

CITY OF MIDLAND, TEXAS
BRIEFING SESSION AGENDA
November 27, 2012 - 9:00 a.m.
Basement Conference Room - City Hall
300 North Loraine
Midland, Texas

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

1. Receive a presentation from Rhotenberry Wellen Architects on Midland Center renovations.
2. Receive information regarding EZ Rider bus stop advertising signage.

AGENDA FOR CITY COUNCIL MEETING
November 27, 2012 – 10:00 AM
Council Chamber - City Hall

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

OPENING ITEMS

1. Invocation - Monsignor Larry Droll, St. Ann's Catholic Church
2. Pledge of Allegiance

PRESENTATIONS

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

PUBLIC COMMENT

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

CONSENT AGENDA

5. Consider a motion approving the following minutes:
 - a. Regular Meeting of November 13, 2012.
6. Receive information and possibly discuss Fourth Quarter Fiscal Year 2012 Investment Report. (FINANCE)
7. Consider a resolution approving the City of Midland's Fiscal Year 2013 Investment Policy. (FINANCE) (2012 - 400)
8. Consider a resolution authorizing the City Treasurer to write off as uncollectible certain delinquent accounts for water, sewer, and garbage collection services. (FINANCE) (2012 - 401)

9. Consider a resolution authorizing the City Treasurer to write off as uncollectible certain delinquent accounts for miscellaneous accounts receivable and insufficient funds checks. (FINANCE) (2012 - 402)
10. Consider a resolution authorizing the City Treasurer to write off as uncollectible certain delinquent accounts for Emergency Medical Services Receivables. (FINANCE) (2012 - 403)
11. Consider a resolution approving an agreement with RCC Consultants, Incorporated, to provide consulting services to conduct Phase 2 of the Radio Replacement Project at a cost of \$85,262.25; and appropriating funds. (GENERAL SERVICES) (2012 - 404)
12. Consider a resolution authorizing the purchase of ammunition of assorted types and in assorted quantities for the Midland Police Department from the respective low bidders, GT Distributors, Incorporated, and Black Hills Ammunition, Incorporated, at an estimated total cost of \$84,551.20; and rejecting some of the bids. (GENERAL SERVICES) (2012 - 405)
13. Consider a resolution awarding a contract for the cleaning and painting of all steel structures at the Scharbauer Sports Complex to Opt Co, Incorporated, at a total cost of \$532,653.00; and appropriating funds. (GENERAL SERVICES) (2012 - 406)
14. Consider a resolution authorizing the execution of an amendment to the lease agreement with the Hispanic Cultural Center of Midland regarding a City owned building located in Hogan Park. (CITY ATTORNEY'S OFFICE) (2012 - 407)
15. Consider a resolution authorizing the City of Midland Community Services Department to apply for a grant from the Texas Department of Transportation in order to construct a Hike and Bike Trails System; said grant is a matching funds grant in which the Texas Department of Transportation Enhancement Grant Program would fund 80% (\$1,769,519.00) of the total amount and the City of Midland would fund 20% (\$442,380.00) of the total amount in addition to design fees in the amount of \$153,875.00, the City's total fiscal impact would be \$596,255.00. (COMMUNITY SERVICES) (2012 - 408)
16. Consider a resolution accepting Midland Development Corporation funds in an amount not to exceed \$250,000 in order for the City of Midland to conduct drainage studies of both Midland Draw and Jal Draw; appropriating said funds; and providing that said expenditure is an administrative expense as authorized by Chapter 501 of the Texas Local Government Code. (ENGINEERING SERVICES) (2012 - 409)

17. Consider a motion on a request by West Company of Midland, Inc. for Timber Wolf Estates, to approve items requested for deferral, and to waive the Associated Public Improvement Guarantee. There are no costs associated with this item. (ENGINEERING SERVICES)
18. Consider a resolution approving plans and specifications and authorizing advertisement for bids for the Municipal Solid Waste Landfill Cell 7 Excavation and Liner Construction Project. (SOLID WASTE) (2012 - 410)
19. Consider a resolution authorizing the City Manager to advertise a Request for Qualifications from firms to conduct Professional Indepth Operational Review Services for the City of Midland Solid Waste Department; and authorizing the City Manager to negotiate an agreement for said professional services with the most qualified provider; and providing that no such agreement shall become effective until approved by the City Council. (SOLID WASTE) (2012 - 411)
20. Consider a resolution authorizing the execution of change order number two with Red River Construction Company, Incorporated, adding \$325,553.00 for additional work to the existing contract for the Headworks Improvements - Replacement of Influent Screens Project; and appropriating \$325,553.00; the original contract was for \$5,357,080.00; this change order brings the total contract price to \$6,185,735.00. (UTILITIES) (2012 - 412)
21. Consider a resolution authorizing the Mayor to negotiate and execute an Interlocal Agreement with the Midland County Fresh Water Supply District #1 for the drilling of a well into the Capitan Reef Complex Aquifer to promote the City's future water supply; and appropriating funds. (UTILITIES) (2012 - 413)

SECOND READINGS

22. Consider an ordinance on second reading amending Title III, "Departments", Chapter 1, "Water Department", Section 2, "Rates," Subsection (A), "Customers inside of City Limits," Sub-Subsection 1., "Water Rates," of the City Code of Midland, Texas, so as to decrease the rates charged to customers inside the City Limits for water; 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) (9076)
23. Consider an ordinance on second reading extending the boundaries of the City of Midland, Texas, by adding thereto certain areas adjoining the present City Limits, being a 283.36-acre tract of land out of Sections 11 and 12, Block 40, T-2-S, T&P RR Co. Survey, Midland County, Texas, and being more specifically described by metes and bounds in Section One hereof (Generally located on the northeast corner of the intersection of West Interstate 20 and South County Road 1250); and approving a public service plan. (DEVELOPMENT SERVICES) (9077)

24. Consider an ordinance on second reading extending the boundaries of the City of Midland, Texas, by adding thereto certain areas adjoining the present City Limits, being a 75.90-acre tract of land out of Sections 37 and 38, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas, and being more specifically described by metes and bounds in Section One hereof (Generally located on the southwest corner of the intersection of Tradewinds Boulevard and Deauville Boulevard); and approving a public service plan. (DEVELOPMENT SERVICES) (9078)
25. Consider an ordinance on second reading extending the boundaries of the City of Midland, Texas, by adding thereto certain areas adjoining the present City Limits, being a 30.98-acre tract of land out of Section 35, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas, and being more specifically described by metes and bounds in Section One hereof (Generally located on the east side of State Highway 158, approximately ½ mile northwest of State Highway 191); and approving a public service plan. (DEVELOPMENT SERVICES) (9079)
26. Consider an ordinance on second reading extending the boundaries of the City of Midland, Texas, by adding thereto certain areas adjoining the present City Limits, being a 193.29-acre tract of land out of Sections 11 and 12, Block 40, T-2-S, T&P RR Co. Survey, Midland County, Texas, and being more specifically described by metes and bounds in Section One hereof (Generally located on the south side of Interstate 20, south of South Loop 250 West); and approving a public service plan. (DEVELOPMENT SERVICES) (9080)
27. 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 22.46-acre tract of land out of Section 1, Block 39, T-2-S, T&P RR Co. Survey, City and County of Midland, Texas, which is presently zoned MH, Manufactured Home District, in part, and LR-2, Local Retail District, in part, to be used as an MF-1, Multiple-Family Dwelling District (Generally located on the east side of Lamesa Road, approximately 1,100 feet north of Interstate 20); containing a cumulative clause; containing a savings and severability clause; providing for a maximum penalty or fine of two thousand dollars (\$2,000.00); and ordering publication. (DEVELOPMENT SERVICES) (9081)
28. Consider an ordinance on second reading changing the zoning use classification of the property described as Lot 7, less the west 5 feet, and Lots 8, 9 and 10, Block 20, Belmont Addition, City and County of Midland, Texas (Generally located on the northeast corner of the intersection of Rankin Highway and West Francis Avenue), which is presently zoned LR-3, Local Retail District, by permitting said property to be used under a specific use permit with term for the sale of all alcoholic beverages in a 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) (9082)

29. Consider an ordinance on second reading changing the zoning use classification of the property described as Lot 1A, Block 2, Gateway Plaza, City and County of Midland, Texas (Generally located on the northeast corner of the intersection of West Business 20 and Liberty Drive), which is presently zoned PD, Planned District for a Shopping Center, by permitting said property to be used under a Specific Use Permit with Term for the sale of all alcoholic beverages in a theater/amusement center 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) (9083)
30. 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 1-8, the north 8 feet of the west 75 feet of Lot 9, the east 65 feet of Lots 9-12, and Lots 13-23, Block 53, Original Town, City and County of Midland, Texas, which is presently zoned C-1, Central Area District, to be used as a PD, Planned District for a housing development (Generally located north of Wall Street, south of Texas Avenue, east of Main Street, and west of Baird Street); providing for such use to be subject to certain special conditions and restrictions as set out herein; containing a cumulative clause; containing a savings and severability clause; providing for a maximum penalty or fine of two thousand dollars (\$2,000.00); and ordering publication. (DEVELOPMENT SERVICES) (9084)
31. 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 1A, Block 5, S.W. Estes Addition, Section 2, City and County of Midland, Texas, which is presently zoned 1F-2, One-Family Dwelling District, to be used as a PD, Planned District for an office center (Generally located on the southwest corner of West Cuthbert Avenue and Whitaker Street); providing for such use to be subject to certain special conditions and restrictions as set out herein; containing a cumulative clause; containing a savings and severability clause; providing for a maximum penalty or fine of two thousand dollars (\$2,000.00); and ordering publication. (DEVELOPMENT SERVICES) (9085)
32. Consider an ordinance on second reading establishing the zoning classification of the area indicated as being a 283.36-acre tract of land out of Sections 11 and 12, Block 40, T-2-S, T&P RR Co. Survey, Midland County, Texas, and being more specifically described by metes and bounds in Section One hereof, as a BP, I-20 Business Park District; said tract is generally located on the northeast corner of the intersection of West Interstate 20 and South County Road 1250; 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) (9086)

33. Consider an ordinance on second reading establishing the zoning classification of the area indicated as being a 29.82-acre tract of land out of Sections 37 and 38, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas ("Tract 2A"), and being more specifically described by metes and bounds in Section One hereof, as a PD, Planned District for an Office Center; establishing the zoning classification of the area indicated as being a 21.87-acre tract of land ("Tract 2B"), and being more specifically described by metes and bounds in Section Two hereof, as a PD, Planned District for an Office Center; establishing the zoning classification of the area indicated as being a 16.13-acre tract of land ("Tract 2C"), and being more specifically described by metes and bounds in Section Three hereof, as a PD, Planned District for a Housing Development; establishing the zoning classification of the area indicated as being a 11.71-acre tract of land ("Tract 2D"), and being more specifically described by metes and bounds in Section Four hereof, as an LR-2, Local Retail District; establishing the zoning classification of the area indicated as being a 2.29-acre tract of land ("Tract 2E"), and being more specifically described by metes and bounds in Section Five hereof, as an LR-2, Local Retail District; Tracts 2B-2E are all out of Section 37, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas; said tracts are generally located on the southwest corner of the intersection of Tradewinds Boulevard and Deauville Boulevard; containing a cumulative clause; containing a savings and severability clause; providing for a maximum penalty or fine of two thousand dollars (\$2,000.00); and ordering publication. (DEVELOPMENT SERVICES) (9087)
34. Consider an ordinance on second reading establishing the zoning classification of the area indicated as being a 3.623-acre tract of land ("Tract 3A"), and being more specifically described by metes and bounds in Section One hereof, as a PD, Planned District for a Housing Development; establishing the zoning classification of the area indicated as being a 27.347-acre tract of land ("Tract 3B"), and being more specifically described by metes and bounds in Section Two hereof, as a 1F-1, One-Family Dwelling District; said tracts are all out of Section 35, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas; said tracts are generally located on the east side of State Highway 158, approximately ½ mile northwest of State Highway 191; 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) (9088)
35. Consider an ordinance on second reading establishing the zoning classification of the area indicated as being a 193.29-acre tract of land out of Sections 11 and 12, Block 40, T-2-S, T&P RR Co. Survey, Midland County, Texas, and being more specifically described by metes and bounds in Section One hereof, as an FD, Future Development District; said tract is generally located on the south side

of Interstate 20, south of South 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) (9089)

36. 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 1A, Block 4, Gateway Plaza, Section 4, 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 west side of Tradewinds Boulevard, approximately 800 feet north of West Business Interstate 20); 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) (9090)
37. Consider an ordinance on second reading changing the zoning classification by amending Chapter One, Title XI, of the City Code of Midland, Texas, by permitting a 10.215-acre tract of land which is presently zoned FD, Future Development District, to be used as a 1F-1, One-Family Dwelling District; by permitting a 1.695-acre tract of land which is presently zoned FD, Future Development District, to be used as a PD, Planned District for a Housing Development; said tracts being located in Section 35, 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 made a part hereof; said tracts are generally located on the northeast side of State Highway 158 at the west extension of Homestead 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) (9091)

PUBLIC HEARINGS

38. At approximately 10:30 a.m. hold a public hearing regarding a proposed oil and gas permit to Bluestem Energy Holdings, LLC (Operator), for a Permit to Drill an Oil & Gas Well within the City Limits, (Evans E 1) located 2,073 feet from the north line and 1,009 feet from the west line located in Section 8, Block X, H. P. Hilliard Survey, City and County of Midland, Texas. Generally located on the east side of the North Midland Drive, approximately 3/4 mile north of Mockingbird Lane. (DEVELOPMENT SERVICES)
39. At approximately 10:33 a.m. hold a public hearing regarding a proposed oil and gas permit to Callon Petroleum Operating Company (Operator), for a Permit to

Drill an Oil & Gas Well within the City Limits, (Pecan Acres 23 #11) located 947 feet from the west line and 660 feet from the south line located in Section 23, Block 40, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas. Generally located on the north side of Briarwood Avenue, approximately one half mile west of Golden Gate Drive. (DEVELOPMENT SERVICES)

40. At approximately 10:36 a.m. hold a public hearing and consider an ordinance vacating and abandoning a 45-foot by 215-foot portion of right-of-way located adjacent to Lots 1 and 2, Block 18, 349 Ranch Estates Addition, Section 3, City and County of Midland, Texas (Generally located on the southeast corner of State Highway 349 and Arapahoe Road); adopting the appraisal by the City Manager of \$9,675.00; and ordering recordation by the City Secretary. (DEVELOPMENT SERVICES) (9092)

MISCELLANEOUS

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

EXECUTIVE SESSION

42. 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, litigation styled in Re: Heritage Consolidated, LLC, Case No. 10-36484-hdh, Chapter 11, Jointly Administered, in the United States Bankruptcy Court, Northern District of Texas, Dallas Division.

Respectfully Submitted,

Courtney B. Sharp
City Manager

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

**MIDLAND CITY COUNCIL
MINUTES
November 13, 2012**

BRIEFING SESSION

The City Council convened in a Briefing Session in the basement conference room, City Hall, Midland, Texas, at 9:01 a.m. on November 13, 2012.

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

Council Members absent: Council Member John James (District 3) (James arrived at 9:10 a.m.).

Staff members present: City Manager Courtney Sharp, First Assistant City Attorney John Ohnemiller, Deputy City Manager Tommy Hudson, Assistant City Manager Jim Nichols, City Secretary Amy Turner, Utilities Director Stuart Purvis, Airport Director Marv Esterly, Downtown Development Director Genora Young, Acting Engineering Director David Beard, Planning Division Manager Cameron Walker, Building Official Steve Thorpe, Assistant Code Administration Manager Ron Jenkins, Assistant Utilities Director Holly McGrath, Assistant Airport Director Justine Ruff, Transportation Manager Gary Saunders, Senior Planner Ken VanDyne, Customer Service Division Manager Tony Goyang, and Multimedia Developer Ryan Stout.

1. Receive a presentation from Airport on proposed development and the space port program.

Airport Director Marv Esterly briefly reviewed development around the airport over the past few years and reviewed compatible land uses. Their intent is to protect for noise to surrounding areas. He explained the obligations when Federal dollars are accepted and emphasized the need to protect the airport for future extension of runways. He explained the space port application process and task list noting the need to develop a flight corridor that meets FAA standards to ensure that XCOR can make the move to Midland.

City Manager Courtney Sharp noted that the MDC invested in XCOR and emphasized the need to protect their investment but also balance that with landowners' interest as well. Discussion ensued about ongoing communication with developers in that area to ensure they understand the direction the City is taking.

2. Presentation of Water Conservation Program.

Utilities Director Stuart Purvis reported that Freese & Nichols had finished their report and it was now available to the Council.

Assistant Utility Director Holly McGrath presented a Powerpoint presentation explaining the City's approach to water conservation that includes three parts: 1) education/outreach 2) regulations/practice 3) incentives. She reviewed each of the three areas. Their plan is to ask for an initial funding of \$100,000 for the incentive and education materials needed. They will meet with various stakeholder groups and develop a water conservation volunteer patrol group. Their ultimate goal is to develop sponsorships to make this a self-sustaining program.

Utilities Director Purvis concluded and asked if this was the direction Council felt they should move explaining they will be hiring a part-time person to implement some of the programs. Council consensus was received to move forward.

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

REGULAR SESSION

The City Council convened in regular session in the Council Chamber, City Hall, Midland, Texas, at 10:01 a.m., November 13, 2012.

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

Staff members present at the annex table: City Manager Courtney Sharp, First Assistant City Attorney John Ohnemiller, 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, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 11, 29, 30, 31, 32, 33, 34, 35, 36, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46.

OPENING ITEMS

1. Invocation - Pastor Will Basom, Midland Community College
2. Pledge of Allegiance

PRESENTATIONS

3. Presentation of special events, organizations, individuals, or periods of time including, but not limited to:
 - a. Council Member Trost presented a Proclamation for Texas Recycles Day to Keep Midland Beautiful.

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.

Dr. Steven Rea, 4214 Coyote Trail, distributed information to the City Council regarding the RSP proposal. (Agenda Items 30 through 36).

Robert Simpson, 4206 Coyote Trail, distributed information to the City Council regarding the RSP wells. (Agenda Items 30 through 36).

CONSENT AGENDA

Council Member Hailey moved to approve Consent Agenda items 5 - 29 excluding 11 and 29; seconded by Council Member Trost. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

5. Approved a motion approving the following minutes:
 - a. Regular Meeting of October 23, 2012.
6. Approved a resolution approving a Professional Services Agreement with Vandergriff Group Architects, PC for architectural engineering services to determine the current and future needs of the City Hall facility. (GENERAL SERVICES)

RESOLUTION NO. 2012 - 364

RESOLUTION AUTHORIZING THE EXECUTION OF A PROFESSIONAL SERVICES AGREEMENT WITH VANDERGRUFF GROUP ARCHITECTS, P.C., OF MIDLAND, TEXAS, FOR PROFESSIONAL ARCHITECTURAL AND ENGINEERING SERVICES TO DETERMINE THE CURRENT AND FUTURE NEEDS OF THE CITY HALL FACILITY; AND APPROPRIATING \$80,000.00

7. Approved a resolution to renew the Marketing Agreement with Utility Service Partners Private Label, Inc. dba Service Line Warranties of America. (GENERAL SERVICES)

RESOLUTION NO. 2012 - 365

RESOLUTION AUTHORIZING THE RENEWAL OF A MARKETING AGREEMENT WITH UTILITY SERVICE PARTNERS PRIVATE LABEL, INCORPORATED, DBA SERVICE LINE WARRANTIES OF AMERICA, ALLOWING THE OFFER OF UTILITY SERVICE LINE WARRANTIES TO MIDLAND RESIDENTS

8. Approved a resolution approving a contract for Sparks Park Target Area Development – Paving Improvements for the Engineering Services Department. (GENERAL SERVICES)

RESOLUTION NO. 2012 - 366

RESOLUTION AWARDED THE SPARKS PARK TARGET AREA DEVELOPMENT PAVING IMPROVEMENTS PROJECT TO REECE ALBERT, INCORPORATED, OF MIDLAND, TEXAS, AT A TOTAL COST OF \$402,482.25; AND APPROPRIATING

FUNDS

9. Approved a resolution approving the purchase of a fire truck pumper through HGAC from Siddons-Martin Emergency Group for the Garage Division. (GENERAL SERVICES)

RESOLUTION NO. 2012 - 367

RESOLUTION APPROVING THE PURCHASE OF A FIRE TRUCK PUMPER THROUGH THE HOUSTON-GALVESTON AREA COUNCIL OF GOVERNMENTS (HGAC) AT A TOTAL COST OF \$574,988.00; AND THIS ITEM WAS NOT BID BUT PURCHASED THROUGH A COUNCIL OF GOVERNMENTS

10. Approved a resolution approving the purchase of a compactor through Buyboard from Warren Power & Machinery, Inc. of Midland, Texas for the Garage Division. (GENERAL SERVICES)

RESOLUTION NO. 2012 - 368

RESOLUTION APPROVING THE PURCHASE OF AN 836H LANDFILL COMPACTOR DCA1 THROUGH THE BUYBOARD AT A TOTAL COST OF \$899,802.83; AND THIS ITEM WAS NOT BID BUT PURCHASED THROUGH A COUNCIL OF GOVERNMENTS

12. Approved a resolution approving plans and specifications and authorizing advertisement for bids for a maintenance building addition, new storage building and new indoor batting cage facility for the Scharbauer Sports Complex. (GENERAL SERVICES)

RESOLUTION NO. 2012 - 370

RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING ADVERTISEMENT FOR COMPETITIVE BIDS FOR EXPANSION OF THE MAINTENANCE BUILDING, CONSTRUCTION OF AN INDOOR BATTING CAGE, AND CONSTRUCTION OF A STORAGE AREA AT THE SCHARBAUER SPORTS COMPLEX

13. Approved a resolution authorizing the execution of Airport Fuel Service Agreement between W-T Hangar, LLC and the City of Midland, Texas in Lot 4B, Block 11, (Lease Tract 3) Midland International Airport, Industrial Park Addition, Section 6, Midland County, Texas. (AIRPORTS)

RESOLUTION NO. 2012 - 371

RESOLUTION AUTHORIZING THE EXECUTION OF AN AIRPORT FUELING AGREEMENT WITH W-T HANGAR LLC IN ORDER TO STORE AND DISPENSE ALL FORMS OF AVIATION PROPELLANTS AND FUELS FROM FIXED DISPENSERS ONLY TO W-T HANGAR LLC'S AIRCRAFT AT THE MIDLAND INTERNATIONAL AIRPORT, MIDLAND COUNTY, TEXAS; AND AUTHORIZING THE CITY MANAGER TO NEGOTIATE INSURANCE TERMS AS THEY RELATE TO SAID AGREEMENT AND TO MODIFY THE AGREEMENT ACCORDINGLY PRIOR TO EXECUTION OF THE AGREEMENT

14. Approved a resolution authorizing the execution of an Amendment to Land Lease Agreement for Airport Hangar Facility between W-T Hangar, LLC and the City of Midland, Texas in Lot 4B, Block 11, (Lease Tract 3) Midland International Airport, Industrial Park Addition, Section 6, Midland County, Texas. (AIRPORTS)

RESOLUTION NO. 2012 - 372

RESOLUTION AUTHORIZING THE EXECUTION OF AN AMENDMENT TO THE LAND LEASE AGREEMENT WITH W-T HANGAR, LLC FOR HANGAR DEVELOPMENT LOCATED ON A 0.48 ACRE TRACT OF LAND LOCATED IN LOT 4B, BLOCK 11, MIDLAND INTERNATIONAL AIRPORT INDUSTRIAL PARK ADDITION, SECTION 6, AN ADDITION TO THE CITY OF MIDLAND, MIDLAND COUNTY, TEXAS; SAID AMENDMENT TO INCLUDE LEASING AN ADDITIONAL .34 ACRE APRON TRACT IN THE NEW HANGER DEVELOPMENT AREA FOR THE PURPOSE OF INSTALLING A FUELING FACILITY

15. Approved a resolution authorizing the execution of Amendment #3 to Parkhill, Smith & Cooper's Professional Services Agreement and appropriate necessary funds. (AIRPORTS)

RESOLUTION NO. 2012 - 373

RESOLUTION AUTHORIZING THE EXECUTION OF AMENDMENT NUMBER THREE TO THE PROFESSIONAL SERVICES AGREEMENT WITH PARKHILL, SMITH & COOPER, INCORPORATED, FOR IMPROVEMENTS CONTAINED IN THE AIRPORT CAPITAL IMPROVEMENT PROGRAM; SAID AMENDMENT TO INCLUDE THE FOLLOWING PROJECTS: TERMINAL VEHICLE PARKING EXPANSION, TAXIWAY P AIRCRAFT RUN-UP, AND WILDLIFE HAZARD MANAGEMENT PLAN; AND APPROPRIATING \$180,552.00

16. Approved a resolution authorizing the execution of a one-year renewal agreement with Frances Stapp, for curator services for the Heritage District, including the Scarborough-Linebery Home located at 802 South Main Street. (COMMUNITY SERVICES)

RESOLUTION NO. 2012 - 374

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

17. Approved a resolution authorizing Friends of Midland Soccer to raise funds on behalf of the City of Midland for development of additional soccer fields, lights, concessions, playgrounds, and parking at Beal Park; upon completion of the soccer complex the City of Midland would be responsible for the operation and maintenance. (COMMUNITY SERVICES)

RESOLUTION NO. 2012 - 375

RESOLUTION AUTHORIZING THE FRIENDS OF MIDLAND SOCCER TO RAISE FUNDS ON BEHALF OF THE CITY OF MIDLAND FOR THE DEVELOPMENT OF ADDITIONAL SOCCER FIELDS, LIGHTS, CONCESSIONS, PLAYGROUNDS, AND PARKING AT BEAL PARK; UPON COMPLETION OF THE SOCCER COMPLEX THE CITY OF MIDLAND WOULD BE RESPONSIBLE FOR THE OPERATION AND MAINTENANCE

18. Approved a resolution to grant a variance to Ordinance 8769 (January 1, 2010 Oil and Gas Well Drilling Ordinance) to allow building permits for commercial buildings, to be issued in the future, where the proposed building, either in whole or part is no closer than 196 feet of an existing oil and gas well. (DEVELOPMENT SERVICES)

RESOLUTION NO. 2012 - 376

RESOLUTION GRANTING A VARIANCE FOR LOT 6B, BLOCK 2, GATEWAY PLAZA, SECTION 6, CITY AND COUNTY OF MIDLAND, TEXAS (COMMONLY KNOWN AS 5511 STARBOARD DRIVE), BY PERMITTING CONSTRUCTION OF COMMERCIAL BUILDINGS WHERE NO PORTION OF ANY BUILDING IS CLOSER THAN ONE HUNDRED NINETY-SIX (196) FEET OF AN OIL AND GAS WELL; AND AUTHORIZING ISSUANCE OF BUILDING PERMITS

19. Approved a resolution authorizing an amendment to Resolution 2011-072 authorizing the appropriation of funds for the HOME Investment Partnerships Program Reservation System Participant program. (DEVELOPMENT SERVICES)

RESOLUTION NO. 2012 - 377

RESOLUTION AUTHORIZING AN AMENDMENT TO RESOLUTION 2011-072 WHICH AUTHORIZED THE APPROPRIATION OF FUNDS FOR THE HOME INVESTMENT PARTNERSHIP PROGRAM RESERVATION SYSTEM PARTICIPANT PROGRAM FOR RECONSTRUCTION PROJECTS

20. Approved a resolution authorizing the execution of a Public Improvement Development Agreement in the amount of \$371,586 with Derick Osborne for the sidewalk and pavement improvements to serve the Floyd Acres Addition. The site is generally along Beal Parkway south of Anetta Drive west of Beal Park. Said agreement being authorized by Section 395.081 of the Texas Local Government Code. (ENGINEERING SERVICES)

RESOLUTION NO. 2012 - 378

RESOLUTION AUTHORIZING THE EXECUTION OF A PUBLIC IMPROVEMENT DEVELOPMENT AGREEMENT WITH MIDLAND RENTALS, LLC FOR DEVELOPMENT OF FLOYD ACRES ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ALONG BEAL PARKWAY, SOUTH OF ANETTA DRIVE AND WEST OF BEAL PARK); AND APPROPRIATING FUNDS IN THE AMOUNT OF \$324,116.00 THEREFOR; SAID AGREEMENT BEING AUTHORIZED BY SECTION 395.081 OF THE TEXAS LOCAL GOVERNMENT CODE

21. Approved a motion on a request by West Company of Midland, Inc. for Mesquite Terrace Apartments, to approve items requested for deferral in the amount of \$28,750.00, and to waive the associated public improvement guarantee. (ENGINEERING SERVICES)
22. Approved a resolution to authorize the acceptance of \$44,607 in reimbursement funds from the Union Pacific Railroad Company (UPRR) for construction of an 8 inch water main under Industrial Avenue, approximately 600 feet west of Westar Road, to authorize the City Manager to sign. (ENGINEERING SERVICES)

RESOLUTION NO. 2012 - 379

RESOLUTION AUTHORIZING THE EXECUTION OF A REIMBURSEMENT AGREEMENT WITH UNION PACIFIC RAILROAD COMPANY ("UNION PACIFIC") FOR THE RELOCATION OF CERTAIN CITY OF MIDLAND FACILITIES UNDER INDUSTRIAL AVENUE; AND AUTHORIZING PAYMENT TO JOHN PLOTT COMPANY, INCORPORATED AS THE CONTRACTOR WHO HAS PERFORMED THE WORK

23. Approved a motion on a request by Landgraf, Crutcher & Associates, Inc. (LCA) for David Heiser Addition, to approve items requested for deferral in the amount of \$65,650, and to waive the associated public improvement guarantee. (District #2 - Hailey) (ENGINEERING SERVICES)
24. Approved a resolution to authorize a project fund for the Outdoor Notification System. (FIRE)

RESOLUTION NO. 2012 - 380

RESOLUTION APPROPRIATING \$124,750.00 FROM THE GENERAL FUND FOR THE OUTDOOR WEATHER SERVICE NOTIFICATION SYSTEM; THIS OUTDOOR NOTIFICATION SYSTEM PROJECT WAS INITIATED IN LAST YEAR'S FISCAL BUDGET AND THOSE FUNDS WERE DEPOSITED IN THE GENERAL FUND AT THE CLOSE OF BUDGET

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

RESOLUTION NO. 2012 - 381

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

26. Approved a resolution to accept and appropriate extra funds for the 2011 Enforcing Underage Drinking Laws Grant. (POLICE)

RESOLUTION NO. 2012 - 382

RESOLUTION ACCEPTING A GRANT AWARD IN THE AMOUNT OF \$1,780.00 FROM THE TEXAS ALCOHOLIC BEVERAGE COMMISSION TO BE USED BY THE MIDLAND POLICE DEPARTMENT TO ENFORCE UNDERAGE DRINKING LAWS; AUTHORIZING THE EXECUTION OF ACCEPTANCE DOCUMENTS; AND ALLOCATING GRANT FUNDS; NO CASH MATCH IS REQUIRED

27. Approved a resolution authorizing the implementation of flow based sewer rates, based on December 2012, January 2013, and February 2013 water usage and becoming effective October 1, 2013. (UTILITIES)

RESOLUTION NO. 2012 - 383

RESOLUTION AUTHORIZING THE IMPLEMENTATION OF FLOW-BASED SEWER RATES, BASED ON DECEMBER 2012, JANUARY 2013, AND FEBRUARY 2013 WATER USAGE; AND BECOMING EFFECTIVE OCTOBER 1, 2013; AND AUTHORIZING THE CITY MANAGER TO CONDUCT THE APPROPRIATE STUDIES AND SUBMIT TO THE CITY COUNCIL THE NECESSARY ORDINANCES THEREFORE

28. Approved a resolution approving additional funding of the Interlocal Agreement between the City of Midland, the City of San Angelo and the City of Abilene as approved on April 8, 2011 and appropriate funds. (UTILITIES)

RESOLUTION NO. 2012 - 384

RESOLUTION APPROVING ADDITIONAL FUNDING FOR THE INTERLOCAL

AGREEMENT BETWEEN THE CITY OF MIDLAND, THE CITY OF SAN ANGELO AND THE CITY OF ABILENE AS APPROVED ON APRIL 8, 2011 REGARDING LONG-TERM WATER SUPPLIES; AND APPROPRIATING \$500,000.00

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

11. Consider a resolution approving an agreement with the sole proposer Justice Benefits, Inc. of Dallas, Texas to provide Federal Reimbursement Opportunities and Consultant Services for the Health and Senior Services Division of the Community Services Department. (GENERAL SERVICES)

RESOLUTION NO. 2012 - 369

RESOLUTION APPROVING AN AGREEMENT WITH JUSTICE BENEFITS, INCORPORATED, OF DALLAS, TEXAS, TO PROVIDE FEDERAL REIMBURSEMENT OPPORTUNITIES AND CONSULTANT SERVICES FOR THE HEALTH AND SENIOR SERVICES DIVISION OF THE COMMUNITY SERVICES DEPARTMENT; SAID FIRM TO RECEIVE EIGHTEEN PERCENT OF FUNDS RECOVERED

Health and Senior Services Administrator Sal Garcia reported that Midland will now be paid for something that they were already doing.

Council Member Morales moved to adopt Resolution No. 2012 - 369; seconded by Council Member Hailey. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

29. Consider a resolution authorizing the Department of Utilities to cause to be published, in the Midland Reporter Telegram, all notices required pursuant to Chapter 26 of the Texas Parks and Wildlife Code of a public hearing regarding the City's intent to execute a Temporary Right-of-Way License with Oncor Electric Delivery Company, L.L.C., across a portion of Windlands Park. (UTILITIES)

RESOLUTION NO. 2012 - 385

RESOLUTION AUTHORIZING THE DEPARTMENT OF UTILITIES TO CAUSE TO BE PUBLISHED, IN THE MIDLAND REPORTER TELEGRAM, ALL NOTICES REQUIRED PURSUANT TO CHAPTER 26 OF THE TEXAS PARKS AND WILDLIFE CODE OF A PUBLIC HEARING REGARDING THE CITY'S INTENT TO EXECUTE A TEMPORARY RIGHT-OF-WAY LICENSE WITH ONCOR ELECTRIC DELIVERY COMPANY, L.L.C., ACROSS A PORTION OF WINDLANDS PARK; AND DIRECTING THE UTILITIES DIRECTOR TO COMPLY WITH ALL REQUIREMENTS OF CHAPTER 26 OF THE TEXAS PARKS AND WILDLIFE CODE

Director of Utilities Stuart Purvis reported that they are still working out some issues and asked that this item be deferred to a future meeting.

Council Member Morales moved to continue the item to a future City Council Meeting date; seconded by Council Member Trost. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

MISCELLANEOUS

30. Consider a resolution approving the issuance of a permit to RSP Permian, LLC. (Bus Barn 2603D) for a Permit to Drill an Oil & Gas Well within the City Limits, located 690 feet from the north line and 1080 feet from the east line located in Section 26, Block 40, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas. (Generally located on the south of the Briarwood Avenue, approximately 600 feet west of Roadrunner Trail.) (DEVELOPMENT SERVICES)

RESOLUTION NO. 2012 - 386

RESOLUTION APPROVING THE ISSUANCE OF A PERMIT TO RSP PERMIAN, L.L.C. ("OPERATOR") TO DRILL AN OIL AND GAS WELL WITHIN THE CITY LIMITS LOCATED 690 FEET FROM THE NORTH LINE AND 1,080 FEET FROM THE EAST LINE, SECTION 26, BLOCK 40, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTH SIDE OF BRIARWOOD AVENUE, APPROXIMATELY 600 FEET WEST OF ROADRUNNER TRAIL)

Oil & Gas Compliance Officer Ron Jenkins reported that 21 notices were sent to property owners within the 860 foot notification area and 12 letters of objection were returned. An additional 34 letters of objection and 15 letters of support were received from property owners outside of the 860 foot notification area. This item was reviewed by the Oil & Gas Advisory Committee, the applicant met all of the recommendations, and there were no variances being requested.

Council Member Sparks moved to adopt Resolution No. 2012 - 386; seconded by Council Member Hailey.

Council Member Sparks asked everyone to recognize this was an emotionally charged issue. The Council voted on the Oil & Gas Ordinance which established guidelines on how far a structure should be without the need for a variance. Safety of the neighborhood was taken into consideration when the Ordinance was adopted. The Council needs to abide by the Ordinance as it was adopted.

Council Member Trost raised some objections raised by his constituents naming the 18 points that should be considered by the Council when voting on an Oil & Gas well permit. He noted that the character and value of improvements that were already erected in the vicinity would be affected by the addition of five wells in the area.

Council Member Trost suggested that arguments for this well should be noted on all five of the wells for this area. He suggested that the wells be drilled from the County. Council Member Sparks clarified that they do not have the rights to drill on another location and that other wells and flow lines have been moved to keep them out of the neighborhood.

Council Member James clarified that the Council is looking at each well as an individual permit and the Council could approve five or two. He asked about the Road Repair Agreement noting that it had all five items consolidated and asked if only one well was approved would it need to be amended. First Assistant City Attorney John Ohnemiller clarified that since all the wells were referenced in the agreement, the agreement would need to be amended to reflect the correct wells.

Council Member Morales noted that this well was out of alignment from the other wells.

Council Member Sparks moved to amend the motion by moving the well site 40 feet to the east to be in line with the other wells; seconded by Council Member Dufford.

When asked if moving the well site to the east would cause any problems, Steve Gray, 4516 Bent Tree, responded it would not cause any problems. He further clarified that this was the original application that was denied and that was the reason it sits out of line with the other wells. He noted the difference was 40 feet clarifying the well would be moved 40 feet to the east.

Council Member James asked about the property RSP acquired to the east. Mr. Gray responded that they had acquired five lots and one home to the east of the well site.

When asked what RSP would do if only three of the five wells were approved and if they would instead look to get permits on other wells they have staked in the area, Mr. Gray responded that the other locations were more problematic than this location. He clarified that if three were approved now, RSP would reapply for the remaining two at the same location. He also noted that delaying the well would extend the pain for the neighborhood. He said it would also create operational problems because you could not drill within 50 feet of an operational pump. When asked why the other staked wells were problematic, Mr. Gray responded because they would require a variance and the other permits have either been rescinded or expired.

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

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

31. Consider a resolution approving the issuance of a permit to RSP Permian, LLC. (Bus Barn 2611D) for a permit to drill an oil & gas well within the City Limits, located 590 feet from the north line and 1040 feet from the east line located in Section 26, Block 40, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas. (Generally located on the south of the Briarwood Avenue, approximately 560 feet west of Roadrunner Trail.) (DEVELOPMENT SERVICES)

RESOLUTION NO. 2012 - 387

RESOLUTION APPROVING THE ISSUANCE OF A PERMIT TO RSP PERMIAN, L.L.C. ("OPERATOR") TO DRILL AN OIL AND GAS WELL WITHIN THE CITY LIMITS LOCATED 590 FEET FROM THE NORTH LINE AND 1,040 FEET FROM THE EAST LINE, SECTION 26, BLOCK 40, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTH SIDE OF BRIARWOOD AVENUE, APPROXIMATELY 560 FEET WEST OF ROADRUNNER TRAIL)

Oil & Gas Compliance Officer Ron Jenkins reported that a total 20 notices were sent to property owners within the 860 foot notification area and 10 letters of objection were returned. An addition 34 letters of objection and 15 letters of support were received from property owners outside of the 860 foot notification area. This well has all of the same discussion points. The Oil & Gas Advisory Committee determined that recommendations had been met.

Council Member Sparks moved to adopt Resolution No. 2012 - 387; seconded by Council Member Dufford. The motion carried by the following vote: AYE: Morales, Perry, Dufford, Sparks. NAY: Trost, Hailey, James. ABSTAIN: None. ABSENT: None.

32. Consider a resolution approving the issuance of a permit to RSP Permian, LLC. (Bus Barn 2612D) for a permit to drill an oil & gas well within the City Limits, located 640 feet from the north line and 1040 feet from the east line located in Section 26, Block 40, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas. (Generally located on the south of the Briarwood Avenue, approximately 560 feet west of Roadrunner Trail.) (DEVELOPMENT SERVICES)

RESOLUTION NO. 2012 - 388

RESOLUTION APPROVING THE ISSUANCE OF A PERMIT TO RSP PERMIAN, L.L.C. ("OPERATOR") TO DRILL AN OIL AND GAS WELL WITHIN THE CITY LIMITS LOCATED 640 FEET FROM THE NORTH LINE AND 1,040 FEET FROM THE EAST LINE, SECTION 26, BLOCK 40, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTH SIDE OF BRIARWOOD AVENUE, APPROXIMATELY 560 FEET WEST OF ROADRUNNER TRAIL)

Oil & Gas Compliance Officer Ron Jenkins reported that a total 19 notices were sent to property owners within the 860 foot notification area and 10 letters of objection were returned. An additional 34 letters of objection and 15 letters of support were received from property owners outside of the 860 foot notification area. This well has all of the same discussion points as the previous wells.

Council Member Dufford moved to adopt Resolution No. 2012 - 388; seconded by Council Member Sparks. The motion failed by the following vote: AYE: Perry, Dufford, Sparks. NAY: Morales, Trost, Hailey, James. ABSTAIN: None. ABSENT: None.

33. Consider a resolution approving the issuance of a permit to RSP Permian, LLC. (Bus Barn 2613D) for a permit to drill an oil & gas well within the City Limits, located 740 feet from the north line and 1040 feet from the east line located in Section 26, Block 40, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas. (Generally located on the south of the Briarwood Avenue, approximately 560 feet west of Roadrunner Trail.) (DEVELOPMENT SERVICES)

RESOLUTION NO. 2012 - 389

RESOLUTION APPROVING THE ISSUANCE OF A PERMIT TO RSP PERMIAN, L.L.C. ("OPERATOR") TO DRILL AN OIL AND GAS WELL WITHIN THE CITY LIMITS LOCATED 740 FEET FROM THE NORTH LINE AND 1,040 FEET FROM THE EAST LINE, SECTION 26, BLOCK 40, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTH SIDE OF BRIARWOOD AVENUE, APPROXIMATELY 560 FEET WEST OF ROADRUNNER TRAIL)

Oil & Gas Compliance Officer Ron Jenkins reported that a total 20 notices were sent to property owners within the 860 foot notification area and 11 letters of objection were returned. An additional 33 letters of objection and 15 letters of support were received from property owners outside of the 860 foot notification area.

Council Member Dufford moved to adopt Resolution No. 2012 - 389; seconded by Council Member Sparks. The motion failed by the following vote: AYE: Perry, Dufford, Sparks. NAY: Morales, Trost, Hailey, James. ABSTAIN: None. ABSENT: None.

34. Consider a resolution approving the issuance of a permit to RSP Permian, LLC. (Bus Barn 2614D) for a permit to drill an oil & gas Well within the City Limits, located 790 feet from the north line and 1040 feet from the east line located in Section 26, Block 40, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas. (Generally located on the south of the Briarwood Avenue, approximately 560 feet west of Roadrunner Trail.) (DEVELOPMENT SERVICES)

RESOLUTION NO. 2012 - 390

RESOLUTION APPROVING THE ISSUANCE OF A PERMIT TO RSP PERMIAN, L.L.C. ("OPERATOR") TO DRILL AN OIL AND GAS WELL WITHIN THE CITY LIMITS LOCATED 790 FEET FROM THE NORTH LINE AND 1,040 FEET FROM THE EAST LINE, SECTION 26, BLOCK 40, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTH SIDE OF BRIARWOOD AVENUE, APPROXIMATELY 560 FEET WEST OF ROADRUNNER TRAIL)

Oil & Gas Compliance Officer Ron Jenkins reported that a total 20 notices were sent to property owners within the 860 foot notification area and 13 letters of objection were returned. An additional 32 letters of objection and 15 letters of support were received from property owners outside of the 860 foot notification area.

Council Member Sparks moved to adopt Resolution No. 2012 - 390; seconded by Council Member Dufford. The motion failed by the following vote: AYE: Perry, Dufford, Sparks. NAY: Morales, Trost, Hailey, James. ABSTAIN: None. ABSENT: None.

35. Consider a resolution authorizing the execution of a Road Repair Agreement with RSP Permian, LLC. regarding its applications to drill oil and gas wells (Bus Barn #2603D, Bus Barn #2611D, Bus Barn #2612D, Bus Barn #2613D, Bus Barn #2614D) within the City Limits, in Section 26, Block 40, T-1-S, T&P Survey, Midland County, Texas. The Road Repair Agreement will cover Briarwood Avenue and be in the amount of \$75,000.00. (DEVELOPMENT SERVICES)

RESOLUTION NO. 2012 - 391

RESOLUTION AUTHORIZING THE EXECUTION OF A ROAD REPAIR AGREEMENT WITH RSP PERMIAN, L.L.C. REGARDING ITS APPLICATIONS TO DRILL OIL AND GAS WELLS (#2603D, #2611D, #2612D, #2613D AND #2614D) WITHIN THE CITY LIMITS IN SECTION 26, BLOCK 40, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS

Council Member James moved to adopt Resolution No. 2012 - 391 removing wells #2612D, #2613D, and #2614D; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Morales, Perry, Dufford, James, Sparks. NAY: Trost, Hailey. ABSTAIN: None. ABSENT: None.

