs of our community both present and future.

Please specify any time constraints you may have.

As an attorney, my schedule affords flexibility unless a hearing or trial is scheduled by the court.

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.

Issues regarding the continued growth and development are of utmost importance in the continued growth of the city. This is vital not just for the expansion of the city, but also the reworking of interior portions of the city to meet changing needs and demographics.

What contribution would you most like to make?

Assist the city with structured growth and to help alleviate potential issues between adjacent and neighboring property owners.

Additional pertinent information or references:

(2) Name of Board/Commission:

City Development Advisory Committee

What contribution would you most like to make?

Provide insight and information into the expenditure of funds for development of the city and infrastructure.

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

Digitally signed by Shaun Rainey
DN: cn=Shaun Rainey, o, ou, email=srainey@cbtd.com, c=US
Date: 2013.09.03 13:59:50 -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: Joshua Sparks
Address: 3603 Bermuda Ct
Midland TX 79707
(City) (State) (Zip)

Date: 8/28/2013
Phone: 432-352-1555 (Home)
432-685-0277 (Business)
Email: jrspark07@hotmail.com

I am ☒ I am not ☐ a U.S. Citizen

Please tell us about yourself:

I have lived in Midland 24 years.

Are you a graduate of Midland 101? ☐ yes ☒ no

Occupation: Chemical Engineer

Professional and/or Community Activities:

Midland County Young Republicans, Young Professionals in Midland, Young Professionals in Energy

Midland Community Theater, First Baptist Church Choir

What is your personal vision for the City?

I would like to see Midland grow, but grow in a healthy and sustainable way. I am confident that the businesses and the character of the people already here in Midland will continue to attract new, young, and enthusiastic families to our area if the city is able to offer and provide affordable housing and sufficient opportunities for entertainment to encourage a great family lifestyle.

Please specify any time constraints you may have.

I work during business hours Monday - Friday and, periodically, will have meetings for my other organizations in the evenings. But I have the privilege of being able to attend meetings at any time during the day, if given enough prior notice.

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 am interested in serving on the Planning and Zoning Commission because I care about the future development of Midland.

I am young and likely will be living here for many years to come, so it is in my best interest to develop this city in a sustainable and

responsible way.

What contribution would you most like to make?

I would like to contribute a youthful perspective to the commission. I am open-minded and try to be fair and considerate of all others, which are characteristics I consider to be important for the Planning and Zoning Commission. Also, my hard-working attitude and responsibility will aid the commission in fulfilling its duties.

Additional pertinent information or references:

In case it isn't obvious, my father is Jeff Sparks, the Midland City Councilman for District 1.

(2) Name of Board/Commission:

City Development Advisory Committee

What contribution would you most like to make?

I would like to contribute my new ideas and youthful perspective to the committee. The more ideas and more different thoughts on our city's development, the better overall choices the committee will be able to make to ensure that its decisions are best for the city as a whole.

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

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. 2013?	ATTEN- DANCE %	MEETINGS ATTENDED (Out of 0)	ELIGIBLE FOR ANOTHER TERM	BOARD MEMBER'S PHONE #	COUNCIL NOTES
Richard D. Dunham	Yes			No		NO MEETINGS
Greg Turner	Yes			Yes		
Chris Repman	No 09/14					
Jay K. Bradford	No 09/14					
Don Woodward (At-Large)	No 09/16					
<u>ALTERNATES:</u>						
Vacancy				No		
Vacancy				No		

APPLICANTS: (Listed Alphabetically)

APPLICANT'S NAME	NUMBER OF BOARDS APPLIED FOR	COUNCIL NOTES

HOTEL/MOTEL TAX ADVISORY BOARD
(Advisory)
Membership - 7; Terms - 2 Years Staggered)

SPECIAL COMPOSITION REQUIREMENTS: Representative of Midland Hotel/Motel Assn.; Members Familiar with Chpt 351 "Municipal Hotel Occupancy Taxes" of Texas Tax Code.

MEMBER	TERM EXPIRE SEPT. 2013?	ATTEN- DANCE %	MEETINGS ATTENDED (Out of 4)	ELIGIBLE FOR ANOTHER TERM	BOARD MEMBER'S PHONE #	COUNCIL NOTES
Vacancy						
Alex Singh--Hotel/Motel Assn. Rep. 12/11		100%	4	Yes		
Annabell Ramirez	No 09/14	75%	3			
Brian Smith	No 09/14	75%	3			
Karmen Hendrix Bryant	No					
Jan Artley	No					
Ellen K. Ramsey	No					

APPLICANTS: (Listed Alphabetically)

APPLICANT'S NAME	NUMBER OF BOARDS APPLIED FOR	COUNCIL NOTES
Garrett Market	One other board	
Rachel Stone	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: Garrett Market

Address: 4307 Ferncliff Ave

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 20 years.

Professional and/or Community Activities:

I was born and raised in Midland, Texas and am overjoyed to have the opportunity to start a family in my hometown. I currently serve as Vice-President of Midland County Young Republicans and I am an active member of Young Professionals of Midland and Young Professionals in Energy. I have volunteered throughout the community at various different organizations such as the Bush home.

What is your personal vision for the City?

I believe Midland is one of the greatest communities in America. I want to see Midland continue to grow and prosper, but also make wise long term decisions that will impact our children and grandchildren.

Please specify any time constraints you may have.

Available weekdays between 11:00 a.m. and 1:00 p.m. as well as anytime after 5:00 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:

City Development Advisory Committee

Please tell us why you are interested in serving on this board or commission.

I would like to see the city make financially wise and effective decisions to solve the issues we are faced with, such as traffic and housing. Serving on this committee, I feel I could provide insightful input to make the city of Midland a better community.

Date: 11/1/2013

Phone: 432-425-1605 (Home)

432-221-0435 (Business)

Email: garrettmarket@gmail.com

Are you a graduate of Midland 101? ☐ yes ☒ no

Occupation: Lease Analyst at Concho Resources

What contribution would you most like to make?

I bring the mind set that will analyze all angles of the issues and make decisions that will be in the best interests of Midland in the near and long term.

Additional pertinent information or references:

Reference- Sue Brannon - 432-694-5586 or 432-559-0769

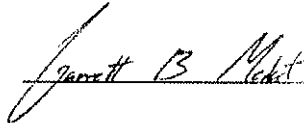
(2) Name of Board/Commission:

Hotel/Motel Tax Advisory Board

What contribution would you most like to make?**Additional pertinent information or references:**

Reference- Sue Brannon - 432-694-5586 or 432-559-0769

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

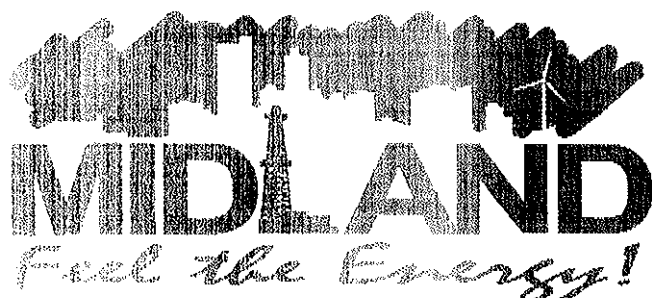
PO Box 1152

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: Rachel L. Stone

Address: 1902 N. Pecos

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 ⁴⁷ years.

Professional and/or Community Activities:

Former: MISD Education Foundation, MISD Headstart Board, MC BAC Advisory Board, MC Coppell Learning Facility Advisory Board

Current: Midland Recording Library for the Blind, Midland CVB Advisory Board, SHARE Board, American Diabetes Assoc

Date: 8/17/2013

Phone: 432-657-1805 (Home)

432-652-2060 (Business)

Email: rls@midlandhcc.com

Are you a graduate of Midland HS? ☐ yes ☒ no

Occupation: President/CEO

What is your personal vision for the City?

With our robust economy many changes have come to our city. This includes many new faces with diverse backgrounds. I would like to see Midland embrace the many cultures and showcase them. While we do not have the big attractions of the bigger cities, Midland has a lot to offer. One way is to offer downtown events where we can showcase the many cultures that make Midland.

Please specify any time constraints you may have.

3rd Monday of the month (11:30am-1:30pm)

2nd & 3rd Tuesday of the month (Noon-1:00pm)

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:

Hotel/Motel Advisory Board

Midland Center Advisory Board

Please tell us why you are interested in serving on this board or commission.

Both of these advisory board play a big role in promoting the arts & events in our community. I have over 20 years of event planning experience and I believe that my experience will bring a different prospect when decisions are being made.

What contribution would you most like to make?

A perspective from an event planner, especially when it is a non-profit organization.

Additional pertinent information or references:

Jami Owen, MISD Education Foundation Exec Dir: (432) 689-1982

Billy Castaneda, Standard Sales, Co.: (432) 550-2380

Simone Rivas, KWES: (432) 349-7047

(2) Name of Board/Commission:

Midland Center Advisory Board

What contribution would you most like to make?**Additional pertinent information or references:**

Applications are maintained on file in the City Secretary's office for a period of one year. Should you need additional information, please call us at 432-685-7430.

Signature of Applicant

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City of Midland

City Secretary's Office

PO Box 1152

Midland, TX 79702

FAX: (432) 685-7433

Submit by 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 2013?	ATTEN-DANCE %	MEETINGS ATTENDED (Out of 9)	ELIGIBLE FOR ANOTHER TERM	BOARD MEMBER'S PHONE #	COUNCIL NOTES
Carla Repman	Yes	89%	8	No		
Gregory Maes	Yes	50%	4	Yes		
James A. Blischke	Yes	89%	8	Yes		8/22/13 *Mr. Blischke called and want to serve again
Dennis Bade	No 09/14	67%	6			
Norma Duran	No 09/15	50%	4			
<u>ALTERNATE:</u>						
Vacancy		0%	0	No		

APPLICANTS: (Listed Alphabetically)

APPLICANT'S NAME	NUMBER OF BOARDS APPLIED FOR	COUNCIL NOTES
Paul Culver	One other board	
Hazel Lamar	Only this board	
Edward Mayberry	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: Paul Culver
Address: 4603 Pleasant Dr
 Midland TX 79703
 (City) (State) (Zip)

Date: 8/22/2013
Phone: 432 697-2881 (Home)
 432 934-1021 (Business)
Email: paul.culver@yahoo.com

I am ☒ I am not ☐ a U.S. Citizen

Please tell us about yourself:

I have lived in Midland ⁴ years.