36. Consider a resolution authorizing the execution of a Right-of-Way License Agreement between the City of Midland and RSP Permian, LLC, for the purpose of placement, operation and maintenance of a four (4) inch poly pipeline and two (2) four (4) inch

polyflow pipelines contained within a thirteen and three/eighths (13 3/8) inch steel casing pipe, in a portion of Briarwood Avenue right-of-way, Section 26, Block 40, T-1-S, T&P Survey, Midland County, Texas. (ENGINEERING SERVICES)

RESOLUTION NO. 2012 - 392

RESOLUTION AUTHORIZING A RIGHT-OF-WAY LICENSE BETWEEN THE CITY OF MIDLAND, TEXAS AND RSP PERMIAN, L.L.C.; SAID RIGHT-OF-WAY LICENSE IS FOR THE PURPOSE OF ENTERING THE CITY OF MIDLAND'S RIGHT-OF-WAY FOR THE PURPOSE OF PLACEMENT, OPERATION AND MAINTENANCE OF A FOUR (4) INCH POLY PIPELINE AND TWO (2) FOUR (4) INCH POLYFLOW PIPELINES CONTAINED WITHIN A THIRTEEN AND THREE/EIGHTS (13 3/8) INCH STEEL CASING PIPE, IN A PORTION OF BRIARWOOD AVENUE; THE PIPELINE IS LOCATED WITHIN THE CITY OF MIDLAND RIGHT-OF-WAY, SECTION 26, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS; THE LICENSE TERM IS FOR TWENTY-FIVE (25) YEARS, COMMENCING WITH THE DATE OF THIS LICENSE AND SHALL AUTOMATICALLY RENEW AT THE END OF THE TERM FOR ONE ADDITIONAL TWENTY-FIVE (25) YEAR TERM UPON 90 DAYS WRITTEN REQUEST PRIOR TO EXPIRATION

Transportation Manager Gary Saunders reported this item was for a stretch of pipeline that would be in the right-of-way on the south side of Briarwood.

Council Member Dufford moved to adopt Resolution No. 2012 - 392; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Morales, Perry, Dufford, James, Sparks. NAY: Trost, Hailey. ABSTAIN: None. ABSENT: None.

(Agenda Items 47 through 66 were heard before Agenda Items 37 through 46.)

Following Executive Session, Mayor Perry reconvened the meeting at 1:30 p.m. with all Council Members present.

37. 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, 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)

ORDINANCE NO. 9076

AN ORDINANCE AMENDING TITLE III, "DEPARTMENTS", CHAPTER 1, "WATER DEPARTMENT", SECTION 2, "RATES," SUBSECTION (A), "CUSTOMERS INSIDE OF CITY LIMITS," SUB-SUBSECTION 1., "WATER RATES," OF THE CITY CODE OF MIDLAND, TEXAS, SO AS TO DECREASE THE RATES CHARGED TO CUSTOMERS INSIDE THE CITY LIMITS FOR WATER; 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

Utility Director Stuart Purvis gave an overview of the item noting this was the first reading of an Ordinance taking the multiplier off the bottom multiplied tier in anticipation

of CRMWD removing all restrictions. It would not go into effect until after CRMWD reduces restrictions.

Deputy City Secretary Garcia read the caption of Ordinance No. 9076.

Following discussion, Council Member Hailey moved approval of the first of two readings of Ordinance No. 9076 in accordance with the Charter of the City of Midland; seconded by Council Member Trost. The motion carried by the following vote: AYE: Morales, Hailey, Perry, Dufford, Sparks. NAY: Trost, James. ABSTAIN: None. ABSENT: None.

38. Consider an ordinance for the annexation of a 283.36-acre tract of land (Tract 1) out of Sections 11 and 12, Block 40, T-2-S, T&P RR Co., Survey, Midland County, Texas. (Generally located on the northeast corner of the intersection of West Interstate Highway 20 and South County Road 1250) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9077

AN ORDINANCE EXTENDING THE BOUNDARIES OF THE CITY OF MIDLAND, TEXAS, BY ADDING THERETO CERTAIN AREAS ADJOINING THE PRESENT CITY LIMITS, BEING A 283.36-ACRE TRACT OF LAND OUT OF SECTIONS 11 AND 12, BLOCK 40, T-2-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION ONE HEREOF (GENERALLY LOCATED ON THE NORTHEAST CORNER OF THE INTERSECTION OF WEST INTERSTATE 20 AND SOUTH COUNTY ROAD 1250); AND APPROVING A PUBLIC SERVICE PLAN

Planning Division Manager Cameron Walker gave an overview of the item noting this was for annexation of property. The required public hearings have already been held and the proposal was to bring land into the City limits.

Deputy City Secretary Garcia read the caption of Ordinance No. 9077.

Council Member Dufford moved approval of the first of two readings of Ordinance No. 9077 in accordance with the Charter of the City of Midland; seconded by Council Member Morales. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

39. Consider an ordinance for the annexation of a 75.90-acre tract of land (Tract 2) out of Sections 37 and 38, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas. (Generally located on the southwest corner of the intersection of Tradewinds Boulevard and Deauville Boulevard) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9078

AN ORDINANCE EXTENDING THE BOUNDARIES OF THE CITY OF MIDLAND, TEXAS, BY ADDING THERETO CERTAIN AREAS ADJOINING THE PRESENT CITY LIMITS, BEING A 75.90-ACRE TRACT OF LAND OUT OF SECTIONS 37 AND 38, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION ONE HEREOF (GENERALLY LOCATED ON THE SOUTHWEST CORNER OF THE INTERSECTION OF TRADEWINDS BOULEVARD AND DEAUVILLE BOULEVARD);

AND APPROVING A PUBLIC SERVICE PLAN

Planning Division Manager Cameron Walker provided an overview noting the required public hearings had already been heard and this was a proposal on first reading to annex land into the City.

Deputy City Secretary Garcia read the caption of Ordinance No. 9078.

Council Member Sparks moved approval of the first of two readings of Ordinance No. 9078 in accordance with the Charter of the City of Midland; seconded by Council Member Hailey. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

40. Consider an ordinance for the annexation of a 30.98-acre tract of land (Tract 3) out of Section 35, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas. (Generally located on the east side of State Highway 158, approximately ½ mile northwest of State Highway 191.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9079

AN ORDINANCE EXTENDING THE BOUNDARIES OF THE CITY OF MIDLAND, TEXAS, BY ADDING THERETO CERTAIN AREAS ADJOINING THE PRESENT CITY LIMITS, BEING A 30.98-ACRE TRACT OF LAND OUT OF SECTION 35, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION ONE HEREOF (GENERALLY LOCATED ON THE EAST SIDE OF STATE HIGHWAY 158, APPROXIMATELY ½ MILE NORTHWEST OF STATE HIGHWAY 191); AND APPROVING A PUBLIC SERVICE PLAN

Planning Division Manager Cameron Walker gave an overview of the item noting this tract was for the first reading of the ordinance for a voluntary annexation.

Deputy City Secretary Garcia read the caption of Ordinance No. 9079.

Council Member Hailey moved approval of the first of two readings of Ordinance No. 9079 in accordance with the Charter of the City of Midland; seconded by Council Member Trost. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

41. Consider an ordinance for the annexation of a 193.29-acre tract of land (Tract 4) out of Sections 11 and 12, Block 40, T-2-S, T&P RR Co. Survey, Midland County, Texas. (Generally located on the south side of West Interstate 20, south of South Loop 250 West.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9080

AN ORDINANCE EXTENDING THE BOUNDARIES OF THE CITY OF MIDLAND, TEXAS, BY ADDING THERETO CERTAIN AREAS ADJOINING THE PRESENT CITY LIMITS, BEING A 193.29-ACRE TRACT OF LAND OUT OF SECTIONS 11 AND 12, BLOCK 40, T-2-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION ONE HEREOF (GENERALLY LOCATED ON THE SOUTH SIDE OF INTERSTATE 20, SOUTH OF SOUTH LOOP 250 WEST); AND APPROVING A PUBLIC SERVICE PLAN

Planning Division Manager Cameron Walker gave an overview of the item noting this was a 194-acre piece located where South Loop 250 runs into the I-20 noting it was another voluntary annexation.

Deputy City Secretary Garcia read the caption of Ordinance No. 9080.

Council Member Trost moved approval of the first of two readings of Ordinance No. 9080 in accordance with the Charter of the City of Midland; seconded by Council Member Morales. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

42. Consider a resolution approving the issuance of a permit to Rust Oil Corp. (Operator), for a permit to drill an oil & gas well within the City Limits, (Smith-Hughes "9" No. 1) located 2,173 feet from the south line and 1,651 feet from the east line located in Section 9, Block "X", H.P. Hilliard Survey, City and County of Midland, Texas. (Generally located on the west side of the extension of North Garfield Street, Approximately ½ mile north of Mockingbird Lane.) (DEVELOPMENT SERVICES)

RESOLUTION NO. 2012 - 393

RESOLUTION APPROVING THE ISSUANCE OF A PERMIT TO RUST OIL CORPORATION ("OPERATOR") TO DRILL AN OIL AND GAS WELL WITHIN THE CITY LIMITS LOCATED 2,173 FEET FROM THE SOUTH LINE AND 1,651 FEET FROM THE EAST LINE, SECTION 9, BLOCK "X", H.P. HILLIARD SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE WEST SIDE OF THE EXTENSION OF NORTH GARFIELD STREET, APPROXIMATELY ½ MILE NORTH OF MOCKINGBIRD LANE)

Mayor Perry recused himself from Agenda Items 42 and 43 and left dais.

Oil and Gas Compliance Officer Ron Jenkins gave an overview of the item noting that no letters of objection had been received. The Oil & Gas Advisory Committee reviewed the well site and had recommendations. Rust Oil updated their application and addressed the conditions. The Committee requested that landscaping be installed within two years. The insurance requirements for this well have been met.

Council Member Sparks moved to adopt Resolution No. 2012 - 393; seconded by Council Member James. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Perry.

43. Consider a resolution authorizing the execution of a road repair agreement with Rust Oil Corporation regarding its application to drill an oil and gas well within the City Limits, in Section 9, Block "X", H.P. Hilliard Survey, Midland County, Texas. The Road Repair Agreement will cover North Midkiff Road, Mockingbird Lane and Whitman Drive and be in the amount of \$25,000.00. (DEVELOPMENT SERVICES)

RESOLUTION NO. 2012 - 394

RESOLUTION AUTHORIZING THE EXECUTION OF A ROAD REPAIR AGREEMENT WITH RUST OIL CORPORATION REGARDING ITS APPLICATION TO DRILL AN OIL AND GAS WELL WITHIN THE CITY LIMITS LOCATED 2,173 FEET FROM THE

SOUTH LINE AND 1,651 FEET FROM THE EAST LINE, SECTION 9, BLOCK "X", H.P. HILLIARD SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS

Oil & Gas Compliance Officer Ron Jenkins reported this was the Road Repair Agreement for the well.

Council Member Sparks moved to adopt Resolution No. 2012 - 394; seconded by Council Member James. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Perry.

44. Consider a resolution approving the issuance of a permit to Bluestem Energy Holdings, LLC (Operator), for a Permit to Drill an Oil & Gas Well within the City Limits, (Evans F 1) located 2,314 feet from the north line and 2,340 feet from the west line located in Section 8, Block "X", H. P. Hilliard Survey, City and County of Midland, Texas. (Generally located on the east side of the North Midland Drive, approximately ½ mile north of Mockingbird Lane.) (DEVELOPMENT SERVICES)

RESOLUTION NO. 2012 - 395

RESOLUTION APPROVING THE ISSUANCE OF A PERMIT TO BLUESTEM ENERGY HOLDINGS, LLC ("OPERATOR") TO DRILL AN OIL AND GAS WELL WITHIN THE CITY LIMITS LOCATED 2,314 FEET FROM THE NORTH LINE AND 2,340 FEET FROM THE WEST LINE, SECTION 8, BLOCK "X", H.P. HILLIARD SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE EAST SIDE OF NORTH MIDLAND DRIVE, APPROXIMATELY ½ MILE NORTH OF MOCKINGBIRD LANE); AND PROVIDING THAT SAID PERMIT DOES NOT REQUIRE A NEW ROAD REPAIR AGREEMENT BUT SHALL BE CONSOLIDATED UNDER AN EXISTING ROAD REPAIR AGREEMENT

Oil & Gas Compliance Officer Ron Jenkins gave an overview reporting that no letters of objection had been received for this application. The Oil & Gas Advisory Committee reviewed the application and recommended that the landscaping variance be granted for no more than two years.

Council Member Sparks moved to adopt Resolution No. 2012 - 395; seconded by Council Member Hailey. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

45. Consider a resolution approving a settlement regarding a 45.99-acre tract of land located in Section 15, Block 39, T-1-S, T&P RR Co. Survey, Midland County, Texas and more specifically described in Volume 2311, Page 306 of the Deed Records of Midland County, Texas. (CITY ATTORNEY'S)

RESOLUTION NO. 2012 - 396

RESOLUTION AUTHORIZING ACCEPTANCE OF A MINERAL DEED FROM THE ESTATE OF ROBERT B. HOLT; AND AUTHORIZING THE CITY MANAGER TO EXECUTE ALL DOCUMENTS NECESSARY TO SETTLE ALL CLAIMS OF THE CITY OF MIDLAND INVOLVING A 45.99-ACRE TRACT OF LAND LOCATED IN SECTION 15, BLOCK 39, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AND MORE SPECIFICALLY DESCRIBED IN VOLUME 2311, PAGE 306 OF THE DEED RECORDS OF MIDLAND COUNTY, TEXAS

Council Member James moved to adopt Resolution No. 2012 - 396; seconded by Council Member Trost. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

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

Council Member Hailey requested to continue her service on the CDBG Committee after she left office in January 2013.

Following discussion, a motion was made by Council Member Trost to keep Vicky Hailey on the CDBG Committee after she leaves office; seconded by Council Member James. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

SECOND READINGS

47. Consider an ordinance on second reading on a request by Sagestar Development and Construction, LLC for a zone change from PD, Planned District for a Shopping Center to an Amended Planned District on Lot 4A, Block 3, Westridge Park Addition, Section 15, City and County of Midland, Texas. (Generally located on the west side of Tradewinds Boulevard, approximately 630 feet south of Andrews Highway.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9074

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOT 4A, BLOCK 3, WESTRIDGE PARK ADDITION, SECTION 15, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A SHOPPING CENTER, TO BE USED AS AN AMENDED PLANNED DISTRICT (GENERALLY LOCATED ON THE WEST SIDE OF TRADEWINDS BOULEVARD, APPROXIMATELY 630 FEET SOUTH OF ANDREWS HIGHWAY); PROVIDING FOR SUCH USE TO BE SUBJECT TO CERTAIN SPECIAL CONDITIONS AND RESTRICTIONS AS SET OUT HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

Deputy City Secretary Garcia read the caption of Ordinance No. 9074.

Council Member Hailey moved to approve the second and final reading of Ordinance No. 9074 in accordance with the Charter of the City of Midland; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Perry.

48. Consider an ordinance on second reading for the vacation of a 1,400 square foot portion of the right-of-way of West Ohio Street adjacent to Lot 12, Block 26, Original Town, City and County of Midland, Texas. (Generally located on the southeast corner of the intersection of West Ohio Street and North Colorado Street.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9075

AN ORDINANCE VACATING AND ABANDONING A 0.032-ACRE PORTION OF WEST OHIO STREET RIGHT-OF-WAY ADJACENT TO LOT 12, BLOCK 26, ORIGINAL TOWN ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTHEAST CORNER OF THE INTERSECTION OF WEST OHIO STREET AND NORTH COLORADO STREET); ADOPTING THE APPRAISAL BY THE CITY MANAGER OF \$2,100.00; AND ORDERING RECORDATION BY THE CITY SECRETARY

Deputy City Secretary Garcia read the caption of Ordinance No. 9075.

Council Member Hailey moved to approve the second and final reading of Ordinance No. 9075 in accordance with the Charter of the City of Midland; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Perry.

PUBLIC HEARINGS

49. At approximately 10:29 a.m. hold a public hearing and consider a resolution of the City Council of the City of Midland, Texas, providing for the annexation of certain sparsely populated property; the owner has requested that the property be annexed; said property is adjacent to and contiguous to the present boundary limits of the City of Midland; said property being a 30.98-acre tract of land out of Section 35, Block 40, T-1-S, T&P RR Co. Survey, Midland County Texas; the Midland City Council hereby grants the petition for annexation as authorized by Section 43.028 of the Texas Local Government Code; and authorizing and directing the City Secretary to file a certified copy of this resolution and all exhibits in the Midland County Deed Records maintained by the Midland County Clerk. (Generally located on the east side of State Highway 158, approximately 1/2 mile northwest of State Highway 191) (DEVELOPMENT SERVICES)

RESOLUTION NO. 2012 - 397

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIDLAND, TEXAS, PROVIDING FOR THE ANNEXATION OF CERTAIN SPARSELY POPULATED PROPERTY; THE OWNER HAS REQUESTED THAT THE PROPERTY BE ANNEXED; SAID PROPERTY IS ADJACENT TO AND CONTIGUOUS TO THE PRESENT BOUNDARY LIMITS OF THE CITY OF MIDLAND; SAID PROPERTY BEING A 30.98-ACRE TRACT OF LAND OUT OF SECTION 35, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY TEXAS; THE MIDLAND CITY COUNCIL HEREBY GRANTS THE PETITION FOR ANNEXATION AS AUTHORIZED BY SECTION 43.028 OF THE TEXAS LOCAL GOVERNMENT CODE; AND AUTHORIZING AND DIRECTING THE CITY SECRETARY TO FILE A CERTIFIED COPY OF THIS RESOLUTION AND ALL EXHIBITS IN THE MIDLAND COUNTY DEED RECORDS MAINTAINED BY THE MIDLAND COUNTY CLERK

Mayor Pro Tem Morales opened the public hearing at 10:48 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Council Member Hailey moved to adopt Resolution No. 2012 - 397; seconded by Council Member Trost. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

50. At approximately 10:30 a.m. hold a public hearing and consider an ordinance on a request by Davidheiser Family Trust for a zone change from MH, Mobile Home Dwelling District and LR-2, Local Retail District to MF-1, Multiple Family Dwelling District on a 22.46-acre tract of land out of Section 1, Block 39, T-2-S, T&P RR Co. Survey, Midland County, Texas. (Generally located at the east side of South Lamesa Road, approximately 1,100 feet north of East Interstate 20.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9081

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 22.46-ACRE TRACT OF LAND OUT OF SECTION 1, BLOCK 39, T-2-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED MH, MANUFACTURED HOME DISTRICT, IN PART, AND LR-2, LOCAL RETAIL DISTRICT, IN PART, TO BE USED AS AN MF-1, MULTIPLE-FAMILY DWELLING DISTRICT (GENERALLY LOCATED ON THE EAST SIDE OF LAMESA ROAD, APPROXIMATELY 1,100 FEET NORTH OF INTERSTATE 20); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

Planning Division Manager Cameron Walker gave an overview of the item noting the land was just over 22 acres and this was a request to consider a zone change. He explained there was not currently a site plan but one would come back and have another round of public hearings. He noted no letters of objection had been received and that the Planning & Zoning Commission recommended in favor of the item.

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

John Love, 1613 East Oak, noted his support of the item.

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

Deputy City Secretary Garcia read the caption of Ordinance No. 9081.

Council Member Hailey moved approval of the first of two readings of Ordinance No. 9081 in accordance with the Charter of the City of Midland; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

51. At approximately 10:33 a.m. hold a public hearing and consider an ordinance on a request by Javi's Restaurant for a Specific Use Permit with Term for the sale of all alcoholic beverages, for on-premises consumption, in a restaurant, on Lot 7, less the west 5 feet and on Lots 8 through 10, Block 20, Belmont Addition, City and County of Midland, Texas. (Generally located on the northeast corner of the intersection of Rankin Highway and West Francis Avenue.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9082

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS LOT 7, LESS THE WEST 5 FEET, AND LOTS 8, 9 AND 10, BLOCK 20, BELMONT ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS

(GENERALLY LOCATED ON THE NORTHEAST CORNER OF THE INTERSECTION OF RANKIN HIGHWAY AND WEST FRANCIS AVENUE), WHICH IS PRESENTLY ZONED LR-3, LOCAL RETAIL DISTRICT, BY PERMITTING SAID PROPERTY TO BE USED UNDER A SPECIFIC USE PERMIT WITH TERM FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A 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

Planning Division Manager Cameron Walker gave an overview of the item noting it was for the sale of alcoholic beverages from 11 a.m. to midnight. The applicant's intention was to have the main dining area available for alcoholic beverages only through 2 p.m. and then the banquet area would serve snacks and alcoholic beverages from 2 p.m. to midnight. No letters of opposition were received.

Mayor Perry opened the public hearing at 10:53 a.m.

John Love, 1613 East Oak, noted his support of the item.

There being no one else wishing to speak, the public hearing was closed at 10:54 a.m.

Deputy City Secretary Garcia read the caption of Ordinance No. 9082.

Council Member Hailey moved approval of the first of two readings of Ordinance No. 9082 in accordance with the Charter of the City of Midland; seconded by Council Member Morales. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

52. At approximately 10:36 a.m. hold a public hearing and consider an ordinance on a request by Jeff Benson for a Specific Use Permit with Term for the sale of all alcoholic beverages, for on-premises consumption, in a Theater/Amusement Center, on Lot 1A, Block 2, Gateway Plaza, City and County of Midland, Texas. (Generally located on the northeast corner of the intersection of West Business 20 and Liberty Drive.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9083

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS LOT 1A, BLOCK 2, GATEWAY PLAZA, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTHEAST CORNER OF THE INTERSECTION OF WEST BUSINESS 20 AND LIBERTY DRIVE), WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A SHOPPING CENTER, BY PERMITTING SAID PROPERTY TO BE USED UNDER A SPECIFIC USE PERMIT WITH TERM FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A THEATER / AMUSEMENT CENTER 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

Planning Division Manager Cameron Walker provided an overview of the item noting it was for the sale of alcoholic beverages at the new movie theater that was under construction. They would operate between 12 noon and 2 a.m. seven days a week. He noted the theatre's alcoholic beverage sale was typically less than 5 percent of their overall food and beverage sales. No letters of opposition had been received and the item had been approved by the Planning & Zoning Commission.

Mayor Perry opened the public hearing at 10:57 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Deputy City Secretary Garcia read the caption of Ordinance No. 9083.

Council Member Hailey moved approval of the first of two readings of Ordinance No. 9083 in accordance with the Charter of the City of Midland; seconded by Council Member James.

When asked the length of the term, Mr. Walker reported the sale of alcoholic beverage permit was for a two-year renewable permit and if there were any problems, the City would have the ability to revoke the permit.

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

53. At approximately 10:39 a.m. hold a public hearing and consider an ordinance on a city-initiated proposal for a zone change from C-1, Central Area District to PD, Planned District for a Housing Development on Lots 1 through 8; the north 8 feet of the west 75 feet of Lot 9, the east 65 feet of Lots 9 through 12; and Lots 13 through 23, Block 53; Original Town, City and County of Midland, Texas. (Generally located on the east side of North Main Street bounded by East Texas Avenue and Wall Street.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9084

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOTS 1-8, THE NORTH 8 FEET OF THE WEST 75 FEET OF LOT 9, THE EAST 65 FEET OF LOTS 9-12, AND LOTS 13-23, BLOCK 53, ORIGINAL TOWN, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED C-1, CENTRAL AREA DISTRICT, TO BE USED AS A PD, PLANNED DISTRICT FOR A HOUSING DEVELOPMENT (GENERALLY LOCATED NORTH OF WALL STREET, SOUTH OF TEXAS AVENUE, EAST OF MAIN STREET, AND WEST OF BAIRD STREET); PROVIDING FOR SUCH USE TO BE SUBJECT TO CERTAIN SPECIAL CONDITIONS AND RESTRICTIONS AS SET OUT HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

Planning Division Manager Cameron Walker gave an overview of the item noting this was a City initiated proposal to build multi-family condos/apartments with a multi-level parking garage. It will be up to an eight story building with a maximum of 150 dwelling units with 1.4 parking spaces per dwelling unit. Approval of this item will allow for up to

a five foot overhang onto the public right of way for balconies. No letters of objections had been received and Planning & Zoning recommended in favor of the item.

When asked why it was necessary to change the zoning, Mr. Walker responded that the new zoning allowed for less than 2 parking spaces per unit and allowed for greater density than 16 units per acre.

Mayor Perry opened the public hearing at 11:02 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Deputy City Secretary Garcia read the caption of Ordinance No. 9084.

Council Member James moved approval of the first of two readings of Ordinance No. 9084 in accordance with the Charter of the City of Midland; seconded by Council Member Morales. The motion carried by the following vote: AYE: Morales, Trost, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: Hailey. ABSENT: None.

54. At approximately 10:42 a.m. hold a public hearing and consider an ordinance on a request by Tim Ernst for a zone change from 1F-2, One-Family Dwelling District to PD, Planned District for an Office Center on Lot 1A, Block 5, S. W. Estes Addition, Section 2, City and County of Midland, Texas. (Generally located near the southwest corner of the intersection of West Cuthbert and Whitaker Street.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9085

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOT 1A, BLOCK 5, S.W. ESTES ADDITION, SECTION 2, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED 1F-2, ONE-FAMILY DWELLING DISTRICT, TO BE USED AS A PD, PLANNED DISTRICT FOR AN OFFICE CENTER (GENERALLY LOCATED ON THE SOUTHWEST CORNER OF WEST CUTHBERT AVENUE AND WHITAKER STREET); PROVIDING FOR SUCH USE TO BE SUBJECT TO CERTAIN SPECIAL CONDITIONS AND RESTRICTIONS AS SET OUT HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

Planning Division Manager Cameron Walker gave an overview of the item noting that previously the applicant was directed to redesign the building to have more of a residential type character. The applicant submitted their redesigned drawings and staff recommended in favor of the item.

Mayor Perry opened the public hearing at 11:09 a.m.

Robert Rendall, 550 W. Texas Ave, stated he was present on behalf of the owners. He felt the building better meshed with the neighborhood and would free up some storage space that could be used for offices.

There being no one else wishing to speak, the public hearing was closed at 11:10 a.m.

Deputy City Secretary Garcia read the caption of Ordinance No. 9085.

Council Member Sparks moved approval of the first of two readings of Ordinance No. 9085 in accordance with the Charter of the City of Midland; seconded by Council Member Hailey. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

55. At approximately 10:45 a.m. hold a public hearing and consider a resolution on a request by Oregon Trail Trees for a Temporary Land Use Permit for Outdoor Christmas Tree Sales on the remainder of Lot 1, Block 1, Scotsdale Addition, Section Two, City and County of Midland, Texas. (Generally located on the west side of North Midland Drive, approximately 160 feet south of West Dengar Avenue.) (DEVELOPMENT SERVICES)

RESOLUTION NO. 2012 - 398

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 Cameron Walker gave an overview of the item noting this was third request for a temporary land use permit at this location by Joe Smith for the sale of Christmas trees between November 23 and December 24 with operating hours of 10 a.m. to 10 p.m. This item was consistent with what the Council had approved in the past. Mr. Smith agreed to observe a 20 foot setback along Midland Drive side for driver visibility. Previously there were no issues and staff recommended approval.

Mayor Perry opened the public hearing at 11:12 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Council Member Trost moved to adopt Resolution No. 2012 - 398; seconded by Council Member Hailey. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

56. At approximately 10:48 a.m. hold a public hearing regarding a proposed oil and gas permit to Linn Operating, Inc. (Operator), for a permit to drill an oil & gas well within the City Limits, (Robbie 24D) located 262 feet from the north line and 467 feet from the west line located in Section 24, Block 40, T-1-S, T&P RR Co., Survey, City and County of Midland, Texas. (Generally located on the east side of Avalon Drive, approximately 250 feet south of the extension of Mockingbird Lane.) (DEVELOPMENT SERVICES)

Oil and Gas Compliance Officer Ron Jenkins reported that no letters of objection had been received and that the Oil & Gas Advisory Committee reviewed the application and recommended approval with the clarification of the surface map and acceptance of a 490 foot variance from an occupied commercial structure. Linn Operating addressed the issues and requested a variance to have an office in corporate City limits. They were requesting a variance of 495 feet from an occupied commercial structure. In response to the question if this would affect the extension of Mockingbird, Mr. Jenkins reported this item was reviewed by Transportation and Engineering and no one saw any impediments.

Mayor Perry opened the public hearing at 11:15 a.m. There being no one present wishing to speak, the public hearing was immediately closed. No further action was taken on this item.

57. At approximately 10:51 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 No. 2) located 2,167 feet from the north line and 600 feet from the west line, southeast quarter of the northwest quarter of Section 9, Block "X", H.P. Hilliard Survey, City and County of Midland, Texas. (Generally located on the south side of the Passage Way, approximately 600 feet east of North Midkiff Road.) (DEVELOPMENT SERVICES)

Mayor Perry recused himself from Agenda Items 57 and 58 and left the dais.

Oil & Gas Compliance Officer Jenkins reported that three letters of objection had been received, that the Oil & Gas Advisory Committee reviewed the well site and recommended approval with the following recommendations: identify the Atoka Formation, certify the well was inside the City limits, provide certificate of liability insurance sudden and accidental coverage to cover a longer time period of 30 days to discover an incident and 9 days to report, instead of 10 days and 30 days respectively, or provide control of well coverage that included those time periods, and the emergency response map needs to identify the well location. The surface and mineral owners were working on a surface agreement and were expected to present their status. Endeavor Energy addressed the Committee recommendations except for the request for certificate of liability insurance.

Mr. Jenkins clarified that Endeavor Energy has submitted sudden accidental coverage of 10 days to discover and 30 days to report but the Committee requested longer time periods of 30 days to discover and 9 days to report. He confirmed that every other operator that has drilled inside the City limits has complied with the request by adding control of well coverage.

Mayor Pro Tem Morales opened the public hearing at 11:18 a.m.

Janet Walton, 2700 North Garfield, questioned the legitimacy of the public hearing because of the notice requirements. She reported she received the notice with two different postmark dates, November 6 and November 7. She also reported a problem with the legal description on the back of the notice. The description under number 57 states the southeast quarter of the northwest quarter when it should be the southwest quarter of the northwest quarter. She stated that Chaps #3, or any other wells on that lease, were subject to certain restrictions of the settlement agreement between the City of Midland and Endeavor Energy. She noted her opposition to the well because they have a lot of money invested in the property and the well was placed in the center of a 40 acre tract. She reported her and Endeavor's attorney had been working towards a settlement agreement, but it was not yet finished.

Discussion ensued about the legitimacy of the public hearing because of the postmark issues. First Assistant City Attorney John Ohnemiller reported that according to Planning Division Manager Walker the notices were placed in the mail on November 2. He further clarified that Ms. Walton was present at the meeting and did not miss the

meeting because she did not receive the notice. Mr. Walker reported that another person received his notice and it was postmarked November 2. Ms. Walton reported that she received a second notice that was also postmarked November 2.

Kelly Kuykendall, 409 ECR 137, noted she was speaking on behalf of TLK Construction. She reported they purchased three lots on Fairfield Lane: 3224, 3220 and 3216 and they currently have a house under construction for sale at 3216 Fairfield Lane. She was told that Chaps #2 would be located approximately 600 feet from back of the property under construction. Midland has a need for housing and they are trying to help with that need, but a property with a drilling rig in the back yard could be detrimental and make it difficult to sell. She reported she was also speaking on behalf of Thomas Veatch of Veatch Construction who was also building on Fairfield Lane. They both objected to the well.

Matt Garner, Austin, speaking on behalf of Endeavor Energy, noted he was available to answer any questions about their application. When asked why they would not provide control of well insurance Mr. Garner responded that they had not requested any variances from the Ordinance and submitted to the advisory committee exactly what was required by the Ordinance. He stated well control coverage was not required by the Ordinance and Endeavor's position is they have submitted what was required by the Ordinance. When asked if he was willing to fight over the insurance requested, Mr. Garner replied they were willing to provide what was required by the Ordinance and were not willing to obtain Control of Well Coverage.

Council Member Trost noted that the Ordinance requires full disclosure and asked that Endeavor provide any documentation of any wells drilled in the State of Texas relating to Section I #13 of the Oil & Gas Ordinance. Discussion ensued about whether that section pertained only to Midland. Members of the council felt the intent was for the section pertained to the entire State of Texas.

In response to a question about the settlement agreement, Mr. Garner reported he had been working extensively with Mr. Cunningham on a surface agreement with the Walton's and expected to have a document that both parties would be willing to sign by the end of the day. A provision of the surface agreement stated that any provision in the settlement agreement reached between Endeavor Energy and the City of Midland with regard to litigation on the Chaps #1 well, the terms of that agreement would be incorporated within the surface use agreement.

Mike Cunningham, 1209 West Illinois, reported he represents the Walton's and that he has been working with Mr. Garner and they have made a great deal of headway but they do not have an agreement. He emphasized that neither he nor Ms. Walton have not yet seen a final draft and want to review that before making a commitment to sign anything. They will need a reasonable amount of time to finish their negotiations.

In response to a question about how the settlement agreement affects the City of Midland, City Attorney Keith Stretcher responded that the settlement agreement settled the well on the Walton's property. The City is in full compliance and has no knowledge of anyone not being in compliance. In reference to Chaps #1 Endeavor Energy obtained their permit as required and City Council approved it.

Mike Cunningham did not believe that Endeavor was in compliance with the settlement

agreement. He wasn't sure which ordinance would apply to future wells noting he felt it was ambiguous.

City Attorney Stretcher replied it was very clear; the agreement talks about compliance with the ordinance and procedural requirements of the old ordinance and new requirements of the new ordinance. All oil and gas wells drilled after the new ordinance date must comply with the new ordinance. In respect to the insurance, the new ordinance gives the Council the authority on insurance. The Council can extend the discovery period or require other insurance. If Endeavor doesn't want to comply, they don't have to accept the permit.

Gilbert Saenz, 5800 Dunbar Oaks, his company owns four lots on Fairfield Lane, 3200 Fairfield is a sold home under construction and he now has to disclose this to the customer. He noted his opposition to the well because it would affect the value of the homes he is building.

There being no one else wishing to speak, the public hearing was closed at 11:48 a.m. No further action was taken on this item.

58. At approximately 10:54 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 No. 3) located 2,167 feet from the north line and 1950 feet from the west line, southwest quarter of the northwest quarter of Section 9, Block "X", H.P. Hilliard Survey, City and County of Midland, Texas. (Generally located on the south side of the Passage Way, approximately 1,950 feet east of North Midkiff Road.) (DEVELOPMENT SERVICES)

Oil & Gas Compliance Officer Ron Jenkins reported the well has received two letters of objection and has been reviewed by the Oil & Gas Advisory Committee. The well site was recommended for approval with the following recommendations: identify the Atoka Formation, certify the well is inside the City limits, certificate of liability insurance sudden accidental to cover a longer time period of 30 days to discover and 9 days to report instead of 10 and 30 days respectively or add control of well that includes those time periods. Both parties are working on a surface agreement and are expected to be completed soon. Endeavor Energy has addressed the Committee recommendations and updated the application except for the insurance which is the same as the previous well.

Mayor Pro Tem Morales opened the public hearing at 11:49 a.m.

Matt Garner, Austin, provided an update on the status of the surface use agreement with the owner where Chaps #3 will be located. They have reached an agreement, in principal, with the surface owner pending a survey of the acreage where the actual well site will be located.

Council Member Trost suggested that all discussion from Agenda Item 57 be also carried over to Agenda Item 58 especially Council concern about the control of well insurance coverage.

There being no one else wishing to speak, the public hearing was closed at 11:51 a.m. No further action was taken on this item.

59. At approximately 10:57 a.m. hold a public hearing and consider an ordinance establishing the initial zoning of annexed land to: BP, I-20 Business Park District, on a 283.36-acre tract of land (Tract 1) out of Sections 11 and 12, Block 40, T-2-S T&P RR Co. Survey, Midland County, Texas. (Generally located northeast corner of the intersection of West I-20 and South County Road 1250.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9086

AN ORDINANCE ESTABLISHING THE ZONING CLASSIFICATION OF THE AREA INDICATED AS BEING A 283.36-ACRE TRACT OF LAND OUT OF SECTIONS 11 AND 12, BLOCK 40, T-2-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION ONE HEREOF, AS A BP, I-20 BUSINESS PARK DISTRICT; SAID TRACT IS GENERALLY LOCATED ON THE NORTHEAST CORNER OF THE INTERSECTION OF WEST INTERSTATE 20 AND SOUTH COUNTY ROAD 1250; 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 Cameron Walker gave an overview of the item noting this was part of a proposed annexation. No letters of objection were received.

Mayor Perry opened the public hearing at 11:53 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Deputy City Secretary Garcia read the caption of Ordinance No. 9086.

Council Member Trost moved approval of the first of two readings of Ordinance No. 9086 in accordance with the Charter of the City of Midland; seconded by Council Member Hailey. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

60. At approximately 11:00 a.m. hold a public hearing and consider an ordinance establishing the initial zoning of annexed land to PD, Planned District for an Office Center, on a 29.82-acre tract of land (Tract 2A) out of Sections 37 and 38, Block 40, T-1-S, T & P RR Co. Survey; to PD, Planned District for an Office Center on a 21.87-acre tract of land (Tract 2B); to PD, Planned District for a Housing Development on a 16.13-acre tract of land (Tract 2C); to LR-2, Local Retail District on a 11.71-acre tract of land (Tract 2D); and to LR-2, Local Retail District on a 2.29-acre tract of land (Tract 2E), all out of Section 37, Block 40, T-1-S, T & P RR Co. Survey, Midland County, Texas. (Generally located on the southwest corner of the intersection of Tradewinds Boulevard and Deauville Boulevard.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9087

AN ORDINANCE ESTABLISHING THE ZONING CLASSIFICATION OF THE AREA INDICATED AS BEING A 29.82-ACRE TRACT OF LAND OUT OF SECTIONS 37 AND 38, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS ("TRACT 2A"), AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION ONE HEREOF, AS A PD, PLANNED DISTRICT FOR AN OFFICE CENTER; ESTABLISHING THE ZONING CLASSIFICATION OF THE AREA INDICATED AS BEING A 21.87-ACRE TRACT OF LAND ("TRACT 2B"), AND BEING MORE

SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION TWO HEREOF, AS A PD, PLANNED DISTRICT FOR AN OFFICE CENTER; ESTABLISHING THE ZONING CLASSIFICATION OF THE AREA INDICATED AS BEING A 16.13-ACRE TRACT OF LAND ("TRACT 2C"), AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION THREE HEREOF, AS A PD, PLANNED DISTRICT FOR A HOUSING DEVELOPMENT; ESTABLISHING THE ZONING CLASSIFICATION OF THE AREA INDICATED AS BEING A 11.71-ACRE TRACT OF LAND ("TRACT 2D"), AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION FOUR HEREOF, AS AN LR-2, LOCAL RETAIL DISTRICT; ESTABLISHING THE ZONING CLASSIFICATION OF THE AREA INDICATED AS BEING A 2.29-ACRE TRACT OF LAND ("TRACT 2E"), AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION FIVE HEREOF, AS AN LR-2, LOCAL RETAIL DISTRICT; TRACTS 2B-2E ARE ALL OUT OF SECTION 37, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS; SAID TRACTS ARE GENERALLY LOCATED ON THE SOUTHWEST CORNER OF THE INTERSECTION OF TRADEWINDS BOULEVARD AND DEAUVILLE BOULEVARD; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

Planning Division Manager Cameron Walker gave an overview of the item noting this item was also for initial zoning of land being annexed into city. One letter of objection had been received.

Mayor Perry opened the public hearing at 12:00 noon.

Eric West, 1700 West Wall, reported they were attempting to keep Tracts 2A and 2B identical in terms of restrictions and allowances and asked that the building height of 67 feet be changed to 68 feet on those two tracts.

There being no one else wishing to speak, the public hearing was closed at 12:02 p.m.

Deputy City Secretary Garcia read the caption of Ordinance No. 9087.

Council Member Morales moved approval of the first of two readings of Ordinance No. 9087 in accordance with the Charter of the City of Midland with amendment to change the height restriction from 67 feet to 68 feet on tracts 2A and 2B; seconded by Council Member Dufford. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

61. At approximately 11:03 a.m. hold a public hearing and consider an ordinance establishing the initial zoning of annexed land to PD, Planned District for a Housing Development on a 3.623-acre tract of land (Tract 3A) and a 1F-1, One-Family Dwelling District, on a 27.347-acre tract of land (Tract 3B) all out of Section 35, Block 40, T-1-S T&P RR Co. Survey, Midland County, Texas. (Generally located on the east side of State Highway 158, approximately ½ mile northwest of State Highway 191.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9088
AN ORDINANCE ESTABLISHING THE ZONING CLASSIFICATION OF THE AREA

INDICATED AS BEING A 3.623-ACRE TRACT OF LAND ("TRACT 3A"), AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION ONE HEREOF, AS A PD, PLANNED DISTRICT FOR A HOUSING DEVELOPMENT; ESTABLISHING THE ZONING CLASSIFICATION OF THE AREA INDICATED AS BEING A 27.347-ACRE TRACT OF LAND ("TRACT 3B"), AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION TWO HEREOF, AS A 1F-1, ONE-FAMILY DWELLING DISTRICT; SAID TRACTS ARE ALL OUT OF SECTION 35, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS; SAID TRACTS ARE GENERALLY LOCATED ON THE EAST SIDE OF STATE HIGHWAY 158, APPROXIMATELY ½ MILE NORTHWEST OF STATE HIGHWAY 191; 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 Cameron Walker gave an overview of the item noting that this item was also for the initial zoning of property being annexed. No letters of objection had been received and staff recommended approval.

Mayor Perry opened the public hearing at 12:07 p.m. There being no one present wishing to speak, the public hearing was immediately closed.

Deputy City Secretary Garcia read the caption of Ordinance No. 9088.

Council Member Sparks moved approval of the first of two readings of Ordinance No. 9088 in accordance with the Charter of the City of Midland; seconded by Council Member Hailey. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

62. At approximately 11:06 a.m. hold a public hearing and consider an ordinance establishing the initial zoning of annexed land to: FD, Future Development District, on a 193.29-acre tract of land (Tract 4) out of Sections 11 and 12, Block 40, T-2-S, T&P RR co. Survey, Midland County, Texas. (Generally located south side of Interstate Highway 20 south of South Loop 250 West.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9089

AN ORDINANCE ESTABLISHING THE ZONING CLASSIFICATION OF THE AREA INDICATED AS BEING A 193.29-ACRE TRACT OF LAND OUT OF SECTIONS 11 AND 12, BLOCK 40, T-2-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION ONE HEREOF, AS AN FD, FUTURE DEVELOPMENT DISTRICT; SAID TRACT IS GENERALLY LOCATED ON THE SOUTH SIDE OF INTERSTATE 20, SOUTH OF SOUTH 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 Cameron Walker reported this land was also scheduled to be annexed into the City and the applicant would return in the future for zone changes when development uses have been determined.

Mayor Perry opened the public hearing at 12:09 a.m. There being no one present

wishing to speak, the public hearing was immediately closed.

Deputy City Secretary Garcia read the caption of Ordinance No. 9089.

Council Member Sparks moved approval of the first of two readings of Ordinance No. 9089 in accordance with the Charter of the City of Midland; seconded by Council Member Hailey. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

63. At approximately 11:09 a.m. hold a public hearing and consider an ordinance on a request by James Grose for a zone change from PD, Planned District for a Housing Development to Amended Planned District on Lot 1A, Block 4, Gateway Plaza, Section 4, City and County of Midland, Texas. (Generally located on the west side of Tradewinds Boulevard, approximately 800 feet north of West Business I-20) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9090

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOT 1A, BLOCK 4, GATEWAY PLAZA, SECTION 4, 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 WEST SIDE OF TRADEWINDS BOULEVARD, APPROXIMATELY 800 FEET NORTH OF WEST BUSINESS INTERSTATE 20); 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 Cameron Walker gave an overview of the item noting the plan was to build 214 units in nine building. No letters of objection were received.

Mayor Perry opened the public hearing at 12:13 p.m. There being no one present wishing to speak, the public hearing was immediately closed.

Deputy City Secretary Garcia read the caption of Ordinance No. 9090.

Council Member Hailey moved approval of the first of two readings of Ordinance No. 9090 in accordance with the Charter of the City of Midland; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

64. At approximately 11:12 a.m. hold a public hearing and consider an ordinance on a request by SBC Corporation/Grassland Estates West for a zone change from FD, Future Development District to 1F-1, One-Family Dwelling District on a 10.215-acre tract of land and to PD, Planned District for a Housing Development on a 1.695-acre tract of land all out of Section 35, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas. (Generally located on the northeast side of State Highway 158 at the west extension of Homestead Boulevard.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9091

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 10.215-ACRE TRACT OF LAND WHICH IS PRESENTLY ZONED FD, FUTURE DEVELOPMENT DISTRICT, TO BE USED AS A 1F-1, ONE-FAMILY DWELLING DISTRICT; BY PERMITTING A 1.695-ACRE TRACT OF LAND WHICH IS PRESENTLY ZONED FD, FUTURE DEVELOPMENT DISTRICT, TO BE USED AS A PD, PLANNED DISTRICT FOR A HOUSING DEVELOPMENT; SAID TRACTS BEING LOCATED IN SECTION 35, 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 MADE A PART HEREOF; SAID TRACTS ARE GENERALLY LOCATED ON THE NORTHEAST SIDE OF STATE HIGHWAY 158 AT THE WEST EXTENSION OF HOMESTEAD 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

Planning Division Manager Cameron Walker provided an overview noting no letters of objection had been received.

Mayor Perry opened the public hearing at 12:15 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Deputy City Secretary Garcia read the caption of Ordinance No. 9091.

Council Member Hailey moved approval of the first of two readings of Ordinance No. 9091 in accordance with the Charter of the City of Midland; seconded by Council Member Morales. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

65. At approximately 11:15 a.m. hold a public hearing and consider a resolution approving a Temporary Land Use Permit for an Outdoor Amusement Function on the west 90 feet of Lots 10 thru 12, Block 61 and on Lot 1, the north 30 feet of Lot 2, Block 60 1/2, and a 10 foot by 80 foot vacated portion of Carrizo Street, all out of Original Town, City and County of Midland, Texas. (Generally located on the south side of West Wall Street, on both sides of Carrizo Street.) (DEVELOPMENT SERVICES)

RESOLUTION NO. 2012 - 399

RESOLUTION AUTHORIZING THE TEMPORARY USE OF LAND FOR AN OUTDOOR AMUSEMENT FUNCTION ON THE WEST 90 FEET OF LOTS 10-12, BLOCK 61, AND ON LOT 1 AND THE NORTH 30 FEET OF LOT 2, BLOCK 60 1/2, AND A 10 FOOT BY 80 FOOT VACATED PORTION OF CARRIZO STREET, ALL OUT OF ORIGINAL TOWN, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTH SIDE OF WEST WALL STREET, ON BOTH SIDES OF CARRIZO STREET); AND MAKING SAID PERMIT SUBJECT TO CERTAIN SPECIAL CONDITIONS AND RESTRICTIONS CONTAINED HEREIN

Planning Division Manager Cameron Walker provided an overview of the item noting

this was for a temporary land use permit for this weekend November 17 from 11 a.m. until 2 a.m. the following morning for the sale of alcoholic beverages and live music for a fundraising event. No letters of objection had been received.

Mayor Perry opened the public hearing at 12:18 p.m. There being no one present wishing to speak, the public hearing was immediately closed.

Council Member James moved to adopt Resolution No. 2012 - 399; seconded by Council Member Morales. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

EXECUTIVE SESSION

66. 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 Cotton, Bledsoe, Tighe and Dawson law firm contemplated litigation involving a 45.99-acre tract of land located in Section 15, Block 39, T-1-S, T&P RR Co. Survey, Midland County, Texas and more specifically described in Volume 2311, Page 306 of the Deed Records of Midland County, Texas.

Mayor Perry announced that the Agenda Items 37 through 46 would be heard after Executive Session and expected to reconvene around 1:30 p.m. He recessed the meeting at 12:21 p.m.

All of the business at hand having been completed, the meeting adjourned at 2:00 p.m.

PASSED AND APPROVED the 27th day of November, 2012.

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary



City Council Agenda

Approved for Agenda:
CSharp
City Manager's Office

MEETING DATE: 11/27/2012

TO: City Council / City Manager

FROM: Bob McNaughton, Finance Director

SUBJECT: Resolution Approving Fiscal Year 2013 Investment Policy

Purpose:

Provide approval of Investment Policy as required by Chapter 2256 of Texas Government Code

Recommended City Council Action

☒ Approve ☐ Deny ☐ Directional / Informational

Fiscal Impact:

Management of City funds under the proposed investment policy has provided returns of .6172% during the past year as compared to .0733% for Three Month Treasury Bills and State chartered pools returning .1160% to .1163%.

Discussion:

The Public Funds Investment Act (PFIA), Chapter 2256, Texas Government Code as amended by S.B. 1 (effective 09-01-11) requires that each investing entity adopt a written investment policy, and review and amend the policy annually (both actions to be by written instrument).

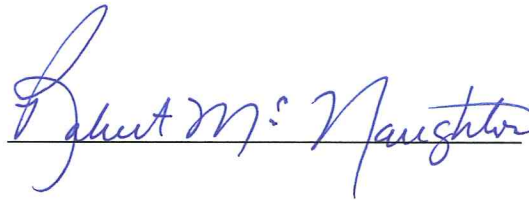
The attached policy was reviewed and approved by the Finance and Audit Committee on 11-12-12.

CITY OF MIDLAND
INVESTMENT PORTFOLIO REPORT
FOURTH QUARTER FY2012
AS OF 9/30/2012

This Quarterly Report is in compliance with the City of Midland Investment Policy and the Public Funds Investment Act (Chapter 2256).

The Investment Portfolio is in compliance with the City of Midland Investment Policy and applicable State Laws.

Robert McNaughton
Director of Finance

A handwritten signature in blue ink, reading "Robert McNaughton", written over a horizontal line.

Tommy Howell
Comptroller

A handwritten signature in blue ink, reading "Thomas Howell", written over a horizontal line.

Rolly Hughes
Asst. Treasurer

A handwritten signature in blue ink, reading "Rolly Hughes", written over a horizontal line.

Portfolio Summary
4th Quarter Fiscal 2012

	4th Quarter	YTD
Average Portfolio	\$239,793,734	\$224,222,610
Yield	0.4902%	0.4558%
Gains/Losses	0	361,875
Yield inc. G/L	0.4902%	0.6172%
Unrealized G/L	29,220	29,220
Change from Last Report	21,870	(299,930)
3mo T-Bill Yield	0.1121%	0.0733%
Texpool Yield	0.1408%	0.1160%
TexStar Yield	0.1428%	0.1163%

City of Midland
Listing of Investments
September 30, 2012

Investment Type	Maturity Date	Fund Owner-ship	Coupon Interest Rate	Principal	Beginning Market Value	Change in Position from Previous Quarter	Current Market Value	Accrued Interest to Date	Unrealized Profit/Loss	Cumulative Unrealized Profit/Loss
CASH	30-Sep-12	pooled	0.0000%	1,430,949.89	1,571,317.85	(140,367.96)	1,430,949.89	-	-	-
LOGIC	30-Sep-12	pooled	0.2020%	122,357.68	122,293.19	64.49	122,357.68	-	-	-
LOGIC	30-Sep-12	fund 365	0.2020%	29.10	29.10	-	29.10	-	-	-
LOGIC	30-Sep-12	fund 366	0.2020%	15,134.65	15,126.68	7.97	15,134.65	-	-	-
LOGIC	30-Sep-12	fund 389	0.2020%	1,416.70	1,415.89	0.81	1,416.70	-	-	-
LOGIC	30-Sep-12	fund 397	0.2020%	5,755.72	5,752.68	3.04	5,755.72	-	-	-
LOGIC	30-Sep-12	fund 501	0.2020%	13,692.35	13,685.19	7.16	13,692.35	-	-	-
LOGIC	30-Sep-12	fund 531	0.2020%	1,361.98	1,361.17	0.81	1,361.98	-	-	-
LOGIC	30-Sep-12	fund 532	0.2020%	5,588.86	5,585.88	2.98	5,588.86	-	-	-
TEXPOOL	30-Sep-12	pooled	0.1501%	48,382,906.05	42,149,889.63	6,233,016.42	48,382,906.05	-	-	-
TEXPOOL	30-Sep-12	fund 157	0.1501%	171,784.31	171,723.75	60.56	171,784.31	-	-	-
TEXPOOL	30-Sep-12	fund 158	0.1501%	2,552.09	2,551.17	0.92	2,552.09	-	-	-
TEXPOOL	30-Sep-12	fund 159	0.1501%	4,624.40	4,622.65	1.75	4,624.40	-	-	-
TEXPOOL	30-Sep-12	fund 165	0.1501%	90,535.74	90,503.85	31.89	90,535.74	-	-	-
TEXPOOL	30-Sep-12	fund 167	0.1501%	3,684.95	3,683.72	1.23	3,684.95	-	-	-
TEXPOOL	30-Sep-12	fund 168	0.1501%	4,701.23	4,699.46	1.77	4,701.23	-	-	-
TEXPOOL	30-Sep-12	fund 169	0.1501%	6,864.27	6,861.83	2.44	6,864.27	-	-	-
TEXPOOL	30-Sep-12	fund 185	0.1501%	8,157.93	8,155.04	2.89	8,157.93	-	-	-
TEXPOOL	30-Sep-12	fund 186	0.1501%	200,509.71	200,439.10	70.61	200,509.71	-	-	-
TEXPOOL	30-Sep-12	fund 187	0.1501%	20,800.01	20,792.66	7.35	20,800.01	-	-	-
TEXPOOL	30-Sep-12	fund 188	0.1501%	113,446.38	116,406.04	(2,959.66)	113,446.38	-	-	-
TEXPOOL	30-Sep-12	fund 189	0.1501%	84,179.01	84,149.38	29.63	84,179.01	-	-	-
TEXPOOL	30-Sep-12	fund 365	0.1501%	12,478.24	12,473.85	4.39	12,478.24	-	-	-
TEXPOOL	30-Sep-12	fund 375	0.1501%	485,178.80	485,007.84	170.96	485,178.80	-	-	-
TEXPOOL	30-Sep-12	fund 389	0.1501%	1,297,532.64	1,297,075.38	457.26	1,297,532.64	-	-	-
TEXPOOL	30-Sep-12	fund 397	0.1501%	1,524,122.03	1,523,584.87	537.16	1,524,122.03	-	-	-
TEXPOOL	30-Sep-12	fund 501	0.1501%	4,424,314.30	4,092,811.17	331,503.13	4,424,314.30	-	-	-
TEXPOOL	30-Sep-12	fund 531	0.1501%	200,817.06	200,746.33	70.73	200,817.06	-	-	-
TEXPOOL	30-Sep-12	fund 621	0.1501%	16,372,674.55	11,852,385.34	4,520,289.21	16,372,674.55	-	-	-
TEXPOOL	30-Sep-12	fund 641	0.1501%	7,714.49	7,711.76	2.73	7,714.49	-	-	-
TEXSTAR	30-Sep-12	pooled	0.1710%	57,926,897.55	64,639,076.59	(6,712,179.04)	57,926,897.55	-	-	-
TEXSTAR	30-Sep-12	fund 160	0.1710%	3,590,407.23	3,589,124.15	1,283.08	3,590,407.23	-	-	-
TEXSTAR	30-Sep-12	fund 161	0.1710%	4,117,113.80	4,115,642.54	1,471.26	4,117,113.80	-	-	-
TEXSTAR	30-Sep-12	fund 162	0.1710%	1,930,536.73	1,929,846.86	689.87	1,930,536.73	-	-	-
TEXSTAR	30-Sep-12	fund 163	0.1710%	2,501,963.07	2,501,068.99	894.08	2,501,963.07	-	-	-
TEXSTAR	30-Sep-12	fund 182	0.1710%	39,183.91	39,169.91	14.00	39,183.91	-	-	-
TEXSTAR	30-Sep-12	fund 184	0.1710%	387,273.29	387,134.87	138.42	387,273.29	-	-	-
TEXSTAR	30-Sep-12	fund 190	0.1710%	170,208.15	180,145.10	(9,936.95)	170,208.15	-	-	-
TEXSTAR	30-Sep-12	fund 191	0.1710%	405,594.15	405,449.16	144.99	405,594.15	-	-	-
TEXSTAR	30-Sep-12	fund 192	0.1710%	120,770.24	124,726.65	(3,956.41)	120,770.24	-	-	-
TEXSTAR	30-Sep-12	fund 193	0.1710%	26,229.75	26,220.38	9.37	26,229.75	-	-	-
TEXSTAR	30-Sep-12	fund 194	0.1710%	156,171.91	269,078.01	(112,906.10)	156,171.91	-	-	-
TEXSTAR	30-Sep-12	fund 195	0.1710%	4,763,325.15	4,761,622.90	1,702.25	4,763,325.15	-	-	-
TEXSTAR	30-Sep-12	fund 196	0.1710%	1,467,800.61	1,502,264.10	(34,463.49)	1,467,800.61	-	-	-
TEXSTAR	30-Sep-12	fund 380	0.1710%	723,924.96	1,028,572.17	(304,647.21)	723,924.96	-	-	-
TEXSTAR	30-Sep-12	fund 381	0.1710%	14,612,461.29	16,556,710.98	(1,944,249.69)	14,612,461.29	-	-	-
TEXSTAR	30-Sep-12	fund 621	0.1710%	574,486.76	574,281.46	205.30	574,486.76	-	-	-
TEXSTAR	30-Sep-12	fund 776	0.1710%	1,955,569.81	2,000,855.19	(45,285.38)	1,955,569.81	-	-	-

City of Midland
Listing of Investments
September 30, 2012

Investment Type	Maturity Date	Fund Owner- ship	Coupon Interest Rate	Principal	Beginning Market Value	Change in Position from Previous Quarter	Current Market Value	Accrued Interest to Date	Unrealized Profit/ Loss	Cumulative Unrealized Profit/ Loss
				170,485,783.48	168,703,832.46	1,781,951.02	170,485,783.48	-	-	-
FHLB NOTE	22-Feb-17	pooled	0.1296%	-	30,001,500.00	(30,001,500.00)	-	-	-	-
FHLB NOTE	22-May-19	pooled	0.1296%	-	14,800,754.80	(14,800,754.80)	-	-	-	-
FHLB NOTE	22-May-19	pooled	0.6000%	-	5,200,265.20	(5,200,265.20)	-	-	-	-
FHLB NOTE	28-Feb-20	pooled	1.2500%	-	10,006,580.00	(10,006,580.00)	-	-	-	-
FHLB NOTE	20-Jun-22	pooled	0.6250%	10,000,000.00	9,998,250.00	12,790.00	10,011,040.00	1,883.56	11,040.00	11,040.00
FHLB NOTE	08-Aug-22	pooled	2.2500%	50,000,000.00	-	50,014,350.00	50,014,350.00	166,438.36	14,350.00	14,350.00
FHLB NOTE	15-Aug-22	pooled	2.2000%	10,000,000.00	-	10,003,830.00	10,003,830.00	28,328.77	3,830.00	3,830.00
				70,000,000.00	70,007,350.00	21,870.00	70,029,220.00	196,650.68	29,220.00	
				<u>240,485,783.48</u>	<u>238,711,182.46</u>	<u>1,803,821.02</u>	<u>240,515,003.48</u>	<u>196,650.68</u>	<u>29,220.00</u>	

CITY OF MIDLAND
INTERNAL INVESTMENT PORTFOLIO
As of September 30, 2012

	<u>Cum. % Maturing</u>	<u>% Maturing</u>	<u>Principal</u>	<u>Net Book Value</u>	<u>Effective Interest Rate</u>	<u>Market Value</u>
AGING SCHEDULE - TOTAL PORTFOLIO:						
0 - 60 DAYS	70.9%	70.9%	\$ 170,485,783.48	\$ 170,485,783.48	0.1606%	\$ 170,485,783.48
61 - 120 DAYS	70.9%	0.0%	-	-	0.0000%	-
121 - 180 DAYS	70.9%	0.0%	-	-	0.0000%	-
181 - 365 DAYS	70.9%	0.0%	-	-	0.0000%	-
365 - 546 DAYS	70.9%	0.0%	-	-	0.0000%	-
547 - 730 DAYS	70.9%	0.0%	-	-	0.0000%	-
730 - 1095 DAYS	70.9%	0.0%	-	-	0.0000%	-
3 - 5 YEARS	70.9%	0.0%	-	-	0.0000%	-
5 - 7 YEARS	70.9%	0.0%	-	-	0.0000%	-
7 - 10 YEARS	100.0%	29.1%	70,000,000.00	70,000,000.00	2.0107%	70,029,220.00
OVER 10 YEARS	100.0%	0.0%	-	-	0.0000%	-
TOTAL		<u>100.0%</u>	<u>\$ 240,485,783.48</u>	<u>\$ 240,485,783.48</u>		<u>\$ 240,515,003.48</u>

TOTAL PORTFOLIO BY INVESTMENT TYPE:

CASH	0.6%	\$ 1,430,949.89	\$ 1,430,949.89	0.0000%	\$ 1,430,949.89
LOGIC	0.1%	165,337.04	165,337.04	0.2020%	165,337.04
TEXPOOL	30.5%	73,419,578.19	73,419,578.19	0.1501%	73,419,578.19
TEXSTAR	39.7%	95,469,918.36	95,469,918.36	0.1266%	95,469,918.36
FGIC	0.0%	-	-	0.0000%	-
C.D.'s	0.0%	-	-	0.0000%	-
T-BILL's	0.0%	-	-	0.0000%	-
SLMA's	0.0%	-	-	0.0000%	-
T-NOTE's	0.0%	-	-	0.0000%	-
FHLB NOTE	29.1%	70,000,000.00	70,000,000.00	0.0000%	70,029,220.00
FNMA	0.0%	-	-	0.0000%	-
FFCB	0.0%	-	-	0.0000%	-
FHLMC	0.0%	-	-	0.0000%	-
SLUG's	0.0%	-	-	0.0000%	-
	<u>100.0%</u>	<u>\$ 240,485,783.48</u>	<u>\$ 240,485,783.48</u>		<u>\$ 240,515,003.48</u>

EFFECTIVE INTEREST RATE FOR TOTAL PORTFOLIO: \$240,485,783.48 @ 0.6991%

AVERAGE MATURITY IN MONTHS 34.89

Transaction List			Fiscal 2012							
Bot/ Sold	Type Security	Rate	Trade Date	Settlement Date	Maturity Date	Broker	Face Amount	Price %	32's	Principal Amount
Q1 FISCAL 2012										
Sold	FFCB	3.440%	13-Oct-11	14-Oct-11	16-Aug-18	BOSC	10,000,000.00	101	0.4000	10,140,000.00
Bot	FHLMC	3.125%	13-Oct-11	01-Nov-11	01-Nov-21	BOSC	5,000,000.00	100	0.0000	5,000,000.00
Sold	FHLB	3.750%	01-Nov-11	02-Nov-11	29-Jun-21	BOSC	10,000,000.00	101	0.5938	10,159,375.00
Sold	FHLB	3.240%	07-Dec-11	08-Dec-11	07-Sep-21	BOSC	10,000,000.00	100	0.6250	10,062,500.00

Q2 FISCAL 2012										
Bot	FHLB	0.250%	01-Feb-12	22-Feb-12	22-Feb-17	BOSC	30,000,000.00	100	0.0000	30,000,000.00
Bot	FHLB	1.250%	02-Feb-12	28-Feb-12	28-Feb-20	BOSC	10,000,000.00	100	0.0000	10,000,000.00
Bot	FHLB	0.300%	07-Mar-12	28-Mar-12	28-Mar-18	VS	10,000,000.00	100	0.0000	10,000,000.00

Q3 FISCAL 2012										
Bot	FHLB	0.500%	02-May-12	22-May-12	22-May-19	FTN	20,000,000.00	100	0.0000	20,000,000.00
Bot	FHLB	0.500%	05-Jun-12	20-Jun-12	20-Jun-22	BOSC	10,000,000.00	99	0.8750	9,987,500.00

Q4 Fiscal 2012										
Bot	FHLB	2.250%	16-Jul-12	08-Aug-12	08-Aug-22	BOSC	50,000,000.00	100	0.00	50,000,000.00
Bot	FHLB	2.200%	23-Jul-12	15-Aug-12	15-Aug-22	FTN	10,000,000.00	100	0.00	10,000,000.00



City Council Agenda

Approved for Agenda:
CSharp
City Manager's Office

MEETING DATE: 11/27/2012

TO: City Council / City Manager

FROM: Bob McNaughton, Finance Director

SUBJECT: Resolution Approving Fiscal Year 2013 Investment Policy

Purpose:

Provide approval of Investment Policy as required by Chapter 2256 of Texas Government Code

Recommended City Council Action

☒ Approve ☐ Deny ☐ Directional / Informational

Fiscal Impact:

Management of City funds under the proposed investment policy has provided returns of .6172% during the past year as compared to .0733% for Three Month Treasury Bills and State chartered pools returning .1160% to .1163%.

Discussion:

The Public Funds Investment Act (PFIA), Chapter 2256, Texas Government Code as amended by S.B. 1 (effective 09-01-11) requires that each investing entity adopt a written investment policy, and review and amend the policy annually (both actions to be by written instrument).

The attached policy was reviewed and approved by the Finance and Audit Committee on 11-12-12.

RESOLUTION NO. _____

**RESOLUTION APPROVING THE CITY OF MIDLAND'S
FISCAL YEAR 2013 INVESTMENT POLICY**

WHEREAS, Chapter 2256 of the Texas Government Code, known as the Public Funds Investment Act, provides for the investment of City funds in certain authorized securities; and

WHEREAS, by Resolution No. 2011-262 the City Council previously approved an investment policy for the City of Midland, Texas; and

WHEREAS, the City Council having reviewed the terms, instruments, and strategies, finds it to be in the public interest to approve an investment policy which authorizes the investment of City funds and provides for the preservation of City capital;

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

SECTION ONE. That the City of Midland Fiscal Year 2013 Investment Policy, being on file in the office of the City Secretary and referenced by the number and date of this Resolution, which provides for the investment of City funds and the preservation of City capital, is hereby approved.

SECTION TWO. That Resolution No. 2011-262 is hereby repealed and rescinded.

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

Council members voting "AYE":

Council members voting "NAY":

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

Courtney Sharp, City Manager

APPROVED AS TO CONTENT
AND COMPLETENESS:

Robert McNaughton, Director of Finance

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

CITY OF MIDLAND
INVESTMENT POLICY
November 12, 2012

INVESTMENT POLICY

I. SCOPE

This policy is developed in accordance with the Public Funds Investment Act of 1987 as amended (the Act). This investment policy applies to all investment activities of the City of Midland. This policy serves to satisfy the statutory requirements to define and adopt a formal investment policy. This policy is to be used in conjunction with the Act to prescribe the investment activities of the City of Midland.

FUNDS INCLUDED:

All financial assets of all funds of the City of Midland, Texas at the present time and any funds to be created in the future shall be administered in accordance with the provisions of the Act and this policy. For investment purposes, all funds of the City shall be combined in a common pool, placed in a segregated fund, or placed with external manager(s), except as provided by applicable federal or state statute, City ordinance, or other law. In the common pool(s), investment earnings (losses) shall be proportionately allocated according to the source of funds.

FUNDS EXCLUDED:

None

II. STRATEGY AND OBJECTIVES

The following objectives apply to both the common pool or discrete funds. The primary investment strategy for segregation of funds from the common pool is to further insure liquidity, i.e. bond funds for capital projects. Other funds with reduced liquidity needs may be segregated for longer term investments, i.e. for bond reserve funds. Separate fund segregation may be done to satisfy other ordinance or statute provisions.

The basic strategy, to be reviewed not less than quarterly, is to concentrate the portfolio(s) with shorter average maturity in periods of rising rates and consider longer maturities as rates fall.

The strategy to maintain most of the total portfolio in the common fund is to provide greater investment flexibility and enhance liquidity compared to small individual funds.

SUITABILITY and the PUBLIC TRUST:

All participants in the investment process shall act responsibly as custodians of the public trust, and they shall avoid any transactions that might impair public confidence. Investments shall be made not for speculation but for safety of capital, liquidity, as well as the probable income to be derived, taking not only the individual transaction but the portfolio as a whole into consideration.

INVESTMENT POLICY (continued)

II. STRATEGY AND OBJECTIVES (continued)

SAFETY:

The primary objective of the City's investment policy is the preservation of capital. Each investment transaction shall seek to avoid capital losses from securities defaults and/or erosion of market value. The market value of each investment shall be determined monthly based upon the last market day of the month from the Wall Street Journal or Bloomberg service where required. These valuations will be a part of the quarterly reports submitted annually to an independent auditor.

LIQUIDITY AND MARKETABILITY:

The City's investment portfolio(s) will remain sufficiently liquid to enable the City to meet operating requirements that might be reasonably anticipated. Liquidity shall be achieved by matching investment maturities with forecasted cash flow requirements. Liquidity and marketability will be ensured by investing in securities with active secondary markets.

DIVERSIFICATION:

The City's investment portfolio(s) shall be diversified by type of investment and maturities to reduce risks resulting from undue investment concentration.

Funds held for future capital projects shall be invested in securities that can be reasonably expected to produce sufficient income to offset inflationary construction cost increases. However, such funds shall never be exposed to market price risks or default risks that would jeopardize the assets available to accomplish their stated objective, or be invested in a manner inconsistent with applicable federal and state regulations.

YIELD:

The City's investment portfolio shall be structured with the objective of equaling or exceeding the rate of return on three month U.S. Treasury Bills. The investment program shall seek to augment returns above this threshold consistent with the Strategy and Objectives and Eligible Investments identified herein.

ACTIVE PORTFOLIO MANAGEMENT:

The City intends to pursue a moderately active versus a passive portfolio management philosophy. Securities may be sold before they mature if market conditions present an opportunity for the City to benefit from the transaction.

DELEGATION:

Management responsibility for the investment program is hereby delegated to the Treasurer of the City of Midland, or in his absence, Assistant Treasurer, or such other person specifically designated by the Treasurer. Day-to-day securities transactions will be done by the Investments Manager with coordination of the Treasurer. To insure internal control and integrity of each investment made under this policy, the City Manager, Deputy

INVESTMENT POLICY (continued)

III. RESPONSIBILITY AND CONTROL (continued)

DELEGATION (continued)

City Manager, or the City Attorney, shall review investment transactions within seven days.

The Finance and Audit Committee, composed of at least two City Council Members, the Treasurer, and the City Manager, shall meet, as a minimum, quarterly to review general investment strategies and investment results. The Finance and Audit Committee shall provide and keep minutes of its meetings relating to this investment policy. The Finance and Audit Committee shall include in its deliberations such topics as: economic outlook, portfolio diversification, maturity structure, potential risk to the City's funds, authorized brokers and dealers, and the target rate of return on the investment portfolio.

QUARTERLY REPORTS:

The Treasurer shall submit quarterly an investment report on the investment portfolio to the City Manager and Council in accordance with the Act. The report shall present the portfolio's investments including rate of return, beginning market value, additions and changes, and ending market value, and include an appendix that discloses all transactions during the past quarter.

ANNUAL REPORTS:

The Treasurer shall present an annual report of the investment program and investment activity to Council. The annual report shall include a detail of the portfolio, transactions for the year, and recommendations regarding the policy.

CONFLICTS OF INTEREST:

Officers and employees involved in the investment process shall refrain from personal business activity that could conflict with proper execution of the investment program, or which could impair their ability to make impartial investment decisions. Employees and investment officials shall disclose to the City Manager any material financial interest in financial institutions that conduct business within this jurisdiction, and they shall further disclose any large personal financial/investment positions that could be related to the performance of the City's portfolio. Officers and employees shall subordinate their personal investment transactions to those of this jurisdiction, particularly with regard to the timing of purchases and sales.

IV. INVESTMENTS

ELIGIBLE INVESTMENTS:

Assets of funds of the government of the City of Midland may be invested with final stated maturities not to exceed ten years with no more than 30% exceeding seven years, except upon concurrence and written approval of the Director of Finance and City Manager in

INVESTMENT POLICY (continued)

IV. INVESTMENTS (continued)

ELIGIBLE INVESTMENTS: (continued)

which case assets with final stated maturities of more than seven years may not exceed 50%, and dollar weighted average portfolio maturity not to exceed five years in:

1. Obligations of the United States or its agencies and instrumentalities:
 - A. United States of America Treasury Securities;
 - B. Farmers Home Administration ("FmHA") obligations backed by the full faith and credit of the United States;
 - C. Federal Home Loan Bank ("FHLBs") obligations;
 - D. Federal National Mortgage Association ("Fannie Mae" or "FNMA") obligations;
 - E. Farm Credit System Obligations;
 - F. Federal Home Loan Mortgage Corporation ("Freddie Mac" or "FHLMC") obligations, i.e. discount notes or debentures;
2. Direct obligations of the State of Texas or its agencies:

Texas State, City, County, or School District General Obligation Bonds with a remaining maturity of ten years or less having been rated as to investment quality by Moody's or Standard and Poor's (nationally recognized investment rating firms) and having received a rating of no less than "A" or its equivalent;
3. Certificates of Deposit issued by state and national banks domiciled in this state:

Certificates of Deposit issued by state and national banks domiciled in this state that are:

 - (1) guaranteed or insured by the Federal Deposit Insurance Corporation, or its successor; or
 - (2) secured by obligations that are described in V.T.C.A., Local Government Code Sections 105.001 et seq;
4. Fully collateralized repurchase agreements having a defined termination date:

Fully collateralized direct repurchase agreements and reverse repurchase agreements having a defined termination date of no more than ninety (90) days from the date such investment is purchased, and secured by obligations of the United States or its agencies and instrumentalities which have a market value of not less than the amount of the funds disbursed and held by a custodian for the City. Repurchase agreements must be purchased through a primary government securities dealer, as defined by the Federal Reserve, or a bank domiciled in Texas;

INVESTMENT POLICY (continued)

IV. INVESTMENTS (continued)

ELIGIBLE INVESTMENTS: (continued)

4. Fully collateralized repurchase agreements having a defined termination date: (continued)

Any investments made with funds resulting from a reverse repurchase agreement must mature within the period of the reverse repurchase agreement.

5. Investment Pools and Money Market Mutual Funds:

- A. Investment Pools of public or private sponsorship as provided in the Act and approved by Council;
- B. Money Market Mutual Funds as authorized by the Act of both public and private sponsorship and approved by Council;

6. Other securities or obligations:

Other such securities or obligations as authorized by State statute and approved by the City Council.

RATINGS

Any investment requiring a minimum rating from one of the recognized rating agencies shall be monitored for negative changes in rating that may affect the suitability of that investment for the City. Monitoring shall consist of quarterly reviews of changes in ratings by nationally recognized rating agencies. Should such an investment be negatively impacted by a change in rating to one lower than specified, such investment will be liquidated in accordance with PFIA Section 2256.021

V. SELECTION OF BANKS AND DEALERS

SELECTION PROCESS:

The City depository shall be selected through the City's banking services procurement process and in compliance with state law.

INSURABILITY:

Banks seeking to establish eligibility for the City's competitive certificate of deposit purchase program shall submit audited financial statements, evidence of Federal Insurance and other information as required by the Treasurer.

PRIMARY DEALERS AND APPROVED LIST:

For brokers and dealers, the Treasurer shall select only those dealers reporting to the Market Reports Division of the Federal Reserve Bank of New York ("Primary Government

INVESTMENT POLICY (continued)

V. SELECTION OF BANKS AND DEALERS (continued)

PRIMARY DEALERS AND APPROVED LIST (continued)

Security Dealers") and certain "secondary" dealers possessing adequate financial condition to conduct public business. All brokers and dealers must have the ability to consummate each transaction on a delivery vs. payment or equivalent basis. All brokers and dealers must be authorized by the Finance and Audit Committee, and the complete list will be reviewed and approved annually by the Committee. All brokers and dealers must comply with provisions of the Act prior to any transaction with the City.

VI. SAFEKEEPING AND CUSTODY

INSURANCE OR COLLATERAL:

All deposits and investments of City funds in bank accounts, certificates of deposit, and repurchase agreements shall be secured by pledged collateral with a market value equal to no less than 100% of the deposits or investments less amounts insured by the FDIC.

Evidence of the pledged collateral shall be maintained by the Treasurer or a third party financial institution. Repurchase or reverse repurchase agreements shall be limited to those brokers or dealers that have executed an agreement with the Treasurer. All repurchase or reverse repurchase agreements shall be executed on a delivery vs. payment basis, or held by a custodian for the City.

SAFEKEEPING AGREEMENT:

All safekeeping arrangements shall be in accordance with a safekeeping agreement approved by the City of Midland. The agreement shall include and clearly define the procedural steps for gaining access to the collateral should the City of Midland determine that the City's funds are in jeopardy. The safekeeping institution, or Trustee, shall be the Federal Reserve Bank or an entity not affiliated with the firm pledging the collateral. The safekeeping agreement shall include the signature of the City of Midland, the firm pledging the collateral, and the Trustee.

COLLATERAL DEFINED:

The City of Midland shall accept only the following securities as collateral:

- A. FDIC insurance coverage.
- B. Securities allowed under V.T.C.A., Local Government Code Sections 105.001 et seq., shall be eligible to be pledged as collateral.

DELIVERY VERSUS PAYMENT:

Obligations of the United States or its agencies and instrumentalities or other securities of Section IV shall be purchased using the delivery vs. payment method. Pursuant to such method, funds shall not be wired or paid until verification has been obtained that the

INVESTMENT POLICY (continued)

VI. SAFEKEEPING AND CUSTODY (continued)

DELIVERY VERSUS PAYMENT: (continued)

correct security has been received by the City of Midland or its designated Trustee. The security shall be held in the name of the City. The Trustee's records shall reflect that the City owns such securities. In the event that the security is held by Trustee, the safekeeping receipts shall be delivered to the City Treasurer.

VII. MANAGEMENT AND INTERNAL CONTROLS

The Treasurer shall establish a system of internal controls which shall be periodically reviewed by an independent auditor. Such controls shall be designed to safeguard the City's funds from fraud, employee error, misrepresentation by third parties, unanticipated changes in financial markets, or imprudent actions by employees.

The Finance and Audit Committee will review this policy at least annually and recommend changes as needed to the Council. Council will review and approve the policy annually.

Resolution No.



City Council Agenda

Approved for Agenda:

City Manager's Office

MEETING DATE: 11/27/2012

TO: City Council / City Manager

FROM: Bob McNaughton, Finance Director

SUBJECT: Consider a Resolution approving Fiscal Year 2012 Water, Sewer and Sanitation write-offs

Purpose:

Provide for authorization to remove uncollectible Water, Sewer and Sanitation Accounts Receivable incurred prior to September 30, 2010 from the City's accounts

Recommended City Council Action

☒ Approve ☐ Deny ☐ Directional / Informational

Fiscal Impact:

Remove \$109,040.51 in Water and Sewer and \$23,483.47 in Sanitation Accounts Receivable from accounts of the City. Write-offs have been provided for during budgetary process. Write-offs are provided for during budgetary process

Discussion:

The accounts which are proposed for "write-off" are accounts which became inactive during FY10. The total proposed write-off off for this period is \$131,523.98.

Total service charges for water, sewer, and refuse in FY09 were \$47.35 million. The proposed "write-off" for FY10 is 0.2770% of net billings. Attached is a comparison of revenue and "write-offs" from FY05 thru FY10.

Should any of these people apply for new service, we will collect on these accounts.

A detail of the proposed write-offs may be found in the City Secretary's Office.

RESOLUTION NO. _____

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

WHEREAS, there are now on the City's records certain delinquent accounts for water, sewer, and garbage collection services in the amount of \$131,523.98 which are deemed to be uncollectible; and

WHEREAS, a diligent effort has been made to collect the accounts on file in the City Secretary's Office; and

WHEREAS, the Council finds it to be in the public interest to write off these delinquent accounts;

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

SECTION ONE. That the City Treasurer is hereby authorized to write off as uncollectible the delinquent accounts on file in the City Secretary's Office referenced by the date and number of this Resolution in the total amount of \$131,523.98, wherein \$109,040.51 of said write-off is to be made against the reserve for uncollectible accounts in the Water and Sewer Fund, and the remaining \$22,483.47 against the reserve for uncollectible accounts in the Sanitation Fund.

SECTION TWO. That such accounts being at least two years old at September 30, 2012, the elimination thereof from the City's books shall be done as of said date.

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

Council members voting "AYE":

Council members voting “NAY”:

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

Courtney Sharp, City Manager

APPROVED AS TO CONTENT
AND COMPLETENESS:

Robert McNaughton, Director of Finance

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

City of Midland
Water, Sewer and Sanitation
Analysis of Write-offs
Fiscal Year 2005 through Fiscal Year 2010

	FY'05	FY'06	FY'07	FY'08	FY'09	FY'10
Revenue:						
Water and Sewer Billings	\$ 30,551,030	\$ 32,930,037	\$ 34,262,357	\$ 39,561,940	\$ 39,559,106	\$ 38,747,009
Less Discounts; Plus Penalties	(978,048)	269,686	290,524	331,853	325,571	107,626
Net Water and Sewer Billings	29,572,982	33,199,724	34,552,881	39,893,792	39,884,677	38,854,635
Less Write-offs	(68,413)	(75,559)	(99,477.57)	(105,467.08)	(114,419.11)	(109,040.51)
	<u>29,504,569</u>	<u>33,124,165</u>	<u>34,453,403</u>	<u>39,788,325</u>	<u>39,770,258</u>	<u>38,745,595</u>
Sanitation Billings	6,459,331	6,518,518	7,342,762	7,758,688	8,157,506	8,603,706
Less Discounts; Plus Penalties	(191,749)	56,921	61,233	64,492	66,463	23,898
Net Sanitation Billings	6,267,582	6,575,439	7,403,995	7,823,180	8,223,969	8,627,604
Less Write-offs	(14,499)	(14,965)	(21,316)	(20,682.11)	(23,592.50)	(22,483.47)
	<u>6,253,083</u>	<u>6,560,474</u>	<u>7,382,679</u>	<u>7,802,498</u>	<u>8,200,377</u>	<u>8,605,121</u>
Total Net Revenue	<u>\$ 35,757,652</u>	<u>\$ 39,684,639</u>	<u>\$ 41,836,082</u>	<u>\$ 47,590,823</u>	<u>\$ 47,970,635</u>	<u>\$ 47,350,715</u>
Percentage of Write-off to Net Billings	<u>0.2313%</u>	<u>0.2276%</u>	<u>0.2879%</u>	<u>0.2644%</u>	<u>0.2869%</u>	<u>0.2770%</u>
Total amount Written-off	<u>\$ 82,912</u>	<u>\$ 90,524</u>	<u>\$ 120,785</u>	<u>\$ 126,149</u>	<u>\$ 138,012</u>	<u>\$ 131,524</u>



City Council Agenda

Approved for Agenda:
CSharp
City Manager's Office

MEETING DATE: 11/27/2012

TO: City Council / City Manager

FROM: Bob McNaughton, Finance Director

SUBJECT: Resolution Approving Fiscal Year 2013 Investment Policy

Purpose:

Provide approval of Investment Policy as required by Chapter 2256 of Texas Government Code

Recommended City Council Action

☒ Approve ☐ Deny ☐ Directional / Informational

Fiscal Impact:

Management of City funds under the proposed investment policy has provided returns of .6172% during the past year as compared to .0733% for Three Month Treasury Bills and State chartered pools returning .1160% to .1163%.

Discussion:

The Public Funds Investment Act (PFIA), Chapter 2256, Texas Government Code as amended by S.B. 1 (effective 09-01-11) requires that each investing entity adopt a written investment policy, and review and amend the policy annually (both actions to be by written instrument).

The attached policy was reviewed and approved by the Finance and Audit Committee on 11-12-12.

RESOLUTION NO. _____

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

WHEREAS, there are now on the City's records certain delinquent accounts for Miscellaneous Accounts Receivable in the amount of \$19,255.15 and insufficient funds checks in the amount of \$3,049.47 which are deemed to be uncollectible; and

WHEREAS, a diligent effort has been made to collect said accounts and the insufficient funds checks as shown on Exhibit "A", attached hereto and made a part hereof for all legal purposes; and

WHEREAS, it is recommended by the City Manager that said accounts and insufficient funds checks be written off as uncollectible;

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

SECTION ONE. That the City Treasurer is hereby authorized to write off as uncollectible the delinquent accounts receivable and insufficient funds checks shown on the attached Exhibit "A" in the total amounts of \$19,255.15 and \$3,049.47, respectively, such write off to be made against the allowance for uncollectible accounts in the following funds in the following amounts:

	<u>Miscellaneous Receivables</u>	<u>Insufficient Funds Checks</u>
- General Fund	\$527.00	\$1,775.54
- Water and Sewer Fund	\$950.00	\$0.00
- Sanitation Fund	\$0.00	\$121.46
- Golf Course Fund	\$0.00	\$958.47
- Airport Fund	\$500.00	\$194.00
- Garage Fund	\$15,392.50	\$0.00
- Scharbauer Sports Complex Fund	\$1,885.65	\$0.00

SECTION TWO. That such accounts being at least one year old at September 30, 2012, the elimination thereof from the City's books shall be done as of said date.

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

Council members voting "AYE":

Council members voting "NAY":

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

Courtney Sharp, City Manager

APPROVED AS TO CONTENT
AND COMPLETENESS:

Robert McNaughton, Director of Finance

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

City of Midland Writeoff Preliminary List Accounting Period 12 / 2012

1

Invoice Number	Customer Label	Invoice Date	Invoice Balance	Fund	Revenue Source Name
RE,150,SUN02010115050	APLUMB01-A PLUMBING & SEWER SVC, L.L.C.	11/30/2010	30.00	001	Plumbing Permits
RE,150,SUN02010125030	APLUMB01-A PLUMBING & SEWER SVC, L.L.C.	12/31/2010	60.00	001	Plumbing Permits
RE,150,SUN02011020018	APLUMB01-A PLUMBING & SEWER SVC, L.L.C.	02/28/2011	60.00	001	Plumbing Permits
RE,150,SUN02011035032	APLUMB01-A PLUMBING & SEWER SVC, L.L.C.	03/31/2011	60.00	001	Plumbing Permits
RE,150,SUN02011055061	BASIN03-BASIN IRRIGATION	05/15/2011	30.00	001	Plumbing Permits
RE,150,SUN02011075024	BASIN03-BASIN IRRIGATION	08/01/2011	30.00	001	Plumbing Permits
RE,150,02010010378	DELMAR01-DELMAR VILLAS	10/01/2010	257.00	001	Public Right-Of-Way Use Fees
TOTAL GENERAL FUND			527.00		
RE,150,101201000367	BEASLEY01-DONALD BEASLEY	12/07/2010	25.00	300	Sewer Taps
RE,150,110201001176	BEASLEY01-DONALD BEASLEY	02/07/2011	25.00	300	Sewer Taps
RE,150,110301001553	BEASLEY01-DONALD BEASLEY	03/07/2011	25.00	300	Sewer Taps
RE,150,110502002316	BEASLEY01-DONALD BEASLEY	05/12/2011	25.00	300	Sewer Taps
RE,150,110601002700	BEASLEY01-DONALD BEASLEY	06/08/2011	25.00	300	Sewer Taps
RE,150,110701003090	BEASLEY01-DONALD BEASLEY	07/08/2011	25.00	300	Sewer Taps
RE,150,110801003485	BEASLEY01-DONALD BEASLEY	08/09/2011	25.00	300	Sewer Taps
RE,150,110101000787	DIE01-CHARLES DIETRICH	01/05/2011	25.00	300	Sewer Taps
RE,150,110201001187	DIE01-CHARLES DIETRICH	02/07/2011	25.00	300	Sewer Taps
RE,150,110301001564	DIE01-CHARLES DIETRICH	03/14/2011	25.00	300	Sewer Taps
RE,150,110401001941	DIE01-CHARLES DIETRICH	04/12/2011	25.00	300	Sewer Taps
RE,150,110502002327	DIE01-CHARLES DIETRICH	05/12/2011	25.00	300	Sewer Taps
RE,150,110601002711	DIE01-CHARLES DIETRICH	06/08/2011	25.00	300	Sewer Taps
RE,150,110701003100	DIE01-CHARLES DIETRICH	07/08/2011	25.00	300	Sewer Taps
RE,150,110801003495	DIE01-CHARLES DIETRICH	08/09/2011	25.00	300	Sewer Taps
RE,150,110831003862	GABALDON01-GERARDO GABALDON	08/31/2011	25.00	300	Sewer Taps
RE,150,110901004249	GABALDON01-GERARDO GABALDON	09/07/2011	25.00	300	Sewer Taps
RE,150,101102000219	JONES10-ELAINE JONES	11/02/2010	25.00	300	Sewer Taps
RE,150,101201000564	JONES10-ELAINE JONES	12/07/2010	25.00	300	Sewer Taps
RE,150,110101000794	JONES10-ELAINE JONES	01/05/2011	25.00	300	Sewer Taps
RE,150,110201001193	JONES10-ELAINE JONES	02/07/2011	25.00	300	Sewer Taps
RE,150,110301001570	JONES10-ELAINE JONES	03/07/2011	25.00	300	Sewer Taps
RE,150,110401001947	JONES10-ELAINE JONES	04/12/2011	25.00	300	Sewer Taps

City of Midland Writeoff Preliminary List Accounting Period 12 / 2012

2

RE,150,110502002333	JONES10-ELAINE JONES	05/12/2011	25.00	300	Sewer Taps
RE,150,110601002717	JONES10-ELAINE JONES	06/08/2011	25.00	300	Sewer Taps
RE,150,110701003106	JONES10-ELAINE JONES	07/08/2011	25.00	300	Sewer Taps
RE,150,101102000040	LOPEZ19-ZENON DANIEL LOPEZ	11/03/2010	25.00	300	Sewer Taps
RE,150,101102000061	MARTINEZ05-CHRIS MARTINEZ	11/03/2010	25.00	300	Sewer Taps
RE,150,101201000406	MARTINEZ05-CHRIS MARTINEZ	12/07/2010	25.00	300	Sewer Taps
RE,150,110101000778	MARTINEZ05-CHRIS MARTINEZ	01/05/2011	25.00	300	Sewer Taps
RE,150,110201001179	MARTINEZ05-CHRIS MARTINEZ	02/07/2011	25.00	300	Sewer Taps
RE,150,110301001556	MARTINEZ05-CHRIS MARTINEZ	03/07/2011	25.00	300	Sewer Taps
RE,150,110401001933	MARTINEZ05-CHRIS MARTINEZ	04/12/2011	25.00	300	Sewer Taps
RE,150,110502002319	MARTINEZ05-CHRIS MARTINEZ	05/12/2011	25.00	300	Sewer Taps
RE,150,110831003861	PHELPS01-KENNETH PHELPS	08/31/2011	25.00	300	Sewer Taps
RE,150,110901004248	PHELPS01-KENNETH PHELPS	09/07/2011	25.00	300	Sewer Taps
RE,150,110901004241	RICHARDSON05-DORIS RICHARDSON	09/07/2011	25.00	300	Sewer Taps
RE,150,101201000670	WHITE08-SUE WHITE	12/07/2010	25.00	300	Sewer Taps
TOTAL WATER & SEWER			950.00		
RE,150,110228001546	YATSU01-JOHN SHIGERU YATSU	02/28/2011	500.00	500	Recvr-Damages To City Property
TOTAL AIRPORT FUND			500.00		
RE,150,110831003865	NEXSTAR01-NEXSTAR BROADCASTING	08/31/2011	1,885.65	620	Recvr-Damages To City Property
TOTAL SCHARBAUER SPORTS COMPLEX FUND			1,885.65		
RE,150,110228001545	BARK03-KASEY DANIELLE BARKER	02/28/2011	4,746.94	750	Recvr-Damages To City Property
RE,150,110630003080	ESTRADA02-JUAN JESUS ESTRADA	06/30/2011	10.00	750	Recvr-Damages To City Property
RE,150,110630003070	HIRST01-ERICA MICHELLE HIRST	06/30/2011	2,116.46	750	Recvr-Damages To City Property
RE,150,110126001160	SELLERS01-CODY MATTHEW SELLERS	01/26/2011	8,519.10	750	Recvr-Damages To City Property
TOTAL GARAGE FUND			15,392.50		
GRAND TOTAL			19255.15		

LISTING OF NSF CHECKS BEFORE 10/1/2011

<u>DATE</u>	<u>NAME</u>	<u>DEPT</u>	<u>BANK</u>	<u>CHECK AMOUNT</u>	<u>SUBTOTAL FOR AGENCY</u>	<u>SUBTOTAL PER FUND</u>
<u>TOTAL ACCOUNTING</u>					\$ -	
05/11/11	MARTINEZ, JAVIER	AS	WELLS FARGO	102.00		
08/15/11	RAMIREZ, JON G	AS	MTCU	30.00		
03/21/11	VARGAS, GENARO OR ANA	AS	FNB	36.00		
<u>TOTAL ANIMAL SERVICES</u>					\$ 168.00	
04/05/11	CULVER, CHARLOTTE OR STEPHEN	AMB	MCCU ODESSA	25.00		
11/19/10	GALINDO, JULIA	AMB	CITIBANK	34.84		
11/04/10	LOPEZ, JORGE	AMB	MY COMM CU	20.00		
<u>TOTAL AMBULANCE</u>					\$ 79.84	
01/07/11	BORUDA, MARTIN OR YVONNE	CDBG	BOA	220.00		
<u>TOTAL CDBG</u>					\$ 220.00	
03/10/11	ALAMO FENCE	CODE	MY COMM CU	116.50		
09/14/11	SPA TECH	CODE	JP MORGAN CHASE	170.50		
<u>TOTAL CODE</u>					\$ 287.00	
08/30/11	HARRELL, MELISSA OR ROBERT	H	MTCU	10.00		
09/08/11	NOWELL, MALYNDA OR ANTHONY	H	MY COMM CU	10.00		
11/10/10	WILLIS, DARRELL D	H	CITIBANK	100.00		
<u>TOTAL HEALTH</u>					\$ 120.00	
06/16/11	BRITO, MOISES	INS	DRAFT	3.70		
04/20/11	PEREZ, JESSE	INS	DRAFT	291.00		
04/20/11	PEREZ, JULIA	INS	DRAFT	291.00		
<u>TOTAL INS</u>					\$ 585.70	
<u>TOTAL MID C</u>					\$ -	
11/16/10	BEGGS, MELINDA	MLK	MY COMM CU	200.00		
07/29/11	LOPEZ, REBECCA	MLK	CITIBANK	40.00		
03/11/11	OLSON, ILDA	MLK	MY COMM CU	60.00		
<u>TOTAL MLK</u>					\$ 300.00	
06/08/11	CLINE, ASHLEY OR TYLER	POLICE	WELLS FARGO	15.00		
<u>TOTAL POLICE</u>					\$ 15.00	
TOTAL GENERAL FUND						\$ 1,775.54
03/17/11	BARRON, JOSEPH	LF	CITIBANK	90.11		
01/25/11	BRADLEY, HILDA	LF	BOA	14.12		
11/04/10	BUILDERS CHOICE INSULATION	LF	WELLS FARGO	17.23		
TOTAL FOR LANDFILL						\$ 121.46
06/03/11	CUELLAR, HENRY DBA	GC	WELLS FARGO	101.72		
06/03/11	CUELLAR, HENRY DBA	GC	WELLS FARGO	140.51		
06/06/11	CUELLAR, HENRY DBA	GC	WELLS FARGO	35.55		
06/06/11	CUELLAR, HENRY DBA	GC	WELLS FARGO	205.48		
10/07/10	GREGG, CHARLEY	GC	CSB	99.08		
03/18/11	NGUYEN, MISTY	GC	FCB	346.35		
03/29/11	ROCHA, RICARDO	GC	WELLS FARGO	29.78		
TOTAL FOR GOLF COURSE						\$ 958.47
06/02/11	CHAMBERS, LEROY	TER	FCB	48.00		
06/10/11	G T E HOMES	TER	CHASE	24.00		
03/28/11	LEE, LANNIE	TER	CHASE	25.00		
10/25/10	POOL, STEVE	TER	MY COMM CU	50.00		
05/26/11	TYRE, DANIEL L	TER	ASB	47.00		
TOTAL FOR AIRPORT						\$ 194.00
GRAND TOTAL ALL FUNDS						\$ 3,049.47



City Council Agenda

Approved for Agenda:
CSharp
City Manager's Office

MEETING DATE: 11/27/2012

TO: City Council / City Manager

FROM: Bob McNaughton, Finance Director

SUBJECT: Consider a Resolution approving Fiscal Year 2012 EMS write-offs

Purpose:

Provide for authorization to remove uncollectible EMS Accounts Receivable incurred prior to September 30, 2011 from the accounts of the City.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Directional / Informational

Fiscal Impact:

Remove \$1,193,872.46 in EMS Accounts Receivable from the accounts of the City. Write-offs are provided for during budgetary process

Discussion:

These amounts represent receivables incurred prior to September 30, 2011. All accounts have been submitted to Midland Memorial Hospital's collection agency.