Are you a graduate of Midland 101? ☐ yes ☒ no

Occupation: Realtor

Professional and/or Community Activities:

I have been involved in real estate and mortgage lending for the past twenty five years. Three of those years I worked for the Texas Department of Housing and Community Affairs and have overseen many city projects aiding the low-income and elderly with regards to housing.

What is your personal vision for the City?

I would love to see Midland continue to grow but with housing opportunities for young new professionals as well as low-income and elderly citizens. I have been in Midland for four years but grew up here and think its a great city.

Please specify any time constraints you may have.

None that would interfere with board duties.

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.

I have experience with the inner working of housing authorities and would love to provide input.

What contribution would you most like to make?

To use my experience in anyway possible to promote housing.

Additional pertinent information or references:

Worked in HUD's HOME program in planning and grant administration.

(2) Name of Board/Commission:

Midland Housing Finance Commission

What contribution would you most like to make?

Again, to use my experience working with cities and their housing authorities to promote housing.

Additional pertinent information or references:

Experience with TDHCA HOME Program.

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

Digitally signed by Paul Culver

DN: cn=Paul Culver, o, ou, email=paul.culver@yahoo.com, c=US

Date: 2013.08.22 18:46:19 -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: HAZEL LAMAR

Address: 700 W. Scharbauer Drive #218
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 15 years.

Professional and/or Community Activities:

Date: 8-14-2013

Phone: 432-222-1189 (Home)

(Business)

Email: _____

Are you a graduate of Midland High? ☐ yes ☒ no

Occupation: Dis able

What is your personal vision for the City?

To make things better. To find ways
to make things better

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:

The Housing Authority of the city of
Midland

Please tell us why you are interested in serving on this board or commission.

I am a resident within the Housing
Authority and it's required.

I would like to do what ever I can to make it better

What contribution would you most like to make?

I would like to do what ever I can to make it better

Additional pertinent information or references:

(2) Name of Board/Commission:

The Housing Authority of the City of Midland

What contribution would you most like to make?

Listen to Ideas and come up with the better best one.

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

Hazel L. Mason

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: _____

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

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**

MIDLAND CENTER ADVISORY BOARD
 (Advisory & Decision Making)
 Membership - 7; Terms - 3 Years expiring 3-2-2)
 Ex-Officio members: City Manager & Exec. Director of Chamber of Commerce

SPECIAL COMPOSITION REQUIREMENTS: Resident citizen, taxpayer & qualified voter of City.

MEMBER	TERM EXPIRE SEPT. 2013?	ATTEN- DANCE %	MEETINGS ATTENDED (Out of 3)	ELIGIBLE FOR ANOTHER TERM	BOARD MEMBER'S PHONE #	COUNCIL NOTES
Brent Blackburn	Yes	67%	2	Yes		
Charles Spence (CC)	Yes	33%	1	Yes		
Lorri Lyon West (City)	Yes	33%	1	Yes		9/3/13 Ms. West called and stated she would like to serve again.
Tracy Bacon (CC)	No 09/14	67%	2			
Vickey Hailey (CC)	No 09/14	67%	2			
Patricia Blackwell (City)	No 09/14	100%	3			
Paula Mitchell (City)	No 09/14	100%	3			
Jerry Morales (Liaison Officer)						

APPLICANTS: (Listed Alphabetically)

APPLICANT'S NAME	NUMBER OF BOARDS APPLIED FOR	COUNCIL NOTES
Monty D. Biggs	One other board	
Delma Eckert	One other board	
Heather Massey	One other board	
Rachel Stone	One other board	
Melissa Wicker	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: Monty D Biggs

Address: 7 Bentley Ct

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 years.

Professional and/or Community Activities:

Member of PBLA, AAPL, State Bar of Texas. Volunteer with local Cub Scout Pack, Indian Princess.

Date: 10/22/2013

Phone: 432-599-0881 (Home)

432-686-1828 (Business)

Email: mbiggs@callon.com

Are you a graduate of Midland 101? ☐ yes ☒ no

Occupation: Landman/Attorney

What is your personal vision for the City?

To ensure the citizens of Midland continue to have a safe and pleasant community in which to live.

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:

Midland Center Advisory Board

Please tell us why you are interested in serving on this board or commission.

To guarantee that Midland continues to have a first-class venue that can attract a wide variety of events and activities.

What contribution would you most like to make?

I would like to make sure any funds spent are spent wisely and efficiently.

Additional pertinent information or references:

(2) Name of Board/Commission:

Midland Football-Soccer and Baseball Complex Development Corporation

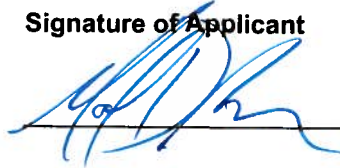
What contribution would you most like to make?

I would like to make sure any funds spent are spent wisely and efficiently.

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: Delma Eckert

Address: 4704 Mimosa Ct

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 ⁸ years.

Professional and/or Community Activities:

UTPB Alumni

Stonegate Fellowship

PTA at Carver Elementary School

What is your personal vision for the City?

I would like to see a city with growth that accommodates the needs of young families so that citizens will have a community that serves their needs and also attract a family oriented community.

Please specify any time constraints you may have.

I have a full time job but it is flexible.

Date: 9/3/2013

Phone: 4325708972 (Home)

4325708972 (Business)

Email: delma.eckert@yahoo.com

Are you a graduate of Midland 101? ☐ yes ☒ no

Occupation: Administrative Manager

Please list below the Board(s) or Commission(s) on which you are interested in serving:

(You can find a complete and current list on the City's website at www.midlandtexas.gov)

(1) Name of Board/Commission:

City Development Advisory Committee

Please tell us why you are interested in serving on this board or commission.

The development and growth of Midland is important to me and my family.

What contribution would you most like to make?

I would like to voice opinions and concerns of city development as shared by other young professional families.

Additional pertinent information or references:

(2) Name of Board/Commission:

Midland Center Advisory Board

What contribution would you most like to make?

Through my employment I understand issues regarding employment of personnel and operating budgets.

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

Delma Eckert

Digitally signed by Delma Eckert
DN: cn=Delma Eckert, o, ou,
email=delma.eckert@yahoo.com, c=US
Date: 2013.09.03 11:10:54 -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](#)

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2013-018



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: Heather Massey

Address: 400 W. Illinois Suite 1630

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 2 **years.**

Professional and/or Community Activities:

Leadership Midland Graduate 2013 MAAS Committee

Just obtained my Texas Real Estate License

Young Professionals of Midland Member

What is your personal vision for the City?

Continued growth and development especially in the downtown area.

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 Board

Please tell us why you are interested in serving on this board or commission.

If feel it best ties into my vision for the development and continued growth in Midland.

Date: 8/19/2013
Phone: 4325590058 (Home)
4326874414 (Business)
Email: hjmassey@gmail.com

Are you a graduate of Midland 101? ☐ yes ☒ no

Occupation: Executive Assistant to Scooter Brown

What contribution would you most like to make?

Help shape the development of Midland, buy attracting new businesses & revitalizing the downtown area.

Additional pertinent information or references:

Scooter Brown 432-687-4414

Stephanie Martin 432-934-4734

(2) Name of Board/Commission:

Midland Center Advisory Board

What contribution would you most like to make?

Help the Midland Center expand with the changing community. Making sure it has up to date facilities, technology etc.

Additional pertinent information or references:

Brad Barnett (Midland Center)

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

Heather Massey

Digitally signed by Heather Massey
DN: cn=Heather Massey, o=Haley Properties, ou=Haley
Properties, email=hmassey@haleyproperties.com, c=US
Date: 2013.08.19 12:03:18 -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

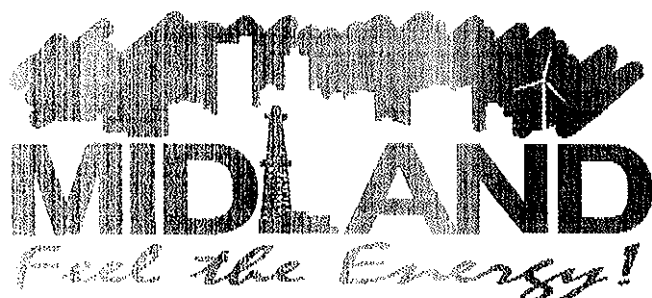
PO Box 1152

Midland, TX 79702

FAX: (432) 685-7433

[Submit Via Email](#)

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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: Rachel L. Stone

Address: 1902 N. Pecos

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 ⁴⁷ years.

Professional and/or Community Activities:

Former: MSD Education Foundation, MSD Headstart Board, MC BAC Advisory Board, MC Coppell Learning Facility Advisory Board

Current: Midland Recording Library for the Blind, Midland CVB Advisory Board, SHARE Board, American Diabetes Assoc

Date: 8/17/2013

Phone: 432-657-1805 (Home)

432-652-2060 (Business)

Email: rls@midlandhcc.com

Are you a graduate of Midland HS? ☐ yes ☒ no

Occupation: President/CEO

What is your personal vision for the City?

With our robust economy many changes have come to our city. This includes many new faces with diverse backgrounds. I would like to see Midland embrace the many cultures and showcase them. While we do not have the big attractions of the bigger cities, Midland has a lot to offer. One way is to offer downtown events where we can showcase the many cultures that make Midland.

Please specify any time constraints you may have.

3rd Monday of the month (11:30am-1:30pm)

2nd & 3rd Tuesday of the month (Noon-1:00pm)

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:

Hotel/Motel Advisory Board

Midland Center Advisory Board

Please tell us why you are interested in serving on this board or commission.

Both of these advisory board play a big role in promoting the arts & events in our community. I have over 20 years of event planning experience and I believe that my experience will bring a different prospect when decisions are being made.

What contribution would you most like to make?

A perspective from an event planner, especially when it is a non-profit organization.

Additional pertinent information or references:

Jami Owen, MISD Education Foundation Exec Dir: (432) 689-1982

Billy Castaneda, Standard Sales, Co.: (432) 550-2380

Simone Rivas, KWES: (432) 349-7047

(2) Name of Board/Commission:

Midland Center Advisory Board

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

Submit by 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: Melissa Wicker

Address: 2302 Lockheed

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 33 years.

Professional and/or Community Activities:

Board Member of Midland Chamber of Commerce, Board Member of Safe Place, Advisory Board Member of Junior League of
Midland, Member of Midland Housing Trust Committee, and Member of the Midland Housing Committee

Date: 9/9/2013

Phone: 432-687-6789 (Home)

432-689-0000 (Business)

Email: mwicker@primewestcorp.com

Are you a graduate of Midland 101? ☐ yes ☒ no

Occupation: Mortgage Loan Officer / President of Permian Basin

What is your personal vision for the City?