The FY'11 amount to be written off for amounts billed during FY'11 is 37.47% of EMS revenue billed for FY'11 (\$1,193,872 of \$3,185,882).

FY'11 amounts to be written off for FY'11 services billed net of Medicare (\$160,236) and Medicaid (\$152,112) mandated write-offs is 30.67% of FY'11 EMS revenue (\$881,524 of \$2,873,534).

This write-off contains only amounts billed by MMH under the interlocal agreement and a detail of accounts proposed for write-off may be found in the City Secretary's Office.

RESOLUTION NO. _____

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

WHEREAS, there are now on the City's records certain delinquent accounts for Emergency Medical Services (EMS) Receivables in the amount of \$1,193,872.46 which are deemed to be uncollectible; and

WHEREAS, a diligent effort has been made to collect said accounts as shown on file in the office of the City Secretary referenced by date and number of this Resolution; and

WHEREAS, it is recommended by the City Manager that said accounts be written off as uncollectible;

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

SECTION ONE. That the City Treasurer is hereby authorized to write off as uncollectible the delinquent EMS accounts shown on file in the office of the City Secretary, referenced by the number and date of this Resolution.

SECTION TWO. That such accounts being at least one year old at September 30, 2012, the elimination thereof from the City's books shall be done as of said date.

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

Council members voting "AYE":

Council members voting "NAY":

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

Courtney Sharp, City Manager

APPROVED AS TO CONTENT
AND COMPLETENESS:

Robert McNaughton, Director of Finance

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

City of Midland
Emergency Medical Service
Comparative Revenue and Expense Analysis
Actual Fiscal Years 2007 through 2011

	<u>FY'07</u>	<u>FY'08</u>	<u>FY'09</u>	<u>FY'10</u>	<u>FY'11</u>	<u>Five Year Average</u>
REVENUE:						
BILLINGS	2,186,037	2,686,557	3,276,956	3,013,191	3,185,882	2,869,724
LESS WRITE-OFFS	<u>949,486</u>	<u>1,227,680</u>	<u>1,291,113</u>	<u>1,194,829</u>	<u>1,193,872</u>	<u>1,171,396</u>
NET REVENUE	<u>1,236,550</u>	<u>1,458,877</u>	<u>1,985,842</u>	<u>1,818,362</u>	<u>1,992,010</u>	<u>1,698,328</u>
% WRITE-OFF	<u>0.4343</u>	<u>0.4570</u>	<u>0.3940</u>	<u>0.3965</u>	<u>0.3747</u>	<u>0.4082</u>
EXPENDITURES:						
PERSONNEL	752,601	780,553	935,735	961,533	961,533	878,391
SUPPLIES, EQUIPMENT, etc.	<u>460,484</u>	<u>502,525</u>	<u>551,949</u>	<u>611,491</u>	<u>610,258</u>	<u>547,341</u>
TOTAL EXPENDITURES	<u>1,213,085</u>	<u>1,283,077</u>	<u>1,487,684</u>	<u>1,573,024</u>	<u>1,571,791</u>	<u>1,425,732</u>
RATIO OF NET REVENUE TO EXPENDITURES	<u>1.0193</u>	<u>1.1370</u>	<u>1.3349</u>	<u>1.1560</u>	<u>1.2674</u>	<u>1.1912</u>



City Council Agenda

Approved for Agenda:

City Manager's Office

MEETING DATE: 11/27/2012

TO: City Council / City Manager

FROM: Regina Stephenson, Purchasing Manager

SUBJECT: Consider a resolution approving a professional services agreement with RCC Consultants, Inc. for consulting services to conduct Phase 2 of the radio replacement project.

Purpose:

Approval of a resolution for a professional services agreement for consulting services to conduct Phase 2 of the radio replacement project.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Directional / Informational

Fiscal Impact:

\$89,000.00 including \$3,737.75 in contingencies from the 2012 GPCO-Communications System Bond Fund

Discussion:

The City received proposals for a land mobile radio system on October 17, 2012. The Communication and Information Systems Department is requesting assistance with the evaluation of these proposals from RCC Consultants, Inc. Please see the attached memo from Sharlett Chowning, Chief Information Officer, for additional information.

Therefore, please consider a resolution approving an agreement with RCC Consultants, Inc. of Woodbridge, New Jersey for consulting services for a total cost of \$85,262.25.

RESOLUTION NO.

**RESOLUTION APPROVING AN AGREEMENT WITH
RCC CONSULTANTS, INCORPORATED, TO PROVIDE
CONSULTING SERVICES TO CONDUCT PHASE 2 OF
THE RADIO REPLACEMENT PROJECT AT A COST OF
\$85,262.25; AND APPROPRIATING FUNDS**

WHEREAS, a request for proposals was issued for consulting services to conduct Phase 2 of the Radio Replacement Project; and

WHEREAS, RCC Consultants, Inc., proposes to provide said services at a cost of \$85,262.25; 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 \$85,262.25, said contract being on file in the office of the City Secretary, referenced by the date and number of this Resolution.

SECTION TWO. That the sum of \$89,000.00 is hereby appropriated from the 2012 GPCO Communication Systems Bond Fund Fund (160) Unappropriated Fund Balance (5650) to the Radio System Upgrade Project (9018).

SECTION THREE. That the City Treasurer is hereby authorized and directed to pay RCC Consultants, Inc., pursuant to the terms of said contract from funds appropriated herein upon receipt of proper invoices or statements approved by the City Manager.

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

Council members voting "AYE":

Council members voting "NAY":

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

Courtney Sharp, City Manager

APPROVED AS TO CONTENT
AND COMPLETENESS:

Robert Patrick, General Services Director

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

PROFESSIONAL CONSULTANT SERVICES AGREEMENT
5819-13

THIS AGREEMENT is effective this 28th day of November , 2012, 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 II 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
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If to City:	Midland City Hall 300 North Loraine Midland, Texas 79701 Attn: City Manager
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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.

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., 2012.

Notary Public, State of _____

Printed Name

My Commission Expires: _____

APPENDIX A

Scope of Work and Fees

Scope of Work & Fees

Phase II – Vendor Proposal Evaluations & Contract Negotiation

The following workplan has been developed based on RCC's 29 years of corporate experience in projects of a similar nature and our current understanding of the City's need for assistance. Since the City has already completed and released its trunked radio system RFP, the scope of work that follows has been configured to build upon and leverage the fine work that has already been completed.

This is an opportune time for the City to engage RCC into Phase II of the project. The following project tasks are suggested and recommended.

Task 1—Project Kickoff and Orientation

The purpose of Task 1 will be to conduct a project kickoff and orientation meeting to help bring RCC staff up to speed on the City's recent efforts to solicit vendor proposals and to discuss the vendor proposal evaluation process and methodology. RCC recommends that representatives from the following City departments attend the meeting:

- Midland Communications and Information Technology
- City of Midland Purchasing
- City of Midland Attorney's Office
- Midland Police Department
- Midland Fire Department

At the meeting, RCC will request an update on the progress made thus far and input from the City's Purchasing Department and Attorney's Office regarding City procedures for procurements of this nature. RCC will discuss the evaluation process and will provide suggestions to help the City undertake the proposal evaluations in a thorough and objective manner.

In the event that the City already has an evaluation methodology in place, RCC staff will review that process with City staff and discuss it as needed. It is our understanding that the City has received two vendor proposals and that those proposals are currently in locked storage pending an evaluation. We recommend that the proposals remain in storage until RCC is on-board and has had an opportunity to thoroughly review City's Radio System RFP that was released to the vendor community.

Task 2—Review City's Radio System Request for Proposals

RCC will review system RFP, all questions submitted by the interested vendors, and all Addenda released by the City's Purchasing Department to develop a firm knowledge base and foundation for the evaluations.

Task 3—Preparation for Proposal Evaluations

RCC recommends that the City assemble an internal Proposal Evaluation Committee with appropriate departmental representation that will participate in the review of the vendor proposals so that they have firsthand knowledge of each vendor's offering.

RCC recommends that the City members of the Proposal Evaluation Committee serve as the voting members of the Committee. RCC's roll in the evaluation process will be to serve as the City's technical advisor to the Proposal Evaluation Committee. RCC will assist the Evaluation Committee in fully understanding each vendor's offering and will serve as a non-voting member of the Proposal Evaluation Committee.

Prior to reviewing the proposals, RCC will assist the City team in the development of a detailed proposal Evaluation Matrix that will be used in the evaluation of the vendor proposals. The Evaluation Matrix will include relative weighting and response scoring for the various system elements. RCC will work with the City team on the development of the matrix to help ensure that the weighting of evaluation items corresponds with the levels of importance identified by the City of Midland team. The Evaluation Matrix will be constructed to score and rank responses to the RFP and will be designed to indicate the degree of conformance or nonconformance of each proposer's submittal. RCC will meet with the City's Proposal Evaluation Committee in Midland to review and discuss the Evaluation Matrix in detail. Once the Evaluation Matrix has been completed and approved by the City, RCC will take possession of copies of the proposals for review.

Task 4 – Conduct Initial Evaluation of Vendor Proposals

RCC recommends that the City's Purchasing Department make a first pass review, looking for gross errors such as missing forms, the required proposal bond, signatures, or other important information. Following that, the Proposal Evaluation Committee (including RCC) will review and evaluate the proposals that have successfully passed through the Purchasing Department's first pass review. The Proposal Evaluation Committee will utilize the approved Evaluation Matrix for scoring purposes.

It is essential that the information contained in each vendor's proposal is secured and kept in strict confidence, in accordance with the City's Purchasing guidelines and RFP procedures. This will ultimately help protect the City and will help avoid eroding the competitive process. RCC will work with the Proposal Evaluation Committee to discuss and address these important issues prior to RCC's opening of the vendor proposals.

After completing an initial review, RCC will meet with the City team in Midland to discuss and review the initial proposal findings and initial scoring of the proposers' responses. During this meeting, RCC will discuss strategy and procedures that should be considered prior to engaging in the oral presentations. A list of relevant questions will be developed in preparation for the vendor oral presentations.

Typically, approximately six to eight weeks of time will be needed for RCC and the City team to complete the preliminary review of the vendor proposals. Following the initial proposal reviews, a preliminary draft of the populated Evaluation Matrix will be prepared. The matrix may include questions for the vendors, a preliminary ranking of each evaluated vendor's proposal and a tentative set of findings that will be refined as the evaluation process proceeds.

Task 5 – Attend Vendor Oral Presentations

RCC recommends that the City invite both vendors to make oral presentations to the City's Proposal Evaluation Committee to discuss their offering and answer any questions the City and RCC may have. For the purposes of RCC's cost proposal, two single day oral presentations are currently in the project budget. This figure can be adjusted as needed by the City.

RCC personnel will join the Proposal Evaluation Committee in attending the vendor oral presentations to ask questions as needed and to assist the Proposal Evaluation Committee in developing a better understanding of each proposer's offering. Each proposer will be required to respond to the City / RCC questions in writing after the presentations are complete. RCC will assist the Proposal Evaluation Committee in reviewing the vendors' responses to those questions.

Typically, in projects of this nature, each proposer will setup a working demonstration system with samples of dispatch consoles and user radio equipment. This usually requires that each proposer have a few days of preparation and setup time in Midland before the presentation. In most cases, proposers rent large conference rooms in area hotels to have the preparation time and space needed for their presentation.

Following the presentations, the City may elect to make site visits to a select number of vendor project sites at which the vendors have installed systems of a nature and size comparable to the system proposed for the City. Since it is unknown at this time whether the City will undertake such site visits, RCC's cost proposal does not currently include time or expenses for these trips. In the event that the City decides to conduct site visits and would like RCC personnel to travel with the City team to those locations, RCC will provide a cost quotation for the visits once the destination cities are known. Project time and expenses would be billed accordingly.

Task 6 – Develop Term Sheets, Request & Evaluate Best & Final Offers

At the completion of the oral presentations, RCC will update its proposal evaluation scoring and will assist the City in developing "Term Sheet" documents that will outline potential issues that if not agreed to by the vendors may degrade the City's position in a purchasing agreement (the system contract). Such issues might include the provision of strict radio coverage performance guarantees, stringent system acceptance testing criteria, specific response times for system maintenance or repairs under warranty, and long-term pricing guarantees, etc. These issues will be addressed as part of the evaluation process. Term Sheets will be presented to the prospective vendors for their review and discussion. The purpose of the Term Sheets is to obtain vendor agreement on the "sticky issues" prior to engaging in contract negotiations.

RCC will assist the City in developing a Request for Best and Final Offers (BAFOs). A separate BAFO request for each shortlisted proposer has been included on this scope of work. RCC will assist the City in evaluating the resulting BAFOS. The City may request any number of BAFOs in the process to obtain the lowest cost and most responsive final system configurations. The project budget that follows currently includes one cycle of BAFOs.

Task 7 – Finalize Vendor Selection

Upon conclusion of the BAFO process, RCC will incorporate the new information into the Evaluation Matrix. RCC will schedule and attend a meeting with the Proposal Evaluation

Committee to discuss the latest information, answer any remaining questions the Committee may have.

RCC will assist the City in selecting the vendor who provides the best system solution in terms of features, functionality, costs and the other evaluation criteria selected by the City team. Note: RCC always strives to help our clients avoid vendor protests in the procurement cycle, and has an excellent record in this regard. That said, a vendor can file a protest at any time for any reason. RCC has not included any time or expenses in the project budget to respond to protests. If a protest occurs, RCC can, if requested, assist the City in responding on a time and materials basis.

Task 8 – Support Contract Negotiations

RCC will assist the City in negotiating a contract with the selected vendor. RCC does not provide legal services therefore a member of the City Legal Counsel should participate in all negotiations. RCC will however support the City team in the following areas:

➤ **Assist in Contract Negotiations**

RCC will assist the City team in direct contract negotiations with the selected vendor.

➤ **Negotiation of Statement of Work (SOW)**

Development of a finalized comprehensive Statement of Work (SOW) is an integral part of contract negotiations for acquisition of the system. The SOW defines the responsibilities of both the vendor and the City in system implementation and acceptance testing. In addition, the SOW process will further define a number of system parameters which will directly affect the final contract price. RCC will assist the City in finalizing the SOW and negotiating the impact on final contract price due to changes sought by the City during the process.

➤ **Incorporation of Appropriate Acceptance Test Parameters for the system**

RCC will work with the City team to incorporate a stringent acceptance testing program prior to execution of a contract. System providers are more likely to agree to such performance requirements before a contract for the new systems is executed. The negotiation of testing requirements and pass/fail criteria becomes much more difficult after the contract is signed.

For the purposes of RCC's cost proposal, RCC has included forty (40) hours of contract negotiation assistance. Since neither the City nor RCC have any control over the vendors' behavior, the 40 hours is an estimate and may need to be increased or decreased at the time of negotiations. In the event that additional contract negotiation assistance is needed by the City, RCC can provide the additional services at the same hourly rates quoted in our cost proposal. The amount of time proposed is representative of other projects of similar size and scope.

Phase III – Project Management of Implementation and Acceptance Testing

The purpose of Phase III is to successfully install and acceptance test the new system prior to system cutover and to help ensure that the system has been operating properly through successful completion of a 30 or 60 day reliability test period.

A preliminary workplan for Phase III has been presented for the City's review and consideration in the following pages. RCC has extensive project implementation and acceptance testing experience in projects of this nature. RCC will help the City keep the project on track and address implementation issues that will arise as they do in essentially all projects of this nature. RCC will also help the City respond to and address vendor change order requests that may arise. It is not unusual for some vendors to submit baseless change order claims from time to time. Upon the completion of Phase II, RCC will meet with the City Project Team to discuss the specifics of the work plan for Phase III.

The following implementation assistance is suggested. It should be noted, however, that the scope of work for Phase III can be modified to meet any reasonable level of effort required by the City. Since the final system configuration purchased by the City will have an impact on the level of consulting support that may be needed, we have not included a cost quotation for Phase III support at this time. Once the City has executed a contract with a radio system vendor, we will meet with the City to discuss the level of implementation assistance that might be needed and will prepare a cost proposal at that time.

Task 1—Implementation Initiation & Orientation

The purpose of Phase III Task 1 will be to formally initiate the implementation of the new radio system. The process will begin with an implementation project kickoff meeting held with the City's Project Team, RCC Consultants, and the selected vendor's representatives. The purpose of the kickoff meeting will be to accomplish the following:

- Determine who will be involved from each of the participating entities throughout project implementation
- Discuss and review the scope of work contained in the City / vendor contract documents
- Review and agree upon the project implementation schedule, meeting dates and project milestones to be completed along the way
- Establish a project communication plan
- Establish project reporting requirements and frequencies (e.g., status reports formats, frequency and method)
- Discuss potential project hurdles that can impact the project schedule (usually site development issues), and
- Review and discuss payment terms tied to the vendor's milestone performance.

Task 2 – Provide Day-to-Day Project Implementation Support

The purpose of Task 2 is to provide the City's Project Implementation Team with day-to-day project management and implementation support for a range of project issues including:

Review and discussion of implementation tasks and issues including but not limited to:

- FCC licensing issues for the new trunked radio system;
- Final site selection and approvals;
- Site development issues and design packages to include:
 - Review and approval of vendor's site development packages for each site;
 - Periodic site inspections of vendor's work, site development, preparation and installation of site improvements, equipment shelter, tower, power and grounding / surge protection systems, and radio equipment;
 - Assistance in resolving site development issues that arise.
- Dispatch console configuration and development for each department;
- Fire Station alerting;
- System fleet mapping and development of talkgroup planning;
- Development of radio programming templates;
- Microwave system connectivity;
- System redundancy and fallback systems;
- Failure mode review and analysis;
- Periodic project meetings to review/discuss and resolve project issues.

Some project meetings may be conducted by conference call depending upon the nature of the meeting.

Task 3—Attend & Participate in Detailed Design Review (DDR) Meetings with City and Selected Vendor

A detailed system design review will be conducted with the selected vendor to thoroughly discuss their proposed system and configuration prior to the ordering and manufacturing of equipment and software. Detailed system design documents identifying all required customization mutually accepted by both the vendor and the City must be prepared by the vendor. RCC will work with the City staff to review the DDR documents and will participate in the DDR project meetings and discussions. RCC has budgeted two (2) trips, two (2) days of on-site review and discussion meetings and two (2) days of concurrent DDR review following revision of the initial DDR documents to address concerns or updates.

In the event that assistance is needed by the City beyond the amounts specified above, RCC can provide the additional services at the hourly rates quoted in our cost proposal plus the usual travel and per diem expenses.

Task 4 – Attend & Participate in System Staging

Once the vendor has manufactured the radio system infrastructure the system will be staged at one of the vendor's facilities. Staging involves assembling and installing the radio system infrastructure at the staging area for testing and City review purposes. RCC recommends that designated members of the City's Project Team attend the factory staging of the system. Being very familiar with the system technology and system architecture, RCC's presence at the staging event will provide benefit

to the City. RCC will assist the City in the testing of the new system while it is in staging. The testing is done to help identify system problems that should be resolved prior to the shipping of the new system infrastructure to Midland. Accordingly RCC will attend system staging with the City participants. We have assumed that the staging event will require one RCC person to spend two days at the vendor's staging facility.

Task 5 – FCC Licensing Assistance

RCC will assist the City in preparation of frequency coordination and FCC licensing applications to modify the City's current 800 MHz license for digital operation & to accommodate the new repeater sites that will be needed to improve in-building radio coverage. All frequency coordination and licensing fees are to be paid by the City directly to the Coordinator.

It is important to note that when adding repeater sites to an existing system, relicensing the City's existing radio channels at different locations 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 Midland's current sites downtown, at the Midland airport, and at the tower on N. Loraine Street. Depending on the location of the new City sites, the new sites may encroach on the FCC's required 70 mile separation of the co-channel users which can be a problem.

Once a vendor has been selected in Phase II and the final system sites are known, RCC and the City should identify the locations of the City's co-channel users to determine whether or not the City can expect licensing difficulties. In some cases, such difficulties can be addressed by the use of special transmitter antenna systems or other measures. Accordingly, at this time, it is difficult to accurately forecast the amount of time needed to address such licensing issues. RCC has proposed a block of time, 80 hours, for FCC licensing support. In the event that problems do arise and the City needs additional support beyond the 80 hours, RCC can provide such support at the hourly rates outlined in Section 5 Professional Fees. If less time is needed, RCC will bill the City the lesser amount.

RCC is not proposing to be responsible for microwave frequency coordination or licensing. RCC will however verify that the FCC microwave licensing is ordered in a timely manner by the microwave system vendor. The microwave system vendor will be responsible for the microwave channel licensing work and that the City is granted the proper microwave channel license(s).

Task 6—Monitor Vendor Progress, Issues & Prepare Project Status Reports

RCC will assist the City in monitoring the work performance of the selected vendor(s) and will prepare monthly project status reports reflecting the progress and issues that have arisen during the past month. Recommendations for problem resolution will be provided on a case-by-case basis. RCC will work with the City and selected vendor to monitor, track, and help resolve problems that may arise during system implementation.

Task 7 – Assist the City in Acceptance Testing of the New System

RCC personnel will work closely with the City's Project Implementation Team to help ensure that the new system and equipment are appropriately tested prior to final system acceptance. When RCC develops a system Request for Proposals, we include specific detailed requirements for the Acceptance Testing Plan in the RFP and those requirements wind up in the system contract with the vendor.

Those detailed acceptance test requirements serve as the foundation for the acceptance testing process. Since RCC was not involved in the development of the RFP, we will need to conduct a review of the testing requirements in the RFP to determine whether additional detail may be required. Once RCC has been engaged by the City for Phase II support (vendor proposal evaluation) we will review the Acceptance Testing language and requirements included in the RFP and will help the City make changes if needed. This should be done before the vendor proposals have been received by the City.

Following system implementation, RCC will assist the Project Implementation Team in conducting the system testing procedures outlined in the test finalized plan.

Such testing will involve site development, equipment installation, two-way radio and microwave radio equipment testing, required functionality, system reliability and failure modes, microwave performance testing, radio coverage testing, dispatch console testing, and user radio equipment verification and proof of performance testing.

Two-way radio system coverage performance is particularly important and will be field tested to determine whether or not the radio coverage required by the City has actually been delivered. RCC has extensive hands-on experience in coverage testing, and has conducted coverage testing in hundreds of projects several of which have been in Texas and the Dallas / Fort Worth area. We are currently in the process of conducting coverage testing for the City of Houston's new \$130 million P25 simulcast trunked radio system. There are currently 150 people involved in the ten week Houston radio coverage testing program, 50 of which are RCC representatives. On September 15th, 2012, a reporter from the Houston Chronicle newspaper conducted a 1 day "ride along" with one of the 30 field testing teams to see how the system is coming along. Two days later, the Chronicle released a story about the testing called ***"Public Safety Radio Crews Fan Out Testing the Frequencies"***. A copy of that article has been included in the Exhibits Section of this proposal.

In the Midland project, for coverage testing purposes, the City's two-way radios should be tested in the same manner the radios are used in everyday operations. Testing procedures are critically important as it is easy to "game" the process in the vendor's favor if the City's test team is not experienced in radio coverage verification. RCC will participate with City representatives and the selected vendor in the testing event and will bring "best practices" information from other projects, like Houston to the Midland project.

Prior to final acceptance, a 30 or 60 day system reliability test should be completed without a major system failure to help ensure that the new system is stable and ready for use by the City. Should there be a "major system failure" during the system reliability test, the vendor will be instructed to address the failure, provide a cure for the problem, and once that has been successfully implemented; the system reliability test will start over at day one (1).

The City team and RCC will observe and track the testing results. 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. At the completion of system testing, RCC will prepare and issue a System Acceptance Report documenting the results of the acceptance test plan (ATP). In projects of this nature, it is not unusual to have a small list of minor issues that need attention before closeout.

Task 8 – Project Close Out for Phase III

RCC will work with the City's Project team and will make a recommendation regarding the final acceptance of the system. At final acceptance the City officially takes ownership of the system. Typically, final acceptance also begins following the system's one year warranty period.

Section

5

Professional Fees & Expenses

RCC's cost proposal for Phase II of project is based upon the enclosed updated 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 significantly extended for reasons beyond RCC's control.

RCC's cost estimate is based upon a number of assumptions, which are listed below:

- Professional fees are based on the scope of the project defined in this document, and may be adjusted if the scope of work is modified.
- Hourly rates for professional fees outside of the scope of work will be based on RCC's standard rates in effect at the time the work is undertaken. Additional expenses, if any, accrued as part of the additional work would also be billed.
- The current scope of work includes the evaluation of two radio vendor proposals in Phase II.
- RCC has included 40 hours of vendor contract negotiation support. RCC has no control over the vendors' behavior and therefore the 40 hours is an estimate based on similar projects of this nature. If more support is needed, RCC can provide the needed support upon receiving appropriate City authorization. If less negotiation support is needed, the City will be billed the lesser amount.
- Invoices will be issued to the City monthly based on the work performed during the previous month.
- Invoices are due within thirty (30) days.
- Out-of-pocket expenses will be included on the monthly invoices and will be billed at actual plus an administrative fee of 10% to cover miscellaneous reimbursable expenses. Out-of-pocket expenses may include travel and per diem. RCC will make every effort to ensure that such expenses are reasonable and necessary.
- Any meetings required beyond those specifically addressed in RCC's work plan are subject to further negotiations of the scope of work. The proposed number of trips to Midland has been included in the work plan.
- To help RCC be responsive to the City, RCC reserves the right to move project time (hours) fees and expenses between project tasks and between project personnel as needed to complete the work as long as the total amount billed to the City does not exceed the total Phase II contract amount.
- Additional terms and conditions are subject to RCC Consultant's Services agreement.

A cost summary sheet for Phase II has been provided on the following page.

FINANCIAL SHEET
(included in Cost Proposal to Client)



September 18, 2012

RCC CONSULTANTS, INC. TECHNICAL SERVICES CONTRACT
Evaluation of Two Vendor Proposals and Contract Negotiation (One vendor)
City of Midland, TX
Phase II:

Professional Fees			
	Hours	Rate	Subtotal
Vice President General Manager	38	\$ 250.00	\$ 9,500.00
Associate Director		\$ 185.00	\$ -
Director		\$ 200.00	\$ -
Senior Consultant	402	\$ 170.00	\$ 68,340.00
Senior Consultant		\$ 170.00	\$ -
Administrative Assistant		\$ 70.00	\$ -
Total	440		\$ 77,840.00

\$ 77,840.00

Travel and Per Diem Expenses		
	Rate	Subtotal
7 Round Trip Airline Fares #1 @	\$ 450.00	\$ 3,150.00
Round Trip Airline Fares #2 @		
10 Man Days per Diem @	\$ 170.00	\$ 1,700.00
11 Days Rental Vehicle @	\$ 110.00	\$ 1,210.00
1250 Miles @	\$ 0.55	\$ 687.50
Total		\$ 6,747.50
		\$ 6,747.50
General and Administrative Fee	10%	\$ 674.75
		\$ 674.75
Miscellaneous Expenses		
		\$ -
Grand Total		\$ 85,262.25

CITY OF MIDLAND
Communications and Information Services Department
Interoffice Memorandum

Date: October 26, 2012
To: Robert Patrick, Director of General Services
From: Sharlett Chowning, Chief Information Officer
Subject: Contract to Hire a Consultant to Assist with Radio Evaluation

City staff requests a contract be entered into between RCC Consultants, Inc. and the City to conduct Phase II of the Radio Replacement Project. Phase I was completed almost two years ago and the information was used to produce the resulting RFP. Phase II is to have RCC assist with the vendor proposal evaluations and contract negotiations. RCC has extensive experience with the existing Midland radio system as well as what's in use in agencies throughout the state.

CISD is recommending the award of a contract to RCC Consultants, Inc. for assistance with the vendor proposal evaluations and contract negotiations for a new Radio System for the City of Midland..



City Council Agenda

Approved for Agenda:

City Manager's Office

MEETING DATE: 11/27/2012

TO: City Council / City Manager

FROM: Regina Stephenson, Purchasing Manager

SUBJECT: Consider a resolution approving the purchase of ammunition for the Police Department. RFB 5564-13

Purpose:

Approve a resolution authorizing the purchase of ammunition for the Police Department.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Directional / Informational

Fiscal Impact:

\$84,551.20 from the General Fund

Discussion:

We received four bids for ammunition. We recommend awarding base bid items 2, 4, 6, & 7 while rejecting base bid items 1, 3 & 5 and accepting alternate items 10, 11 & 12 to the low bidder GT Distributors. The City is accepting the 2% discount offered by GT Distributors for award of all items bid by GT Distributors. Base bid items 8 & 9 are recommended to the low bidder Black Hills Ammunition. GT Distributors and Black Hills Ammunition have met all of our specification requirements.

Therefore, please consider approval of a resolution authorizing the purchase of ammunition to GT Distributors of Austin, Texas for \$57,320.20 and Black Hills Ammunition of Rapid City, South Dakota for \$27,231.00 for a total cost of \$84,551.20.

RESOLUTION NO.

RESOLUTION AUTHORIZING THE PURCHASE OF AMMUNITION OF ASSORTED TYPES AND IN ASSORTED QUANTITIES FOR THE MIDLAND POLICE DEPARTMENT FROM THE RESPECTIVE LOW BIDDERS, GT DISTRIBUTORS, INCORPORATED, AND BLACK HILLS AMMUNITION, INCORPORATED, AT AN ESTIMATED TOTAL COST OF \$84,551.20; AND REJECTING SOME OF THE BIDS

WHEREAS, the City Manager approved plans and specifications and authorized advertisement for bids for ammunition of assorted types and in assorted quantities for the Midland Police Department; and

WHEREAS, Bid No. 5564-13 was opened on November 7, 2012, as shown on the bid tabulation attached hereto as Exhibit "A" and incorporated herein for all legal purposes; and

WHEREAS, the Council finds it to be in the public interest to reject all bids received for items 1, 3 and 5; and

WHEREAS, regarding the remaining items shown on Exhibit "A," the lowest and most advantageous bids were submitted from GT Distributors, Inc., and Black Hills Ammunition, Inc., respectively, in the total amount of \$84,551.20;

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 of the above-referenced ammunition, with the exception of items 1, 3 and 5, from the respective low bidders, GT Distributors, Inc., and Black Hills Ammunition, Inc., at a total price not to exceed \$84,551.20.

SECTION TWO. That the City Treasurer is hereby authorized and directed to pay GT Distributors, Inc., and Black Hills Ammunition, Inc., from funds available in the Fiscal Year 2012 - 2013 General Fund (001) Police (110) Support Services (0112) Ammunition (2540) budget account upon proper receipt of invoices or statements approved by the City

Manager.

SECTION THREE. That all bids received for items 1, 3 and 5, are hereby rejected.

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

Council members voting "AYE":

Council members voting "NAY":

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

Courtney Sharp, City Manager

APPROVED AS TO CONTENT
AND COMPLETENESS:

Robert Patrick, General Services Director

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

City of Midland - Bid Tabulation

BID NO.: 5564-13 FOR: Ammunition CLOSES: 11/7/2012			Black Hills Ammunition P.O. Box 3090 Rapid City, SD 57709 Mike Wright (605)348-5150		Precision Delta Corp P.O. Box 128 Ruleville, MS 38771 Patricia Lott (662)756-2810		GT Distributors 2545 Brosckton Dr Ste 100 Austin, TX 78758 Preston Wheelless (800)252-8310		Items Awarded to GT Distributors Austin, TX 78758 Preston Wheelless (800)252-8310		Kiesler Police Supply Inc. 2802 Sable Mill Rd. Jeffersonville, IN 47130 Cassi Shearer (812)288-5740	
ITEM	QTY	DESCRIPTION	COST EA.	TOTAL	COST EA.	TOTAL	COST EA.	TOTAL	COST EA.	TOTAL	COST EA.	TOTAL
		Please see notes following this list.....										
1	130,000	.40 Cal., S & W 180 Gr. TMJ		No-Bid		No-Bid	\$0.28	\$36,270.00		Rejected	\$0.33	\$42,510.00
		Speer/No. 53652					20 boxes/case				1,000 rds	per case
2	8,000	.40 Cal., S & W 180 Gr.		No-Bid		No-Bid	\$0.48	\$3,832.00	\$0.48	\$3,832.00	\$0.51	\$4,112.00
		Speer Gold Dot HP/ No. 53962					20 boxes/case				1,000 rds	per case
3	50,000	9mm Cal., 147 gr. TMJ		No-Bid		No-Bid	\$0.21	\$10,650.00		Rejected	\$0.26	\$12,800.00
		Speer/ No. 53620					20 boxes/case				1,000 rds	per case
4	1,000	9mm Cal., 147 gr. GDHP		No-Bid		No-Bid	\$0.45	\$446.00	\$0.45	\$446.00	\$0.48	\$478.00
		Speer No. 53619					20 boxes/case				1,000 rds	per case
5	25,000	.45 Cal., ACP 230 gr. TMJ		No-Bid		No-Bid	\$0.37	\$9,225.00		Rejected	\$0.38	\$9,525.00
		Speer/No. 53653					20 boxes/case				1,000 rds	per case
6	2,000	.45 Cal., ACP 230 gr. GDHP		No-Bid		No-Bid	\$0.53	\$1,052.00	\$0.53	\$1,052.00	\$0.56	\$1,126.00
		Speer/No. 53966					20 boxes/case				500 rds	per case
7	2,000	.308 Win, 168 gr.		No-Bid		No-Bid	\$1.16	\$2,320.00	\$1.16	\$2,320.00	\$1.24	\$2,480.00
		Federal Match/ BTHP FC-GM308M					20 boxes/case				1,000 rds	per case
8	3,000	223 Cal., 75gr. Match	\$0.5295	\$1,588.50		No-Bid		No-Bid		No-Bid	\$0.67	\$1,995.00
		Black Hills / BTHP M223N6	20-50 RPB	per case							1,000 rds	per case
9	65,000	223 Cal., 60 gr. Soft Pt.	\$0.3945	\$25,642.50		No-Bid		No-Bid		No-Bid	\$0.48	\$31,330.00
		Black Hills / R223R4	20-50 RPB	per case							1,000 rds	per case M223R4
		TOTAL		\$27,231.00				\$63,795.00		\$7,650.00		\$106,356.00
		Alternate for Item 1										
10	130,000	.40 S&W Cal., Blazer 180 gr. Or 165 gr. TMJ		No-Bid		No-Bid	\$0.26	\$34,190.00	\$0.26	\$34,190.00		No-Bid
		CCI/No. 3591					20 boxes/case					
		Alternate for Item 3										
11	50,000	.9mm Cal., 147 gr. TMJ		No-Bid		No-Bid	\$0.18	\$8,850.00	\$0.18	\$8,850.00		No-Bid
		CCI					20 boxes/case					
		Alternate for item 5										
12	25,000	.45 ACP Cal., 230 gr. TMJ		No-Bid		No-Bid	\$0.31	\$7,800.00	\$0.31	\$7,800.00		No-Bid
		CCI					20 boxes/case					

		Alternate for item 7									
13	2,000	.308 Win, 168 gr. BTHP	\$0.959	\$1,918.00	No-Bid	No-Bid	No-Bid	No-Bid	No-Bid	No-Bid	No-Bid
		Black Hills									
14	2,000	.308 Win, 175 gr. BTHP	No-Bid	No-Bid	No-Bid	\$1.48	\$2,960.00	Rejected	No-Bid	No-Bid	No-Bid
		Federal Match				10 boxes/case					
		Alternate for item 9									
15	65,000	64 gr. Soft Point	No-Bid	No-Bid	No-Bid	\$0.66	\$42,835.00	No-Bid	No-Bid	No-Bid	No-Bid
		Federal TRU				25 boxes/case					
16	65,000	60 gr. TAP	No-Bid	No-Bid	No-Bid	\$0.68	\$44,135.00	Rejected	No-Bid	No-Bid	No-Bid
		Hornady				10 boxes/per		10 boxes/per			
17	65,000	64 gr. Power Point	No-Bid	\$0.451	\$29,328.00	No-Bid	No-Bid	No-Bid	No-Bid	No-Bid	No-Bid
		Winchester Super X Duty			Winchester RA223R2						
					200 Rds per case						
Alternate Bid Total :			\$1,918.00	\$29,328.00	\$140,770.00	\$50,840.00	No-Bid	No-Bid	No-Bid	No-Bid	No-Bid
Base Bid Total :			\$27,231.00	No-Bid	\$63,795.00	\$7,650.00	\$106,356.00				
Discount if all items awarded to this vendor:					2%	2%	\$1,169.80				
Discounted Total :			\$28,839.44		\$62,519.10	\$57,320.20					
Delivery:			90 Day ARO	15 Days	30-120 Days ARO	30-120 Days ARO	Est. 90-120 Days				

Bidding Summary:

11 Bid requests were issued.

4 Bids listed above

1 NO BIDS were received.

Lawmen's & Shooters Supply

6 Bidders did not respond.

Simmons Gun Specialties, Gulf State Distributors, SOGA Options, Natchez Shooters,
Between the Walls, C&G Wholesale



City Council Agenda

Approved for Agenda:
THudson
City Manager's Office

MEETING DATE: 11/27/2012

TO: City Council / City Manager

FROM: Regina Stephenson, Purchasing Manager

SUBJECT: Consider a resolution approving a contract for labor, material, equipment and supervision necessary to clean and paint the steel structures at the Scharbauer Sports Complex. RFB 5590-13

Purpose:

Approval of a resolution awarding a contract to clean and paint the steel structures at the Scharbauer Sports Complex.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Directional / Informational

Fiscal Impact:

\$484,230.00 plus \$48,230.00 in contingencies for a total of \$532,653.00 from the SCDC Revenue Fund

Discussion:

Three bids were received for cleaning and painting the steel structures at the Scharbauer Sports Complex. We recommend awarding the contract to the low bidder, Opt Co, Inc. Please see the attached memo from Tina Jauz, Community Services Director, for additional information.

Therefore, please consider approval of a resolution awarding a contract to clean and paint the steel structures at the Scharbauer Sports Complex to Opt Co, Inc. of Apache Junction, Arizona for a total cost of \$484,230.00 plus 10% in contingencies for a total appropriation of \$532,653.00.

RESOLUTION NO.

**RESOLUTION AWARDING A CONTRACT FOR THE
CLEANING AND PAINTING OF ALL STEEL
STRUCTURES AT THE SCHARBAUER SPORTS
COMPLEX TO OPT CO, INCORPORATED, AT A
TOTAL COST OF \$532,653.00; AND APPROPRIATING
FUNDS**

WHEREAS, the City Manager advertised the cleaning and painting of all steel structures at the Scharbauer Sports Complex for competitive bids; and

WHEREAS, Bid No. 5590-13 was opened on November 7, 2012, with the lowest and most responsible bid being submitted from Opt Co, Inc., at \$532,653.00 as shown on the bid tabulation attached hereto as Exhibit "A" and incorporated herein for all legal purposes; and

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

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

SECTION ONE. That the City Manager and City Secretary are hereby authorized and directed to execute and attest, respectively, on behalf of the City of Midland, a contract with Opt Co, Inc., for said project at a cost not to exceed \$532,653.00, said contract being on file in the office of the City Secretary, referenced by the date and number of this Resolution.

SECTION TWO. That the sum of \$532,653.00 is hereby appropriated from the SCDC Revenue Fund (621) Unappropriated Fund Balance (5650) to the Scharbauer Sports Complex Painiting Project (9022).

SECTION THREE. That the City Treasurer is hereby authorized and directed to pay Opt Co, Inc., pursuant to the terms of said contract from funds appropriated herein upon receipt of proper invoices or statements approved by the City Manager.