My vision is to see the city continue to grow. The City of Midland has provided my family and I many opportunities through the years
I would like to see those opportunities continue for our current residence and future residence.

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 Center Advisory Board

Please tell us why you are interested in serving on this board or commission.

I would like to be involved with the Midland Center to continue the legacy that the center has provided to our city and see the
growth or expansion of the facility for our community.

What contribution would you most like to make?

I would like to contribute my time and knowledge of the city to help maintain growth for the Midland Center.

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

Melissa Wicker

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 DEVELOPMENT CORPORATION
(Membership - 5; Terms -3 Years)

SPECIAL COMPOSITION REQUIREMENTS:

MEMBER	TERM EXPIRE JAN. 2014?	ATTEN- DANCE %	MEETINGS ATTENDED (Out of 19)	ELIGIBLE FOR ANOTHER TERM	BOARD MEMBER'S PHONE #	COUNCIL NOTES
Laura Roman	Yes	95%	18	No		
Robert Rendall, Chairman	Yes	79%	15	Yes		
Gary Douglas	No 01/16	100%	19			
Michael Trost	No 01/16	95%	18			
Cary J. Love	No 01/16	79%	15			

APPLICANTS: (Listed Alphabetically)

APPLICANT'S NAME	NUMBER OF BOARDS APPLIED FOR	COUNCIL NOTES
Thomas Johnston	One other board	
Reggie Lawrence	One other board	



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: Thomas Johnston

Address: 6208 Sequoia

Midland TX 79707

(City)

(State)

(Zip)

Date: 11/11/13

Phone: 432-934-3333 (Home)

432-688-8200 (Business)

Email: realestateranch@aol.com

I am ☒ I am not ☐ a U.S. Citizen

Please tell us about yourself:

Are you a graduate of Midland 101? ☒ yes ☐ no

I have lived in Midland 8 years.

Occupation: Real Estate Broker

Professional and/or Community Activities:

Director
Permian Basin Builder Association, Leadership Midland, Permian
Basin Realtors - Director, Ducks Unlimited

What is your personal vision for the City?

Structured Growth + New Ideas into 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:

City Development + Advisory
MDC

Please tell us why you are interested in serving on this board or commission.

I have time + expertise in these areas coupled w/ a desire
to serve

What contribution would you most like to make?

I'm very vocal + want to see my City grow properly

Additional pertinent information or references:

Warren York + Carolyn Arnold, Street Doss

(2) Name of Board/Commission:

Permian Basin Builders Association
Permian Basin Realtors Association
Leadership Midland

What contribution would you most like to make?

Sound Advice to the Board from a Real Estate/Developer outlook

Additional pertinent information or references:

I have a strong need to serve.

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: Reggie Lawrence

Address: 4721 Timber Lane

Midland Tx 79707

(City) (State) (Zip)

I am ☒ I am not ☐ a U.S. Citizen

Please tell us about yourself:

I have lived in Midland 10 years.

Professional and/or Community Activities:

City of Midland - City Development Advisory Committee; Attend Stonegate Church; Permian Basin Petroleum Association

Date: 7/16/2013

Phone: 432.770.0881 (Home)

432.580.7332 (Business)

Email: reggie@winchandwrench.com

Are you a graduate of Midland 101? ☒ yes ☐ no

Occupation: Self Employed - Oilfield Service

What is your personal vision for the City?

The city of Midland is a great place to live. Leadership is required to fulfill the goals of the city and I would like to play a part in helping the current goals to thrive and for new and innovative avenues of community development to be set in place.

Please specify any time constraints you may have.

I am typically able to adjust my time accordingly.

Please list below the Board(s) or Commission(s) on which you are interested in serving:

(You can find a complete and current list on the City's website at www.midlandtexas.gov)

(1) Name of Board/Commission:

Planning and Zoning Commission

Please tell us why you are interested in serving on this board or commission.

Owning a business has extreme challenges. I have seen and met those challenges through my own experience for many years.

Location, staffing, budgets, compliance are all obstacles that I, along with other business leaders face every day. I believe that I can

bring good experience in assisting new business meet their goals.

What contribution would you most like to make?

Becoming an available leader in our community that communicates with others, the need for vision into the next 50 years of Midland's growth. To that end, without proper planning, we have a disconnected community with staunch boundaries. It is my goal to place myself in a position to bring people together, rather than create boundaries.

Additional pertinent information or references:

(2) Name of Board/Commission:

Midland Development Corporation

What contribution would you most like to make?

For many of the same reasons as mentioned above, planning is paramount. Through this board, I can help business achieve their goals, and also promote the welfare and outlook of Midland's expansion.

Additional pertinent information or references:

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

Reggie Lawrence

Digitally signed by Reggie Lawrence
DN: cn=Reggie Lawrence, o=WW - Signature PDF, ou,
email=reggie@winchandwrench.com, c=US
Date: 2013.07.16 10:52:14 -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

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MIDLAND FOOTBALL-SOCCER AND BASEBALL COMPLEX DEVELOPMENT CORPORATION

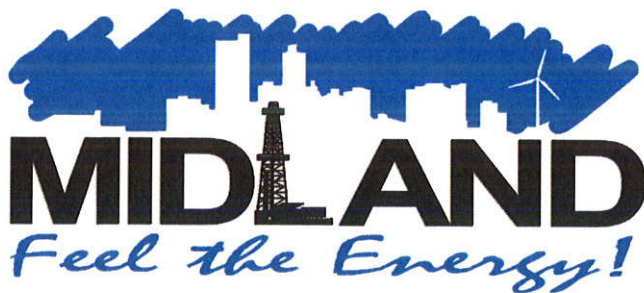
**Decision Making
(Membership - 7; Terms - 2)**

SPECIAL COMPOSITION REQUIREMENTS: Resident of City.

MEMBER	TERM EXPIRE NOV. 2013?	ATTEN- DANCE %	MEETINGS ATTENDED (Out of)	ELIGIBLE FOR ANOTHER TERM	BOARD MEMBER'S PHONE #	COUNCIL NOTES
Ken Marks, Vice Pres.	Yes			No		
James G. Smith	Yes			No		
Wesley D. Bownds	Yes			No		
John James	Yes			No		
Mike Thompson	Yes			Yes		8/13/13 Mr. Thompson called wants to serve again.
Tim Bryson	Yes			Yes		8/22/13 Mr. Bryson called wants to serve again.
Rick Davis (MISD Resp.)	Yes			Yes		

APPLICANTS: (Listed Alphabetically)

APPLICANT'S NAME	NUMBER OF BOARDS APPLIED FOR	COUNCIL NOTES
Brad Barnett	One other board	
Monty D. Biggs	One other board	
Kelly "Bo" Cockerell	One other board	
Joe Guerra, Jr	One other board	
Michael Harris	One other board	
John Ory	One other board	
John Trischitti III	One other board	



APPLICATION FOR CITY OF MIDLAND BOARDS/COMMISSIONS/COMMITTEES

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PLEASE TYPE OR PRINT CLEARLY:

Name: Brad Barnett

Address: 5101 North A St. #342

Midland 79705

(City) (State) (Zip)

I am ☒ I am not ☐ a U.S. Citizen

Please tell us about yourself:

I have lived in Midland ⁸ years.

Professional and/or Community Activities:

Member of the TxAVF (Texas Association of Venues & Facilities) & IFMA (International Facility Managers Association.)

Teaching and supply preaching at Fannin Terrance Baptist Church. Former Moderator for the Basin Baptist Network.

Leadership Midland (Class of 2013)

What is your personal vision for the City?

For our community to continue to grow while retaining our west Texas, family friendly feel. To work to be proactive to be able to handle our growth. It's critical that we continue to grow our quality of life and not just the size of our city.

Please specify any time constraints you may have.

Schedule is generally flexible.

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:

Tax Increment Reinvestment Zone Board

Please tell us why you are interested in serving on this board or commission.

A passion for seeing downtown Midland revitalized.

Date: 8/13/2013

Phone: 432-599-1390 (cell) (Home)

432-682-6234 (Business)

Email: brad@themidlandcenter.com

Are you a graduate of Midland 101? ☒ yes ☐ no

Occupation: Vice President (Facility Manger) Midland Center

What contribution would you most like to make?

Assist in shaping the future of downtown Midland (the heart and soul of our community.)

Additional pertinent information or references:

Reference: Chamber of Commerce President & CEO Bobby Burns

(2) Name of Board/Commission:

Midland Football-Soccer and Baseball Complex Development Corporation

What contribution would you most like to make?

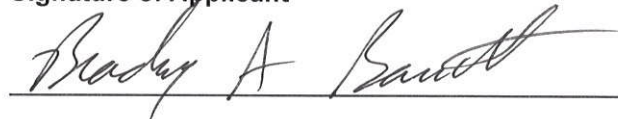
Work to continue to promote this amazing facility we have. Background in facility management gives me an clear understanding of needs for our sports facility.

Additional pertinent information or references:

Reference: Monty Hoppel

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Signature of Applicant



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City Secretary's Office
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APPLICATION FOR CITY OF MIDLAND BOARDS/COMMISSIONS/COMMITTEES

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PLEASE TYPE OR PRINT CLEARLY:

Name: Monty D Biggs

Address: 7 Bentley Ct

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 years.

Professional and/or Community Activities:

Member of PBLA, AAPL, State Bar of Texas. Volunteer with local Cub Scout Pack, Indian Princess.

Date: 10/22/2013

Phone: 432-599-0881 (Home)

432-686-1828 (Business)

Email: mbiggs@callon.com

Are you a graduate of Midland 101? ☐ yes ☒ no

Occupation: Landman/Attorney

What is your personal vision for the City?

To ensure the citizens of Midland continue to have a safe and pleasant community in which to live.

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:

Midland Center Advisory Board

Please tell us why you are interested in serving on this board or commission.

To guarantee that Midland continues to have a first-class venue that can attract a wide variety of events and activities.

What contribution would you most like to make?

I would like to make sure any funds spent are spent wisely and efficiently.

Additional pertinent information or references:

(2) Name of Board/Commission:

Midland Football-Soccer and Baseball Complex Development Corporation

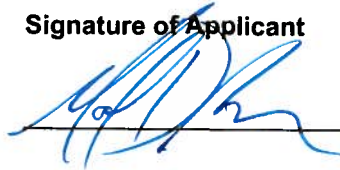
What contribution would you most like to make?

I would like to make sure any funds spent are spent wisely and efficiently.

Additional pertinent information or references:

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Signature of Applicant



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APPLICATION FOR CITY OF MIDLAND BOARDS/COMMISSIONS/COMMITTEES

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PLEASE TYPE OR PRINT CLEARLY:

Name: Kelly "Bo" Cockerell

Address: 8312 E County Rd 85 Unit A

Midland TX 79706

(City) (State) (Zip)

I am ☒ I am not ☐ a U.S. Citizen

Please tell us about yourself:

I have lived in Midland 7 **years.**

Professional and/or Community Activities:

I spend my time and earn my living by preaching the Gospel and planning and promoting events right here in Midland.

Date: 8/31/2013

Phone: (432) 230-7099 (Home)

(432) 230-7099 (Business)

Email: kcockerell@gmail.com

Are you a graduate of Midland 101? ☐ yes ☒ no

Occupation: Pastor / Event Promoter

What is your personal vision for the City?

Midland is a great place live and work and I would like to continue to help promote the best Midland has to offer. As more and more people come here to work, live and do life, it is important that we stay on top of the "business of Midland" so we can continue to have a prosperous and lively community.

Please specify any time constraints you may have.

I am self-employed and have total control over my schedule.

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.

Airports are a crucial component of prosperous cities. As we continue to grow our airports are going to need to grow with us and I would like to help guide and influence them so they can help make Midland more than just an employment destination.

What contribution would you most like to make?

I am plugged in to the entertainment and activities subculture in Midland and can bring insight into what can help make an airport more than just a transit system.

Additional pertinent information or references:

Many on the Midland City Council have first hand experience with me through events I have co-produced and know of my creativity and ingenuity.

(2) Name of Board/Commission:

Midland Football-Soccer and Baseball Complex Development Corporation

What contribution would you most like to make?

As an event planner and promoter I have firsthand knowledge of how important a great venue like the Scharbauer Sports Complex is to the vitality of this community. I would like to help guide the future of the sports complex so it can continue to help make Midland an awesome place to live and play.

Additional pertinent information or references:

Many on the Midland City Council have firsthand experience with me through events I have co-produced and know of my creativity and ingenuity.

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

Kelly Cockerell

Digitally signed by Kelly Cockerell
DN: cn=Kelly Cockerell, o, ou,
email=kcockerell@gmail.com, c=US
Date: 2013.08.31 09:23:10 -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

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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: Joe Guerra Jr.
Address: 2506 Candle Tree Cove
 Midland Texas 79705
 (City) (State) (Zip)

I am ☒ I am not ☐ a U.S. Citizen

Please tell us about yourself:

I have lived in Midland 28 **years.**

Professional and/or Community Activities:

I am currently working with Energen Resources in the Drilling Department, I facilitate there Hydraulic Frac Disclosures and handle pre regulatory/post regulatory issues that come up on the drilling or production side. Prior to Energen, I worked 27 years with the RR in Regulatory, Environmental and Technical. I have extensive knowledge of Oil & Gas regulations. I am currently in Midland 101.

What is your personal vision for the City?

My personal vision for the city is to have a population say that they are proud of there transportation, city services, roads and bridges activities that are enjoyable, clean, etc. I want people that drive through Midland to say, "Yes I remember that city, they are the ones with the tall buildings that are lit up at night in colors." That makes the City stand out.

Please specify any time constraints you may have.

I do not have no time constraints, just some notice any time a meeting will be held.

Date: 1/17/2013
Phone: 432-686-8445 (Home)
 432-556-0857 (Business)
Email: joe.guerra@att.net

Are you a graduate of Midland 101? ☐ yes ☒ no

Occupation: Drilling/Completion Tech for Energen Resources Cc

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:

Oil and Gas Advisory Committee
 Midland Football/Soccer/Baseball Corporation

Please tell us why you are interested in serving on this board or commission.

I want to serve on the Oil/Gas Committee because I feel that I can offer in regards to regulatory issues pertaining to drilling and prod inside the city limits, also currently working for an oil and gas company helps alot.

What contribution would you most like to make?

Offer my expertise on oil and gas regulation and other general issues that came up that might play a part in making decisions pertaining to drilling inside the city limits of Midland.

Additional pertinent information or references:

Midland 101

(2) Name of Board/Commission:

Midland Football/Soccer/Baseball

What contribution would you most like to make?

I am a arbiter of issues, I was an official in college softball for almost 15 years and one of my greatest asset was having to watch, listen and make decisions based on the play. This is what this would be all about.

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: Michael Harris

Address: PO Box 81046

Midland TX 79708

(City) (State) (Zip)

I am ☒ I am not ☐ a U.S. Citizen

Please tell us about yourself:

I have lived in Midland 2.5 years.

Professional and/or Community Activities:

My community activities have been fostered through my employer, Concho Resources. We have done multiple trash pick ups and sponsored a habitat for humanity house. I am a CPA and participate in local professional activities sponsored by PASPB.

Date: 8/29/2013

Phone: 432 230 0547 (Home)

432 221 0316 (Business)

Email: mharris@concho.com

Are you a graduate of Midland 101? ☐ yes ☒ no

Occupation: Accountant - CPA

What is your personal vision for the City?

I believe the current growth in Midland will continue. I envision Midland developing a metropolitan feel (downtown renovation and more large companies headquartered here), however retaining the West Texas friendliness. We have to embrace the changes that come with economic and population growth, but also understand the importance of the core values Midland has long established

Please specify any time constraints you may have.

My job does place some time constraints during quarter ends, however, in general, with planning I am usually have the flexibility to take an hour or two during my lunch or afternoon.

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 Football-Soccer and Baseball Complex Development Corporation

Please tell us why you are interested in serving on this board or commission.

I think the continued development of the complex shows Midland's commitment to growth. I think there will be a positive look back related to the complex, but its development is crucial to that success.

What contribution would you most like to make?

I would like to contribute my time and expertise to help effectively utilize the proceeds available for the construction of the complex.

Additional pertinent information or references:

(2) Name of Board/Commission:

Parks and Recreation Commission

What contribution would you most like to make?

I think as the young professional population in Midland continues to expand, something this group is looking for are places to take their children. I believe this generation will realize that their children need to be more active and having good facilities is paramount to supporting that goal.

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

mharris@conchoresource
s.com

Digitally signed by mharris@conchoresources.com
DN: cn=mharris@conchoresources.com
Date: 2013.09.06 11:06:56 -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



it is necessary to continue to develop this gem to constantly improve the quality of life for existing residences and those to come.

What contribution would you most like to make?

I bring a history of community leadership experience, strategic thinking and financial expertise that can lend to providing new, unique and sometimes unthought of perspectives to initiatives.

Additional pertinent information or references:

Bobby Burns - Midland Chamber of Commerce President

Dr. Steven Thomas - Midland College President

Vicki Jay - Executive Director of Shared Spaces Midland

(2) Name of Board/Commission:

Tax Increment Reinvestment Zone Board

What contribution would you most like to make?

To see that the incremental revenue is being collected and allocated in a manner that is consistent with the future plans of the city.

I would also like to see these tax dollars be redeployed into projects that add value to the citizens of Midland.

Additional pertinent information or references:

Bobby Burns - Midland Chamber of Commerce President

Dr. Steven Thomas - Midland College President

Vicki Jay - Executive Director of Shared Spaces Midland

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Signature of Applicant



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PO Box 1152

Midland, TX 79702

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APPLICATION FOR CITY OF MIDLAND BOARDS/COMMISSIONS/COMMITTEES

As an applicant for a City board, commission, or committee, please be advised that all information on this application is subject to the Texas Open Records Act and will be available to the public.

PLEASE TYPE OR PRINT CLEARLY:

Name: John Trischitti III
Address: 301 W. Missouri
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 ³ years.

Professional and/or Community Activities:

Midland Need to Read Board Member

Salvation Army board Member

Golf Course Road Church of Christ

What is your personal vision for the City?

I feel that Midland can be a trendsetting city not only for West Texas and the Permian Basin but for the state as well. We can continue to grow and evolve and create an environment that is a great place to live and raise a family.

Please specify any time constraints you may have.

With enough advanced notice, any time should be workable

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 Football-Soccer and Baseball Complex Development Corporation

Please tell us why you are interested in serving on this board or commission.

I would like to get more involved in the business of Midland and give back to my community in service and time.

Date: 8/20/2013
Phone: 214/934-5442 (Home)
432/688-4333 (Business)
Email: libadm01@co.midland.tx.us

Are you a graduate of Midland 101? ☐ yes ☒ no

Occupation: Midland County Public Library Director

What contribution would you most like to make?

To help guide the future of this complex and the direction of the revenue that it generates.

Additional pertinent information or references:

County Judge Mike Bradford

Mayor Wes Perry

(2) Name of Board/Commission:

Airport Planning and Development Board

What contribution would you most like to make?

To highlight the importance of this facility for our area and make sure it is receiving the attention and maintenance it deserves.

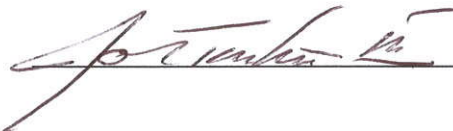
Additional pertinent information or references:

County Judge Mike Bradford

Mayor Wes Perry

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](#)

MIDLAND HIGHER EDUCATION FACILITIES CORPORATION

(Membership - 7; Terms - 2 Years Staggered)

SPECIAL COMPOSITION REQUIREMENTS:

MEMBER	TERM EXPIRE JAN. 2013?	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					

APPLICANTS: (Listed Alphabetically)

APPLICANT'S NAME	NUMBER OF BOARDS APPLIED FOR	COUNCIL NOTES
Tom Parks	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: TOM PARKS

Address: 3508 TRINITY MEADOWS DRIVE
MIDLAND TX 79701
(City) (State) (Zip)

I am ☒ I am not ☐ a U.S. Citizen

Please tell us about yourself:

I have lived in Midland 11 years.

Professional and/or Community Activities:

I retired this summer after more than 50 years of teaching and administration, mostly in higher education. My Ph.D. is in higher education. I served as associate director of the John Ben Shepperd Institute at UTPB and retired as Associate Dean.

What is your personal vision for the City?

To continue in its solid progress in leadership and service to the good people of Midland, responding to emerging needs in a responsible, deliberative, and conscientious process that is transparent and fiscally accountable.