On motion of Council member _____, seconded by Council member _____, the above and foregoing resolution was adopted by the City Council of the

City of Midland at a regular meeting on the _____ day of _____, A.D., 2012, by
the following vote:

Council members voting "AYE":

Council members voting "NAY":

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

Courtney Sharp, City Manager

APPROVED AS TO CONTENT
AND COMPLETENESS:

Robert Patrick, General Services Director

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

City of Midland - Bid Tabulation

BID # 5590-13 Painting at SSC Rebid OPENED November 7, 2012 Est. Cost: \$200,000.00			Mid-Tex of Midland 5206 W Wadley Midland, TX 79707 T. Alan White (432) 697-2282		JNA Painting & Contracting Co., Inc PO Box 26048 Baltimore, MD 21224 Regina Hohelo (214) 325-9415		Optco Industrial Coatings 5136 So. Desert View Dr. Apache Junction, AZ 85120 Les T Simmons (602) 694-3471	
ITEM	QTY	DESCRIPTION	COST EA.	TOTAL	COST EA.	TOTAL	COST EA.	TOTAL
1	1	Base Bid 1: Painting at Citibank Ballpark	538,254.0000	\$538,254.00	\$348,000.00	\$348,000.00	\$231,804.00	\$231,804.00
2	1	Alt Bid 1: Remove and replace signes on video board structure	8,883.0000	\$8,883.00	\$3,200.00	\$3,200.00	\$7,940.00	\$7,940.00
3	1	Alt Bid 2: Remove clock from video board structure	2,226.0000	\$2,226.00	\$1,800.00	\$1,800.00	\$4,650.00	\$4,650.00
4	1	Alt Bid 3: Cost per linear foot to replace metal if needed	504.0000	\$504.00	\$75.00	\$75.00	\$296.00	\$296.00
5	1	Alt Bid 4: Paint beams on top of gates at entrance to ballpark	4,961.0000	\$4,961.00	\$2,000.00	\$2,000.00	\$4,980.00	\$4,980.00
6	1	Alt Bid 5: Pressure wash, clean & paint ductwork		N/A	\$3,000.00	\$3,000.00		Included
7	1	Base + Alt. Bid: Total For Citibank Ballpark	554,324.0000	\$554,324.00	\$358,075.00	\$358,075.00	\$249,374.00	\$249,374.00
1	1	Base Bid 2: Painting at Grande Stadium	524,517.0000	\$524,517.00	\$311,900.00	\$311,900.00	\$217,456.00	\$217,456.00
2	1	Alt Bid 1 : Remove and replace signs on video board structure	8,883.0000	\$8,883.00	\$3,200.00	\$3,200.00	\$7,940.00	\$7,940.00
3	1	Alt Bid 2: Remove clock from video board structure	2,226.0000	\$2,226.00	\$1,800.00	\$1,800.00	\$4,650.00	\$4,650.00
4	1	Alt Bid 3: Cost per linear foot to replace metal if needed	504.0000	\$504.00	\$75.00	\$75.00	\$296.00	\$296.00
5	1	Alt Bid 4: Paint beams on top of gates at entrance to ballpark	1,784.0000	\$1,784.00	\$2,000.00	\$2,000.00	\$4,810.00	\$4,810.00
6	1	Alt Bid 5: Pressure wash, clean & paint ductwork	2,851.0000	\$2,851.00	\$5,000.00	\$5,000.00		Included
7	1	Base + Alt. Bid: Total for Grande Stadium	540,261.0000	\$540,261.00	\$323,975.00	\$323,975.00	\$234,856.00	\$234,856.00
		Work Completed	450 Calendar Days		240 Calendar Days		300 Calendar Days	
TOTAL FOR ALL ITEMS				\$1,094,585.00		\$682,050.00		\$484,230.00

Bidding Summary:

22 Bid requests were issued.

3 Bids listed above

0 NO BIDS were received.

19 Bidders did not respond.

Onyx Contractors, Raider Painting Company, Rodriguez Painting & DryWall, RRC Const.
 Schnurr Inc, WR Construction, Ward Painting, White Construction
 Abbott Building, Barbed Cross Const., Campbell Construction, Cooper Const, Crossland Construction
 Crystal Clear, ED Walton Const, JC Roberts Const, Master Builders, Minnix Commercial, NC Sturgeon

CITY OF MIDLAND
Community Services Department
Interoffice Memorandum

Date: November 13, 2012
To: Tommy Hudson, Deputy City Manager
From: Tina Jauz, Community Services Director
Subject: SSC Painting - Award Contract and Appropriate Funds to a Project

On October 3, the 4B Board recommended staff bid the painting of the entire Scharbauer Sports Complex.

Under the City Council's authorization, staff solicited qualified bidders in October to remove the rust, power wash, prime, and paint all silver and blue structures in both stadiums plus the structures supporting the video boards at both Grande and Citibank Ballpark.

Bids were opened on November 7. Community Services recommends awarding the bid to the lowest bidder, Optco Industrial Coatings in the amount of \$484,230 plus a 10% contingency for a total of \$532,653.

The project had been previously bid twice, once receiving no bids, the second time receiving one responsive bidder at a price of \$753,985. When the project was bid previously, it was not for the entire complex but for both structures supporting the video boards and the west side of Grande.

Staff anticipates the contractor starting with Grande Stadium first, working around the event schedule, and then moving to Citibank after the 2013 RockHounds season. All work should be completed by March of 2014.

With this timeline in mind, the funds will be appropriated to a project allowing it to run over Fiscal Years.

That the sum of \$532,653 is hereby appropriated from the SCDC Revenue Fund (621) Unappropriated Fund Balance (5650) to the Scharbauer Sports Complex Painting Project (9022)



THE CITY OF MIDLAND

CONTRACT

Contract No. 5590-13

THIS CONTRACT, effective the 28th day of November, 2012, by and between the City of Midland, hereinafter referred to as the "Owner", and Opt Co, Inc., hereinafter referred to as the "Contractor", is made for the following considerations:

1. **Cost:** Total Proposal: \$ 484,230.00 DOLLARS

2. **Scope of Work:** The Contractor shall perform all work described for labor, equipment, paint, and supervision to clean, prime and paint the steel structures at Grande Communications Stadium and Citibank Ballpark, including the stairs in the stairwells, and both structures that support the video boards at Scharbauer Sports Complex in the following documents, attached hereto and incorporated herein by reference for all legal purposes.

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

EXHIBIT B..... Intentionally Omitted

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

EXHIBIT D..... Wage Scale

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

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

to perform the work in accordance with the contract.

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

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

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

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

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

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

8. **INDEMNITY: THE CONTRACTOR SHALL INDEMNIFY AND HOLD HARMLESS AND DEFEND THE OWNER AND ALL OF THE OWNER'S OFFICERS, AGENTS AND**

EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, LOSSES, PROPERTY DAMAGE AND EXPENSES OF ANY CHARACTER WHATSOEVER, INCLUDING ATTORNEY'S FEES, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY, ON ACCOUNT OF ANY NEGLIGENT ACT OF THE CONTRACTOR, THEIR AGENTS OR EMPLOYEES, OR ANY SUBCONTRACTOR, IN THE EXECUTION, SUPERVISION AND OPERATIONS GROWING OUT OF OR IN ANY WAY CONNECTED WITH THE PERFORMANCE OF THIS CONTRACT, AND CONTRACTOR WILL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST THE OWNER OR ANY OF ITS OFFICERS, AGENTS OR EMPLOYEES, INCLUDING ATTORNEY'S FEES.

8.1. THE CONTRACTOR SHALL INDEMNIFY AND HOLD HARMLESS AND DEFEND THE OWNER AND ALL OF THE OWNER'S OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, ACCIDENTAL DEATH, PROPERTY DAMAGE, LOSSES, AND EXPENSES OF ANY CHARACTER WHATSOEVER INCLUDING ATTORNEY'S FEES, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY, ON ACCOUNT OF ANY NEGLIGENT ACT OF THE OWNER, THE OWNER'S OFFICERS, AGENTS AND EMPLOYEES, WHETHER SUCH NEGLIGENT ACT WAS THE SOLE PROXIMATE CAUSE OF THE INJURY OR DAMAGE OR A PROXIMATE CAUSE JOINTLY AND CONCURRENTLY WITH THE CONTRACTOR OR THE CONTRACTOR'S EMPLOYEES, AGENTS OR SUBCONTRACTORS NEGLIGENCE IN THE EXECUTION, SUPERVISION AND OPERATIONS GROWING OUT OF OR IN ANY WAY CONNECTED WITH THE PERFORMANCE OF THIS CONTRACT, AND CONTRACTOR WILL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST THE OWNER OR ANY OF ITS OFFICERS, AGENTS OR EMPLOYEES, INCLUDING ATTORNEY'S FEES.

8.2. THE CONTRACTOR AGREES THAT HE WILL INDEMNIFY AND SAVE THE OWNER HARMLESS FROM ALL CLAIMS GROWING OUT OF ANY DEMANDS OF SUBCONTRACTORS, LABORERS, WORKMEN, MECHANICS, MATERIALMEN, AND FURNISHERS OF MACHINERY AND PARTS THEREOF, EQUIPMENT, POWER TOOLS, ALL SUPPLIES, INCLUDING COMMISSARY INCURRED IN THE FURTHERANCE OF THE

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

9. **Start of Work:** The Contractor shall commence work no later than ten (10) days after receipt of the execution of this document or other written release to proceed and shall complete such work no later than 300 calendar days after release to proceed.

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

9.1. TIME IS OF THE ESSENCE IN THIS CONTRACT.

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

11. **Warranty:** Neither the final payment nor any provision in this contract shall relieve the Contractor of responsibility for faulty materials or workmanship, and he shall remedy any defects due thereto and pay for any damage to other work resulting therefrom, which shall appear within a period of one (1) year from the date of substantial completion. The Owner shall give notice of observed defects with reasonable promptness.

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

12.1. Defective work not remedied; or

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

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

12.4. Damages to another contractor or subcontractor.

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

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

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

14.1. If applicable, the Davis-Bacon Act, 29 CFR 5.5, and any related acts or regulations are hereby incorporated by reference and made a part of this Contract, and all terms and requirements under said laws, by such incorporation, are made terms and requirements of this Contract, to which the parties to this Contract have agreed to be bound.

15. **Payment:** After all work is completed by the Contractor, and the Owner has inspected and approved that work, the Owner shall within thirty-one (31) days thereafter issue payment to the

Contractor in the amount of the contract and subsequent verified Change Orders. The Owner shall be the final judge of when work is completed by the Contractor. For contracts exceeding \$25,000 and construction time exceeds ninety days, requests for progress payments may be made to the extent of the materials and labor completed at the end of each month. Upon approval by the Owner's Representative the request and invoice shall be forwarded for payment less 5% retainage. The total of these payments shall not exceed 95% of the total contract amount.

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

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

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

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

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

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

THERE IS NO WAIVER OF SOVEREIGN IMMUNITY.

19. **Insurance**

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

Commercial General Liability (including Contractual liability):

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

-Property Damage: \$500,000.00 per occurrence

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

Worker's Compensation: Statutory limits

Employers' Liability: \$500,000.00 per accident or occurrence

The Commercial General Liability shall be on a per project aggregate, including completed operations, and shall be on an occurrence basis.

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

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

All insurance required pursuant to this Contract shall provide for a waiver of subrogation in favor of the City. All insurance required pursuant to this Contract, except for Worker's Compensation Insurance, shall name the City as an additional insured on a claims occurred basis. City shall be provided the notice by Contractor's insurance provider not later than thirty (30) days prior to any reduction or termination of such coverage.

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

The parties agree that, prior to the execution of the Contract, Contractor shall provide one or more certificates of insurance specifically stating that these requirements have been met and subject to the approval of the City. The City shall not be required to provide any insurance whatsoever pursuant to this Contract.

The Contractor certifies that the certificate of insurance provided as required herein complies with the requirements of Senate Bill 425, passed during the 82nd regular session of the Texas Legislature, and effective January 1, 2012.

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

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

22. **Governing Law and Venue:** This Contract shall be governed by the laws of the State of Texas. All performance and payment made pursuant to this Contract shall be deemed to have occurred in

Midland County, Texas. Exclusive venue for any claims, suits or any other action arising from or connected in any way to this Contract or the performance of this Contract shall be in Midland County, Texas. The obligations and undertakings of each of the parties to this Contract shall be deemed to have occurred in Midland County, Texas.

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

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

Manager within the time and manner provided herein shall exonerate, excuse and except the Owner from any liability whatsoever. The Owner is under no obligation to provide notice to Contractor that Contractor's notice is insufficient. Owner reserves the right to request reasonable additional information regarding the claim. Said additional information shall be supplied within thirty (30) days after receipt of notice.

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

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

Contract No: 5590-13

OWNER, City of Midland

CONTRACTOR

Courtney B. Sharp, City Manager

APPROVED AS TO FORM

Keith Stretcher, City Attorney

ATTEST

Amy M. Turner, City Secretary

Contractor Corporate Acknowledgment: Contract No.5590-13

STATE OF TEXAS §

§

COUNTY OF MIDLAND §

BEFORE ME, the undersigned authority, on this day personally appeared _____, an officer of Opt Co, Inc.,

known to me to be the person and official whose name is subscribed to the forgoing instrument, and acknowledged to me that he executed the same as the act and deed of said corporation, for the purposes and consideration therein expressed, and in the capacity therein stated.

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

Notary Public, State of Texas



PAINTING & INDUSTRIAL COATINGS

Texas Division
320 E Lake Texoma Dr.
Wylie, Texas 75098
Cell: 602-694-3471
Fax: 972-442-2825

City Of Midland

Office of the Purchasing Agent
P.O.Box 1152
Midland, Texas 79702

DATE: November 7, 2012

Project: Scharbauer Sports Complex
Repainting of the Citibank Ballpark & Grande Communications Stadium

PROPOSAL #5590-13

OptCo Industrial Coatings is pleased to submit the following for your review

Please see attached Bid Documents, included are:

Project proposal

Bid Bond

Insurance Certificates

Acknowledge of Addendum #1

Acknowledge of Addendum #2, (included in proposal)

Acknowledge of Addendum #3

Acknowledge of Addendum #4

Should you need further information feel free to contact me @ 602-694-3471

Respectfully submitted,

Les T. Simmons,
OptCo Industrial Coatings
Project Mgr. Texas Division
Office: 480-844-1990
Fax: 972-442-2825
les.s@optcoaz.com



**CITY OF MIDLAND
PURCHASING DIVISION
BID REQUEST**

DATE: 10-12-12

PAGE: 01

(THIS IS NOT AN ORDER)

BID NO: 5590-13

OPENING TIME: 11:00 AM

CLOSING DATE: 10-31-12

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

BIDS WILL BE RECEIVED IN THE OFFICE OF THE City Secretary, Suite 330
UNTIL 11:00 A.M., 10-31-12 FOR GOODS AND SERVICES DESCRIBED BELOW WHICH WILL BE DELIVERED TO:
Scharbauer Sports Complex, 5514 Champions Dr, Midland, Texas

ITEM NO.	QTY	UNIT	DESCRIPTION	UNIT PRICE	AMOUNT
			Labor, material, equipment and supervision necessary to sandblast/power wash, prime and paint the steel structures at Grande Communications Stadium and Citibank Ballpark, including the stairs in the stairwells, and both structures that support the video boards at the Scharbauer Sports Complex in accordance with the attached specifications, proposal and contract. This is a re-bid of RFB 5088-12.	N/A	
				TOTAL	N/A

NOTICE TO BIDDERS:

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

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

NOTE: EACH BIDDER IS TO INDICATE BRAND NAME PRODUCT NUMBER AND ATTACH DESCRIPTIVE LITERATURE CLEARLY MARKED TO SHOW EACH ITEM ON THIS BID.
THE UNDERSIGNED HEREBY OFFERS TO FURNISH AND DELIVER THE ARTICLES OR SERVICE AS SPECIFIED ABOVE AT THE PRICES AND TERMS HEREIN STATED AND IN STRICT ACCORDANCE WITH THE SPECIFICATIONS AND CONDITIONS OF BIDDING ALL WHICH ARE MADE A PART OF THIS OFFER. THIS OFFER IS NOT SUBJECT TO WITHDRAWAL WITHOUT PERMISSION.

COMPANY NAME: OPTCO INDUSTRIAL COATINGS
ADDRESS: 516 S DESERT VIEW DR
CITY: NACHE JUNCTION ST ZIP: 79120
PHONE NO: 409-844-1990 FAX NO: 409-844-2499
EMAIL: les.s@optcoaz.com

CASH DISCOUNT: _____ % _____ DAYS

DELIVERY CAN BE MADE _____

AUTHORIZED SIGNATURE _____

PLEASE READ CONDITIONS FOR BIDDING ON BACK BEFORE SUBMITTING



OPTCO

Contractor's Name

Revised: 10-25-12

PROPOSAL**Bid #5590-13**

To: Purchasing Agent
City of Midland
Midland, Texas

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

Base Bid 1: Painting at Citibank Ballpark \$ 231,804⁰⁰ DOLLARS
Alt. Bid 1: Remove and replace signs on video board structure ADD \$ 7,940⁰⁰ DOLLARS
Alt. Bid 2: Remove clock from video board structure ADD \$ 4,650⁰⁰ DOLLARS
Alt. Bid 3: Cost per linear foot to replace metal if needed ADD \$ 296⁰⁰ LF DOLLARS
Alt. Bid 4: Paint beams on top of gates at entrance to ballpark ADD \$ 4,980⁰⁰ DOLLARS
Alt. Bid 5: Pressure wash, clean & paint ductwork Ø INCLUDED DOLLARS
Base + Alt. Bid: Total \$ 249,374⁰⁰ DOLLARS

Base Bid 2: Painting at Grande Stadium \$ 217,456⁰⁰ DOLLARS
Alt. Bid 1: Remove and replace signs on video board structure ADD \$ 7,940⁰⁰ DOLLARS
Alt. Bid 2: Remove clock from video board structure ADD \$ 4,650⁰⁰ DOLLARS
Alt. Bid 3: Cost per linear foot to replace metal if needed ADD \$ 296⁰⁰ LF DOLLARS
Alt. Bid 4: Paint beams on top of gates at entrance to stadium ADD \$ 4,810⁰⁰ DOLLARS
Alt. Bid 5: Pressure wash, clean & paint ductwork Ø INCLUDED DOLLARS
Base + Alt. Bid: Total \$ 234,856⁰⁰ DOLLARS

The undersigned bidder hereby declares that he has visited the site of the work and has carefully examined the Contract Documents pertaining to the work covered by the above bid and he further agrees to commence work within ten (10) days after the date of written notice to do so and to substantially complete same within 300 calendar days.

VENDOR CONTACT:

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

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

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

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

AWARD

If the Contract is awarded, it will be awarded to either the lowest responsible bidder, or to the bidder who provides goods or services at the best value for the City of Midland. In determining the best value for the City of Midland, the City of Midland may consider the criteria enumerated in Section 252.043 of the Texas Local Government Code.

BID WAIVERS:

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

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

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

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

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

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

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

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

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

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

SOVEREIGN IMMUNITY: By Executing this contract the City is not waiving its right of Sovereign immunity. the City is retaining its IMMUNITY from suit. the City is not granting consent to be sued by legislative resolution or action.

THERE IS NO WAIVER OF SOVEREIGN IMMUNITY.

OPTCO INDUSTRIAL COATINGS
Bidder
5136 S DESERT VIEW, APACHE JUNCTION
Address, City and State AZ 85120

[Signature]
Authorized Signature
LES T SIMMONS
Please Print above Name

602-694-3471
Telephone
480-844-2499
Fax

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

☒ PROOF OF AUTOMOBILE, WORKER'S COMPENSATION AND GENERAL LIABILITY INSURANCE COVERAGE AS REQUIRED

BY THE TERMS OF THE CONTRACT. (Upon award and prior to execution of the contract The City of Midland will have to be added to the policy as an additional insured and a certificate issued reflecting that provision) including a waiver of subrogation as stated in the contract)

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

PLEASE NOTE:

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

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

CITY OF MIDLAND

ADDENDUM

BID # 5590-13

Painting at the Scharbauer Sports Complex

TO ALL BIDDERS ON THE SUBJECT BID:

ADDENDUM # 1

DATE: October 25, 2012

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

The closing date has been changed to November 7, 2012 at 11:00 AM.

Please replace the proposal form emailed with the original request for bid with the attached proposal form revised 10-25-12.

Q1. 6.2.3. Can you verify the supports that hold the video boards at both parks?

A1. All of the metal structure that supports the video boards at both the ballpark and stadium.

Q2. 6.2.3.8. The handrails do not get painted, but does the blue railing throughout both ball parks get painted?

A2. Yes

Q3. 6.2.3.11. The cross pieces on the awning at Citibank Ball Park are called out to be painted, are you referring to the structure purlins, or the trusses. Please verify.

A3. Purlins and trusses shall be painted

Q4. 6.2.3.12. Please verify that the blue referred to is located above the Press Box.

A4. The blue that we are referring to is any pre-finished surface.

Q5. 6.2.3.14. Does all the structural steel get painted on both score boards?

A5. Yes

Q6. 6.2.3.15. Does in fact Grande Stadium get painted before Citibank Ball Park?

A6. The painting sequence will be determined by the date the contract is executed.

Q6. 6.2.3.17. Please verify that all structural steel is to be painted that is in view from the front of each stadium, except the stairs, structural steel at the stairwells, and the two bridges at Grande Stadium.

A6. Yes, all structural steel that is in view from the front of each stadium is to be painted except for the blue colored structures in the stairwells and the two bridges.

Q7. 6.2.3.23. Could you please provide a complete schedule for the next calendar year for both Citibank Ball Park and Grande Communications Stadiums?

A7. See attached Master complex calendar.

Q8. A, Does the exposed drain lines, (painted piping) at both stadiums get painted?

A8. Yes

Q9. B, Does the metal window awnings located at most all windows at both stadiums get painted?

A9. See sections 6.2.3.11; 6.2.3.16; 6.2.3.19

Q10. C, Alt. Bids 1: Can a unit or T & M price be set for the sign removal. And does the price to replace the signs be included?

A10. The signs shall be removed and then replaced after the structure has been painted. A lump sum price is required.

Q11. D, Alt. Bid 2: Can a Unit Price or T & M Price be used for the clock removal? And does the price to reinstall the clock be included?

A11. The clock shall be removed and shall not be replaced. A lump sum price is required.

Q12. E, Alt Bid 3: Any steel needing replacing can best be determined after cleaning; therefore a lump sum price cannot be provided at this time. But a unit price or T&M price can be agreed upon at that time.

A12. See attached revised proposal.

Specification clarifications as a result of the pre-bid conference held on October 22, 2012:

- Do not paint any blue colored structures in the stairwells at Citibank Ballpark and at Grande Stadium.
- Paint all hollow metal exterior doors inside and out except for the suite doors at Citibank Ballpark and at Grande Stadium.
- Sand and prep surfaces for painting at Citibank Ballpark and at Grande Stadium
- Do not paint any pre-finished surfaces at Citibank Ballpark and at Grande

Stadium

- Do not paint any black colored structures at Citibank Ballpark and at Grande Stadium
- The City will cover the video boards prior to painting at Citibank Ballpark and at Grande Stadium
- 6.2.3 has been revised as follows:
Steel structures at Grande Communications Stadium and Citibank Ballpark, excluding the blue colored structures in the stairwells, and including structures that support the video boards at both Grande Stadium and Citibank Ballparks shall be painted.
- 6.2.3.13 (Paint until mid-point just opposite the camera deck) shall be removed from the specifications.
- Bidders may contact Don Manuz at 432-889-6118 or David Sanchez at 432-413-8109 to visit the site. If there are questions as a result of a site visit, all questions shall be emailed to purchasing@midlandtexas.gov so we can send the answers to all bidders in an addendum.

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

All other terms and conditions shall remain the same.

OPTCO INDUSTRIAL COATINGS
Company Name

[Signature]
Bidder Authorized Signature

LES T SIMMONS
Please Print Above Name

OCT. 29, 2012
Date

602-694-3471
Phone

CITY OF MIDLAND

ADDENDUM

BID # 5590-13

Painting at the Scharbauer Sports Complex

TO ALL BIDDERS ON THE SUBJECT BID:

ADDENDUM # 2

DATE: November 1, 2012

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

Q1. Water, Electric/power. Are they available for use at the stadium? Is there a cost involved?

A1. All of those requests will be ready available to them at no cost.

Q2. How many coats of paint are to be applied?

A2. 2 coats

Q3. Is the primer that is listed for spot spot priming or is it a full primer coat?

A3. Primer should be a full primer coat Bond Plex recommended for steel.

Q4. How often is the invoicing for this project allowed? Monthly? Retainage?

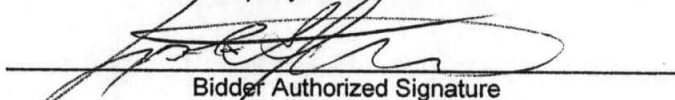
A4. Invoice monthly. Retainage will be 5%.

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

All other terms and conditions shall remain the same.

OPTICO INDUSTRIAL COATINGS

Company Name



Bidder Authorized Signature

LES T SIMMONS

Please Print Above Name

NOV. 6, 2012

Date

602-694-3411

Phone

CITY OF MIDLAND

ADDENDUM

BID # 5590-13

Painting at the Scharbauer Sports Complex

TO ALL BIDDERS ON THE SUBJECT BID:

ADDENDUM # 3

DATE: November 5, 2012

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

- Q1. Can the owner tell us which functions would allow some activity on the work and which ones would be completely off limits for work?
- A1. Citibank Ball Park would be off limits during the season March – Mid September. With Grande, we would just have to work around events like HS soccer and professional soccer. There will be events that can go forward with work being done at the same time. We will work our best with the company to ensure there is plenty of work time.
- Q2. Can the backstop material be removed on the baseball field to allow for a lift to be used in the infield to reach the upper deck painting?
- A2. It is a possibility to have the net removed, it is not an ideal situation as it is difficult to put back up and tighten.
- Q3. What is the tentative date that the project if in budget would be awarded by to allow for start of work?
- A3. As soon as all the insurance and bonds are in and contract signed.

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

All other terms and conditions shall remain the same.

OPICO INDUSTRIAL COATINGS
Company Name

[Signature]
Bidder Authorized Signature

LES T SIMMONS
Please Print Above Name

NOV. 6. 2012
Date

602-694-3471
Phone

CITY OF MIDLAND

ADDENDUM

BID # 5590-13

Painting at the Scharbauer Sports Complex

TO ALL BIDDERS ON THE SUBJECT BID:

ADDENDUM # 4

DATE: November 5, 2012

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

Please note completion & invoice date has been changed to March 1, 2014.

Q1. Can you please find out if the DTM Bonding primer that is listed in the specification is the full primer for the aluminum area or if 2 coats of the Aluminum would be acceptable. Also, does the DTM Bonding Primer go 1 coat with the SherCryl Product being the Final Coat on the blue areas that are painting?

A1. Any areas where there is loose paint need to be prepped and spot primed and coated with two finish coats

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

All other terms and conditions shall remain the same.

OPTCO INDUSTRIAL COATINGS

Company Name

[Signature]

Bidder Authorized Signature

LES T SIMMONS

Please Print Above Name

NOV. 6, 2012

Date

602-694-3471

Phone

EXHIBIT C

Bonding Requirements

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

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

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

PAYMENT BOND

STATE OF TEXAS §
 §
COUNTY OF MIDLAND §

SURETY'S NO. _____

KNOW ALL MEN BY THESE PRESENTS, THAT _____,

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

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

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

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

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

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

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

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

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

Principal

Surety

By _____

By _____

Address _____

Address _____

APPROVED AS TO FORM:

City Attorney

NOTE: ATTACH POWER OF ATTORNEY

PERFORMANCE BOND

STATE OF TEXAS §
 §
COUNTY OF MIDLAND §

SURETY'S NO. _____

KNOW ALL MEN BY THESE PRESENTS, THAT _____

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

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

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

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

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

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

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

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

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

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

Principal

Surety

By _____

By _____

Address _____

Address _____

APPROVED AS TO FORM:

City Attorney

NOTE: ATTACH POWER OF ATTORNEY

EXHIBIT "D"

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

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

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

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

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

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



DATE: November 15, 2012

TO: The Honorable Mayor and City Council Members

FROM: Keith Stretcher, City Attorney

SUBJECT: The Hispanic Cultural Center of Midland

The proposed resolution authorizes the execution of an amendment to the lease with The Hispanic Cultural Center of Midland regarding a building at Hogan Park. The proposed amendment is shown as follows:

22. The Lessor's City Manager shall add the building to the City's property insurance. Lessor and Lessee agree that in the event of a claim approved by the City Manager, Lessor and Lessee shall share any insurance deductible in equal parts.

If you have any questions please do not hesitate to contact me. You may also want to contact Council Member Hailey if you have any questions.

KS/lo

RESOLUTION NO.

**RESOLUTION AUTHORIZING THE EXECUTION OF
AN AMENDMENT TO THE LEASE AGREEMENT
WITH THE HISPANIC CULTURAL CENTER OF
MIDLAND REGARDING A CITY OWNED BUILDING
LOCATED IN HOGAN PARK**

WHEREAS, the City Council has determined that leasing the building known as the Women's Club Building, located in Hogan Park, for the purposes of conducting Art, Dance, Drama, Music and Speech performances and training activities and other related recreational and educational activities would be an enhancement of and a valuable addition to that particular park and to the public park system of the City; and

WHEREAS, the City Council has determined that the maintenance and operation of such a facility is within the park purposes, so that it is the opinion of the City Council that the City and The Hispanic Cultural Center should cooperate in making such facility possible and available; and

WHEREAS, the City Council finds it to be in the public interest to authorize the City Manager to execute a lease agreement with The Hispanic Cultural Center;

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, an amendment to the fifty (50) year lease agreement with The Hispanic Cultural Center of Midland, for the purposes of conducting Art, Dance, Drama, Music and Speech performances and training activities and other related recreational and educational activities. Said agreement being substantially in the form as the document on file in the office of the City Secretary referenced by the date and number of this Resolution.

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

the following vote:

Council members voting "AYE":

Council members voting "NAY":

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

Courtney Sharp, City Manager

APPROVED AS TO CONTENT
AND COMPLETENESS:

Tina Jauz, Community Services Director

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

L:\Resolutions\Community Services\2013\Hispanic Cultural Center of Midland.wpd

STATE OF TEXAS §
 §
COUNTY OF MIDLAND §

LEASE AGREEMENT

This agreement is effective this 28th day of November, 2012, by and between the City of Midland, Texas, hereinafter referred to as “Lessor,” and The Hispanic Cultural Center of Midland, hereinafter referred to as “Lessee”;

W I T N E S S E T H:

WHEREAS, the City of Midland, Texas (Lessor), a home rule municipal corporation, holds title to Hogan Park; and

WHEREAS, the City Council has determined that leasing the building known as the Women’s Club Building, located in Hogan Park, for the purposes of conducting Art, Dance, Drama, Music and Speech performances and training activities and other related recreational and educational activities would be an enhancement of and a valuable addition to that particular park and to the public park system of the City; and

WHEREAS, the City Council has determined that the maintenance and operation of such a facility is within park purposes, so that it is the opinion of the City Council that the City and the Hispanic Cultural Center should cooperate in making such facility possible and available;

NOW, THEREFORE, AND IN CONSIDERATION OF THE RIGHTS, Covenants and Agreements herein contained, Lessor does hereby lease to the Lessee the following premises upon the following terms and conditions, to wit:

1. Lessor does hereby lease unto Lessee the building known as the Women’s Club Building, located in Hogan Park in the City of Midland, referred to as the “Leased Premises”. The “Leased Premises” are a parcel of land which is 300 feet square and being more particularly described by metes and bounds as follows: Beginning at a point in Section 13, Block 39, T-1-S, T. & P. Ry. Co. Survey, Midland County, Texas, said point lying N 75° 00' E 1480.0 ft. and N 15° 00' W 400.0 ft. from the southwest corner of said Section 13; thence N 15° 00' W 300.0 ft. to a point; thence N 75° 00' E 300.0 ft. to a point; thence S 15° 00' E 300.0 ft. to a point; thence S 75° 00' W 300.0 ft. to the point of beginning, containing 2.066 acres of land, more or less.

2. The term of this Lease shall be for a period of fifty (50) years, commencing on October 1, 2010 and ending September 30, 2060 unless terminated earlier as provided herein. The Lessee has no expectation that Lessor will agree to extend the term of this Lease.

3. BY EXECUTING THIS LEASE AGREEMENT THE LESSEE AGREES AND ACKNOWLEDGES THE LESSEE IS TAKING OR LEASING THE LEASED PREMISES **“AS IS” WITH ANY AND ALL LATENT AND PATENT DEFECTS AND THAT THERE IS NO WARRANTY, EXPRESS OR IMPLIED BEING MADE BY THE LESSOR THAT THE LEASED PREMISES ARE FIT FOR A PARTICULAR PURPOSE.** THE LESSEE ACKNOWLEDGES, BY EXECUTING THIS LEASE AGREEMENT, THAT LESSEE IS NOT RELYING UPON ANY REPRESENTATION MADE BY THE LESSOR WITH RESPECT TO THE CONDITION OF THE LEASED PREMISES, BUT IS RELYING UPON LESSEE’S EXAMINATION OF THE LEASED PREMISES. LESSEE ALSO RECOGNIZES BY EXECUTING THIS LEASE AGREEMENT, THAT THE LESSEE IS AGREEING TO ACCEPT THE LEASED PREMISES **“AS IS” WITH ALL FAULTS** THAT LESSEE AGREES TO MAKE LESSEE’S OWN APPRAISAL OF THE LEASED PREMISES AND TO ACCEPT THE RISK THAT LESSEE MAY BE WRONG. THE LESSOR GIVES NO ASSURANCES, EXPRESS OR IMPLIED CONCERNING THE VALUE OR CONDITION OF THE LEASED PREMISES. IN NO EVENT SHALL LESSEE HAVE A RIGHT TO RECOVER CONSEQUENTIAL DAMAGES. THE LESSEE WILL TAKE THE LEASED PREMISES UNDER THE EXPRESS UNDERSTANDING THE LEASED PREMISES ARE ACCEPTED **“AS IS”** AND WITH **ALL FAULTS**, EXCLUDING EXPRESS OR IMPLIED WARRANTIES.

4. Lessee, in consideration of the use of the Leased Premises and the rights granted herein, and in lieu of rental payments, does covenant and agree to make repairs and all maintenance and improvements to the leased premises in accordance with and in compliance with all applicable local, state or federal laws and/or requirements. The Lessee shall be responsible for all maintenance of the Leased Premises. No repairs shall be made, and no improvements shall be initiated without Lessee first receiving prior written approval of the City Manager.

Said improvements shall be completed in accordance with specifications approved by the City Manager. All of the work shall be done at the risk and expense of Lessee.

5. Lessee is authorized to use the Leased Premises for the purpose of conducting Art, Dance, Drama, Music, and Speech performances, fundraising activities, and related educational and recreational park activities, and for no other purposes. Lessee agrees to operate the Leased Premises in a proper manner consistent with the use of the premises as a park. Lessee may have no more than six (6) events in a calendar year where alcohol is served. All events must be approved by the City Manager.

6. Lessee shall, at Lessee’s expense, maintain and repair the interior and exterior of the building on the Leased Premises and fixtures therein. Any landscaping desired by Lessee shall require the prior written approval of the City Manager and shall be put in and

maintained by Lessee at its expense. If Lessee fails to provide any maintenance or repairs required of Lessee within thirty (30) days after written notice by Lessor and to complete the same with reasonable diligence, then Lessor may provide such repairs or maintenance at Lessee's expense.

7. Any and all improvements, additions, alterations, and fixtures constructed or placed on any part of the Leased Premises during the Lease term by Lessee shall require the prior written approval of the City Manager. Any and all improvements, additions, alterations, and fixtures existing on the date of execution of this Lease or constructed or placed on any part of the Leased Premises during the Lease term by Lessor or Lessee, shall be considered part of the real property of the Leased Premises, shall remain on the Leased Premises, and shall not be removed by Lessee without the written consent of Lessor. All improvements, additions, alterations, and fixtures on the Leased Premises shall become the sole property of Lessor upon termination of this Lease Agreement without compensation to Lessee. Notwithstanding the above, Lessee shall have the right at any time during Lessee's occupancy of the Leased Premises, or within a reasonable time thereafter, to remove any and all furniture, machinery, equipment, but not fixtures owned or placed by Lessee, in, under, or on the Leased Premises; provided, however, prior to the termination of the Lease term, Lessee shall repair any damage to any buildings or improvements on the Leased Premises resulting from their removal. Any such personal property items which are not removed within sixty (60) days after the termination date of this Lease Agreement shall become the property of Lessor as of that date.

8. Lessee shall not erect, maintain or display any signs or any advertising at, or on, the exterior part of structures on the Leased Premises, or inside the Leased Premises so as to be visible through the window or exterior doors thereof, without the prior written approval of the City Manager.

9. Lessor, its agents, officers and employees shall have the right to enter the Leased Premises for the purpose of inspecting the same to ascertain whether Lessee is performing the covenants of this Lease.

10. Lessee shall be solely responsible for the payment of all water, electric, telephone, refuse, natural gas and other public utility services used on the Leased Premises.

11. **INDEMNITY - LESSEE SHALL INDEMNIFY AND HOLD HARMLESS AND DEFEND LESSOR AND ALL OF LESSOR'S OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, LOSSES, PROPERTY DAMAGE AND EXPENSES OF ANY CHARACTER WHATSOEVER, INCLUDING ATTORNEY'S FEES, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY, ON ACCOUNT OF**

ANY NEGLIGENT ACT OF LESSEE, 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 LEASE AND LESSEE WILL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST LESSOR OR ANY OF ITS OFFICERS, AGENTS OR EMPLOYEES, INCLUDING ATTORNEY'S FEES.

LESSEE SHALL INDEMNIFY AND HOLD HARMLESS AND DEFEND LESSOR AND ALL OF LESSOR'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 LESSOR, LESSOR'S OFFICERS, AGENTS AND EMPLOYEES, WHETHER SUCH NEGLIGENT ACT WAS THE SOLE PROXIMATE CAUSE OF THE INJURY OF DAMAGE OR A PROXIMATE CAUSE JOINTLY AND CONCURRENTLY WITH LESSEE OR LESSEE'S EMPLOYEES, AGENTS OR SUBCONTRACTOR'S NEGLIGENCE, IN THE EXECUTION, SUPERVISION AND OPERATIONS GROWING OUT OF OR IN ANY WAY CONNECTED WITH THE PERFORMANCE OF THIS LEASE AND LESSEE WILL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST LESSOR OR ANY OF LESSOR'S OFFICERS, AGENTS OR EMPLOYEES, INCLUDING ATTORNEY'S FEES.

12. In the event that Lessor or Lessee should default in the performance of this Lease or materially breach any of its provisions, the other party shall have the right to terminate this Lease Agreement upon sixty (60) days written notice to the offending party of its intention to do so. For purposes of this Agreement, the term "material breach" may include, but is not limited to, the following:

- a. Breach, violation or failure to perform, observe or keep any covenant, agreement or term or condition of this Agreement by any party obligated hereunder to observe, keep or perform such condition, term, Agreement or covenant, and such default continues for a period of ten (10) days after written notice thereof is given by any aggrieved party hereto to the other party.
- b. Bankruptcy of Lessee through voluntary or involuntary proceedings or an assignment made for the benefit of its creditors.

In the event of breach by Lessee as determined by Lessor, Lessor shall have the right, following sixty (60) days written notice, to reenter the site and remove Lessee, its employees and agents therefrom, without prejudice to any legal remedies which may be used for the collection of rent. All and every claim for damages by Lessee for or by reason of such reentry is hereby expressly waived.

13. In the event that either party is prevented from completing performance of its obligations hereunder by Acts of God or any other occurrence whatsoever which is beyond the control of either party hereto and which, by the exercise of due diligence Lessor or Lessee is unable, wholly or in part, to prevent or overcome, then such party shall be excused from performance for such period of time as is reasonably necessary after such occurrence to remedy the effects thereof.

14. GOVERNING LAW & VENUE - This Lease Agreement shall be governed by the laws of the State of Texas. The obligations of the parties to this Lease are performable in Midland County, Texas, and if legal action is necessary to enforce same, exclusive venue shall lie in Midland County, Texas. Venue of any suit, right or cause of action arising under or in connection with this Lease shall lie exclusively in Midland County, Texas. All payments and performance under this lease are deemed to have occurred in Midland County, Texas. The obligations and undertakings of each of the parties to this Lease shall be deemed to have occurred in Midland County, Texas.

15. INDEPENDENT CONTRACTOR - It is expressly understood and agreed that Lessee shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant or employee of the Lessor; that Lessee 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 Lessor and Lessee, its officers, agents, employees, contractors and subcontractors; and that nothing herein shall be construed as creating a partnership or joint enterprise between Lessor and Lessee. No person performing any of the work and services described hereunder by Lessee shall be considered an officer, agent, servant or employee of the Lessor. Further, it is specifically understood and agreed that nothing in this Lease 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. Lessee shall be an independent contractor under this Lease and shall assume all of the rights, obligations and liabilities, applicable to it as such independent contractor hereunder and any provisions in this Lease which may appear to give Lessor the right to direct Lessee as to details of doing the work herein covered or to exercise a measure of control over the work shall be deemed to mean that Lessee shall follow the desires of Lessor in the results of the work only. The Lessor does not have the power to direct the order in

which the work is done. The Lessor shall not have the right to control the means, methods or details of the Lessee's work or services. Lessee shall assume exclusive responsibility for the work and services.

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

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

THE LESSEE AND LESSOR ARE RELYING ON THEIR OWN JUDGMENT. EACH PARTY HAD THE OPPORTUNITY TO DISCUSS THIS LEASE WITH LEGAL COUNSEL PRIOR TO ITS EXECUTION.

17. **ASSIGNMENT** - Lessee shall not, either directly or indirectly, assign all or any part of this Lease or any interest, right or privilege herein, without the prior written consent of the Lessor. The issue on whether or not to grant consent to an assignment is in the sole discretion of the Lessor. Any such assignment or attempted assignment or transfer shall make the lease voidable.

18. **THIRD-PARTY BENEFICIARY** - The Lessor's approval of this Lease does not create a third party beneficiary. There is no third party beneficiary to this Lease. No

person or entity who is not a party to this Lease shall have any third party beneficiary or other rights hereunder.

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

20. **NOTICE** - All notices and communications required or permitted under this Lease, including address changes, shall be in writing and any communication or delivery hereunder shall be deemed to have been duly made if actually delivered, transmitted by telecopier or if mailed by registered or certified mail, postage prepaid, addressed as follows:

Lessor:

City Manager
Midland City Hall
P.O. Box 1152
Midland, Texas 79702

Lessee:

Hispanic Cultural Center of Midland
P.O. Box 51404
Midland, Texas 79710-1404

21. The Parties hereby agree and acknowledge that this Lease Agreement is supported by good and valuable consideration.

22. The Lessor's City Manager shall add the building to the City's property insurance. Lessor and Lessee agree that in the event of a claim approved by the City Manager, Lessor and Lessee shall share any insurance deductible in equal parts.

23. The Lessor, for each fiscal year during the term of this lease, shall pay a sum of money to Lessee not to exceed TWO THOUSAND AND NO/DOLLARS (\$2,000.00) for materials needed to maintain any repairs to the building. All materials and repairs must be approved by the City Manager. The City reserves the right to use the building upon notice to Lessee.

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

As a condition precedent to filing suit for alleged damages incurred by an alleged breach of an express or implied provision of this Lease, Lessee or his legal representative,

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

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

EXECUTED this _____ day of _____, 2012.

CITY OF MIDLAND, TEXAS

By _____
Courtney Sharp, City Manager

ATTEST:

Amy M. Turner, Interim City Secretary

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

LESSEE:
HISPANIC CULTURAL CENTER OF MIDLAND

Name: _____

Title: _____

[illegible]

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 that she executed and delivered the foregoing instrument on behalf of the HISPANIC CULTURAL CENTER OF MIDLAND for the purposes and consideration therein expressed.

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

Notary Public, State of Texas



City Council Agenda

Approved for Agenda:
THudson
City Manager's Office

MEETING DATE: 11/27/2012

TO: City Council / City Manager

FROM: Tina Jauz / Community Services Director

SUBJECT: Consider a resolution authorizing the City of Midland to apply for grant funds from the Texas Department of Transportation for the purpose of constructing a Hike Bike Trail, said grant funds require an 80/20 match

Purpose:

The City of Midland Parks Division is seeking permission to apply for funds available through the TxDOT Transportation Enhancement Grant Program.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Directional / Informational

Fiscal Impact:

\$596,255 (\$442,380 in matching funds and \$153,875 in design fees)

Discussion:

The Texas Department of Transportation is calling for applications from municipalities wanting to pursue funding for Hike Bike Trails. As indicated in the City's Parks, Recreation, and Open Space Master Plan, Midlanders desire more opportunities to move through the city on a hike bike trail system. The project the city is proposing helps meet that need by linking into existing trails and the potential to link into future trails.

The project includes a 5.43 mile trail around the exterior of Midland College and Midland Airpark. It would include the construction of the asphalt trail, four bridges, relocation of fencing, and trail signage. The grant submission would be in the amount of \$2.2 million.

The City currently has \$200,000 allocated toward Hike Bike Trails from 2012 Certificate of Obligation Funds. Friends of Midland's Hike Bike Trails was authorized by Council earlier this year to raise funds.

RESOLUTION NO.

RESOLUTION AUTHORIZING THE CITY OF MIDLAND COMMUNITY SERVICES DEPARTMENT TO APPLY FOR A GRANT FROM THE TEXAS DEPARTMENT OF TRANSPORTATION IN ORDER TO CONSTRUCT A HIKE AND BIKE TRAILS SYSTEM; SAID GRANT IS A MATCHING FUNDS GRANT IN WHICH THE TEXAS DEPARTMENT OF TRANSPORTATION ENHANCEMENT GRANT PROGRAM WOULD FUND 80% (\$1,769,519.00) OF THE TOTAL AMOUNT AND THE CITY OF MIDLAND WOULD FUND 20% (\$442,380.00) OF THE TOTAL AMOUNT IN ADDITION TO DESIGN FEES IN THE AMOUNT OF \$153,875.00, THE CITY'S TOTAL FISCAL IMPACT WOULD BE \$596,255.00

WHEREAS, the Texas Department of Transportation is accepting applications from municipalities for the funding of a Hike and Bike Trails system through its Transportation Enhancement Grant Program; and

WHEREAS, the City of Midland Community Services Department wishes to apply for said grant funds; and

WHEREAS, said grant funds would be used to provide a Hike and Bike Trails that will link into existing trails and potentially link into future trails; and

WHEREAS, the City has allocated \$200,000.00 toward a Hike and Bike Trails system from a 2012 Certificate of Obligation Funds in which the Midland City Council authorized the Friends of Hike and Bike Trails to raise funds, on behalf of the City of Midland, for a Hike and Bike Trails system; and

WHEREAS, the City Council finds it to be in the public interest to authorize the City of Midland to apply for said grant funds;

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 to execute all appropriate documents to apply for a grant from the Texas Department of Transportation Enhancement Grant Program.

On motion of Council member _____, seconded by Council member _____, the above and foregoing resolution was adopted by the City Council of the

City of Midland at a regular meeting on the _____ day of _____, A.D., 2012, by
the following vote:

Council members voting "AYE":

Council members voting "NAY":

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

Courtney Sharp, City Manager

APPROVED AS TO CONTENT
AND COMPLETENESS:

Tina Jauz, Director of Community Services

APPROVED AS TO FORM:

Keith Stretcher, City Attorney



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: November 27, 2012

TO: CITY COUNCIL/CITY MANAGER

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

SUBJECT: Consider a resolution to accept Midland Development Corporation Funds in the amount of \$250,000 and allocate funds in order for the City of Midland to conduct drainage studies of both Midland Draw and Jal Draw and appropriate funds. (District #1 – Sparks & District #4 – Trost).

Purpose:

Consider a resolution to accept fund from MDC in the amount of \$250,000 to conduct drainage studies of the Midland Draw and Jal Draw.

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

That funds not to exceed \$250,000 are available in the Fiscal Year 2013 Midland Development Corporation (235) Midland Development Corporation (235) Operations (0235) Economic Development Incentives (3905) budget account; and that upon the City of Midland's receipt and deposit of said funds into the General Fund (001) of the City of Midland, \$125,000 shall be appropriated to the Midland Draw Study Project (9025) and \$125,000 shall be appropriated to the Jal Draw Study Project (9026).

Discussion:

At the October 23 City Council meeting, the council authorized staff to proceed with advertising an RFQ for the Midland Draw and Jal Draw drainage studies. The approval of this resolution will allow the City of Midland to accept \$250,000 from the MDC and appropriate \$125,000 to fund each drainage study.

RESOLUTION NO.

**RESOLUTION ACCEPTING MIDLAND
DEVELOPMENT CORPORATION FUNDS IN AN
AMOUNT NOT TO EXCEED \$250,000 IN ORDER FOR
THE CITY OF MIDLAND TO CONDUCT DRAINAGE
STUDIES OF BOTH MIDLAND DRAW AND JAL DRAW;
APPROPRIATING SAID FUNDS; AND PROVIDING
THAT SAID EXPENDITURE IS AN ADMINISTRATIVE
EXPENSE AS AUTHORIZED BY CHAPTER 501 OF THE
TEXAS LOCAL GOVERNMENT CODE**

WHEREAS, the Midland Development Corporation (“MDC”) approved a request from the City of Midland (“City”) for funding in an amount not to exceed \$250,000 in order for the City to conduct drainage studies of both Midland Draw and Jal Draw; and

WHEREAS, Chapter 501 of the Texas Local Government Code authorizes an economic development corporation to expend corporate revenue for administrative expenses and other such expenses that may be necessary or incident to placing a project in operation; and

WHEREAS, the City Council finds that the MDC’s expenditure of funds for said studies is an administrative expense or other such expense necessary to placing a project in operation; and

WHEREAS, the City Council finds it to be in the public interest to accept \$250,000 from the MDC in order for the City to conduct drainage studies of both Midland Draw and Jal Draw and to appropriate said funds;

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

SECTION ONE. That the City Council finds hereby accepts \$250,000 from the Midland Development Corporation in order for the City of Midland to conduct drainage studies of both Midland Draw and Jal Draw.

SECTION TWO. That funds not to exceed \$250,000 are available in the Fiscal Year 2013 Midland Development Corporation (235) Midland Development Corporation (235) Operations (0235) Economic Development Incentives (3905) budget account; and that

upon the City of Midland's receipt and deposit of said funds into the General Fund (001) of the City of Midland, \$125,000 shall be appropriated to the Midland Draw Study Project (9025) and \$125,000 shall be appropriated to the Jal Draw Study Project (9026).

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

Council members voting "AYE":

Council members voting "NAY":

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

Courtney Sharp, City Manager

APPROVED AS TO FORM:

Keith Stretcher, City Attorney



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: 11/27/2012

TO: City Council / City Manager

FROM: David D. Beard, P.E.

SUBJECT: Consider a motion on a request by West Company of Midland, Inc. for Timber Wolf Estates, to approve items requested for deferral, and to waive the associated public improvement guarantee. (District #1 - Sparks)

Purpose:

Consider a motion on a request by West Company of Midland, Inc. for Timber Wolf Estates, to approve items requested for deferral, and to waive the associated public improvement guarantee.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Directional / Informational

Fiscal Impact:

Wastewater Collection	\$0.00
Water Distribution	\$0.00

Total value of deferral (recommended items)	\$0.00
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Cash deposit or other acceptable security	\$0.00
---	--------

Discussion:

Timber Wolf Estates is located in the City Limits of Midland in Martin Co. on the west side of Elkins Rd. approximately 2 miles north of North Loop

West Company of Midland is proposing to plat the property and defer the public improvements. Below is a discussion of the public infrastructure and deferral request related to the development of the property associated with this plat:

1. Water Distribution: The applicant is requesting deferral of water distribution improvements.
 - The nearest connection to the City of Midland's water distribution system is near the intersection of Old Lamesa Rd. and Loop 250 (distance greater than 1 mile).
 - The likelihood of infrastructure construction based on the distance from the existing distribution facilities results in a 100% reduction in cash deposit or other acceptable security.
2. Wastewater Collection: The applicant is requesting a deferral of wastewater collection improvements.
 - The nearest connection to the City of Midland's wastewater collection system is near the intersection of Old Lamesa Rd. and Loop 250 (distance greater than 1 mile).
 - The likelihood of infrastructure construction based on the distance from the existing distribution facilities results in a 100% reduction in cash deposit or other acceptable security.
3. Paving: Access to the site is provided along Elkins Rd. (CR 1150).
 - The applicant is proposing to construct the streets serving this subdivision to the Martin Co. standard. In addition, Martin Co. has agreed to accept maintenance responsibility.
4. Drainage: A Drainage Study for this site has been submitted. Necessary drainage improvements will be recorded on the final plat.
5. Sidewalk: The applicant is requesting deferral of sidewalks.
 - Sidewalk construction is typically accomplished during the building permit phase (builder constructs the sidewalk). Currently, there are no sidewalks along CR 1150 and the subdivision is located in an AE zoning district. If sidewalks are required in the future, they will be addressed when a building permit application is submitted.

Staff supports this deferral request. Attached is a location map, along with a deferral justification from West Company of Midland.



110 West Louisiana Avenue
Suite 110
Midland, Texas 79701
T: 432.687.0865
F: 432.687.0868
www.team-west.com

September 25, 2012

David Beard
City Engineer (Midland Texas)
300 N. Loraine
P.O. Box 1152
Midland, Texas 79702

Attn: City Engineer-COM Engineering Department

Dear Mr. Beard:

Robert Anderson owner of a Proposed Lots 1 through 14 Block 1 and Lots 1 through 9 Block 2 of the Timber Wolf Estates being a 128.08 Acre Tract of Land Located in Section 8, Block 38, T-1-S, T & P RR. Company Survey, Martin County, Texas but within the City Limits of Midland. Located approximately at the Northwest corner of Jadan Kate Road and Elkins Road is attempting to develop the property into single family residential. Please refer to the attached Plat for visual in Appendix A.

Sewer

West Company of Midland, Inc., on behalf of Robert Anderson (Property Owner), is here by requesting that the City Council defer public improvements for the installation of an 8" to 12" sewer line along Timber Wolf Trail, Jordan Kate Road and Elkins Road. See appendix for sewer cost analysis broken up by roadway.

- **There is not any existing sewer located with several miles of this site.**

Water

West Company of Midland, Inc., on behalf of Robert Anderson (Property Owner), is here by requesting that the City Council defer public improvements for the installation of an 8" to 12" water line along Timber Wolf Trail, Jadan Kate Road and Elkins Road. See appendix for sewer cost analysis broken up by roadway.

- **There is not any existing water located with several miles of this site.**

Sidewalk

West Company of Midland, Inc., on behalf of Robert Anderson (Property Owner), is here by requesting that the City Council defer public improvements for the installation of a 5' sidewalk along Timber Wolf Trail, Jadan Kate Road and Elkins Road due to the following reasons. See reasons below cost analysis.

Sidewalk Deferral

Overstreet Addition, Section 9		
Description	Unit Cost (ft²)	Total Cost
9505 LF 5' Sidewalk	\$5.00 SF	\$237,627.50
Additional 15% Contingency		\$35,644.13
	TOTAL	\$273,271.63

- **The current proposed re-plat of this subdivision is consistent with the surrounding subdivisions. There is no sidewalk in this area for miles around.**

Paving

West Company of Midland, Inc., on behalf of Robert Anderson (Property Owner), is here by requesting that the City Council defer public improvements for the installation of a City approved roadway section pertaining to Elkins Road, Jadan Kate Road, and Timber Wolf Trail.

Elkins Road is currently improved per Martin County standards and there is no improved City Arterial in this area. The nearest improved Street is several miles away.

Jadan Kate Road is currently a caliche roadway already taken over by Martin County standards and there is no improved City minor collector in this area. The nearest improved Street is several miles away.

Timber Wolf is currently raw land and is planned to be built per County standards. As said before, there is no improved City Local in the area. The nearest Improved Street is several miles away.

Please see attached for the breakdown of assumed deferral costs.

David Beard
Re: Overstreet Addition, Section 9
September 25, 2012



Drainage

The Drainage Study has been submitted to the City for Review.

Should you have any questions regarding this deferral or need further information, please do not hesitate to contact me at (432) 685-0588 or by email at andrew@team-west.com

Respectfully,

Andrew L. Mellen, P.E.
West Company of Midland, Inc.
Director of Civil Engineering

Enclosures:

Plat
Cost Analysis

TIMBER WOLF ESTATES

BEING A 128.08 ACRE TRACT OF LAND
LOCATED IN SECTION 8, BLOCK 38, T-1-S, T&P RR. COMPANY SURVEY,
MARTIN COUNTY, TEXAS.

OWNER'S CERTIFICATE

THE STATE OF TEXAS
COUNTY OF MIDLAND

WHEREAS, I, Robert Anderson, President of Anderson Remodeling & Construction, LLC, am the record owner of a tract of land situated in Section 8, Block 38, T-1-S, T&P RR. Co. Survey, County of Martin, and more particularly described herein.

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS:

That, I, Robert Anderson, President of Anderson Remodeling & Construction, LLC, being the owner of the land shown on this plat designated as Timber Wolf Estates, an Addition to the City of Midland, Martin County, Texas and whose name is subscribed hereto, do hereby dedicate to the public use forever the streets, alleys, and easements shown thereon; and do hereby give an easement of ingress and egress to the City of Midland for garbage and trash collection, and location and maintenance of trash containers and access thereto and condition said that no construction shall commence on said lot or lots until the exact location of said containers therewith have been selected and approved by the Director of Utilities. WITNESS my hand at Midland, Texas, this

the _____ day of _____, 2012.

Anderson Remodeling & Construction, LLC.

BY: Robert Anderson

ACKNOWLEDGEMENT

THE STATE OF TEXAS
COUNTY OF MIDLAND

Before me, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared Robert Anderson, President of Anderson Remodeling & Construction, LLC, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that the same was the act and deed of the said Robert Anderson, and that he executed the same as the act for the purposes and consideration therein expressed, and in the capacity therein stated. Given under my hand and seal of office this

the _____ day of _____, 2012.

NOTARY PUBLIC IN AND FOR THE STATE OF TEXAS

SURVEYOR'S CERTIFICATE

KNOW ALL MEN BY THESE PRESENTS:

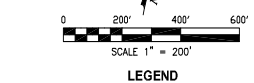
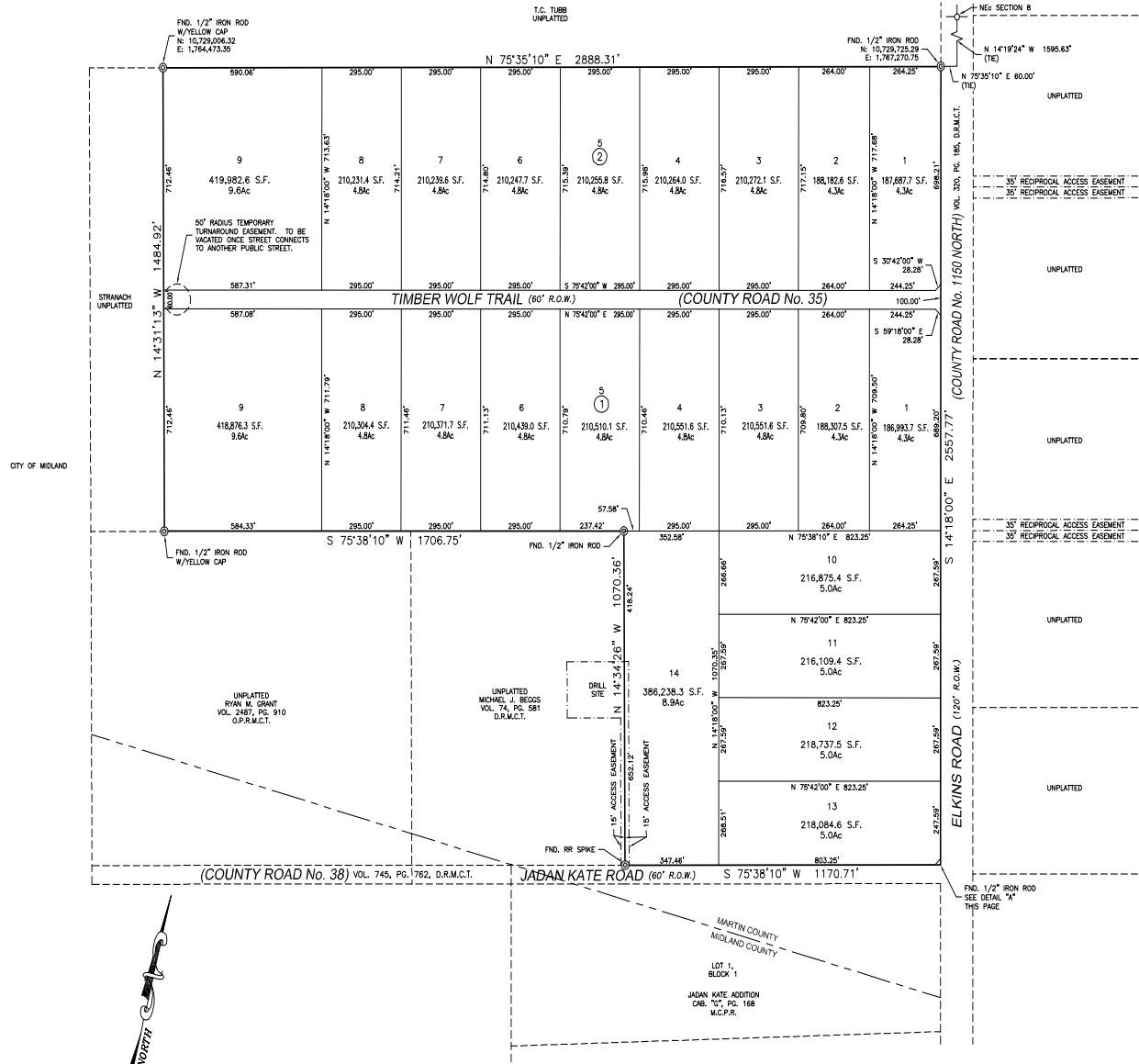
That I, Marcus L. Hostas, a Registered Professional Land Surveyor of the State of Texas, do hereby certify that this plat was prepared from an actual and accurate survey of the land and that the corner monuments shown thereon were properly located under my personal supervision, in accordance with the Subdivision Regulations of the City of Midland, Texas.

Marcus L. Hostas, R.P.L.S.
Registration Number - 5643



OWNER:
ANDERSON REMODELING AND CONSTRUCTION, LLC.
10716 HWY. 191, SUITE NO. 1
MIDLAND, TEXAS 79707
WEST COMPANY
OF MIDLAND, INC.
ENGINEERS & ARCHITECTS - SURVEYORS
REGISTRATION # 2184
110 P.O. BOX 110
MIDLAND, TEXAS 79701
(432) 688-0888 FAX (432) 688-0888
SEPTEMBER 2012

TIMBER WOLF STATES



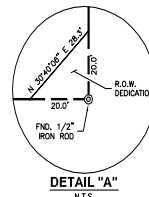
LEGEND
● DENOTES SET 1/2"-INCH IRON ROD W/RED PLASTIC CAP MARKED "WEST CO. MIDLAND"
○ DENOTES FOUND MONUMENT AS NOTED

- NOTICE:
- SELLING A PORTION OF THIS ADDITION BY METES AND BOUNDS MAY BE A VIOLATION OF CITY ORDINANCE AND STATE LAW AND SUBJECT TO FINES AND WITHHOLDING OF UTILITIES AND BUILDING PERMITS.
 - APPROVAL OF A SITE PLAN BY THE CITY OF MIDLAND MAY BE REQUIRED BEFORE THE DEVELOPMENT OF ANY LOT AND BEFORE A BUILDING PERMIT MAY BE OBTAINED.
 - COORDINATES, BEARINGS, DISTANCES AND AREAS SHOWN HEREON ARE, LAMBERT GRID AND CONFORM TO THE "TEXAS COORDINATE SYSTEM" TEXAS CENTRAL ZONE, NORTH AMERICAN DATUM 1983.
 - DRAINAGE TO BE RETAINED ON EACH LOT. REQUIRED STORAGE= 0.004 ACRE-Feet FOR EACH 1000 SQUARE FEET OF IMPERVIOUS AREA ON THE LOT.

UTILITY COMPANY'S CERTIFICATE

This plot has been checked for accessibility of utilities.

AT&T ENERGY	Print Name: _____
ONCOR ELECTRIC DELIVERY	Print Name: _____
SUDENLUM	Print Name: _____
GRANDE COMMUNICATIONS	Print Name: _____
AT&T-TEXAS	Print Name: _____
SHIRLEYLAND UTILITIES	Print Name: _____



CERTIFICATE OF APPROVAL

This is to certify that the above and foregoing plot of "TIMBER WOLF ESTATES", was approved by proper action of the City Planning and Zoning Commission of the City of Midland, Texas on this the _____ day of _____, 2012.

BECKY FERGUSON, CHAIRMAN
CAMERON WALKER, SECRETARY

PLAT FILED FOR RECORD
MARTIN COUNTY, TEXAS
NO. _____ CABINET _____
DATE: _____ PAGE _____

PLAT FILED FOR RECORD
MIDLAND COUNTY, TEXAS
NO. _____ CABINET _____
DATE: _____ PAGE _____



City Council Agenda

Approved for Agenda:

City Manager's Office

MEETING DATE: 11/27/2012

TO: City Council / City Manager

FROM: Morris Williams, Solid Waste Director

SUBJECT: Approve a resolution for plans and specifications and authorizing advertisements for bids for the Municipal Solid Waste Landfill Cell 7 Excavation and Liner Construction project.

Purpose:

Consider a resolution accepting plans and specifications and authorizing advertisement for bids for the Municipal Solid Waste Landfill Cell 7 Excavation and Liner Construction Project.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Directional / Informational

Fiscal Impact:

No fiscal impact until such time as a contract is awarded.

Discussion:

Council's authorization allows the MSW Cell 7 construction project to continue as scheduled. Cell 7 is necessitated by the continued growth in the City of Midland and the fact that Cell 2, which is currently in use, will be approaching the end of its useful life within the next 2 years. Construction of the new cell is a scheduled task. City Council initially approved the design of Cell 7 on March 20, 2012.

RESOLUTION NO.

RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING ADVERTISEMENT FOR BIDS FOR THE MUNICIPAL SOLID WASTE LANDFILL CELL 7 EXCAVATION AND LINER CONSTRUCTION PROJECT

WHEREAS, plans and specifications have been prepared for the Municipal Solid Waste Landfill Cell 7 Excavation and Liner Construction Project; and

WHEREAS, the City Council finds it to be in the public interest to approve said plans and specifications, and authorizes 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 Municipal Solid Waste Landfill Cell 7 Excavation and Liner Construction Project are hereby approved, those plans and specifications being substantially in the form as those on file with the office of the City Secretary, referenced by the date and number of this Resolution.

SECTION TWO. That the City Manager, or his designee, is hereby authorized to advertise for competitive bids for said work, 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., 2012, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

Courtney Sharp, City Manager

APPROVED AS TO CONTENT
AND COMPLETENESS:

Morris Williams, Director of Solid Waste

APPROVED AS TO FORM:

Keith Stretcher, City Attorney



City of Midland
Municipal Solid Waste Landfill
Cell 7 Excavation &
Liner Construction



Final Opinion of Probable Cost

10/3/2012

ITEM	UNITS	QUANTITY	UNIT COST	TOTAL COST
Base Bid				
Mobilization (3% Max.)	LS	1	\$ 183,800.00	\$ 183,800.00
Remove Existing Access Road	SY	4,850	\$ 6.00	\$ 29,100.00
Plug Existing GWM Well 8	VF	65	\$ 15.00	\$ 980.00
Remove Existing Pipeline	LF	2,615	\$ 15.00	\$ 39,230.00
Remove Existing Litter Fence	LF	1,650	\$ 20.00	\$ 33,000.00
Relocate Borrow Material	CY	344,230	\$ 1.75	\$ 602,410.00
Excavation	CY	1,053,530	\$ 2.25	\$ 2,370,450.00
Embankment Fill	CY	12,720	\$ 2.50	\$ 31,800.00
Subgrade Preparation - Floor	SF	1,061,970	\$ 0.13	\$ 138,060.00
Subgrade Preparation - Slope	SF	106,950	\$ 0.16	\$ 17,120.00
Geosynthetic Clay Liner - Floor	SF	1,058,530	\$ 0.53	\$ 561,030.00
Geosynthetic Clay Liner - Slope	SF	112,670	\$ 0.57	\$ 64,230.00
Geomembrane Liner - Smooth	SF	1,058,530	\$ 0.52	\$ 550,440.00
Geomembrane Liner - Textured	SF	112,670	\$ 0.63	\$ 70,990.00
Geocomposite Drainage Layer	SF	1,171,200	\$ 0.51	\$ 597,320.00
Protective Soil Cover - Floor	SF	1,061,970	\$ 0.22	\$ 233,640.00
Protective Soil Cover - Slope	SF	106,950	\$ 0.30	\$ 32,090.00
Geotextile Fabric	SF	16,570	\$ 0.30	\$ 4,980.00
Gravel Drainage Material	CY	430	\$ 43.00	\$ 18,490.00
6-Inch Leachate Collection Pipe	LF	1,170	\$ 23.00	\$ 26,910.00
Sump and Concrete Access Structure	LS	1	\$ 20,000.00	\$ 20,000.00
Paved Access Road	SY	7,760	\$ 35.00	\$ 271,600.00
Site Signage	LS	1	\$ 5,000.00	\$ 5,000.00
Erosion Control	LS	1	\$ 7,500.00	\$ 7,500.00
Base Bid Subtotal				\$ 5,910,170.00
Additive Alternate No. 1				
Paved Access Road	SY	6,180	\$ 35.00	\$ 216,300.00
Additive Alternate No. 1 Subtotal				\$ 216,300.00
Construction Grand Total				\$ 6,126,470.00

Project Manual

City of Midland, Texas

Municipal Solid Waste Landfill

Cell 7 Excavation and Liner Construction

TCEQ MSW Permit No. 1605B

October, 2012

PSC Project # 01287012



Project Manual

City of Midland, Texas

Municipal Solid Waste Landfill

Cell 7 Excavation and Liner Construction

TCEQ MSW Permit No. 1605B



10/02/12

October, 2012

PSC Project # 01287012



ADVERTISEMENT

Sealed proposals addressed to Honorable Mayor and City Council will be received at the office of the City Secretary, City Hall, 300 N. Loraine, Midland, Texas 79701 until [date _____] at [time _____] for City of Midland Municipal Solid Waste Landfill Cell 7 Excavation and Liner Construction.

Immediately following the closing time for receipt of bids, proposals will be publicly opened and read aloud at [insert location here _____]. Any bid received after closing time will be returned unopened. Bids will be tabulated and presented to [Owner _____] for action at a later date.

A pre-bid conference will be held on [] at [the project site] in the building [] in room [] at 00:00 [a.m.] [p.m.] [local time]. Attendance by prospective Bidders [is] [is not] mandatory.

Information for bidders, proposal forms, specifications and plans are on file at [Owner _____] and the office of Parkhill, Smith & Cooper, Inc., Consulting Engineers, 4222 85th Street, Lubbock, Texas, 79423.

Copies of the plans, specifications and contract documents may be secured at the office of Parkhill, Smith & Cooper, Inc., Consulting Engineers, 4222 85th Street, Lubbock Texas, 79423 (Phone 806-473-2200) and 1700 W. Wall, Suite 100, Midland, Texas, 79701 (Phone 432-697-1447) as follows:

1. Download documents (.pdf file extension format) from PSC's Info Exchange web site after registering as a plan holder with issuing PSC office. **There is no cost or deposit required for this option.**
2. One set of paper copies for a non-refundable deposit of \$50.00.
3. A digital copy (.pdf file extension format) upon a non-refundable deposit of \$20.00 per each CD.

Deposit shall be Company check or cashiers' check made payable to Parkhill, Smith & Cooper, Inc. No partial sets will be issued.

TABLE OF CONTENTS

DIVISION 0 - BIDDING REQUIREMENTS AND CONTRACT INFORMATION

00100	Instructions to Bidders.....	6
00220	Information Available to Bidders	1
	Contract (Provided by City of Midland)	12
	Exhibit A - Proposal	6
	Exhibit C - Bonding Requirements (Provided by City of Midland).....	1
	Exhibit D - Wage Scale (Provided by City of Midland)	2
	Bid Bond (Provided by City of Midland)	1
	Payment Bond (Provided by City of Midland)	2
	Performance Bond (Provided by City of Midland)	2
	Consideration of Location (Provided by City of Midland)	1
	Conflict of Interest Questionnaire (Provided by City of Midland).....	3

DIVISION 1 - GENERAL REQUIREMENTS

01010	Summary of Work	2
01019	Contract Considerations.....	2
01025	Measurement and Payment	6
01039	Coordination and Meetings.....	3
01090	Reference Standards	3
01300	Submittals	3
01356	Storm Water Pollution Prevention Measures	2
01400	Quality Control	3
01500	Construction Facilities and Temporary Controls	3
01560	Environmental Protection	5
01600	Material and Equipment	3
01700	Contract Closeout	4

DIVISION 2 - SITE WORK

02146	Groundwater Monitoring Well Abandonment.....	2
02200	Excavation and Earthwork.....	7
02240	Geosynthetic Clay Liner	8
02245	Geomembrane Liner	14
02246	Geotextile Fabrics.....	4
02247	Geocomposite Drainage Layer.....	5
02248	Gravel Drainage Material	3
02250	Leachate Collection Systems	3
02260	Protective Soil Cover	3
02500	Roadway Construction.....	6

DIVISION 3 - CONCRETE

03300 Cast-In-Place Concrete 12

DIVISIONS 4 - 16

Not Used

APPENDICES

APPENDIX A - Soil and Liner Quality Control Plan (SLQCP)

APPENDIX B - Soil Borings

SECTION 00100

INSTRUCTIONS TO BIDDERS

1. DEFINED TERMS

Terms used in these Instructions to Bidders which are defined in the Standard General Conditions of the Construction Contract (No. 1910-8-A-2)(1990 Edition) have the meanings assigned to them in the General Conditions.

Certain additional terms used in these Instructions to Bidders have the meanings indicated below which are applicable to both the singular and plural thereof.

1.1 Bidder - one who submits a Bid directly to Owner as distinct from a sub-Bidder, who submits a bid to a Bidder.

1.2 Issuing Office - the office from which the Bidding Documents are to be issued and where the bidding procedures are to be administered.

1.3 Successful Bidder - the lowest, responsible and responsive Bidder to whom Owner (on the basis of Owner's evaluation as hereinafter provided) makes an award.

2. COPIES OF BIDDING DOCUMENTS

2.1 Bidders may obtain complete sets of the Bid Documents as defined in the Request for Bids in the number and for the deposit sum stated therein. The deposit will be refunded to Bidders who submit a bona fide Bid and return the Bid Documents in good condition within ten days after receipt of Bids. The cost of replacement of missing or damaged documents will be deducted from the deposit. A Bidder receiving a Contract award may retain the Bid Documents and the Bidder's deposit will be refunded.

2.2 Bidders shall use complete sets of Bid Documents in preparing Bids; neither the Owner nor Architect assumes responsibility for errors or misinterpretations resulting from the use of incomplete sets of Bid Documents.

2.3 In making copies of the Bid Documents available on the above terms, the Owner and the Architect do so only for the purpose of obtaining Bids on the Work and do not confer a license or grant permission for any other use of the Bid Documents.

3. QUALIFICATIONS OF BIDDERS

To demonstrate qualifications to perform the Work, each Bidder must be prepared to submit within five (5) days after Bid opening upon Owner's request detailed written evidence such as financial data, previous experience, present commitments and other such data as may be called for. Each Bid must contain evidence of Bidder's qualification to do business in the state where the Project is located or covenant to obtain such qualification prior to award of the contract.

4. EXAMINATION OF CONTRACT DOCUMENTS AND SITE

4.1 It is the responsibility of each Bidder before submitting a Bid:

4.1.1 To examine thoroughly the Contract Documents and other related data identified in the Bidding Documents (including "technical data" referred to below);

4.1.2 To visit the site to become familiar with and satisfy Bidder as to the general, local and site conditions that may affect cost, progress, performance or finishing of the Work;

4.1.3 To consider federal, state and local Laws and Regulations that may affect cost, progress, performance or furnishing of the Work;

4.1.4 To study and carefully correlate Bidder's knowledge and observations with the Contract Documents and such other related data; and

4.1.5 To promptly notify Engineer of all conflicts, errors, ambiguities or discrepancies which Bidder has discovered in or between the Contract Documents and such other related documents.

4.2 Information and data shown or indicated in the Contract Documents with respect to existing Underground Facilities at or contiguous to the site is based upon information and data furnished to Owner and Engineer by owners of such Underground Facilities or others, and Owner and Engineer do not assume responsibility for the accuracy or completeness thereof unless it is expressly provided otherwise in the Supplementary Conditions.

4.3 Provisions concerning responsibilities for the adequacy of data furnished to prospective Bidders with respect to subsurface conditions, other physical conditions and Underground Facilities, and possible changes in the Contract documents due to differing or unanticipated conditions appear in Paragraphs 4.2 and 4.3 of the General Conditions.

4.4 Before submitting a Bid each Bidder will be responsible to obtain such additional or supplementary examinations, investigations, explorations, tests, studies and data concerning conditions (surface, subsurface and Underground Facilities) at or contiguous to the site or otherwise, which may affect cost, progress, performance or furnishing of the Work or which relate to any aspect of the means, methods, techniques, sequences or procedures of construction to be employed by Bidder and safety precautions and programs incident thereto or which Bidder deems necessary to determine its Bid for performing and finishing the Work in accordance with the time, price and other terms and conditions of the Contract Documents.

4.5 On request, Owner will provide each Bidder access to the site to conduct such examinations, investigations, explorations, tests and studies as each Bidder deems necessary for submission of a Bid. Bidder must fill all holes and clean up and restore the site to its former conditions upon completion of such explorations, investigations, tests and studies.

4.6 The submission of a Bid will constitute an incontrovertible representation by Bidder that Bidder has complied with every requirement of this Article 4, that without exception the Bid is premised upon performing and furnishing the Work required by the Contract Documents and applying the specific means, methods, techniques, sequences or procedures of construction (if any) that may be shown or indicated or expressly required by the Contract Documents, that Bidder has given Engineer written notice of all conflicts, errors, ambiguities and discrepancies that Bidder has discovered in the Contract Documents and the written resolutions thereof by Engineer is acceptable to Bidder, and that the Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performing and furnishing the Work.

4.7 The provisions of 4.1 through 4.6, inclusive, do not apply to Asbestos, Polychlorinated biphenyls (PCBs), Petroleum, Hazardous Waste or Radioactive Material covered by Paragraph 4.5 of the General Conditions.

5. AVAILABILITY OF LANDS FOR WORK, ETC.

The lands upon which the Work is to be performed, rights-of-way and easements for access thereto and other lands designated for use by Contractor in performing the Work are identified in the Contract Documents. All additional lands and access thereto required for temporary construction facilities, construction equipment or storage of materials and equipment to be incorporated in the Work are to be obtained and paid for by Contractor. Easements for permanent structures or permanent changes in existing facilities are to be obtained and paid for by Owner unless otherwise provided in the Contract Documents.

6. INTERPRETATIONS AND ADDENDA

6.1 All questions about the meaning or intent of the Bidding Documents are to be directed to Engineer. Interpretations or clarifications considered necessary by Engineer in response to such questions will be issued by Addenda mailed or delivered to all parties recorded by Engineer as having received the Bidding Documents. Questions received less than ten (10) days prior to the date for opening of Bids may not be answered. Only questions answered by formal written Addenda will be binding. Oral and other interpretations or clarifications will be without legal effect.

6.2 Addenda may also be issued to modify the Bidding Documents as deemed advisable by Owner or Engineer.

7. BID SECURITY

7.1 Each Bid must be accompanied by Bid security made payable to Owner in an amount of five (5) percent of Bidder's maximum Bid price and in the form of a certified or bank check or a Bid Bond issued by a surety meeting the requirements of paragraph 5.1 of the General Conditions.

7.2 The Bid security of Successful Bidder will be retained until such Bidder has executed the Agreement, furnished the required contract security and met the other conditions of the Notice of Award, whereupon the Bid security will be returned. If the Successful Bidder fails to execute and deliver the Agreement and furnish the required contract security within fifteen (15) days after the Notice of Award, Owner may annul the Notice of Award and the Bid security of that Bidder will be forfeited. The Bid security of other Bidders whom Owner believes to have a reasonable chance of receiving the award may be retained by Owner until the earlier of the seventh day after the Effective Date of the Agreement or the forty-sixth day after the Bid opening, whereupon Bid security furnished by such Bidders will be returned. Bid security with Bids which are not competitive will be returned within seven (7) days after the Bid opening.

8. CONTRACT TIMES

The number of days within which, or the dates by which, the Work is to be substantially completed and also completed and ready for final payment (the term "Contract Times" as defined in paragraph 1.12 of the General conditions) are set forth in the Agreement (or incorporated therein by reference to the attached Bid Form).

9. LIQUIDATED DAMAGES

Provisions for liquidated damages, if any, are set forth in the Agreement.

10. SUBSTITUTE AND "OR-EQUAL" ITEMS

The Contract, if awarded, will be on the basis of materials and equipment described in the Drawings or specified in the Specifications without consideration of possible substitute of "or-equal" items. Whenever it is indicated in the Drawings or specified in the Specifications that a substitute or "or-equal" item of material or equipment may be furnished or used by Contractor if acceptable to Engineer, application for such acceptance will not be considered by Engineer until after the Effective Date of the Agreement. The procedure for submission of any such application by Contractor and consideration by Engineer is set forth in paragraph 6.7 of the General Conditions and may be supplemented in the General Requirements.

11. NOT USED

12. BID FORM

12.1 The Bid Form is included with the Bidding Documents.

12.2 All blanks on the Bid Form must be completed by printing in black ink or by typewriter.

12.3 Bids by corporations must be executed in the corporate name by the president or a vice-president (or other corporate officer accompanied by evidence of authority to sign) and the corporate seal must be affixed and attested by the secretary or an assistant secretary. The corporate address and state of incorporation must be shown below the signature.

12.4 Bids by partnerships must be executed in the partnership name and signed by a partner, whose title must appear under the signature and the official address of the partnership must be shown below the signature.

12.5 All names must be typed or printed in black ink below the signature.

12.6 The Bid shall contain an acknowledgement of receipt of all Addenda (the numbers of which must be filled in on the Bid Form).

12.7 The address and telephone number for communications regarding the Bid must be shown.

12.8 Evidence of authority to conduct business as an out-of-state corporation in the state where the Work is to be performed shall be provided in accordance with Paragraph 3 above. State contractor license number, if any, must also be shown.

13. SUBMISSION OF BIDS

Bids shall be submitted at the time and place indicated in the Advertisement of Invitation to Bid and shall be enclosed in an opaque sealed envelope, marked with the Project title, "CELL 7 EXCAVATION AND LINER CONSTRUCTION" (and, if applicable, the designated portion of the Project for which the Bid is submitted) and name and address of Bidder and accompanied by the bid security and other required documents. If the Bid is sent through the mail or other delivery system the sealed envelope shall be enclosed in a separate envelope with the notation "BID ENCLOSED" on the face of the outer envelope.

14. MODIFICATION AND WITHDRAWAL OF BIDS

14.1 Bids may be modified or withdrawn by an appropriate document duly executed (in the manner that a Bid must be executed) and delivered to the place where Bids are to be submitted at any time prior to the opening of Bids.

14.2 If, within twenty-four (24) hours after Bids are opened, any Bidder files a duly signed, written notice with Owner and promptly thereafter demonstrates to the reasonable satisfaction of Owner that there was a material and substantial mistake in the preparation of its Bid, that Bidder may withdraw its Bid and the Bid security will be returned. Thereafter, that Bidder will be disqualified from further bidding on the Work to be provided under the Contract Documents.

15. OPENING OF BIDS

Bids will be opened and (unless obviously non-responsive) read aloud publicly at the place where Bids are to be submitted. An abstract of the amounts of the base Bids and major alternates (if any) will be made available to Bidders after the opening of Bids.

16. BIDS TO REMAIN SUBJECT TO ACCEPTANCE

All Bids will remain subject to acceptance for forty-five (45) days after the day of the Bid opening, but Owner may, in its sole discretion, release any Bid and return the Bid security prior to that date.

17. AWARD OF CONTRACT

17.1 Owner reserves the right to reject any or all Bids, including without limitation the rights to reject any or all nonconforming, nonresponsive, unbalanced or conditional Bids and to reject the Bid of any Bidder if Owner believes that it would not be in the best interest of the Project to make an award to that Bidder, whether because the Bid is not responsive or the Bidder is unqualified or of doubtful financial ability or fails to meet any other pertinent standard or criteria established by Owner. Discrepancies between the multiplication of units of Work and unit prices will be resolved in favor of the unit prices. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum. Discrepancies between words and figures will be resolved in favor of the words.

17.2 In evaluation of Bids, Owner will consider the qualifications of Bidders, whether or not the Bids comply with the prescribed requirements, and such alternatives, unit prices and other data as may be requested in the Bid Form or prior to the Notice of Award.

17.3 Owner may consider the qualifications and experience of Subcontractors, Suppliers, and other persons and organizations proposed for those portions of the Work as to which the identity of Subcontractors, Suppliers, and other persons and organizations must be submitted as provided in the Supplementary Conditions. Owner also may consider the operating costs, maintenance requirements, performance data and guarantees of major items of materials and equipments proposed for incorporation in the Work when such data is required to be submitted prior to the Notice of Award.

17.4 Owner may conduct such investigations as Owner deems necessary to assist in the evaluation of any Bid and to establish the responsibility, qualifications and financial ability of Bidders, proposed Subcontractors, Suppliers and other persons and organizations to perform and furnish the Work in accordance with the Contract Documents to Owner's satisfaction within the prescribed time.

17.5 If the contract is to be awarded, Owner will give Successful Bidder a Notice of Award within forty-five (45) days after the day of the Bid opening.

18. CONTRACT SECURITY

Paragraph 5.1 of the General Conditions and the Supplementary Conditions set forth Owner's requirements as to performance and payment Bonds. When the Successful Bidder delivers the executed Agreement to Owner, it must be accompanied by the required performance and payment Bonds.

19. SIGNING OF AGREEMENT

When Owner gives a Notice of Award to the Successful Bidder, it will be accompanied by the required number of unsigned counterparts of the Agreement with all other written Contract Documents attached. Within fifteen (15) days thereafter Contractor shall sign and deliver the required number of counterparts of the Agreement and attached documents to Owner with the required bonds. Within ten (10) days thereafter Owner shall deliver one fully signed counterpart to Contractor.

20. SALES AND USE TAXES

Project is exempt from Texas State Sales and Use Taxes on materials only that will be incorporated in the Work. Said taxes shall not be included in the Contract Price. Refer to the Supplementary Conditions, SC-6.15.

21. RETAINAGE

Provisions concerning retainage are set forth in the Agreement.

22. FEDERAL WAGE REQUIREMENTS

If applicable, the Davis-Bacon Act, 29 C.F.R. 5.5, and any related acts or regulations are hereby incorporated by reference and made part of this Agreement, and all terms and requirements under said laws, by such incorporation, are made terms and requirements of this Agreement, to which the parties to this Agreement have agreed to be bound.

SECTION 00220

INFORMATION AVAILABLE TO BIDDERS

PART 1 - GENERAL

1.1 INFORMATION

- A. Geotechnical Data
Geotechnical information is included in Appendix B.

1.2 RESPONSIBILITY

- A. Bidders are expected to examine the property survey and geotechnical data reports and then determine for themselves the validity of the information contained therein.
- B. Engineer and Owner assume no responsibility for variations of site information or subsoil quality or conditions.

PART 2 - PRODUCTS

Not Used.

PART 3 - EXECUTION

Not Used.

END OF SECTION



THE CITY OF MIDLAND

CONTRACT

Contract No.

THIS CONTRACT, effective the _____ day of _____, 20____, by and between the City of Midland, hereinafter referred to as the "Owner", and _____, hereinafter referred to as the "Contractor", is made for the following considerations:

1. **Cost:** Total Proposal: \$ _____ DOLLARS
2. **Scope of Work:** The Contractor shall perform all work described for labor, material, equipment and supervision necessary for the construction of Cell 7 Excavation and Liner Construction in the following documents, attached hereto and incorporated herein by reference for all legal purposes.

EXHIBIT A..... Specifications, Proposal or Cost Summary
EXHIBIT B..... Intentionally Omitted
EXHIBIT C..... Bonding instructions for Public Works Contract of \$50,000 and more
EXHIBIT D..... Wage Scale
3. **Owner:** The words "Owner's Representative" or "representative" shall mean Morris Williams or his designee under whose supervision these contract documents, including the plans and specifications, were prepared, or who may inspect work performed under this Contract; or such other representative, supervisor, or inspector as may be authorized by the Owner to act in any particular capacity under this Contract.
4. **The Owner's Representative** may make periodic visits to the site to observe the progress and quality of the executed work and to determine, in general, if the work is proceeding in accordance with the contract documents. Owner's representative will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the work, nor will such representative be responsible for the construction means, methods, techniques, sequences or procedures, or the safety precautions incident thereto. Owner's representative will not be responsible for the Contractor's failure to perform the work in accordance with the contract.
5. **Contractor:** Unless otherwise stipulated, the Contractor shall provide and pay for all materials,

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

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

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

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

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

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

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

OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY, ON ACCOUNT OF ANY NEGLIGENT ACT OF THE CONTRACTOR, THEIR AGENTS OR EMPLOYEES, OR ANY SUBCONTRACTOR, IN THE EXECUTION, SUPERVISION AND OPERATIONS GROWING OUT OF OR IN ANY WAY CONNECTED WITH THE PERFORMANCE OF THIS CONTRACT, AND CONTRACTOR WILL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST THE OWNER OR ANY OF ITS OFFICERS, AGENTS OR EMPLOYEES, INCLUDING ATTORNEY'S FEES.

8.1. THE CONTRACTOR SHALL INDEMNIFY AND HOLD HARMLESS AND DEFEND THE OWNER AND ALL OF THE OWNER'S OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, ACCIDENTAL DEATH, PROPERTY DAMAGE, LOSSES, AND EXPENSES OF ANY CHARACTER WHATSOEVER INCLUDING ATTORNEY'S FEES, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY, ON ACCOUNT OF ANY NEGLIGENT ACT OF THE OWNER, THE OWNER'S OFFICERS, AGENTS AND EMPLOYEES, WHETHER SUCH NEGLIGENT ACT WAS THE SOLE PROXIMATE CAUSE OF THE INJURY OR DAMAGE OR A PROXIMATE CAUSE JOINTLY AND CONCURRENTLY WITH THE CONTRACTOR OR THE CONTRACTOR'S EMPLOYEES, AGENTS OR SUBCONTRACTORS NEGLIGENCE IN THE EXECUTION, SUPERVISION AND OPERATIONS GROWING OUT OF OR IN ANY WAY CONNECTED WITH THE PERFORMANCE OF THIS CONTRACT, AND CONTRACTOR WILL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST THE OWNER OR ANY OF ITS OFFICERS, AGENTS OR EMPLOYEES, INCLUDING ATTORNEY'S FEES.