Please specify any time constraints you may have.

None.

Date: 8/20/13

Phone: 697-6530 (Home)
_____(Business)

Email: tparks9@suddenlink.net

Are you a graduate of Midland 101? ☐ yes ☒ no

Occupation: UNIVERSITY ADMINISTRATOR, PROFESSOR

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 HIGHER EDUCATION FACILITIES CORP.

Please tell us why you are interested in serving on this board or commission.

This service reflects my lifelong interest and commitment to higher education and my permanent dedication to the City of MIDLAND.

What contribution would you most like to make?

To provide leadership and service to meet emerging needs of higher education facilities and to offer an experienced voice in terms of short-term and long-range planning.

Additional pertinent information or references:

DR. DAVID WAITS, PRESIDENT, UTPB

MR. BOBBY BURNS, CHAIRMAN, MIDLAND CHAMBER OF COMMERCE

(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

Tom Parks

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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Print Application

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 2013?	ATTEN- DANCE %	MEETINGS ATTENDED (Out of)	ELIGIBLE FOR ANOTHER TERM	BOARD MEMBER'S PHONE #	COUNCIL NOTES
Vacancy	Yes			No		NO MEETINGS
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
Paul Culver	One other board	
Paul McCord	Only this board	

2013-021



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: Paul Culver
Address: 4603 Pleasant Dr
Midland TX 79703
(City) (State) (Zip)

Date: 8/22/2013
Phone: 432 697-2881 (Home)
432 934-1021 (Business)
Email: paul.culver@yahoo.com

I am ☒ I am not ☐ a U.S. Citizen

Please tell us about yourself:

I have lived in Midland ⁴ years.

Are you a graduate of Midland 101? ☐ yes ☒ no

Occupation: Realtor

Professional and/or Community Activities:

I have been involved in real estate and mortgage lending for the past twenty five years. Three of those years I worked for the Texas Department of Housing and Community Affairs and have overseen many city projects aiding the low-income and elderly with regards to housing.

What is your personal vision for the City?

I would love to see Midland continue to grow but with housing opportunities for young new professionals as well as low-income and elderly citizens. I have been in Midland for four years but grew up here and think its a great city.

Please specify any time constraints you may have.

None that would interfere with board duties.

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.

I have experience with the inner working of housing authorities and would love to provide input.

What contribution would you most like to make?

To use my experience in anyway possible to promote housing.

Additional pertinent information or references:

Worked in HUD's HOME program in planning and grant administration.

(2) Name of Board/Commission:

Midland Housing Finance Commission

What contribution would you most like to make?

Again, to use my experience working with cities and their housing authorities to promote housing.

Additional pertinent information or references:

Experience with TDHCA HOME Program.

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

Digitally signed by Paul Culver

DN: cn=Paul Culver, o, ou, email=paul.culver@yahoo.com, c=US

Date: 2013.08.22 18:46:19 -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

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2013-004



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: Paul M McCord

Address: 4202 Gleneagles Dr

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 14 years.

Professional and/or Community Activities:

Business and Housing Consultant for the Business and Economic Center of Midland College

Date: 4/12/2013

Phone: 432-260-0206 (Home)

432-684-4309 (Business)

Email: pmccord@mccordandassociates.com

Are you a graduate of Midland 101? ☐ yes ☒ no

Occupation: Business/Housing Consultant

What is your personal vision for the City?

Want to see the city continue to grow as an oil and gas center but also believe it important for the city to find ways to diversity its employer base in order to insure long-term stability. I also believe that finding ways to encourage and create affordable housing is critical to the city's continued expansion and development.

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:

Housing Finance Corporation

Please tell us why you are interested in serving on this board or commission.

I have the opportunity to witness the needs of affordable housing in the community as a business and housing counselor for the BEDC of Midland Collage as I work with and counsel want to be homeowners and small business owners.

What contribution would you most like to make?

At this point I can't give specifics as I don't know what MHFC is concentrating on or where their specific focus is. I do believe that with my extensive business and finance background combined with my past four years working with low to moderate income potential homeowners I have a solid background from which to make meaningful contributions.

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

Paul McCord

Digitally signed by Paul McCord
DN: cn=Paul McCord, o, ou,
email=pmccord@mccordandassociates.com, c=US
Date: 2013.04.12 12:57:25 -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

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MIDLAND MUNICIPAL MANAGEMENT DISTRICT BOARD
(Ad Hoc)

SPECIAL COMPOSITION REQUIREMENTS:

MEMBER	TERM EXPIRE SEPT 2013?	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 2013?	ATTEN- DANCE %	MEETINGS ATTENDED (Out of 9)	ELIGIBLE FOR ANOTHER TERM	BOARD MEMBER'S PHONE #	COUNCIL NOTES
Willie Barber	Yes	11%	1	No		
Michael Trost	Yes	89%	8	No		
John James	Yes	78%	7	No		
Karen York	Yes	100%	9	No		
Guy McKenzie	Yes	89%	8	Yes		
Rebecca Bell	No 09/14					

APPLICANTS: (Listed Alphabetically)

APPLICANT'S NAME	NUMBER OF BOARDS APPLIED FOR	COUNCIL NOTES

OIL AND GAS ADVISORY COMMITTEE
 (Advisory)
 (Membership – 5; Terms – 3 Years expiring 2-2-1)

SPECIAL COMPOSITION REQUIREMENTS: 3 petroleum engineers or geologists, 2 with property development or real estate experience.

MEMBER	TERM EXPIRE SEPT 2013?	ATTEN- DANCE %	MEETINGS ATTENDED (Out of 9)	ELIGIBLE FOR ANOTHER TERM	BOARD MEMBER'S PHONE #	COUNCIL NOTES
Lance Friday –(Real Estate)	Yes		7	Yes		8/21/13 Ron Jenkins sent a memo that Mr. Friday wants to serve again.
Russell Richards (Petroleum)	No 09/15	100%	8			
Perry Dan Taylor (Real Estate)	No 09/15	100%	8			
Paul Brown (Petroleum)	No 09/14	100%	9			
David Rosen (Petroleum)	No 09/14	89%	8			

APPLICANTS: (Listed Alphabetically)

APPLICANT'S NAME	NUMBER OF BOARDS APPLIED FOR	COUNCIL NOTES
Christopher L. Buck	One other board	
Joe Guerra Jr	One other board	
Bobby McCourt	One other board	
Thomas Wolfmueller	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: CHRISTOPHER L. BUCK
Address: 5216 QUICKSAND DR.
MIDLAND TX 79707
(City) (State) (Zip)

Date: 9/26/2013
Phone: (432) 413-5929 (Home)
(432) 242-4256 (Business)
Email: chris@ciervoresources.com

I am ☒ I am not ☐ a U.S. Citizen

Please tell us about yourself:

I have lived in Midland ²⁵ years.

Are you a graduate of Midland 101? ☐ yes ☒ no

Occupation: Landman/ Land Broker/ Adjunct Faculty at MC

Professional and/or Community Activities:

American Association of Professional Landmen, Permian Basin Landman's Association, Disabled American Veterans,
Veterans of Foreign Wars, American Legion, Soldiers of Today and Yesterday, West Texas Historical Association, St. Nicholas
Episcopal Church,

What is your personal vision for the City?

I personally see Midland as a city that has the opportunity and potential to develop in ways that many larger, metropolitan, areas may not. I expect to see Midland flourish into a haven for small business. I think the city could empower those small organizations, in such a way, that the city could harness the entrepreneurial spirit ingrained in our community to push us to even farther heights.

Please specify any time constraints you may have.

While I am a professional Landman, and run an Oil and Gas Land Brokerage with approximately 18 people employed there, as well as my lecturing duties at Midland College as Adjunct Faculty in History in the Social and Behavioral Sciences Department, I have the ability, in all of my capacities, to tailor my schedule to meet the demands of any board I were allowed to sit on.

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:

Oil and Gas Advisory Committee

Please tell us why you are interested in serving on this board or commission.

I am interested in serving on the committee because it is directly related to the field of work I am engaged in on a daily basis. I feel that my industry experience could be best utilized in this committee, and I also believe it will provide an unparalleled insight into the

governmental aspects of my industry that cannot be attained through any other means.

What contribution would you most like to make?

I have a Certified Professional Landman certification through the American Association of Professional Landmen, and I have experience on the other side of the table applying for permits, or seeking exceptions, from governmental bodies. I also have experience overcoming the challenge of identifying a location suitable to drill that causes the owner as few problems possible.

Additional pertinent information or references:

William A. Chalfant, CPL - (432) 684-9819

Ralph Lea Jr., CPL - (432) 682-1005

I also wrote my Master's Thesis, through UTPB, on Oil and Gas Leasing since 1945, and have published several articles.

(2) Name of Board/Commission:

Planning and Zoning Commission

What contribution would you most like to make?

I would like to offer my perspective as a 31 year old property owner, who intends to remain in this city the rest of my natural life. It is my opinion that the Planning and Zoning Commission is one of the most important commissions we have as a city. If we do not look to our future needs in our development, then we are literally setting ourselves up for problems down the line.

Additional pertinent information or references:

Ralph Lea Jr., CPL - (432) 682-1005

Jonathan Jordan - (432) 559-8499

Johnie Lee Qualls - (432) 631-3429

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

Christopher L. Buck

Digitally signed by Christopher L. Buck
DN: cn=Christopher L. Buck, o, ou,
email=chris@clervoresources.com, c=US
Date: 2013.09.26 23:17:47 -06'00'

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

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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: Joe Guerra Jr.

Address: 2506 Candle Tree Cove
Midland Texas 79705
(City) (State) (Zip)

I am ☒ I am not ☐ a U.S. Citizen

Please tell us about yourself:

I have lived in Midland 28 **years.**

Professional and/or Community Activities:

I am currently working with Energen Resources in the Drilling Department, I facilitate there Hydraulic Frac Disclosures and handle pre regulatory/post regulatory issues that come up on the drilling or production side. Prior to Energen, I worked 27 years with the RR in Regulatory, Environmental and Technical. I have extensive knowledge of Oil & Gas regulations. I am currently in Midland 101.

What is your personal vision for the City?

My personal vision for the city is to have a population say that they are proud of there transportation, city services, roads and bridges activities that are enjoyable, clean, etc. I want people that drive through Midland to say, "Yes I remember that city, they are the ones with the tall buildings that are lit up at night in colors." That makes the City stand out.

Please specify any time constraints you may have.

I do not have no time constraints, just some notice any time a meeting will be held.

Date: 1/17/2013
Phone: 432-686-8445 (Home)
432-556-0857 (Business)
Email: joe.guerra@att.net

Are you a graduate of Midland 101? ☐ yes ☒ no

Occupation: Drilling/Completion Tech for Energen Resources Cc

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:

Oil and Gas Advisory Committee

Midland Football/Soccer/Baseball Corporation

Please tell us why you are interested in serving on this board or commission.

I want to serve on the Oil/Gas Committee because I feel that I can offer in regards to regulatory issues pertaining to drilling and prod inside the city limits, also currently working for an oil and gas company helps alot.

What contribution would you most like to make?

Offer my expertise on oil and gas regulation and other general issues that came up that might play a part in making decisions pertaining to drilling inside the city limits of Midland.

Additional pertinent information or references:

Midland 101

(2) Name of Board/Commission:

Midland Football/Soccer/Baseball

What contribution would you most like to make?

I am a arbiter of issues, I was an official in college softball for almost 15 years and one of my greatest asset was having to watch, listen and make decisions based on the play. This is what this would be all about.

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: Bobby McCourt

Address: 3216 Dentcrest Dr.

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 ⁵⁰⁺ years.

Professional and/or Community Activities:

Realtor for 8 years, City of Midland (Engineering Dept.) 3.5 years, Currently President for Permian Basin Board of Realtors

Date: 9/17/2013

Phone: 432-967-0652 (Home)

432-967-0652 (Business)

Email: Bobby@BobbyMcCourt.com

Are you a graduate of Midland 101? ☐ yes ☒ no

Occupation: Realtor

What is your personal vision for the City?

I would like to see Midland grow and become more diverse. I also would like to see downtown become more of an area of entertainment for the residence. Have short and long range goals for growth.

Please specify any time constraints you may have.

Monthly luncheons and occasional meeting at the board association.

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.

When I worked for the city I was positioned in the engineering department and I worked with Planning & Zoning (Cameron Walker) in projects such as annexations and plats. I also worked with Utility Dept. (Stuart Purvis) on projects. I have also worked for a local

surveyor (Bruce Pennell) for approx. 3.5 years.

What contribution would you most like to make?

Help with planning and guiding the city development to make it a great place to live and conduct business. I have experience with the city and have lived here most of my life.

Additional pertinent information or references:

Raymond (Skeet) Doss

Warren Ivey

Richard Shelton (Development Services)

(2) Name of Board/Commission:

Permian Basin Board of Realtors (2103 President)

What contribution would you most like to make?

Help with planning and guiding the city development to make it a great place to live and conduct business.

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

Bobby McCourt

Digitally signed by Bobby McCourt
DN: c=US, cn=Bobby McCourt
Date: 2013.09.17 15:54:00 -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](#)

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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: Thomas Wolfmueller

Address: 2205 Harvard 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 ² years.

Professional and/or Community Activities:

AADE Member

Treasurer at Grace Lutheran Church

Date: 8/13/2013

Phone: 432-557-7122 (Home)

(Business)

Email: twolfmueller@gmail.com

Are you a graduate of Midland 101? ☐ yes ☒ no

Occupation: Drilling Engineer

What is your personal vision for the City?

I think there can be a solution to problems dealing with drilling wells in the city limits that will be agreeable to both parties.

Please specify any time constraints you may have.

I am open to meetings with some notice. I would like a weeks notice of meetings if possible

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:

Oil and Gas Advisory Committee

Please tell us why you are interested in serving on this board or commission.

I would like to help both citizens and operators come to mutually agreeable solutions to drilling in the city limits.

What contribution would you most like to make?

I have knowledge of drilling in many parts of the United States. My knowledge of drilling would be an asset to the committee.

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

Thomas Wolfmueller

Digitally signed by Thomas Wolfmueller
DN: cn=Thomas Wolfmueller
Date: 2013.08.13 14:28:30 -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](#)

PARKS AND RECREATION COMMISSION
(Advisory)
Membership - 9; Terms - 3 Years expiring 3-3-3)

SPECIAL COMPOSITION REQUIREMENTS: Resident of City, taxpayer & qualified voter.

MEMBER	TERM EXPIRE SEPT. 2013	ATTEN- DANCE %	MEETINGS ATTENDED (Out of 6)	ELIGIBLE FOR ANOTHER TERM	BOARD MEMBER'S PHONE #	COUNCIL NOTES
Vacancy	No			No		
Charlie A. Spence	Yes	100%	6	Yes		
P. Lourcey Sams	No 09/14	100%	6			
Tina Corbett	No 09/14	67%	4			
Katey Howard	No 09/14	83%	5			
Amanda McCann	No 09/15	83%	5			
Edward Mayberry	No 09/15	83%	5			
Cynthia Savage						
Bart Hotchkiss						

APPLICANTS: (Listed Alphabetically)

APPLICANT'S NAME	NUMBER OF BOARDS APPLIED FOR	COUNCIL NOTES
Michael Harris	One other board	
Lewis Hassler	Two other boards	
Janice M. Kapp	One other board	
Denessa Leary	Only this board	
Sarah Marston	Only this board	
Ty Sisco	Only this board	
Taylor Spalla	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: Michael Harris

Address: PO Box 81046

Midland TX 79708

(City) (State) (Zip)

I am ☒ I am not ☐ a U.S. Citizen

Please tell us about yourself:

I have lived in Midland 2.5 years.

Professional and/or Community Activities:

My community activities have been fostered through my employer, Concho Resources. We have done multiple trash pick ups and sponsored a habitat for humanity house. I am a CPA and participate in local professional activities sponsored by PASPB.

Date: 8/29/2013

Phone: 432 230 0547 (Home)

432 221 0316 (Business)

Email: mharris@concho.com

Are you a graduate of Midland 101? ☐ yes ☒ no

Occupation: Accountant - CPA

What is your personal vision for the City?

I believe the current growth in Midland will continue. I envision Midland developing a metropolitan feel (downtown renovation and more large companies headquartered here), however retaining the West Texas friendliness. We have to embrace the changes that come with economic and population growth, but also understand the importance of the core values Midland has long established

Please specify any time constraints you may have.

My job does place some time constraints during quarter ends, however, in general, with planning I am usually have the flexibility to take an hour or two during my lunch or afternoon.

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 Football-Soccer and Baseball Complex Development Corporation

Please tell us why you are interested in serving on this board or commission.

I think the continued development of the complex shows Midland's commitment to growth. I think there will be a positive look back related to the complex, but its development is crucial to that success.

What contribution would you most like to make?

I would like to contribute my time and expertise to help effectively utilize the proceeds available for the construction of the complex.

Additional pertinent information or references:

(2) Name of Board/Commission:

Parks and Recreation Commission

What contribution would you most like to make?

I think as the young professional population in Midland continues to expand, something this group is looking for are places to take their children. I believe this generation will realize that their children need to be more active and having good facilities is paramount to supporting that goal.

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

mharris@conchoresource
s.com

Digitally signed by mharris@conchoresources.com
DN: cn=mharris@conchoresources.com
Date: 2013.09.06 11:06:56 -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

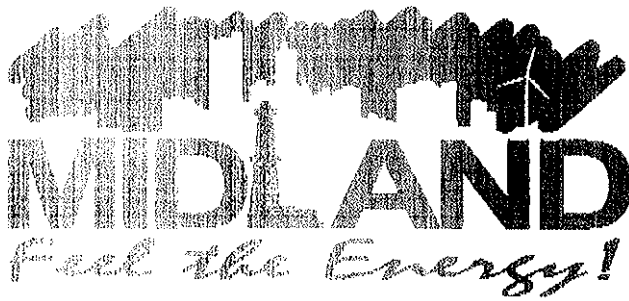
PO Box 1152

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: Lewis Hassler
Address: 2304 Loop40
City: _____ State: Texas Zip: 79706
(City) (State) (Zip)

Date: 8/13/2013
Phone: 432-254-1311 (Home)
432-617-6544 (Business)
Email: lewis.hassler@stateenergy.com

I am ☒ I am not ☐ a U.S. Citizen

Please tell us about yourself:

I have lived in Midland 3 years.

Are you a graduate of Midland High? ☐ Yes ☒ No

Occupation: Operations Supervisor Alamos Energy

Professional and/or Community Activities:

Leadership Midland, have participated in supporting local non profit groups as well as leadership Odessa

What is your personal vision for the City?

To see Midland continue to grow, prosper and provide a safe living environment for all citizens.

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.org/)

(1) Name of Board/Commission:

Building Codes Review

Zoning Board committee

Parks and Recreation

Please tell us why you are interested in serving on this board or commission.

I want to serve my community and learn more about the Permian Basin region,

What contribution would you most like to make?

Just to make a difference and give back to community.

Additional pertinent information or references:

Stephanie Merila Midland Chamber

Paul Reynolds Atmos Energy

Cody Childers Nabors Energy co

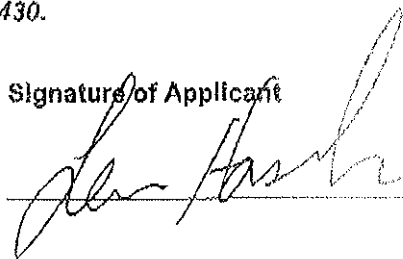
(2) Name of Board/Commission:

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

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: JANICE M. KAPP

Address: 900 COUNTRY CLUB DR
MIDLAND TX 79701
(City) (State) (Zip)

Date: 9-23-13

Phone: 432-553-5332 (Home)
____ (Business)

Email: JANICE@JKAPPSOLUTIONS.COM

I am ☒ I am not ☐ a U.S. Citizen

Please tell us about yourself:

I have lived in Midland 20 years.

Are you a graduate of Midland 101? ☐ yes ☒ no

Occupation: AFLA INDEPENDENT AGENT

Professional and/or Community Activities:

20+ yrs experience in managing medical/dental offices

What is your personal vision for the City?

FOR MIDLAND TO BECOME A PLACE PEOPLE WANT TO VISIT DUE TO DIVERSITY OF ACTIVITIES, CULTURE ETC

Please specify any time constraints you may have.

Schedule is pretty flexible

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 & ZONING COMMISSION

Please tell us why you are interested in serving on this board or commission.

WOULD LIKE TO HELP THE CITY GROW IN A WAY THAT IS BENEFICIAL TO ALL MEMBERS OF OUR CITY

What contribution would you most like to make?