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

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

9. **Start of Work:** The Contractor shall commence work no later than ten (10) days after receipt of the execution of this document or other written release to proceed and shall substantially complete such work no later than 240 calendar days after release to proceed.

If the Contractor should fail or refuse to complete the work within the time herein specified, or any proper extension thereof granted by the Owner, then the Contractor does hereby agree as part of the consideration for the awarding of this contract, the Owner may withhold permanently from Contractor's total compensation, the sum of One Thousand One Hundred Five Dollars (\$1,105.00), not as a penalty but as liquidated damages for the breach of the contract as herein set forth for each calendar day that the Contractor shall be in default after the time stipulated for completing the work.

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

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

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

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

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

12.1. Defective work not remedied; or

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

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

12.4. Damages to another contractor or subcontractor.

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

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

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

14.1. If applicable, the Davis-Bacon Act, 29 CFR 5.5, and any related acts or regulations are hereby incorporated by reference and made a part of this Contract, and all terms and requirements under said laws, by such incorporation, are made terms and requirements of this Contract, to which the parties to this Contract have agreed to be bound.

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

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

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

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

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

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

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

THERE IS NO WAIVER OF SOVEREIGN IMMUNITY.

19. **Insurance**

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

Commercial General Liability (including Contractual liability):

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

-Property Damage: \$500,000.00 per occurrence

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

Worker's Compensation: Statutory limits

Employers' Liability: \$500,000.00 per accident or occurrence

The Commercial General Liability shall be on a per project aggregate, including completed operations, and shall be on an occurrence basis.

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

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

All insurance required pursuant to this Contract shall provide for a waiver of subrogation in favor of the City. All insurance required pursuant to this Contract, except for Worker's Compensation Insurance, shall name the City as an additional insured on a claims occurred basis. City shall be

provided the notice by Contractor's insurance provider not later than thirty (30) days prior to any reduction or termination of such coverage.

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

The parties agree that, prior to the execution of the Contract, Contractor shall provide one or more certificates of insurance specifically stating that these requirements have been met and subject to the approval of the City. The City shall not be required to provide any insurance whatsoever pursuant to this Contract.

The Contractor certifies that the certificate of insurance provided as required herein complies with the requirements of Senate Bill 425, passed during the 82nd regular session of the Texas Legislature, and effective January 1, 2012.

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

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

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

occurred in Midland County, Texas.

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

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

regarding the claim. Said additional information shall be supplied within thirty (30) days after receipt of notice.

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

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

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

Contract No: Contract No.(file #)

OWNER, City of Midland

CONTRACTOR

Courtney B. Sharp, City Manager

APPROVED AS TO FORM

Keith Stretcher, City Attorney

ATTEST

Amy M. Turner, City Secretary

Contractor Corporate Acknowledgment: Contract #

STATE OF TEXAS §

§

COUNTY OF MIDLAND §

BEFORE ME, the undersigned authority, on this day personally appeared _____, an officer of _____,

known to me to be the person and official whose name is subscribed to the forgoing instrument, and acknowledged to me that he executed the same as the act and deed of said corporation, for the purposes and consideration therein expressed, and in the capacity therein stated.

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

Notary Public, State of Texas

**EXHIBIT A
PROPOSAL**

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

_____, 2012

Gentlemen:

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

CELL 7 EXCAVATION AND LINER CONSTRUCTION

Item No.	Quantity & Unit	Description of Item and Unit Prices	Total Amount
1.	1 LS	Mobilization (3% max), complete, per lump sum: _____ _____ _____ Dollars and _____ Cents (\$ _____)	\$ _____
2.	4,850 SY	Remove existing access road, complete, per square yard: _____ _____ _____ Dollars and _____ Cents (\$ _____)	\$ _____
3.	1 EA	Plug existing GWM Well 8, complete, per each: _____ _____ _____ Dollars and _____ Cents (\$ _____)	\$ _____
4.	2,615 LF	Remove existing pipeline, complete, per linear foot: _____ _____ _____ Dollars and _____ Cents (\$ _____)	\$ _____

Item No.	Quantity & Unit	Description of Item and Unit Prices	Total Amount
5.	1,650 LF	Remove existing litter fence, complete, per linear foot: _____ _____ Dollars and _____ Cents (\$ _____)	\$ _____
6.	344,230 CY	Relocate borrow material, complete, per cubic yard: _____ _____ Dollars and _____ Cents (\$ _____)	\$ _____
7.	1,053,530 CY	Excavation, complete, per cubic yard: _____ _____ Dollars and _____ Cents (\$ _____)	\$ _____
8.	12,720 CY	Embankment fill, complete, per cubic yard: _____ _____ Dollars and _____ Cents (\$ _____)	\$ _____
9.	1,061,970 SF	Subgrade preparation - floor, complete, per square foot: _____ _____ Dollars and _____ Cents (\$ _____)	\$ _____
10.	106,950 SF	Subgrade preparation - slope, complete, per square foot: _____ _____ Dollars and _____ Cents (\$ _____)	\$ _____
11.	1,058,530 SF	Geosynthetic clay liner - floor, complete, per square foot: _____ _____ Dollars and _____ Cents (\$ _____)	\$ _____

Item No.	Quantity & Unit	Description of Item and Unit Prices	Total Amount
12.	112,670 SF	Geosynthetic clay liner - slope, complete, per square foot: _____ _____ Dollars and _____ Cents (\$ _____)	\$ _____
13.	1,058,530 SF	Geomembrane liner - smooth, complete, per square foot: _____ _____ Dollars and _____ Cents (\$ _____)	\$ _____
14.	112,670 SF	Geomembrane liner - textured, complete, per square foot: _____ _____ Dollars and _____ Cents (\$ _____)	\$ _____
15.	1,171,200 SF	Geomembrane drainage layer, complete per square foot: _____ _____ Dollars and _____ Cents (\$ _____)	\$ _____
16.	1,061,970 SF	Protective soil cover - floor, complete, per square foot: _____ _____ Dollars and _____ Cents (\$ _____)	\$ _____
17.	106,950 SF	Protective soil cover - slope, complete, per square foot: _____ _____ Dollars and _____ Cents (\$ _____)	\$ _____
18.	16,570 SF	Geotextile fabric, complete, per square foot: _____ _____ Dollars and _____ Cents (\$ _____)	\$ _____

Item No.	Quantity & Unit	Description of Item and Unit Prices	Total Amount
19.	430 CY	Gravel drainage material, complete, per cubic yard:_____	
		_____Dollars	
		and _____Cents (\$_____)	\$_____
20.	1,170 LF	6-inch leachate collection pipe, complete per linear foot:_____	
		_____Dollars	
		and _____Cents (\$_____)	\$_____
21.	1 LS	Sump and concrete access structure, complete, per lump sum:_____	
		_____Dollars	
		and _____Cents (\$_____)	\$_____
22.	7,760 SY	Paved access road, complete, per square yard:_____	
		_____Dollars	
		and _____Cents (\$_____)	\$_____
23.	1 LS	Site signage, complete, per lump sum:_____	
		_____Dollars	
		and _____Cents (\$_____)	\$_____
24.	1 LS	Erosion control, complete, per lump sum:_____	
		_____Dollars	
		and _____Cents (\$_____)	\$_____
TOTAL BASE BID CELL 7 EXCAVATION AND LINER CONSTRUCTION BID ITEMS 1 – 24 INCLUSIVE			\$_____

Item No.	Quantity & Unit	Description of Item and Unit Prices	Total Amount
A-1	6,180 SY	Paved access road, complete, per square yard:___ _____.Dollars and_____.Cents (\$_____.)	\$_____
TOTAL ADDITIVE ALTERNATE BID PAVED ACCESS ROAD BID ITEM A-1			\$_____

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

MATERIALS	\$_____
LABOR	\$_____
TOTAL BID	\$_____

The undersigned Bidder hereby declares that he has visited the site of the work and has carefully examined the Plans, Specifications and Contract Documents pertaining to the work covered by the above bid, and he further agrees to commence work within ten (10) days after written notice to do so, and to complete all work within the consecutive calendar days framework noted in the Contract.

Bidder further agrees to pay as liquidated damages, the sum of \$1,105.00 for each consecutive calendar day thereafter as hereinafter provided in Paragraph 9 of the Contract.

Bidder understands that the Owner reserves the right to reject any or all bids and to waive any informalities in the bidding.

Bidder acknowledges receipt of the following addendum:

CONTRACTOR

(Seal if Bidder is a
Corporation)

By_____

Address

CERTIFICATE OF INSURANCE:

PRODUCER INSURANCE COMPANY PHONE	THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE APPROVED BY THE POLICIES BELOW.
INSURED	COMPANIES AFFORDING COVERAGE
VENDOR COMPANY	COMPANY LETTER A COMPANY NAME COMPANY LETTER B COMPANY LETTER C COMPANY LETTER D COMPANY LETTER E

>COVERAGES*****

THIS IS TO CERTIFY THAT 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 THE 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 TERMS, EXCLUSIONS, AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFF DATE (MM/DD/YY)	POLICY EXP DATE (MM/DD/YY)	LIMITS
A	GENERAL LIABILITY ☐ COMMERCIAL GEN LIABILITY ☐ CLAIMS MADE ☒ OCC. ☐ OWNER'S & CONTRACTOR'S PROTECTIVE PROTECTIVE ☐ ☐	ABC123456789	00/00/00	00/00/00	GENERAL AGGREGATE 1000000* PROD-COMP/OP AGG. 1000000* PERS. & ADV. INJURY 500000* EACH OCCURRENCE 500000* FIRE DAMAGE 50000* [ANY ONE FIRE] MED. EXPENSE 5000* [ANY ONE PERSON] COMB. SINGLE LIMIT 250000* BODILY INJURY [EACH PERSON] BODILY INJURY [PER ACCIDENT] PROPERTY DAMAGE EACH OCCURRENCE AGGREGATE
A	AUTOMOBILE LIABILITY ☒ ANY AUTO ☐ ALL OWNED AUTOS ☐ SCHEDULED AUTOS ☐ HIRED AUTOS ☐ NON-OWNED AUTOS ☐ GARAGE LIABILITY	ABC123456789	00/00/00	00/00/00	
	EXCESS LIABILITY ☐ UMBRELLA FORM ☐ OTHER THAN UMBRELLA FORM				
A	WORKERS' COMP AND EMPLOYERS' LIAB	ABC123456789		00/00/00	{STATUTORY LIMITS} EACH ACCIDENT 100000* DISEASE-POL. LIMITS 500000* DISEASE-EACH EMP. 100000*
A		ABC123456789		00/00/00	
	OTHER				

DESCRIPTION OF OPERATIONS / LOCATIONS/ VEHICLES/ SPECIAL ITEMS

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

> CERTIFICATE HOLDER <*****> CERTIFICATE HOLDER <*****>

City of Midland
 P.O. BOX 1152
 MIDLAND, TX
 79702-1152

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES

AUTHORIZED REPRESENTATIVE

-----ACORD 25-S (2001/08) *Insurance limits should be adjusted to the amounts required by the attached contract.-----

NOTE: The wording under "Description of Operations", must appear exactly as shown above. Otherwise it will be rejected and contract execution will be delayed until a properly worded certificate is received.

EXHIBIT C

Bonding Requirements

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

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

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

EXHIBIT "D"

PREVAILING WAGE RATE SCHEDULE
HEAVY CONSTRUCTION
as of September 3, 2010
General Decision: TX100001

<u>Classification</u>	<u>Rate/hr</u>	<u>Fringes</u>
Air Tool Operator	9.05	
Asphalt Distributor Operator	10.46	
Asphalt Heater Operator	11.21	
Asphalt Paving Machine Operator	9.38	
Asphalt Raker	9.53	
Asphalt Shoveler	7.33	
Batching Plant Weigher	11.15	
Broom or Sweeper Operator	8.01	
Bulldozer Operator	10.88	
Carpenter	10.10	
Concrete Finisher-Paving	11.25	
Concrete Finisher Structures	10.03	
Concrete Paving Saw Operator	15.00	
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel Operator	11.94	
Crusher, Screen Plant Operator	9.00	
Electrician	19.00	
Flagger	7.29	
Form Builder/Setter-Structures	10.01	
Form Setter - Paving & Curb	9.43	
Foundation Drill Operator, Truck Mounted	18.00	
Front End Loader Operator	10.04	
Laborer - Common	8.25	
Laborer Utility	9.62	
Mechanic	14.05	
Milling Machine Operator, Fine Grade	12.20	
Motor Grader Operator Rough	14.36	

<u>Classification</u>	<u>Rate/hr</u>	<u>Fringes</u>
Motor Grader Operator, Fine Grade	13.24	
Oiler	10.67	
Painter, Structures	11.00	
Pavement Marking Machine Operator	9.26	
Planer Operator	17.50	
Reinforcing Steel Setter, Paving	9.50	
Reinforcing Steel Setter, Structure	11.85	
Roller Operator, Pneumatic, Self Propelled	7.55	
Roller Operator, Steel Wheel, Flat Wheel/Tamping	8.66	
Roller Operator, Steel Wheel, Plant Mix Pavement	9.81	
Scraper Operator	7.78	
Servicer	8.22	
Slip Form Machine Operator	13.64	
Spreader Box Operator	10.07	
Tractor Operator, Pneumatic	8.58	
Traveling Mixer Operator	9.71	
Truck driver, lowboy-Float	11.42	
Truck driver, Single Axle, Heavy	11.00	
Truck driver, Single Axle, Light	7.55	
Truck driver, Tandem Axle, Semi-Trailer	9.02	
Wagon Drill, Boring Machine, Post Hole Driller Operator	8.86	
Welder	9.75	
Work Zone Barricade Servicer	8.64	

Welders – Receive rate prescribed for craft performing operation to which welding is incidental.

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

BID BOND

THE STATE OF TEXAS §

SURETY NO. _____

COUNTY OF MIDLAND §

KNOW ALL MEN BY THESE PRESENTS, THAT _____

(hereinafter called the Principal), as Principal, and _____

(hereinafter called the Surety), as Surety, are held and firmly bound unto the City of Midland, Texas a home rule municipal corporation of Midland County, Texas, (hereinafter called the Obligee), in the amount of _____ DOLLARS

(\$ _____), for the payment whereof the said Principal and Surety bind themselves, and their heirs, administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has submitted a Bid or Proposal to enter into a certain written Contract with the obligee to _____

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the said Principal shall faithfully enter into such written Contract, then this obligation shall be void; otherwise to remain in full force and effect.

IT IS EXPRESSLY UNDERSTOOD AND AGREED that if said Principal should withdraw its Bid anytime after such Bid is opened and before official rejection to such Bid or, if successful in securing the award thereof, said Principal should fail to enter into the Contract and furnish satisfactory Performance Bond and Payment Bond, the Obligee, in either such events, shall be entitled and is hereby given the right to collect the full amount of this Bid Bond as liquidated damages.

PROVIDED, further that if any legal action be filed upon this Bond venue shall lie in Midland County, Texas
IN WITNESS THEREOF, THE SAID PRINCIPAL AND SURETY do sign and seal this instrument, this
_____ day of _____, 20____.

Principal

Surety

By _____

By _____

Address _____

Address _____

APPROVED AS TO FORM:

City Attorney

NOTE: ATTACH POWER OF ATTORNEY

PAYMENT BOND

[illegible]

SURETY'S NO. _____

KNOW ALL MEN BY THESE PRESENTS, THAT _____,

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

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

WHEREAS, the Principal has entered into a certain written contract with the Obligee,
dated the _____ day of _____, 20____, to _____

which contract is hereby referred to and made a part hereof as fully and to the same extent as if copied at length herein.

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

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

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

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

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

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

Principal

Surety

By_____

By_____

Address_____

Address_____

APPROVED AS TO FORM:

City Attorney

NOTE: ATTACH POWER OF ATTORNEY

PERFORMANCE BOND

STATE OF TEXAS §
 §
COUNTY OF MIDLAND §

SURETY'S NO. _____

KNOW ALL MEN BY THESE PRESENTS, THAT _____

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

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

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

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

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

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

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

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

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

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

Principal

Surety

By_____

By_____

Address_____

Address_____

APPROVED AS TO FORM:

City Attorney

NOTE: ATTACH POWER OF ATTORNEY

CITY OF MIDLAND

**Consideration of Location of Bidder's Principal Place of Business
For Bids of \$50,000 up to \$100,000 for Services and \$500,000 for Commodities**

Affidavit of Eligibility

Pursuant to Texas Local Government Code 271.9051, in purchasing real property, personal property that is not affixed to real property, or services, if the City receives one or more bids from a bidder whose principal place of business is in the City of Midland and whose bid is within five percent (5%) of the lowest bid price received by the City from a bidder who is not a resident of the City of Midland, the City may enter into a contract with:

- (1) the lowest bidder; or
- (2) the bidder whose principal place of business is in the City of Midland if the City Council determines, in writing, that the local bidder offers the City the best combination of contract price and additional economic development opportunities for the City of Midland created by the contract award, including the employment of residents of the City of Midland and increased tax revenues to the City of Midland.

In order to receive consideration, bidders must submit this affidavit to:

Regina Stephenson
Purchasing Manager
City of Midland
300 N. Loraine St.,
PO BOX 1152
Midland, TX 79702-1152

Complete all areas below. Incomplete affidavits may be rejected.

Local Business Name: _____

Local Address (must be within the City limits): _____

1. Is the above address the principal place of business for the business named above? ☐ Yes ☐ No
2. How many residents of the City of Midland are employed at the above business location? _____
3. Year your business was established in the City of Midland: _____
4. If you collect sales tax for ANY class of customer, provide the following Reseller information:

Reseller Permit Number: _____

Company Name and Address (as it appears on permit):

5. Does your business have more than one office in the State of Texas? ☐ Yes ☐ No
If Yes, identify the office location considered as the point-of sale for the purpose of sales tax calculation:

6. Was the local business required to pay business and/or real property tax for the most recent tax year?

☐ Yes ☐ No

If Yes, did the local business pay any of this tax to the City of Midland? ☐ Yes ☐ No

Under penalty of perjury, the undersigned states that the foregoing statements are true and correct. It is further acknowledged that any person, firm, corporation or entity intentionally submitting false information to the City in an attempt to qualify for eligibility shall be prohibited from bidding on City of Midland products and services for a period of one (1) year.

Authorized Signature: _____ Date: _____

Printed Name and Title: _____

IMPORTANT NOTICE

Conflict Of Interest Reporting Requirements

Compliance with Local Government Code, Title 5. Matters Affecting Public Officers and Employees, Subtitle C. Matters Affecting Public Officers and Employees of More Than One Type of Local Government, Chapter 176. Disclosure of Certain Relationships with Local Government Officers; Providing Public Access to Certain Information.

Bidders are responsible for filing Conflict of Interest form "CIQ" in accordance with the above referenced statute. Failure to do so is a class C Misdemeanor. Contracts or Purchase Orders awarded to a vendor that has violated this law is subject to termination at such time that the violation is discovered with no recourse to the City of Midland. The bidder will be subsequently removed from the bidders list for a minimum of one year.

When there is no known conflict of interest as defined by the statute, it is not necessary to file/submit the Form CIQ. The form must be submitted if a conflict is subsequently discovered.

By submitting a response to this request, vendor represents that it complies with the requirements of Chapter 176 of the Texas Local Government Code.

More information, additional forms, instructions and FAQs are available at: <http://www.ci.midland.tx.us/Purchasing/HB914.htm> and click the appropriate link.

A copy of the form is attached. A fill-in version is available from the above web-site.

For a current list of the City Elected Officials go to: <http://www.ci.midland.tx.us> and choose City Government from the left side bar, then click Mayor and Council.

For a current list of the City Management Staff go to: <http://www.ci.midland.tx.us> and choose City Government from the left side bar, then click City Manager's Office.

If you have previously submitted a form, it is NOT necessary to send another, unless the status has changed. If submitting due to change in previous status, please note change in status on the front of the form.

Upon completion of the form, sign and submit with bid or mail to:

City of Midland

Attn: City Secretary

P. O. Box 1152

Midland, Texas 79702

CONFLICT OF INTEREST QUESTIONNAIRE

FORM CIQ

For vendor or other person doing business with local governmental entity

This questionnaire is being filed in accordance with chapter 176 of the Local Government Code by a person doing business with the governmental entity.

By law this questionnaire must be filed with the records administrator of the local government not later than the 7th business day after the date the person becomes aware of facts that require the statement to be filed. See Section 176.006, Local Government Code.

A person commits an offense if the person violates Section 176.006, Local Government Code. An offense under this section is a Class C misdemeanor.

OFFICE USE ONLY

Date Received

1 Name of person doing business with local governmental entity.

2 ☐ **Check this box if you are filing an update to a previously filed questionnaire.**

(The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than September 1 of the year for which an activity described in Section 176.006(a), Local Government Code, is pending and not later than the 7th business day after the date the originally filed questionnaire becomes incomplete or inaccurate.)

3 Name each employee or contractor of the local governmental entity who makes recommendations to a local government officer of the governmental entity with respect to expenditures of money AND describe the affiliation or business relationship.

4 Name each local government officer who appoints or employs local government officers of the governmental entity for which this questionnaire is filed AND describe the affiliation or business relationship.

For vendor or other person doing business with local governmental entity

This section, item 5 including subparts A, B, C & D, must be completed for each officer with whom the filer has affiliation or other relationship. Attach additional pages to this Form CIO as necessary.

D. Describe each affiliation or business relationship.

[illegible]

6

Date _____

SECTION 01010

SUMMARY OF WORK

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

- A. Drawings, Construction Contract, and Division 1 - General Requirements apply to work of this section.

1.2 SECTION INCLUDES

- A. Work covered by Contract Documents
- B. Contractor use of site.
- C. Owner occupancy.

1.3 WORK COVERED BY CONTRACT DOCUMENTS

- A. Identification: City of Midland, Texas, Municipal Solid Waste Landfill, Cell 7 Excavation and Liner Construction.
- B. Location: Midland, Texas Municipal Solid Waste Landfill, TCEQ MSW Permit No. 1605B.
- C. Verbal Summary: Without force or effect on requirements of the Contract Documents a brief description of the Project is as follows:
 - 1. Earthwork excavation, filling, and grading as shown on plans below existing grade. The topsoil from the excavated area is to be stock-piled on site. The area is shown on the plans. Contractor must segregate all clean topsoil from soil containing caliche or other materials into individual stockpiles.
 - 2. Subgrade preparation to the lines and grades shown on the plans.
 - 3. Reinforced Geosynthetic Clay Liner.
 - 4. 60 mil high density polyethylene liners, smooth and textured.
 - 5. Geocomposite drainage layer (dual geotextile).
 - 6. Polyethylene pipe, gravel and geotextile fabric.
 - 7. Construction Testing
 - 8. Protective Soil Cover placement.
 - 9. Erosion control.
 - 10. Access road.
 - 11. Liner Markers.
 - 12. Leachate Sump Access Structure.
 - 13. Removal of asphalt access road, litter fence, and pipeline.
 - 14. Abandonment and plugging of groundwater monitoring well.

1.4 CONTRACTOR USE OF SITE

- A. Limit use of site to allow Owner occupancy.
- B. Construction Operations will be limited to areas adjacent to construction site as designated by the Owner.

1.5 PROTECTION OF EXISTING UTILITIES AND STRUCTURES

- A. The Contractor shall exercise care to prevent damage to, and shall be liable for any damage to, and for maintenance and protection of such lines and structures as are shown on the drawings or otherwise brought to the attention of the Contractor. The Contractor shall not cut, remove, change or disturb any existing lines, except as provided by the plans and these specifications, without the express permission of the Owner of any such line. Utility adjustments or relocations will be accomplished by the Owner of each utility, except for water and sewer or as otherwise shown on the drawings.

1.6 OWNER OCCUPANCY

- A. The Owner will occupy the site during construction for the conduct of normal operations.
- B. Cooperate with Owner to minimize conflict, and to facilitate Owner's operations.
- C. Schedule the Work to accommodate this requirement.

PART 2 - PRODUCTS

Not Used

PART 3 - EXECUTION

3.1 SOIL LINER QUALITY CONTROL PLAN (SLQCP)

- A. The technical project specifications contain requirements for liner system installation and testing. The Soil Liner Quality Control Plan (SLQCP) that is approved by the Texas Commission on Environmental Quality has also been included in the appendix of the project manual. The project shall be constructed and tested in accordance with the SLQCP. If there exists a discrepancy between the project technical specifications and the SLQCP, the SLQCP shall take precedence.

END OF SECTION

SECTION 01019

CONTRACT CONSIDERATIONS

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

- A. Drawings, Construction Contract, and Division 1 - General Requirements apply to work of this section.

1.2 SECTION INCLUDES

- A. Application for Payment.
- B. Change procedures.

1.3 RELATED SECTIONS

- A. Section 01300 - Submittals: Schedule of Values.
- B. Section 01600 - Material and Equipment: Product substitutions.

1.4 PROJECT DURATION

- A. Definitions
 - 1. Substantial Completion – The point at which the liner system has been satisfactorily installed and all related work complete.
 - 2. Final Completion – The point at which the Liner Evaluation Reports (LER) are accepted as complete by the TCEQ.
- B. Substantial Completion – Work associated with the project shall be substantially complete within 240 calendar days of Notice-to-Proceed.
- C. Final Completion – The duration of final completion is dependent upon the TCEQ's review of the LER. The balance of retainage will be held until the LER is accepted by the TCEQ.

1.5 APPLICATIONS FOR PAYMENT

- A. Submit four copies of each application to the Engineer.
- B. Payment Period: As defined in Owner-Contractor agreement.
- C. Waiver of liens from subcontractor.

1.6 CHANGE PROCEDURES

- A. The Engineer will advise of minor changes in the Work not involving an adjustment to Contract Sum/Price or Contract Time.
- B. Execution of Change Orders: Engineer will issue Change Orders for signatures of parties as provided in the General Conditions of the Contract.
- C. All Change Orders must be approved and signed by Owner. Do not commence with work included in a Change Order until it has been approved and signed by the Owner.

PART 2 - PRODUCTS

Not Used

PART 3 - EXECUTION

Not Used

END OF SECTION

SECTION 01025

MEASUREMENT AND PAYMENT

PART 1 - GENERAL

1.1 REQUIREMENTS

- A. The unit price or lump sum price bid on each item, as stated in the proposal, shall include furnishing all labor, superintendence, machinery, equipment, and materials necessary or incidental to complete the various items of work in accordance with the plans and specifications.
- B. All estimated quantities for unit price bid items stipulated in the bid proposal are approximate and are to be used only (a) as a basis for estimating the cost of the work and (b) for the purpose of comparing the bids submitted for the work. The actual amount of work done and materials furnished under unit price items may differ from the estimated quantities. The basis of payment for unit price work and materials will be the actual amount of work done and material furnished as measured by the Engineer.
- C. All measurements and payments will be based on completed and accepted work performed in strict accordance with the Drawings and Specifications and in accordance with contract bid prices. All incidental work and subsidiary items whether shown or not or listed for measurement or payment will not be paid for separately, but will be included in the payment for the bid items stated in the contract and shall be full compensation for all labor, equipment, materials, testing and incidentals necessary to perform the work in accordance with the Contract Documents.
- D. Cost of work or materials shown on the Drawings, called for in the Specifications and on which no separate payment is made, shall be included in the bid price for the various items for which they are associated. A claim by the Contractor for extra compensation for an item required but not shown on the Drawings or described in the Specifications will not be considered.
- E. It is anticipated that the interconnections between the various items of equipment and the control system will require coordination and in some cases interface devices such as, but not limited to, couplings, flanges, reducers, converters, conduit, relays, contacts, wiring, etc., will be required whether or not these items are shown on the Drawings. It is the General Contractor's responsibility to provide the necessary coordination and interface devices at no additional cost to the Owner.

1.2 MOBILIZATION/DEMOBILIZATION (BID ITEM 1)

Payment will be made for mobilizing and demobilizing all equipment, tools, insurance, bonds and all other job-related items to and from the job site. Price will be on a lump sum basis and shall include all equipment, labor, materials, superintendence and all incidentals necessary to become fully mobilized at the start of the project and demobilized when work is complete. Mobilization related expenses include Contractor's cost for the following: obtaining a construction staging area; obtaining storage areas for equipment and construction office facilities; obtaining and setting up construction office facilities; obtaining and paying for electric power required for construction; providing sanitary facilities for construction personnel; obtaining and paying for water needed for construction; providing and maintaining dust control over the project working area; and all other incidentals required for Contractor to complete mobilization. This bid item shall not exceed 3% of the contract price.

1.3 REMOVE EXISTING ASPHALT ROAD (BID ITEM 2)

Payment will be made for completely removing the existing asphalt road as shown on the plans and as specified on a per square yard basis. Price shall include all material, labor, equipment, and superintendence necessary to completely remove the asphalt road.

1.4 WELL ABANDONMENT (BID ITEM 3)

Payment will be made for plugging and abandoning existing groundwater monitoring well as shown on the plans and as specified on a per each basis. Price shall include all material, labor, equipment, and superintendence necessary to plug and abandon the well.

1.5 REMOVE EXISTING PIPELINE (BID ITEM 4)

Payment will be made for completely removing the existing underground pipeline as shown on the plans and as specified on a per linear foot basis. Price shall include all material, labor, equipment, and superintendence necessary to completely remove the pipeline. Price shall also include any required excavation, backfill, cutting, plugging and capping, and disposal.

1.6 REMOVE EXISTING LITTER FENCE (BID ITEM 5)

Payment will be made for completely removing the existing litter fence as shown on the plan and as specified on a per linear foot basis. Price shall include all material, labor, equipment, and superintendence necessary to completely remove the litter fence. Price shall also include cost to completely remove netting, guy wires, cables, and anchors. Posts shall be completely removed to full depth.

1.7 RELOCATE BORROW MATERIAL (BID ITEM 6)

Payment will be made for relocating above grade borrow material as shown on the plans and as specified on a per cubic yard basis. CONTRACTOR must provide survey control baseline survey prior to beginning work and finish survey measurements to verify amount of relocated borrow material for payment purposes.

1.8 EXCAVATION (BID ITEM 7)

Payment will be made for providing all labor, equipment, materials, supplies, etc., necessary to excavate the cell and drainage channels to the elevations and grades shown on the plans to receive the lining system, drainage channel and access road. Payment will be made for the total excavation on a per-cubic yard of excavation. CONTRACTOR must provide survey control baseline survey prior to beginning work and finish survey measurements to verify amount of excavation for payment purposes.

1.9 EMBANKMENT FILL (BID ITEM 8)

Payment will be made for providing all labor, equipment, materials, supplies, etc., necessary to fill the areas shown to receive the lining system, drainage channel, access road, and to construct the berms in accordance with the plans and specifications. Payment will be made for the actual measured cubic yardage of embankment fill. CONTRACTOR must provide survey control baseline survey prior to beginning work and finish survey measurements to verify amount of fill for payment purposes.

1.10 SUBGRADE PREPARATION (FLOOR) (BID ITEM 9)

Payment will be made for providing all labor, equipment, materials, supplies, etc., necessary to prepare the floor areas to receive the lining system and leachate collection system including all grading and compaction as shown on the plans and specifications. Payment will be made for total subgrade preparation on a per square foot basis of floor subgrade preparation.

1.11 SUBGRADE PREPARATION (SLOPES) (BID ITEM 10)

Payment will be made for providing all labor, equipment, materials, supplies, etc., necessary to prepare the slope areas, from toe of slope up to inside edge of anchor trench, to receive the lining system as shown on the plans. Payment will be made for total subgrade preparation on a per square foot basis of slope subgrade preparation.

1.12 REINFORCED GEOSYNTHETIC CLAY LINER (FLOOR) (BID ITEM 11)

Payment will be made for providing and installing reinforced GCL, including all labor, equipment, materials, supplies and superintendence necessary to install the reinforced GCL as shown on the plans. Price shall include cost of tie-in to existing liner. Payment will be made for the actual measured square footage of the liner installed and in place. Payment shall be made on the net quantity of floor surface area covered. No additional quantity will be paid for material overlap.

1.13 REINFORCED GEOSYNTHETIC CLAY LINER (SLOPE) (BID ITEM 12)

Payment will be made for providing and installing reinforced GCL, constructing and backfilling anchor trench, including all labor, equipment, materials, supplies and superintendence necessary to install the reinforced GCL as shown on the plans. Price shall include cost of tie-in to existing liner. Payment will be made for the actual measured square footage of the liner installed and in place up to the back edge of the anchor trench. Payment shall be made on the net quantity of surface area covered. No additional quantity will be paid for material overlap.

1.14 SMOOTH GEOMEMBRANE LINER (BID ITEM 13)

Payment will be made for providing and installing a 60-mil thick, smooth high density polyethylene liner including all labor, equipment, materials, supplies, etc., for complete installation. Price shall include cost of tie-in to existing liner. Payment will be made for the actual measured square footage of the liner installed and in place. No additional pay quantity will be made for the sacrificial membrane. Payment shall be made on the net quantity of surface area covered. No additional quantity will be paid for material overlap.

1.15 TEXTURED GEOMEMBRANE LINER (BID ITEM 14)

Payment will be made for providing and installing a 60-mil thick, textured high density polyethylene liner including all labor, equipment, materials, supplies, etc., for complete installation. Price shall include cost of anchor trench construction, compaction of backfill in anchor trench after liner installation and tie-in to existing liner. Payment will be made for the actual measured square footage of the liner installed and in place up to the back edge of the anchor trench. No additional pay quantity will be made for the sacrificial membrane. Payment shall be made on the net quantity of surface area covered. No additional quantity will be paid for material overlap.

1.16 DUAL GEOTEXTILE GEOCOMPOSITE DRAINAGE LAYER (BID ITEM 15)

Payment will be made for providing and installing the dual geotextile geocomposite drainage layer, including anchor trench and backfill. Price shall include tie-in to existing geocomposite layer, all materials, labor, supplies, equipment and superintendence to install dual geocomposite drainage layer as specified. Payment will be made for the actual measured square footage of the liner installed and in place. Payment shall be made on the net quantity of surface area covered. No additional quantity will be paid for material overlap.

1.17 PROTECTIVE SOIL COVER (FLOOR) (BID ITEM 16)

Contractor will place all protective soil on top of the floor liner system. Payment will be made for installation of soil cover material that is available on site. Price will include all labor, material, equipment and superintendence as necessary to install the soil. Payment will be made for actual measured square footage of the 2-foot thick protective floor cover up to toe of side slopes. Thickness shall be measured perpendicular to the prepared subgrade.

1.18 PROTECTIVE SOIL COVER (SLOPES) (BID ITEM 17)

Contractor will place all protective soil on top of the slope liner system including the soil berm along the edge liner as shown on the plans. Payment will include all labor, materials, equipment and superintendence as necessary to install the soil. Payment will be made for actual measured square footage of the 2-foot thick protective slope cover from toe of side slope up to outside edge of the anchor trench. Thickness shall be measured perpendicular to prepared subgrade.

1.19 GEOTEXTILE FABRIC (8 OZ) (BID ITEM 18)

Payment will be made for providing and installing 8oz geotextile fabric as shown on the plans on a per square foot basis. Price shall include all material, labor, supplies, equipment and superintendence necessary to install the geotextile fabric as specified. Payment shall be made on the net quantity of gravel surface area covered. No additional quantity will be paid for material overlap.

1.20 GRAVEL DRAINAGE MATERIAL (BID ITEM 19)

Payment will be made for providing and installing the gravel drainage material as shown on the plans on a per cubic yard basis. Price shall include all material, labor, supplies, equipment and superintendence necessary to install the gravel drainage material as specified.

1.21 6-INCH LEACHATE COLLECTION (BID ITEM 20)

Payment will be made for providing and installing the 6-inch high density polyethylene piping as shown on the plans on a per linear foot basis. This item includes all pipe along the landfill floor up to the collection sump. Pipe from the collection sump up the side slope to the top of slope is to be considered part of the sump (Bid Item #21). Price shall include all material, labor, supplies, equipment and superintendence necessary to install the 6-inch PE piping as specified.

1.22 SUMP ACCESS STRUCTURE (BID ITEM 21)

Payment will be made for providing and installing the sump access structure as shown on the plans on a lump sum basis. Price shall include sump, sump access structure, 12-inch sump pipe, 6-inch transducer pipe, 6-inch cleanout riser, 2-inch return pipe and valve and valve box, additional soil cover over pipes and all other appurtenances. Price shall include all material, labor, supplies, equipment and superintendence necessary.

1.23 ACCESS ROAD (BID ITEM 22)

Payment will be made for providing materials and constructing the access road as shown on the plans on a per square yard basis. Price shall include all material, labor, supplies, equipment and superintendence necessary to construct the road as specified. The top width of the HMAC portion of the roadway will be used for quantity measurement purposes. This measurement will include payment for all subgrade preparation, base course material, and installation, and HMAC material and installation.

1.24 SITE SIGNAGE (BID ITEM 23)

Payment will be made for providing and installing site signage as shown on the plans on a lump sum basis. Price shall include all material, labor, supplies, equipment and superintendence necessary to install the signage as specified.

1.25 EROSION CONTROL (BID ITEM 24)

Payment will be made for providing, installing and maintaining erosion control measures as shown on the plans on a lump sum basis and shall include the following: preparation of a formal Storm Water Pollution Prevention Plan (SW3P) by a Texas licensed professional engineer; submitting and obtaining approval of the formal SW3P from the required governing agencies; furnishing, installing, and maintaining the approved SW3P complete for the duration of the project; implementing and maintaining best management practices and good-housekeeping for control of drainage run-off over the project area; silt-fences; soil stabilization; hay-bales; and all other incidentals required for Contractor to complete and implement the SW3P requirements.

1.26 ADDITIVE ALTERNATE NO. 1 – PAVED ACCESS ROADS (BID ITEM A-1)

Payment will be made for providing materials and constructing the paved access road as shown on the plans on a per square yard basis. Price shall include all material, labor, supplies, equipment and superintendence necessary to construct the road as specified. The top width of the HMAC portion of the roadway will be used for quantity measurement purposes. This measurement will include payment for all subgrade preparation, base course material, and installation, and HMAC material and installation.

1.27 SURVEY

No separate payment will be made for construction survey as required for the project. This item shall be considered incidental to all other bid items.

1.28 CLEANING

The project shall be returned to pre-construction conditions. No additional payment will be made for cleaning. This item shall be considered incidental to all other bid items.

1.29 CONNECTION TO EXISTING LINER

No payment will be made for connection to existing liner system. This item shall be considered incidental to all other bid items.

PART 2 - PRODUCTS

Not Used

PART 3 - EXECUTION

Not Used

END OF SECTION

SECTION 01039

COORDINATION AND MEETINGS

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

- A. Drawings, Construction Contract, and Division 1 - General Requirements apply to work of this section.

1.2 SECTION INCLUDES

- A. Coordination.
- B. Field engineering.
- C. Site mobilization conference.
- D. Preinstallation meetings.

1.3 COORDINATION

- A. Coordinate scheduling, submittals, and Work of the various Sections of specifications to assure efficient and orderly sequence of installation of interdependent construction elements, with provisions for accommodating items installed later.
- B. Verify that utility requirements and characteristics of operating equipment are compatible with building utilities. Coordinate work of various Sections having interdependent responsibilities for installing, connecting to, and placing in service, such equipment.
- C. Coordinate space requirements and installation of mechanical and electrical work which are indicated diagrammatically on Drawings. Follow routing shown for pipes, ducts, and conduit, as closely as practicable; place runs parallel with line of building. Utilize spaces efficiently to maximize accessibility for other installations, for maintenance, and for repairs.
- D. In finished areas, except as otherwise indicated, conceal pipes, ducts, and wiring within the construction. Coordinate locations of fixtures and outlets with finish elements.
- E. Large Apparatus: Any large piece of apparatus which is to be installed in any space in the building, and which is too large to permit access through windows, doorways or shafts, shall be brought to the job by the Contractor involved and placed in the space before the enclosing structure is completed.
- F. Items which require electrical connections shall be coordinated with Division 16 for:
 - 1. Voltage.
 - 2. Phase.
 - 3. Ampacity.
 - 4. No. and size of wires.
 - 5. Wiring diagrams.
 - 6. Starter size, details and location.
 - 7. Control devices and details.
- G. Coordinate completion and clean up of Work of separate Section in preparation for Substantial Completion and for portions of work designated for Owner's occupancy.

1.4 FIELD ENGINEERING

- A. Control datum for survey is shown on Drawings.
- B. Provide field engineering services. Establish elevations, lines, and levels, utilizing recognized engineering survey practices.

1.5 SITE MOBILIZATION CONFERENCE

- A. Engineer will schedule a conference at the Project site prior to Contractor occupancy.
- B. Attendance Required: Engineer and Contractor's Project Manager, Jobsite Superintendent, and major subcontractors.
- C. Agenda:
 - 1. Submission of insurance certificates.
 - 2. Distribution of Contract Documents.
 - 3. Submission of list of Subcontractors, list of products, Schedule of Values, and progress schedule.
 - 4. Designation of personnel representing the parties in Contract and the Engineer.
 - 5. Procedures and processing of field decisions, submittals, substitutions, applications for payments, proposal request, Change Orders and Contract closeout procedures.
 - 6. Scheduling.
 - 7. Use of premises by Owner and Contractor.
 - 8. Owner's requirements and partial occupancy.
 - 9. Construction facilities and controls provided by Owner.
 - 10. Temporary utilities provided by Owner.
 - 11. Survey layout.
 - 12. Security and housekeeping procedures.
 - 13. Schedules and Coordination.
 - 14. Procedures for testing.
 - 15. Procedures for maintaining record documents.
 - 16. Requirements for start-up of equipment.
 - 17. Inspection and acceptance of equipment put into service during construction period.
- D. Engineer or his representative will record meeting minutes and distribute copies within three days after meeting to participants and those affected by decisions made.

1.6 BI-WEEKLY MEETINGS

- A. Biweekly meetings will be held at the work area on a day agreeable to all parties. At minimum, the meeting will be attended by the Contractor, major subcontractors and the Engineer. The purpose of the meeting is to:
 - 1. Review the work activity and location for the week.
 - 2. Discuss the Contractor's personnel assignment for the week.
 - 3. Review the previous week's activity.
 - 4. Review the work schedule.
 - 5. Discuss the possible problem areas and situations.
 - 6. Review of submittals schedule and status of submittals.
 - 7. Review of off-site fabrication and delivery schedules.
 - 8. Maintenance of progress schedule.
 - 9. Corrective measures to regain projected schedules.
 - 10. Planned progress during succeeding work period.
 - 11. Coordination of projected progress.

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- 12. Maintenance of quality and work standards.
 - 13. Effect of proposed changes on progress schedule and coordination.
 - 14. Review status of “as-built” drawings prepared by Contractor to ascertain that Contractor is keeping “as-built” drawings CURRENT.
 - 15. Other business relating to Work.
- B. Engineer or his representative will record meeting minutes and distribute copies within three days after meeting to participants and those affected by decisions made.

1.7 PREINSTALLATION MEETING

- A. When required in individual specification Section, convene a preinstallation meeting at work site prior to commencing work of the Section.
- B. Require attendance of parties directly affecting, or affected by, work of the specific Section.
- C. Notify Engineer four days in advance of meeting date.
- D. Prepare agenda and preside at meeting.
 - 1. Review conditions of installation, preparation and installation procedures.
 - 2. Review coordination with related work.
- E. Engineer or his representative will record meeting minutes and distribute copies within three days after meeting to participants and those affected by decisions made.

PART 2 - PRODUCTS

Not Used

PART 3 - EXECUTION

Not Used

END OF SECTION

SECTION 01090

REFERENCE STANDARDS

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

- A. Drawings, Construction Contract, and Division 1 - General Requirements apply to work of this section.

1.2 SECTION INCLUDES

- A. Quality assurance.
- B. Schedule of references.

1.3 QUALITY ASSURANCE

- A. For products or workmanship specified by association, trade, or Federal Standards, comply with requirements of the standard, except when more rigid requirements are specified or are required by applicable codes.
- B. Conform to reference standard by date of issue current on date for receiving bids.
- C. Obtain copies of standards when required by Contract Documents.
- D. Should specified reference standards conflict with Contract Documents, request clarification from Engineer before proceeding.
- E. The contractual relationship duties and responsibilities of the parties in Contract nor those of the Architect shall not be altered from the Contract Documents by mention or inference otherwise in any reference document.