And we direct the city to ATTRACT BUSINESSES & PEOPLE
to help MIDLAND GROW

Additional pertinent information or references:

JOHN JAMES - REFERENCE

(2) Name of Board/Commission:

PARKS & RECREATION

What contribution would you most like to make?

MAKE PARKS MORE ATTRACTIVE AND EDUCATE PEOPLE ON
RESPECTIVE NATURE & WILDLIFE

Additional pertinent information or references:

JOHN JAMES - REFERENCE

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 M. Kapp

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

FAK: (432) 685-7433



2013-032



**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: DENESSA LEARY
Address: 6827 ISLAND CIRCLE
MIDLAND TX 79707
(City) (State) (Zip)

Date: 9/1/2013
Phone: 432-967-1768 (Home)
(Business)
Email: DLEARY6827@AOL.COM

I am ☒ I am not ☐ a U.S. Citizen

Please tell us about yourself:

I have lived in Midland 22 years.

Are you a graduate of Midland 101? ☐ yes ☒ no

Occupation: HEALTH & FITNESS COORDINATOR

Professional and/or Community Activities:

Currently on the Parks & Recreation Endowment Fund Committee, Kiwanis Park Renovation Committee Member, Tall City Triathlon Committee 3 years, former Green Tree North HOA President, ACE Certified Personal Trainer, Healthy Kids Day Committee

What is your personal vision for the City?

I would like to see the continued growth and expansion we are currently experiencing. Outdoor activities for all ages, entertainment, housing, roads, downtown business and the continued future water planning needs are critical in supporting and sustaining the future of Midland.

Please specify any time constraints you may have.

None, I am able to set my working hours.

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 Committee

Please tell us why you are interested in serving on this board or commission.

The city has a plan for the introduction of more outdoor activities. I would like to be a part of this vision. I am in the health and wellness industry and I am always working to get the community outdoors more and move. If we build it, it will be used.

What contribution would you most like to make?

I feel with my background in health and wellness, I would be a valuable member on the Parks and Recreation committee. Outdoor activities help a city in keeping their residents active. If there are choices of things that a resident could do with or without the family they make a big impact. Our city needs more outdoor user friendly activities and I would like to help make that a reality.

Additional pertinent information or references:

Please feel free to contact Lourcey Sams @ 432-559-6415. I have been working with Mr. Sams on the Parks and Recreation Endowment Fund Committee. Mr. Sams currently serves on the Parks and Recreation committee.

(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

Denessa Leary

Digitally signed by Denessa Leary
DN: cn=Denessa Leary, o, ou,
email=dleary6827@aol.com, c=US
Date: 2013.09.02 22:13:20 -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](#)

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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: Sarah Marston
Address: 1607 North N. Street
 Midland Texas 79701
 (City) (State) (Zip)

Date: 8/14/2013
Phone: 432-349-9479 (Home)
 432-686-3568 (Business)
Email: sarah@visitmidlandtexas.com

I am ☒ I am not ☐ a U.S. Citizen

Please tell us about yourself:

I have lived in Midland ³² years.

Are you a graduate of Midland 101? ☒ yes ☐ no

Occupation: Sports Sales Manager, Midland CVB

Professional and/or Community Activities:

2011-2012 Midland 101 Graduate, lifetime member of Crestview Baptist Church, member of Event Service Professionals Association of America, member of the Texas Association of Convention and Visitors Bureau.

Midland CVB employee overseeing the Sports and Entertainment Association of Midland (SEAM) Board.

What is your personal vision for the City?

I want my city to be a safe and friendly city for my kids and the children of our future.

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:

Parks and Recreation

Please tell us why you are interested in serving on this board or commission.

I would like to represent the City of Midland and help our youth learn and grow with our city/community. Being apart of something that helps Midland and our kids would honor me and my family, I have two daughters 3 and 4 years old. I want a better Midland,

for everyone.

What contribution would you most like to make?

My skills with Sports, Sales, Tourism, Recruitment, Public Relations would be most beneficial to this committee.

Additional pertinent information or references:

formerly, worked as Community Relations Director for the Midland RockHounds/ Odessa Jackalopes 2003-2005

Jamie Richardson, Asasistant GM of Midland RockHounds, 520-2255

Gaylia Olivas, VP of Midland CVB 683-3381

(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: Ty Sisco
Address: 1700 W. Wall St.
 Midland TX 79701
 (City) (State) (Zip)

Date: 8/27/2013
Phone: 432-235-3879 (Home)
 432-697-1447 (Business)
Email: tsisco@team-psc.com

I am ☒ I am not ☐ a U.S. Citizen

Please tell us about yourself:

I have lived in Midland ³ years.

Are you a graduate of Midland 101? ☐ yes ☒ no

Occupation: Landscape Architect

Professional and/or Community Activities:

Leadership Midland - Class of 2013, West Texas Food Bank - Volunteer, American Society of Landscape Architects - Member

State of Texas TCEQ - Licensed Irrigator

What is your personal vision for the City?

I would like to help improve Midland's parks and create new opportunities for outdoor activity for our ever growing population. With the current water restrictions and the inevitable lack of water in our region, most citizens will not be able to maintain outdoor spaces conducive for sports or other outdoor activities. The City parks are a great place to provide these opportunities for its residents.

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:

Parks and Recreation Commission

Please tell us why you are interested in serving on this board or commission.

I have knowledge/skills in the design and construction of parks and play environments and I am also the father who sees the need for improvement and expansion of the existing City park facilities.

What contribution would you most like to make?

I would like to bring experience and technical expertise to the commission. With over 10 years experience in the design and construction of parks and recreational facilities, I feel uniquely qualified to help plan and implement improvements to the existing parks and recreation system.

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

Ty Sisco

Digitally signed by Ty Sisco
DN: cn=Ty Sisco, o=Parkhill, Smith and Cooper Inc.,
ou=Landscape Architect, email=tsisco@team-psc.com, c=US
Date: 2013.09.03 10:16:24 -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

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2013-031



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: Taylor Spalla
Address: 4426 Lanham St.
Midland TX 79705
(City) (State) (Zip)

Date: 8/27/2013
Phone: 210-508-5503 (Home)
432-683-4691 (Business)
Email: taylor.spalla@gmail.com

I am ☒ I am not ☐ a U.S. Citizen

Please tell us about yourself:

I have lived in Midland 0.1 years.

Are you a graduate of Midland 101? ☐ yes ☒ no

Occupation: Law Clerk (Awaiting results of July 2013 Bar Exam)

Professional and/or Community Activities:

J.D. (May 2013, Magna Cum Laude) (Texas Tech); M.B.A. (May 2013) (Texas Tech); Bachelor of Arts in Business and Political Science (2009) (Southwestern University); and Editor-in-Chief, Texas Tech Administrative Law Journal (Volume 14).
Young Professionals in Energy and Young Republicans of Midland.

What is your personal vision for the City?

- (1) To increase the quality of life through fiscally conservative projects that promote community involvement and being active.
- (2) To promote and allow for economic growth in a form that is beneficial to the City and its citizens.

Please specify any time constraints you may have.

Because of my current constraints of only my job, I am able to provide a strong commitment to any commission the City Council selects me for.

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 am interested in this Commission because I believe I can best utilize my law degree, M.B.A., and prior political experience to benefit the City. I am more interested in this position, as opposed to others, because I can provide a beneficial impact to my vision

for the city while engaging in activities that I enjoy doing.

What contribution would you most like to make?

Being new to the City, I will provide an input that is free of bias, preconceptions, and agendas and will work to provide the City Council with informative and open guidance.

Additional pertinent information or references:

Prior to law school, I worked as a campaign staffer (political side) for a Texas gubernatorial campaign.

(2) Name of Board/Commission:

Parks and Recreation Commission

What contribution would you most like to make?

Through my constant desire to workout, run, and play athletic events, I have the ability to provide meaningful recommendations. Additionally, I am able to provide a more youthful perspective to help better meet the needs and desires of the influx of the youth demographic.

Additional pertinent information or references:

As a former high school and college baseball player, I understand the facilities and opportunities we must supply to the community to provide a meaningful experience for all.

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

Paul Taylor Spalla

Digitally signed by Paul Taylor Spalla
DN: cn=Paul Taylor Spalla, o, ou,
email=taylor.spalla@gmail.com, c=US
Date: 2013.09.02 21:03:49 -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](#)

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. 2013?	ATTEN- DANCE %	MEETINGS ATTENDED (Out of 4)	ELIGIBLE FOR ANOTHER TERM	BOARD MEMBER'S PHONE #	COUNCIL NOTES
Larry Gill (Abilene)	No	0%	0	Yes		10/4/13 Received letter from City of Abilene reappointing Larry Gill
Elvin Brownlee III (Andrews)	No	50%	2	Yes		10/3/13 Received letter from City of Andrews reappointing Elvin Brownlee
Jim Little (Big Spring)	No	75%	3	Yes		8/27/13 Received letter from City of Big Spring reappointing Jim Little
David Hardwick (Ft. Stockton)	Yes	0%	0	Yes		
Frankie Rolfe (Kermit)	Yes	0%	0	Yes		
Donald R. Bethel (Lamesa)	No	50%	2	Yes		8/30/13 Received letter from City of Lamesa reappointing Don Bethel
Henry Cutbirth (Monahans)	No	75%	3	Yes		Received letter from City of Monahans reappointing Henry Cutbirth
Willie Taylor (Odessa)	No	50%	2	Yes		8/16/13 Received letter from City of Odessa reappointing Willie Taylor
Gloria Pena (Odessa)	No	75%	3	Yes		8/16/13 Received letter from City of Odessa reappointing Gloria Pena
Barbara Graff (Odessa)	No	75%	3	Yes		8/16/13 Received letter from City of Odessa reappointing Barbara Graff
Isabelle Blanchard (Pecos)	No	50%	2	Yes		8/22/13 Received a letter from City of Pecos reappointing Isabelle Blanchard
Luis E. Elguezabal (San Angelo)	No	0%	0	Yes		Received a letter from City of San Angelo reappointing Luis E. Elguezabal
Lex Hinds (Seminole)	No	0%	0	Yes		9/1/13 Received a letter from City of Seminole reappointing Lex Hinds
John Rogotzke (Snyder)	No	50%	2	Yes		
Glenn Wortham (Sweetwater)	No	0%	0	Yes		8/27/13 Received a letter from City of Sweetwater reappointing Glenn Wortham
Lance Goodrich (Artesia, NM)	No	50%	2	Yes		8/27/13 Received a letter from City of Artesia reappointing Lance Goodrich
Bob Forrest (Carlsbad, NM)	Yes	0%	0	Yes		
Larry Shed (Hobbs, NM)	Yes	0%	0	Yes		
Larry Fry (Roswell, NM)	No	25%	1	Yes		8/29/13 Received a letter from City of Roswell reappointing Larry Fry

APPLICANTS: (Listed Alphabetically)

APPLICANT'S NAME	NUMBER OF BOARDS APPLIED FOR	COUNCIL NOTES

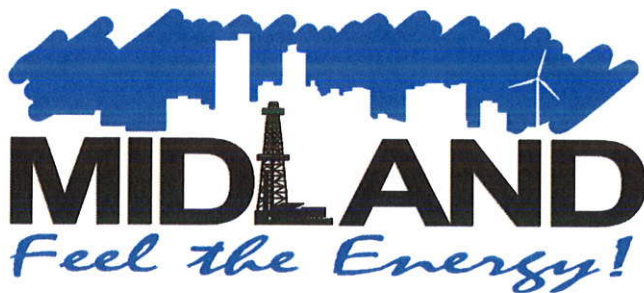
TAX INCREMENT REINVESTMENT ZONE BOARD
(Decision Making)
Membership - 12; Terms - 3 Years)

SPECIAL COMPOSITION REQUIREMENTS: None

MEMBER	TERM EXPIRE MARCH 2013?	ATTEN- DANCE %	MEETINGS ATTENDED (Out of 6)	ELIGIBLE FOR ANOTHER TERM	BOARD MEMBER'S PHONE #	COUNCIL NOTES
Mark T. Wellen (City)	Yes	100%	6	No		
Randy Prude (County)	Yes	67%	4	No		
Bob Lanier (City)	Yes	83%	5	No		
Judge Mike Bradford (County)	Yes	33%	2	Yes		
Ken Burgess (City)	Yes	67%	4	Yes		
Michael Blonkvist (City)	No 09/14	50%	3			
John Kennedy (City)	No 03/15	67%	4			
Pete Hulder (Hospital)	No 03/16	83%	5			
Link Grimes (City)	No 03/15	67%	4			
Charlene McBride (College)	No 03/16	33%	2			
Steve Castle (College)	No 03/15	33%	2			
Russell Meyer (Hospital)	No 03/16	33%	2			

APPLICANTS: (Listed Alphabetically)

APPLICANT'S NAME	NUMBER OF BOARDS APPLIED FOR	COUNCIL NOTES
Brad Barnett	One other board	
Guy McKenzie	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 Barnett

Address: 5101 North A St. #342

Midland 79705

(City) (State) (Zip)

I am ☒ I am not ☐ a U.S. Citizen

Please tell us about yourself:

I have lived in Midland ⁸ years.

Professional and/or Community Activities:

Member of the TxAVF (Texas Association of Venues & Facilities) & IFMA (International Facility Managers Association.)

Teaching and supply preaching at Fannin Terrance Baptist Church. Former Moderator for the Basin Baptist Network.

Leadership Midland (Class of 2013)

What is your personal vision for the City?

For our community to continue to grow while retaining our west Texas, family friendly feel. To work to be proactive to be able to handle our growth. It's critical that we continue to grow our quality of life and not just the size of our city.

Please specify any time constraints you may have.

Schedule is generally flexible.

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:

Tax Increment Reinvestment Zone Board

Please tell us why you are interested in serving on this board or commission.

A passion for seeing downtown Midland revitalized.

Date: 8/13/2013

Phone: 432-599-1390 (cell) (Home)

432-682-6234 (Business)

Email: brad@themidlandcenter.com

Are you a graduate of Midland 101? ☒ yes ☐ no

Occupation: Vice President (Facility Manger) Midland Center

What contribution would you most like to make?

Assist in shaping the future of downtown Midland (the heart and soul of our community.)

Additional pertinent information or references:

Reference: Chamber of Commerce President & CEO Bobby Burns

(2) Name of Board/Commission:

Midland Football-Soccer and Baseball Complex Development Corporation

What contribution would you most like to make?

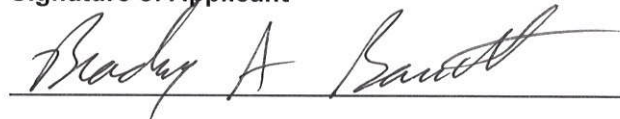
Work to continue to promote this amazing facility we have. Background in facility management gives me an clear understanding of needs for our sports facility.

Additional pertinent information or references:

Reference: Monty Hoppel

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

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PLEASE TYPE OR PRINT CLEARLY:

Name: Guy McKenzie

Address: 2612 Spartan

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 35 years.

Professional and/or Community Activities:

Kiwanis Club President, United Way Board, Big Brothers Big Sisters Board, Housing Commission, EZ Rider Board,

Citizen Action Committee for Public Transaction, Keep Midland Beautiful, Challenge Day in Public Schools

Date: 9/2/1013

Phone: 432-520-8903 (Home)

432-770-1990 (Business)

Email: primesourceguy@suddenlink.net

Are you a graduate of Midland 101? ☐ yes ☒ no

Occupation: Real Estate Manager, Financial Consultant.

What is your personal vision for the City?

Continued diversification of our economy, economic impact analyses, economic adjustment to meet the needs of our bustling city.

Please specify any time constraints you may have.

Minimal

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:

Tax Increment Reinvestment Zone Board.

Please tell us why you are interested in serving on this board or commission.

Interested in helping to find ways to use these funds for economic development and diversification. I would like to help in the planning and distribution of these funds.

What contribution would you most like to make?

To be an active member and to contribute with ideas and visions that I feel are in the best interest of the City .

Additional pertinent information or references:

Mike Davis - President - Compass Bank 432-210-6445

Chris Kelly - Business Manager - Mid-Cities Community Church

Garth Wright - President - Security Bank -

(2) Name of Board/Commission:

What contribution would you most like to make?

Additional pertinent information or references:

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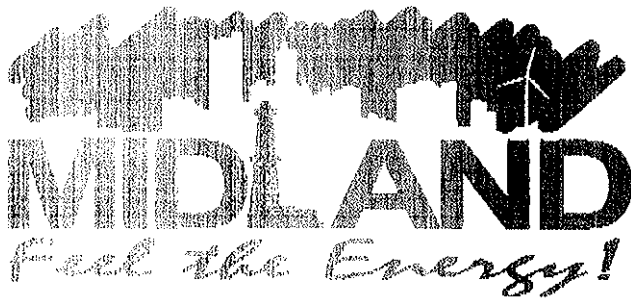
**ZONING BOARD OF ADJUSTMENT
AND
AIRPORT ZONING BOARD OF ADJUSTMENT
(Decision Making)
Membership - 5; Terms - 2 Years expiring 3 odd & 2 even)**

SPECIAL COMPOSITION REQUIREMENTS: None

MEMBER	TERM EXPIRE SEPT. 2013?	ATTEN- DANCE %	MEETINGS ATTENDED (Out of 5)	ELIGIBLE FOR ANOTHER TERM	BOARD MEMBER'S PHONE #	COUNCIL NOTES
Manny Ribera	Yes	50%	3	No		
Ken Morgan	Yes	0%	0	Yes		
Scott Young	Yes	100%	5	Yes		
Carla Repman	Yes	100%	5	Yes		
Todd Byars	No 09/14	100%	5			
<u>ALTERNATES:</u>						
Vacancy	Yes - 2006			No		
Vacancy	Yes - 2007			No		
Annabel Holguin	Yes	0%	0	Yes		
Greg Turner	Yes	0%	0	Yes		

APPLICANTS: (Listed Alphabetically)

APPLICANT'S NAME	NUMBER OF BOARDS APPLIED FOR	COUNCIL NOTES
Lewis Hassler	Two other boards	
John Ory	One other board	



APPLICATION FOR CITY OF MIDLAND BOARDS/COMMISSIONS/COMMITTEES

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PLEASE TYPE OR PRINT CLEARLY:

Name: Lewis Hassler
Address: 2304 Loop40
City: _____ State: Texas Zip: 79706
(City) (State) (Zip)

Date: 8/13/2013
Phone: 432-254-1311 (Home)
432-647-6544 (Business)
Email: lewis.hassler@stetsonenergy.com

I am ☒ I am not ☐ a U.S. Citizen

Please tell us about yourself:

I have lived in Midland 3 years.

Are you a graduate of Midland High? ☐ Yes ☒ No

Occupation: Operations Supervisor Alamos Energy

Professional and/or Community Activities:

Leadership Midland, have participated in supporting local non profit groups as well as leadership Odessa

What is your personal vision for the City?

To see Midland continue to grow, prosper and provide a safe living environment for all citizens.

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

Zoning Board committee

Parks and Recreation

Please tell us why you are interested in serving on this board or commission.

I want to serve my community and learn more about the Permian Basin region,

What contribution would you most like to make?

Just to make a difference and give back to community.

Additional pertinent information or references:

Stephanie Merila Midland Chamber

Paul Reynolds Atmos Energy

Cody Childers Nabors Energy co

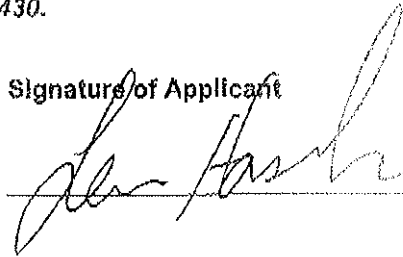
(2) Name of Board/Commission:

What contribution would you most like to make?

Additional pertinent information or references:

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Signature of Applicant



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it is necessary to continue to develop this gem to constantly improve the quality of life for existing residences and those to come.

What contribution would you most like to make?

I bring a history of community leadership experience, strategic thinking and financial expertise that can lend to providing new, unique and sometimes unthought of perspectives to initiatives.

Additional pertinent information or references:

Bobby Burns - Midland Chamber of Commerce President

Dr. Steven Thomas - Midland College President

Vicki Jay - Executive Director of Shared Spaces Midland

(2) Name of Board/Commission:

Tax Increment Reinvestment Zone Board

What contribution would you most like to make?

To see that the incremental revenue is being collected and allocated in a manner that is consistent with the future plans of the city.

I would also like to see these tax dollars be redeployed into projects that add value to the citizens of Midland.

Additional pertinent information or references:

Bobby Burns - Midland Chamber of Commerce President

Dr. Steven Thomas - Midland College President

Vicki Jay - Executive Director of Shared Spaces Midland

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