1.4 SCHEDULE OF REFERENCES

AASHTO	American Association of State Highway and Transportation Officials 444 North Capitol Street, N.W. Washington, DC 20001
ACI	American Concrete Institute Box 19150 Reford Station Detroit, MI 48219
AGC	Associated General Contractors of America 1957 E Street, N.W. Washington, DC 20006
AI	Asphalt Institute Asphalt Institute Building College Park, MD 20740

ANSI	American National Standards Institute 1430 Broadway New York, NY 10018
ASME	American Society of Mechanical Engineers 345 East 47th Street New York, NY 10017
ASTM	American Society for Testing and Materials 1916 Race Street Philadelphia, PA 19103
AWS	American Welding Society 550 LeJeune Road, N.W. Miami, FL 33135
AWWA	American Water Works Association 6666 West Quincy Avenue Denver, CO 80235
CDA	Copper Development Association 57th Floor, Chrysler Building 405 Lexington Avenue New York, NY 10174
CLFMI	Chain Link Fence Manufacturers Institute 1101 Connecticut Avenue, N.W. Washington, DC 20036
CRSI	Concrete Reinforcing Steel Institute 933 Plum Grove Road Schaumburg, IL 60195
IEEE	Institute of Electrical and Electronics Engineers 345 East 47th Street New York, NY 10017
NEC	National Electrical Code (by NFPA)
NECA	National Electrical Contractors Association 7315 Wisconsin Avenue Bethesda, MD 20814
NEMA	National Electrical Manufacturers' Association 2101 'L' Street, N.W. Washington, DC 20037

NSF	National Sanitation Foundation 3475 Plymouth Road P.O. Box 1468 Ann Arbor, MI 47106
NWMA	National Woodwork Manufacturers Association 205 W. Touhy Avenue Park Ridge, IL 60068
OSHA	Occupational Safety and Health Administration (U.S. Department of Labor) Government Printing Office Washington, D.C. 20402
PCA	Portland Cement Association 5420 Old Orchard Road Skokie, IL 60077
WRI	Wire Reinforcement Institute 8361 A Greensboro Drive McLean, VA 22102
WWPA	Western Wood Products Association 1500 Yeon Building Portland, OR 97204
W.W.P.A.	Woven Wire Products Association 2515 N. Nordica Avenue Chicago, IL 60635

PART 2 - PRODUCTS

Not Used

PART 3 - EXECUTION

Not Used

END OF SECTION

SECTION 01300

SUBMITTALS

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

- A. Drawings, Construction Contract, and Division 1 - General Requirements apply to work of this section.

1.2 SECTION INCLUDES

- A. Submittal procedures.
- B. Resubmittal requirements.
- C. Construction progress schedules.
- D. Proposed products list.
- E. Proposed equipment list.
- F. Shop drawings.
- G. Product data.
- H. Manufacturers' instructions.
- I. Manufacturers' certificates.

1.3 RELATED SECTIONS

- A. Section 01400 - Quality Control: Manufacturers' field services and reports.
- B. Section 01700 - Contract Closeout: Contract warranty, manufacturer's certificates and closeout submittals.

1.4 SUBMITTAL PROCEDURES

- A. Transmit each submittal with Contractor's standard transmittal letter including Contractor's name, address and phone number.
- B. Identify Project, Contractor, Subcontractor or supplier; pertinent Drawing sheet and detail number(s), and specification Section number, as appropriate.
- C. Apply Contractor's stamp, signed or initialed certifying that review, verification of Products required, field dimensions, adjacent construction Work, and coordination of information, is in accordance with the requirements of the Work and Contract Documents.
- D. Schedule submittals to expedite the Project, and deliver to Engineer at his business address. Coordinate submission of related items.
- E. Identify variations from Contract Documents and Product or system limitations which may be detrimental to successful performance of the completed Work.
- F. Provide space for Contractor and Engineer review stamps.
- G. Distribute copies of reviewed submittals to concerned parties. Instruct parties to promptly report any inability to comply with provisions.

H. Format

1. Submit all submittals digitally using .PDF file extension. Each submittal shall be a single .PDF file including transmittal letter. Multiple files for the same submittal will not be accepted.
 2. Submittals in any other format, including .ZIP files, will be rejected.
 3. Hard copies will not be accepted.
 4. To ensure each page is legible, .PDF pages of drawings shall be the same size/scale as a hard copy. Where applicable, scale symbols should be provided to indicate scale. Illegible submittals will be rejected.
 5. Submittals will be uploaded to Engineer's Info Exchange website.
- I. The submittal procedures described in this Article applies to the Construction Progress Schedule, Products List, Shop Drawings, Product Data, Samples (actual samples to be submitted, not digital files), Design Data, Test Reports, Certificates, Manufacturer's Instructions and Field Reports, and any other type of submittal submitted to Engineer.

1.5 RESUBMITTAL REQUIREMENTS

- A. Revise initial submittal as required identifying all changes made since previous submittal and resubmit to meet requirements as specified.
- B. Mark as RESUBMITTAL.

1.6 CONSTRUCTION PROGRESS SCHEDULES

- A. Submit initial progress schedule in duplicate within 15 days after date established in Notice to Proceed for Engineer review.
- B. Revise and resubmit as required.
- C. Indicate submittal dates required for shop drawings, product data, samples, and product delivery dates.

1.7 PROPOSED PRODUCTS LIST

- A. Within 15 days after date of Notice to Proceed, submit complete list of major products proposed for use, with name of manufacturer, trade name, and model number of each product.
- B. For products specified only by reference standards, give manufacturer, trade name, model or catalog designation, and reference standards.

1.8 SHOP DRAWINGS

- A. Submit in a reproducible form.
- B. Submit the number of reproductions which Contractor requires, plus three copies which will be retained by Engineer.
- C. Drawing size shall be minimum 8 1/2 x 11 inches and maximum of 24 x 36 inches.

1.9 PRODUCT DATA

- A. Submit the number of copies which the Contractor requires, plus three copies which will be retained by the Engineer.
- B. Mark each copy to identify applicable products, models, options, and other data.
- C. Include recommendations for application and use, compliance with specified standards of trade associations and testing agencies.

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- D. Include notation of special coordination requirements for interfacing with adjacent work.
 - E. After review, distribute in accordance with Article on Procedures above and provide copies for Record Documents described in Section 01700 - Contract Closeout.

1.10 MANUFACTURER'S INSTRUCTIONS

- A. When specified in individual specification Sections, submit manufacturers' printed instructions for delivery, storage, assembly, installation, start-up, adjusting, and finishing, in quantities specified for Product Data.
- B. Identify conflicts between manufacturers' instructions and Contract Documents.

1.11 MANUFACTURER'S CERTIFICATES

- A. When specified in individual specification Sections, submit manufacturers' certificate to Engineer for review, in quantities specified for Product Data.
- B. Indicate material or product conforms to or exceeds specified requirements. Submit supporting reference data, affidavits, and certifications as appropriate.
- C. Certificates may be recent or previous test results on material or Product, but must be acceptable to Engineer.

PART 2 - PRODUCTS

Not Used

PART 3 - EXECUTION

Not Used

END OF SECTION

SECTION 01356

STORM WATER POLLUTION PREVENTION MEASURES

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

- A. Drawings, Construction Contract, and Division 1 - General Requirements apply to work of this section.

1.2 SECTION INCLUDES

- A. Where required, the Contractor shall develop a Storm Water Pollution Prevention Plan (SWPPP), file a Notice of Intent (NOI) and implement storm water pollution prevention measures shown on the drawings. The Contractor shall be responsible for any fines or penalties assessed by the appropriate regulatory agency for failure to make required inspections, failure to properly document those inspections, and/or failure to adequately implement and adjust the storm water pollution prevention measures where a SWPPP is implemented.

1.3 SUBMITTALS

- A. Inspection Reports.

1.4 EROSION AND SEDIMENT CONTROLS

- A. General
 - 1. Structural measures shall be implemented to divert flows from exposed soils, temporarily store flows, or otherwise limit run-off and the discharge of pollutants from exposed areas of the site. Structural practices shall be implemented in a timely manner during the construction process to minimize erosion and sediment run-off.
- B. Stabilized Ingress/Egress
 - 1. Stabilized access to and from the construction site shall be installed as soon as practical where a SWPPP is required.
 - 2. In all cases, Contractor shall ensure that any soil tracked off-site is cleaned from existing roads, alleys, and any adjacent properties as soon as possible. The Contractor or other responsible party shall check for any pollutants (mud, silt, sand, cement, construction materials, etc.) tracked or washed off-site and perform necessary clean-up measures at the end of each work day.
- C. Silt Fences/Diversion Berms
 - 1. Where necessary, the Contractor shall provide silt fences and/or diversion berms as a temporary structural practice to minimize erosion and sediment runoff. Silt fences and/or diversion berms shall be properly installed to effectively retain sediment immediately after completing each phase of work where erosion would occur in the form of sheet and rill erosion (e.g. clearing and grubbing, excavation, embankment, and grading).
- D. Sand/Gravel Bags
 - 1. The Contractor may provide sand/gravel bags as a temporary structural practice to minimize erosion and sediment runoff. Bags shall be properly placed to effectively retain sediment immediately after completing each phase of work (e.g., clearing and grubbing,

excavation, embankment, and grading) in each independent runoff area (e.g., after clearing and grubbing in an area between a ridge and drain, bags shall be placed as work progresses, bags shall be removed/replaced/relocated as needed for work to progress in the drainage area). Sand/gravel bags must remain in good condition, or they shall be replaced.

E. Site Stabilization

1. Contractor shall disturb the least amount of site area as possible.
2. Stabilization measures may include any of the following measures:
 - a. temporary or permanent seeding or sodding,
 - b. mulching,
 - c. geotextiles,
 - d. vegetative buffer strips,
 - e. paving.

PART 2 - PRODUCTS

Not Used

PART 3 - EXECUTION

3.1 STORM WATER POLLUTION PREVENTION PLAN

NOTE: The limits of disturbance for this project will exceed 1.0 AC in size. Contractor to prepare and submit bid accordingly.

- A. A SWPPP is only required if the limits of disturbance exceed 1.0 AC.
- B. If limits of disturbance exceed 1 AC, the Contractor is responsible for meeting requirements of TPDES. (Contractor shall develop SWPPP, file a NOI and implement SWPPP measures).
- C. A completed Construction Site Notice form in accordance with the requirements of the State's general permit for storm water discharges from construction sites will be prepared by the Contractor (where a SWPPP is required).
- D. The SWPPP (where required) shall be continually updated as necessary to reflect current and changing conditions on site. Additional measures not specifically shown in the SWPPP may be used to control erosion from leaving the site.

END OF SECTION

SECTION 01400
QUALITY CONTROL

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

- A. Drawings, Construction Contract, and Division 1 - General Requirements apply to work of this section.

1.2 SECTION INCLUDES

- A. Quality assurance and control of installation.
- B. Tolerances.
- C. References.
- D. Move-up requirements.
- E. Inspection and testing laboratory services.
- F. Manufacturer's Field Services.
- G. Examination.
- H. Preparation.

1.3 RELATED SECTIONS

- A. Section 01090 - Reference Standards.
- B. Section 01300 - Submittals: Submission of Manufacturers' Instructions and Certificates.
- C. Section 01600 - Material and Equipment: Requirements for material and product quality.

1.4 QUALITY ASSURANCE/CONTROL OF INSTALLATION

- A. Monitor quality control over suppliers, manufacturers, Products, services, site conditions, and workmanship, to produce Work of specified quality.
- B. Comply fully with manufacturers' instructions, including each step in sequence.
- C. Should manufacturers' instructions conflict with Contract Documents, request clarification from Engineer before proceeding.
- D. Perform work by persons qualified to produce workmanship of specified quality.
- E. Verify field measurements are as indicated on Shop drawing or as instructed by Manufacturer.

1.5 TOLERANCES

- A. Monitor fabrication and installation tolerance control of products to produce acceptable Work. Do not permit tolerances to accumulate.
- B. Comply with manufacturers' tolerances. Should manufacturers' tolerances conflict with Contract Documents, request clarification from Engineer before proceeding.
- C. Adjust products to appropriate dimensions; position before securing in place.

1.6 REFERENCES

- A. For products or workmanship specified by association, trade, or other consensus standards, comply with requirements of standard, except when more rigid requirements are specified or are required by applicable codes.
- B. Conform to reference standard by date of issue current on date of Contract Documents except where a specific date is established by Code.
- C. Obtain copy of standards when required by specification section.
- D. Neither contractual relationship, duties nor responsibilities of parties in Contract nor those of the Engineer shall be altered from Contract Documents by mention or inference otherwise in any reference document.

1.7 INSPECTION AND TESTING LABORATORY SERVICES

- A. Contractor will perform quality control testing as necessary on the liner system and other aspects of the project to ensure compliance with the project specifications.
- B. Owner will appoint, employ, and pay for services of an independent firm to perform inspection and quality assurance testing on general construction and the liner system.
- C. The independent firm will perform inspections, tests, and other services specified in individual specification Sections and as required by the Engineer.
- D. Reports will be submitted by the independent firm to the Engineer, in triplicate, indicating observations and results of tests and indicating compliance or non-compliance with Contract Documents.
- E. Retesting required because of non-conformance to specified requirements shall be performed by the same independent firm on instructions by the Engineer. **Payment for retesting will be charged to the Contractor.**

1.8 MANUFACTURERS' FIELD SERVICES

- A. When specified in individual specification Sections, require material or product suppliers or manufacturers to provide qualified staff personnel to observe site conditions, conditions of surfaces and installation, quality of workmanship, start-up of equipment, test, adjust, and balance of equipment as applicable, and to initiate instructions when necessary.
- B. Submit qualifications of observer to Engineer 30 days in advance of required observations. Observer subject to approval of Engineer.
- C. Report observations and site decisions or instructions given to applicators or installers that are supplemental or contrary to manufacturers' written instructions.
- D. Refer to Section 01300 - Submittals, Manufacturers' Field Reports article.

PART 2 - PRODUCTS

Not Used

PART 3 - EXECUTION

3.1 EXAMINATION

- A. Verify existing site conditions and substrate surfaces are acceptable for subsequent Work. Beginning new Work means acceptance of existing conditions.
- B. Verify existing substrate is capable of structural support or attachment of new Work being applied or attached.
- C. Examine and verify specific conditions described in individual specification sections.

END OF SECTION

SECTION 01500

CONSTRUCTION FACILITIES AND TEMPORARY CONTROLS

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

- A. Drawings, Construction Contract, and Division 1 - General Requirements apply to work of this section.

1.2 SECTION INCLUDES

- A. Temporary Utilities: Electricity, water, and sanitary facilities.
- B. Temporary Controls: Barriers, water control, protection of the Work, and security.
- C. Construction Facilities: Progress cleaning and removal of utilities.

1.3 RELATED SECTIONS

- A. Section 01700 - Contract Closeout: Final cleaning.

1.4 CONSTRUCTION ENTRANCE

- A. Contractor shall coordinate with Owner and use operations entrance for site ingress/egress.

1.5 TEMPORARY ELECTRICITY

- A. Contractor shall contact electric company to provide service for temporary power.
- B. Owner will not pay cost of energy used. Exercise measures to conserve energy.
- C. Provide power outlets for construction operations, with branch wiring and distribution boxes located as required by Contractor's operations. Provide flexible power cords as required.
- D. Provide main service disconnect and overcurrent protection at convenient location in conformance with National Electrical Code.

1.6 TEMPORARY WATER SERVICE

- A. Contractor shall provide temporary water service for all purposes (potable and nonpotable).
- B. Owner will not pay cost of water used. Exercise measures to conserve water.
- C. Contractor must provide a means at Contractor's expense to pump the water from the source and load water transport vehicles.

1.7 TEMPORARY SANITARY FACILITIES

- A. Provide and maintain required facilities and enclosures.
- B. Permanent building facilities shall not be used during construction operations. Maintain daily in clean and sanitary condition.

1.8 BARRIERS/TRAFFIC CONTROL

- A. Provide barriers to prevent unauthorized entry to construction areas to allow for Owner's use of site, and to protect existing facilities and adjacent properties from damage from construction operations and demolition.
- B. Furnish all necessary traffic control signs and flag personnel. The Contractor shall establish a parking area in a location approved by the engineer and Owner.

1.9 STORM WATER CONTROL

- A. Grade site to drain. Maintain excavations free of water.
- B. Protect site from puddling or running water. Provide water barriers as required to protect site from soil erosion.
- C. Protect all lining materials from water before, during, and after installation.

1.10 PROTECTION OF INSTALLED WORK

- A. Protect installed Work and provide special protection where specified in individual specification Sections.
- B. Provide temporary and removable protection for installed Products. Control activity in immediate work area to minimize damage.

1.11 SECURITY/WORKING HOURS

- A. Provide security and facilities to protect Work from unauthorized entry, vandalism, or theft. Cost for security shall be included in bid price.
- B. The normal hours of operation for the landfill are from 7:30 a.m. to 5:30 p.m. Monday - Saturday. The landfill is closed on Sundays and on holidays. The Contractor will be allowed to work beyond the landfill normal working hours of operation. The Contractor will be responsible for coordinating with the Owner and securing the site when doing so.

1.12 PROGRESS CLEANING

- A. Maintain areas free of waste materials, debris, and rubbish. Maintain site in a clean and orderly condition.
- B. Remove waste materials, debris, and rubbish from site and dispose on existing working face at intervals as required to maintain clean site.

1.13 REMOVAL OF UTILITIES, FACILITIES, AND CONTROLS

- A. Remove temporary above grade or buried utilities, equipment, facilities and materials as soon as permanent facilities can be utilized.
- B. Remove underground installations to a minimum depth of 2 feet. Grade site as indicated.
- C. Clean and repair damage caused by installation or use of temporary work.
- D. Restore existing facilities used during construction to original condition. Restore permanent facilities used during construction to specified condition.

PART 2 - PRODUCTS

Not Used

PART 3 - EXECUTION

Not Used

END OF SECTION

SECTION 01560

ENVIRONMENTAL PROTECTION

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

- A. Drawings, Construction Contract, and Division 1 - General Requirements apply to work of this section.

1.2 REFERENCES

- A. The publications listed below form a part of this specification to the extent referenced. The publications are referred to in the text by the basic designation only.

CODE OF FEDERAL REGULATIONS (CFR)

29 CFR 1910-SUBPART G Occupational Health and Environmental Control

CORPS OF ENGINEERS (COE)

COE EP-1165-2-304

1976 Flood Plain Regulations for Flood Plain Management

1.3 DEFINITIONS

- A. Sediment: Soil and other debris that have eroded and have been transported by runoff water or wind.
- B. Solid Waste: Rubbish, debris, garbage, and other discarded solid materials resulting from industrial, commercial, and agricultural operations and from community activities.
- C. Rubbish: Combustible and noncombustible wastes such as paper, boxes, glass, crockery, metal, lumber, cans, and bones.
- D. Debris: Combustible and noncombustible wastes such as ashes and waste materials resulting from construction or maintenance and repair work, leaves, and tree trimmings.
- E. Chemical Wastes: This includes salts, acids, alkalies, herbicides, pesticides, organic chemicals, and spent products which serve no purpose.
- F. Sanitary Wastes: Sewage.
- G. Wastes characterized as domestic sanitary sewage: Garbage.
 - 1. Refuse and scraps resulting from preparation, cooking, dispensing, and consumption of food.
- H. Oily Waste: Petroleum products and bituminous materials.

1.4 ENVIRONMENTAL PROTECTION REQUIREMENTS

- A. Provide and maintain, during the life of the contract, environmental protection as defined. Plan for and provide environmental protective measures to control pollution that develops during normal construction practice. Plan for and provide environmental protective measures required to correct conditions that develop during the construction of permanent or temporary environmental features associated with the project. Comply with Federal, state, and local

regulations pertaining to the environment, including but not limited to water, air, and noise pollution.

B. Best Management Practices (BMP's)

1. Waste Materials: All waste materials, including construction debris, shall be collected and stored in a securely lidded metal dumpster. No construction material shall be buried on site. The transit dumpster shall comply with ordinance 18.52.010 (enclosure and removal of waste materials during construction.) The dumpster shall be emptied as necessary or as required by ordinance 9.04 (solid waste management) and the trash shall be hauled to a licensed landfill.
2. Hazardous Waste: At a minimum, any products in the following categories shall be considered hazardous: Paint, acids for cleaning masonry surfaces, cleaning solvents, asphalt products, chemical additives for spill stabilization, curing compounds and additives. In the event of a spill which may be hazardous, the Contractor shall take immediate action and contact the fire dept. and TCEQ.
3. Sanitary Waste: All sanitary waste shall be collected from the construction portable units as necessary or as required, chapter 18.08 (building code), by a licensed sanitary waste management contractor. All waste material shall be the responsibility of the Contractor.
4. Spill Prevention: The following practices shall be used to reduce the risk of spills or other accidental exposures of materials to storm water runoff.
 - a. Good Housekeeping
 - 1) Store only enough products required to do the job.
 - 2) Neatly store materials on-site in an orderly manner.
 - 3) Keep products in their original container.
 - 4) Do not mix substances with one another, unless otherwise recommended by the manufacturer.
 - 5) Use entire contents of a product before disposing the container.
 - 6) Follow manufacturer's recommendations for proper use and disposal.
 - b. Hazardous Products: Practices used to reduce risks:
 - 1) Keep products in their original container if at all possible.
 - 2) Retain original labels, product information and material safety data sheets (MSDS).
 - 3) Dispose surplus product in accordance with manufacturer's or local and state recommended methods.
 - c. Petroleum Products: All on-site vehicles shall be monitored for leaks and receive regular preventive maintenance to reduce the chance of spills. Petroleum shall be stored in tightly sealed containers which are clearly labeled. Any asphalt substances used on-site shall be applied according to the manufacturer's recommendation.
5. Spill Control Practices:
 - a. Manufacturer's recommended methods for spill cleanup shall be clearly posted and site personnel shall be made aware of the procedures.
 - b. Materials and equipment necessary for spill cleanup shall be kept in the material storage area on-site.
 - c. All spills shall be cleaned up immediately after discovery.
 - d. Spill area shall be well ventilated and appropriate clothing will be worn.
 - e. Any spill shall be reported to the appropriate governmental agency.
 - f. Measures shall be taken to prevent a spill from reoccurring.
6. Maintenance and Inspection Procedures: All pollution prevention measures shall be inspected at least once a month and following a storm event of 0.5 inches or more, best

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- management practices and pollution control procedures shall be inspected for adequacy. A record of the result of the inspections of the site shall be kept on site.
7. Remarks: Disposal areas, stockpiles, and haul roads shall be constructed in a manner that will minimize and control the amount of sediment that may enter receiving waters or streambeds. Construction staging areas and vehicle maintenance areas shall be constructed by the contractor in a manner to minimize the runoff of pollutants.
- C. Storm Water Pollution Prevention Plan (SWPPP)
1. The Contractor shall understand and sign the certification statement relating to the National Pollutant Discharge Elimination System (NPDES)
 2. The Contractor shall install erosion control measures as follows:
 - a. Silt fencing or temporary berms shall be installed prior to start of construction.
 - b. Temporary swales and desilting basins will be placed where necessary in order to convey stormwater run-off.
 - c. A stabilized construction entrance will be provided to help reduce vehicle tracking of sediments. The paved street adjacent to the site entrance will be swept daily to remove any excess mud. Dirt or rock tracked from the site.
 - d. The owner shall be responsible for insuring that all erosion control methods are inspected on a monthly basis or after every erodible rainfall (1/2" or more). Any necessary repairs or cleanup to maintain the effectiveness of the erosion control shall be made at that time.
 - e. A temporary berm shall be provided at the toe of slope and lot line at time of grading.
 3. The measures listed above are recommendations only. The Contractor shall make sure that the requirements of the NPDES are met.
- D. Perform a preconstruction survey of the project site with the Engineer assess existing environmental conditions in and adjacent to the site.

PART 2 - PRODUCTS

Not Used

PART 3 - EXECUTION

3.1 PROTECTION OF NATURAL RESOURCES

- A. Preserve the natural resources within the project boundaries and outside the limits of permanent work. Restore to an equivalent or improved condition upon completion of work. Confine construction activities to within the limits of the work indicated or specified.
- B. Land Resources: Except in areas to be cleared, do not remove, cut, deface, injure, or destroy trees or shrubs without the Engineer's permission. Do not fasten or attach ropes, cables, or guys to existing nearby trees for anchorages unless authorized by the Engineer. Where such use of attach ropes, cables, or guys is authorized, the Contractor shall be responsible for any resultant damage.
 1. Protection: Protect existing trees which are to remain and which may be injured, bruised, defaced, or otherwise damaged by construction operations. Remove displaced rocks from uncleared areas. By approved excavation, remove trees with 30 percent or more of their root systems destroyed.

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2. Replacement: Remove trees and other landscape features scarred or damaged by equipment operations, and replace with equivalent, undamaged trees and landscape features. Obtain Engineer's approval before replacement.
 3. Temporary Construction: Remove traces of temporary construction facilities such as haul roads, work areas, structures, foundations of temporary structures, stockpiles of excess or waste materials, and other signs of construction. Grade temporary roads, parking areas, and similar temporarily used areas to conform with surrounding contours.
- C. Water Resources:
1. Oily Wastes: Prevent oily or other hazardous substances from entering the ground, drainage areas, or local bodies of water. Surround all temporary fuel oil or petroleum storage tanks with a temporary earth berm of sufficient size and strength to contain the contents of the tanks in the event of leakage or spillage.
- D. Fish and Wildlife Resources: Do not disturb fish and wildlife. Do not alter water flows or otherwise significantly disturb the native habitat adjacent to the project and critical to the survival of fish and wildlife, except as indicated or specified.

3.2 HISTORICAL AND ARCHAEOLOGICAL RESOURCES

- A. Carefully protect in-place and report immediately to the Engineer historical and archaeological items or human skeletal remains discovered in the course of work. Stop work in the immediate area of the discovery until directed by the Engineer to resume work. If historical and archaeological resources such as artifacts (stone tools), features (stone walls), deposits (sea shells and charcoal stained soil), human bones and other cultural remains are encountered, stop that portion of work and notify the Engineer immediately. Within thirty-six (36) hours the Owner will determine if a change pursuant to the Contract should be issued or to direct the Contractor to proceed without change. No adjustment in contract price or completion time will be allowed for delays that do not exceed thirty-six (36) hours from the time the Contractor is notified to stop work. The Owner retains ownership and control over historical and archaeological resources.

3.3 EROSION AND SEDIMENT CONTROL MEASURES

- A. Burnoff of the ground cover is not permitted.
- B. Borrow Areas: Manage and control borrow areas to prevent sediment from entering nearby streams or lakes. Restore areas, including those outside the borrow areas, disturbed by borrow and haul operations. Restoration includes grading, replacement of topsoil, and establishment of a permanent vegetative cover.
- C. Protection of Erodible Soils: Immediately finish the earthwork brought to a final grade, as indicated or specified. Immediately protect the side slopes and back slopes upon completion of rough grading. Plan and conduct earthwork to minimize the duration of exposure of unprotected soils.
- D. Temporary Protection of Erodible Soils: Mechanically retard and control the rate of runoff from the construction site. This includes construction of diversion ditches, benches, and berms to retard and divert runoff to protected drainage courses.

3.4 CONTROL AND DISPOSAL OF SOLID AND SANITARY WASTES

- A. Pick up solid wastes, and place in containers which are regularly emptied. Do not prepare, cook, or dispose of food on the project site. Prevent contamination of the site of other areas when handling and disposing of wastes. On completion, leave the areas clean. Control and dispose of waste.
- B. Disposal of Rubbish and Debris: Dispose of rubbish and debris in accordance with the requirements specified in area as directed by Owner. Rubbish may be disposed of in current landfill provided all rules for disposal are followed.
- C. Garbage Disposal: Place garbage in approved containers, and move to a pickup point or disposal area, where directed.

3.5 DUST CONTROL

- A. Contractor will be fully responsible for dust control along all haul roads and in the project area. Keep dust down at all times, including during nonworking periods. Sprinkle or treat, with dust suppressants, the soil at the site, haul roads, and other areas disturbed by operations.

END OF SECTION

SECTION 01600

MATERIAL AND EQUIPMENT

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

- A. Drawings, Construction Contract, and Division 1 - General Requirements apply to work of this section.

1.2 SECTION INCLUDES

- A. Products.
- B. Transportation and handling.
- C. Storage and protection.
- D. Product options.

1.3 RELATED SECTIONS

- A. Section 01400 - Quality Control: Product quality monitoring.

1.4 PRODUCTS

- A. Products mean new material, components, and systems forming the Work. Does not include machinery and equipment used for preparation, fabrication, conveying and erection of the Work.
- B. Provide interchangeable components of the same manufacturer, for similar components.

1.5 PRODUCT DELIVERY, STORAGE AND HANDLING

- A. Delivery
 - 1. Deliver materials, products and equipment to the project site in undamaged condition in manufacturer's original, unopened containers or packaging, with identifying labels intact and legible.
 - 2. Promptly inspect shipments to assure that products comply with requirements, quantities are correct, and products are undamaged.
 - 3. Provide equipment and personnel to handle products by methods to prevent soiling, disfigurement, or damage.
 - 4. Arrange deliveries in accordance with the construction schedule and in ample time to facilitate inspection prior to installation to avoid unnecessary delays in the construction process.
- B. Storage
 - 1. Store and protect products in accordance with manufacturer's instructions, with seals and labels intact and legible. Store sensitive products in weather-tight, climate controlled enclosures.
 - 2. For exterior storage of fabricated products, place on sloped supports, above ground.
 - 3. Provide off-site storage and protection when site does not permit on-site storage or protection.

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4. Cover products subject to deterioration with impervious sheet covering. Provide ventilation to avoid condensation.
 5. Store loose granular materials on solid flat surfaces in a well-drained area. Provide cover to stockpile to prevent windblown contaminants from mixing with the stockpile. Granular materials shall not be stored on bare ground or asphalt surfaces.
 6. Provide equipment and personnel to store products by methods to prevent soiling, disfigurement, or damage.
 7. Arrange storage of products to permit access for inspection. Periodically inspect to verify products are undamaged and are maintained in acceptable condition.
 8. Materials, products and equipment may be stored off site in a bonded and insured warehouse approved by the Engineer and Owner. Pay all costs incurred for off-site storage facilities. Products properly stored in off-site storage facilities may be included in progress pay request with written approval of the Engineer.
- C. Handling
1. Handle materials, products and equipment in a manner prescribed by manufacturer or specified to protect from damage during storage and installation.

1.6 PRODUCT OPTIONS

- A. Products Specified by Reference Standards or by Description Only: Any product meeting those standards or description.
- B. Products Specified by Naming One or More Manufacturers: Products of manufacturers named and meeting specifications, no options or substitutions allowed.
- C. Products Specified by Naming One or More Manufacturers with a Provision for Substitutions: Submit a request for substitution for any manufacturer not named in accordance with the following article.

1.7 EQUIPMENT LIST

- A. Submit in accordance with Section 01300 - Submittals.

1.8 SUBSTITUTIONS

- A. Engineer will consider requests for substitutions only within 30 days after date established in Notice to Proceed.
- B. Substitutions may be considered when a product becomes unavailable through no fault of the Contractor.
- C. Document each request with complete data substantiating compliance of proposed Substitution with Contract Documents.
- D. A request constitutes a representation that the Bidder:
 1. Has investigated proposed product and determined that it meets or exceeds the quality level of the specified product.
 2. Will provide the same warranty for the Substitution as for the specified product.
 3. Will coordinate installation and make changes to other Work which may be required for the Work to be complete with no additional cost to Owner.

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4. Waives claims for additional costs or time extension which may subsequently become apparent.
 5. Will reimburse Owner and Engineer for review or redesign services associated with re-approval by authorities.
- E. Substitutions will not be considered when they are indicated or implied on shop drawing or product data submittals, without separate written request, or when acceptance will require revision to the Contract Documents.
- F. Substitution Submittal Procedure:
1. Submit four copies of request for Substitution for consideration. Limit each request to one proposed Substitution.
 2. Submit shop drawings, product data, and certified test results attesting to the proposed product equivalence. Burden of proof is on proposer.
 3. The Engineer will notify Contractor, in writing, of decision to accept or reject request.

PART 2 - PRODUCTS

Not Used

PART 3 - EXECUTION

Not Used

END OF SECTION

SECTION 01700

CONTRACT CLOSEOUT

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

- A. Drawings, Construction Contract, and Division 1 - General Requirements apply to work of this section.

1.2 SECTION INCLUDES

- A. Closeout procedures.
- B. Final cleaning.
- C. Adjusting.
- D. Hazardous materials affidavit.
- E. Project record documents.
- F. Operations and maintenance data.
- G. Warranties.
- H. Spare parts and maintenance materials.

1.3 RELATED SECTIONS

- A. Section 01500 - Construction Facilities and Temporary Controls: Progress cleaning.

1.4 CLOSEOUT PROCEDURES

- A. Submit written certification that Contract Documents have been reviewed, Work has been inspected and that Work is complete in accordance with Contract Documents and ready for Engineer's inspection.
- B. Provide submittals to Engineer that are required by governing or other authorities.
- C. Submit final Application for Payment identifying total adjusted Contract Sum, previous payments, and sum remaining due.

1.5 FINAL CLEANING

- A. Execute final cleaning prior to final inspection.
- B. Clean interior and exterior glass and surfaces exposed to view; remove temporary labels, stains and foreign substances, polish transparent and glossy surfaces, vacuum carpeted and soft surfaces.
- C. Clean equipment and fixtures to a sanitary condition.
- D. Replace filters of operating equipment.
- E. Clean debris from roofs, gutters, downspouts, and drainage systems.
- F. Clean site; sweep pave areas, rake clean landscaped surfaces.
- G. Remove waste and surplus materials, rubbish, and construction facilities from the site.
- H. Repair, patch and touch-up marred surfaces to match adjacent finishes.

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- I. Clean ducts, blowers and coils if air conditioning units were operated during construction.
 - J. Remove waste and surplus materials, rubbish, and construction facilities as directed by Engineer.

1.6 ADJUSTING

- A. Adjust operating products and equipment to ensure smooth and unhindered operation.

1.7 HAZARDOUS MATERIALS AFFIDAVITS

- A. Contractor, each subcontractor, and each material/product supplier to provide a notarized affidavit declaring that hazardous materials were not incorporated into construction of nor delivered to the Project.
- B. Hazardous materials include asbestos, lead polychlorinated biphenyl (PCB), prohibited termite eradication chemicals or any substance of any proportion determined or suspected by an agency of federal or state government to create a health hazard.
- C. Provide table of contents listing all affidavits in alphabetical order and assemble with metal prong binder in durable plastic presentation cover.
- D. Prepare binder cover with printed title "AFFIDAVITS OF NON-INCORPORATED HAZARDOUS MATERIALS", Title of Project, Project Address, Owner's Names, Address and Phone and date of Construction Completion.
- E. Provide two complete, identical binders of the aforementioned information in the prescribed format.
- F. Submit prior to final Application for Payment.

1.8 PROJECT RECORD DOCUMENTS

- A. Maintain on site, two sets of the following record documents; record actual revisions to the Work:
 - 1. Contract Drawings.
 - 2. Specifications.
 - 3. Addenda.
 - 4. Change Orders and other Modifications to the Contract.
 - 5. Reviewed shop drawings, product data, and samples.
- B. Store Record Documents separate from documents used for construction.
- C. Record information concurrent with construction progress.
- D. Specifications: Legibly mark and record at each Product section description of actual Products installed, including the following:
 - 1. Manufacturer's name and product model and number.
 - 2. Product substitutions or alternates utilized.
 - 3. Changes made by Addenda and Modifications.
- E. Record Documents and Shop Drawings: Legibly mark each item to record actual construction including:
 - 1. Measured depths of foundations in relation to finish first floor datum.
 - 2. Measured horizontal and vertical locations of underground utilities and appurtenances, referenced to permanent surface improvements.
 - 3. Measured locations of internal utilities and appurtenances concealed in construction, referenced to visible and accessible features of the Work.
 - 4. Field changes of dimension and detail.

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- 5. Details not on original Contract Drawings.
 - 6. Changes made by addenda and modification.
 - F. Submit documents to Engineer with claim for final Application for Payment.

1.9 OPERATION AND MAINTENANCE DATA

- A. Submit one copy 15 days prior to final inspection, 8 ½ x 11 inch text pages, bound in three D-ring binders with durable plastic covers.
- B. This copy will be returned after final inspection, with Architect comments. Revise content of documents as required prior to final submittal.
- C. Submit two final volumes revised within ten days after final inspection.
- D. Prepare binder covers with printed title "OPERATION AND MAINTENANCE INSTRUCTIONS", title of project, and subject matter of binder when multiple binders are required.
- E. Internally subdivide the binder contents with permanent page dividers, logically organized as described below; with tab titling clearly printed under reinforced laminated plastic tabs.
- F. Contents: Prepare a Table of Contents for each volume, with each Product or system description identified, type on 24 pound white paper.
- G. Part 1: Directory, listing names, addresses, and telephone numbers of Architect, Contractor, Subcontractors, and major equipment suppliers.
- H. Part 2: Operation and maintenance instructions, arranged by system and subdivided by specification section. For each category, identify names, addresses, and telephone numbers of Subcontractors and suppliers. Identify the following:
 - 1. Significant design criteria.
 - 2. List of equipment.
 - 3. Parts list for each component.
 - 4. Operating instructions necessary for Owner to make full and efficient use of equipment including recommended maintenance and seasonal change-over procedures for HVAC systems.
 - 5. Maintenance instructions for equipment and systems.
 - 6. Maintenance instructions for finishes, including recommended cleaning methods and materials and special precautions identifying detrimental agents.
- I. Part 3: Project documents and certificates, including the following:
 - 1. Shop drawings and product data.
 - 2. Air and water balance reports.
 - 3. Certificates.
 - 4. Photocopies of warranties and bonds.

1.10 WARRANTIES

- A. Provide duplicate notarized copies.
- B. Execute and assemble documents from Subcontractors, suppliers, and manufacturers.
- C. Provide Table of Contents and assemble with metal prong binder in durable plastic presentation cover.
- D. Submit prior to final Application for Payment.
- E. For items of Work delayed beyond date of Substantial Completion, provide updated submittal within ten days after acceptance, listing date of acceptance as start of warranty period.

1.11 SPARE PARTS AND MAINTENANCE MATERIALS

- A. Provide products, spare parts, maintenance and extra materials in quantities specified in individual specification Sections.
- B. Deliver to project site and place in location as directed; obtain receipt prior to final payment.

PART 2 - PRODUCTS

Not Used

PART 3 - EXECUTION

Not Used

END OF SECTION

SECTION 02146

GROUNDWATER MONITORING WELL ABANDONMENT

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

- A. Drawings, Construction Contract, and Division 1 - General Requirements apply to work of this section.

1.2 REFERENCES

The publications listed below form a part of this specification to the extent referenced. The publications are referred to in the text by the basic designation, title or are used to establish criteria. The latest publication in use at the time of the executed contract shall be the one used on this project.

- A. AMERICAN SOCIETY FOR TESTING AND MATERIALS (ASTM)
 - 1. ASTM C150 – Standard Specification for Portland Cement
- B. TEXAS COMMISSION ON ENVIRONMENTAL QUALITY (TCEQ)
 - 1. Owner's MSW Permit
 - 2. 16 TAC §76.702 Texas Department of Licensing and Regulation (TDLR) Responsibilities of the Licensee and Landowner – Well Drilling, Completion, Capping and Plugging.
 - 3. 16 TAC §76.1004 – TDLR Technical Requirements – Standards for Capping and Plugging of Wells and Plugging Wells that Penetrate Undesirable Water or Constituent Zones.
 - 4. 30 TAC §330.421 Monitor Well Construction Specification.

1.3 SUMMARY

- A. These specifications describe the abandonment of groundwater monitor wells which are being taken out of service. Well abandonment and capping shall be performed by a qualified monitor well driller, licensed in the State of Texas, experienced specifically in the installation of groundwater monitor wells. For all wells that are to be plugged or abandoned, TCEQ requires any surface completion to be removed and the well filled from the bottom up to the ground surface with appropriate material.

1.4 REPORTS

- A. The Contractor is required to submit a description of plugging procedures, any information on the well, and all forms required by TCEQ or other agencies to the Owner and Engineer within 10 days after completion of monitor well plugging and abandonment. These forms required by TCEQ will be provided by the Engineer to the Contractor for completion.

PART 2 - PRODUCTS

2.1 WELL PLUG

- A. Cement Well Plug: A cement mixture shall be used to fill the entire well up to the ground surface. Cement shall conform with ASTM C150, Type I or II. The mixture shall be proportioned in the amount of 5.2 gallons of water to 94 pounds of cement. Water used shall be free of oil and other organic material.

PART 3 - EXECUTION

3.1 CONCRETE SEALING BLOCK REMOVAL

- A. All existing materials to be removed and disposed of under this item, including the concrete seal block, pump, bollards, and protective steel collar, shall be removed by the Contractor. The fate of the removed materials will be coordinated with the Owner. The Contractor is responsible for carefully removing any material the Owner plans to salvage or reuse. Disposal of any material removed that the Owner does not plan to keep for reuse is the responsibility of the Contractor.

3.2 WELL PLUGGING

- A. Cement Well Plug: If the cement plug is selected, the entire well shall be pressure filled with cement from the bottom of the well up to the proposed ground surface with a tremie pipe or other method approved by the Engineer. Plugging shall be done in a continuous manner to ensure that the well is filled in one operation.

END OF SECTION

SECTION 02200

EXCAVATION AND EARTHWORK

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

- A. Drawings, Construction Contract, and Division 1 - General Requirements apply to work of this section.

1.2 REFERENCES

The publications listed below form a part of this specification to the extent referenced. The publications are referred to in the text by the basic designation, title or are used to establish criteria. The latest publication in use at the time of the executed contract shall be the one used on this project.

- A. AMERICAN SOCIETY FOR TESTING AND MATERIALS (ASTM)
 - 1. ASTM D 698 – Standard Test Methods for Laboratory Compaction Characteristics of Soil Using Standard Effort (12,400 ft-lb/ft).
 - 2. ASTM D 4318 – Standard Test Methods for Liquid Limit, Plastic Limit, and Plasticity of Soils.
 - 3. ASTM D 6938 – Standard Test Method for In-Place Density and Water Content of Soil and Soil-Aggregate.
- B. TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
 - 1. TCEQ, 30 TAC Chapter 330 - Texas Commission on Environmental Quality, Municipal Solid Waste Regulation.

1.3 SECTION INCLUDES

- A. Earthwork shall include the following.
 - 1. Miscellaneous grading to repair erosion and proof rolling subgrades for geocomposite clay liner.
 - 2. General excavation and filling for those areas to new contours.
 - 3. Excavating for leachate collection system.
 - 4. Excavating and backfilling anchor trenches.

1.4 RELATED SECTIONS

- A. Section 02240 – Geosynthetic Clay Liner.
- B. Section 02245 – Geomembrane Liner.
- C. Section 02247 – Geocomposite Drainage Layer.
- D. Section 02248 – Gravel Drainage Material.
- E. Section 02250 – Leachate Collection System.

1.5 DEFINITIONS

- A. Backfill - A specified material used in refilling a cut, trench, over excavation or other excavation, placed at a specified degree of compaction.
- B. Compaction - The process of mechanically stabilizing a material by increasing its density at a controlled moisture condition. "Degree of Compaction" is expressed as a percentage of the maximum density obtained by the test procedure described in ASTM D 698 for general soil types abbreviated in this specification as "95 percent ASTM D 698 maximum density".
- C. Embankment - A "fill" having a top that is higher than adjoining ground.
- D. Excavation - Excavation consists of the removal of material encountered to subgrade elevations and the reuse or disposal of materials removed.
- E. Fill - Specified material placed at a specified degree of compaction to obtain an indicated grade or elevation.
- F. Hard Material - Weathered rock, dense consolidated deposits or conglomerate materials, (excluding manmade materials such as concrete) which are not included in the definition of "rock" but which usually require the use of heavy excavation equipment with ripper teeth or the use of jack hammers for removal.
- G. In Situ Soil - Existing in place soil.
- H. Lift - A layer (or course) of soil placed on top of a previously prepared or placed soil.
- I. Rock - Solid, homogeneous, interlocking crystalline material with firmly cemented, laminated, or foliated masses or conglomerate deposits, neither of which can be removed without systematic drilling and blasting, drilling and the use of expansion jacks or feather wedges, or the use of backhoe-mounted pneumatic hole punchers or rock breakers; also large boulders, buried masonry, or concrete other than pavement, exceeding 1 cubic yard in volume. Removal of "hard material" will not be considered rock excavation because of intermittent drilling and blasting that is performed merely to increase production.
- J. Soil - The surface material of the earth's crust resulting from the chemical and mechanical weathering of rock and organic material.
- K. Subgrade - The material in excavation (cuts) and fills (embankments) immediately below any subbase, base, liner, or other improvement. Also, as a secondary definition, the level below which work above is referenced.
- L. Subgrade - The uppermost surface of an excavation or the top surface of a fill or backfill immediately below geocomposite clay liner.
- M. Topsoil - In natural or undisturbed soil formations, the fine-grained, weathered material on the surface or directly below any loose or partially decomposed organic matter. Topsoil may be a dark-colored, fine, silty, or sandy material with a high content of well decomposed organic matter, often containing traces of the parent rock material. Gradation and material requirements specified herein apply to all topsoil references in this contract. The material shall be representative of productive soils in the vicinity.
- N. Unauthorized excavation consists of removing materials beyond indicated subgrade elevations or dimensions without direction by the Engineer. Unauthorized excavation, as well as remedial work directed by the Engineer, shall be at the Contractor's expense.
- O. Unsatisfactory Material - Existing, in situ soil or other material which can be identified as having insufficient strength characteristics or stability to carry intended loads in fill or embankment without excessive consolidation or loss of stability. Unsatisfactory materials also include man-made fills, refuse, frozen material, uncompacted backfills from previous construction, unsound rock or soil lenses, or other deleterious or objectionable material.
- P. Working Platform - A layer of compacted crushed rock or natural stone that replaces the in situ soil to provide a stable, uniform bearing foundation for construction equipment to facilitate further site construction.

1.6 DELIVERY AND STORAGE

- A. Deliver and store materials as needed in a manner to prevent contamination or segregation.

1.7 QUALITY ASSURANCE

- A. Codes and Standards: Perform earthwork complying with requirements of authorities having jurisdiction.

1.8 CRITERIA FOR BIDDING

- A. Base bids on the following criteria:
 - 1. Surface elevations as indicated.
 - 2. The character of the material to be excavated or used for subgrade is as indicated. Hard material shall not be considered as rock and removal of such material shall not give cause for a claim for additional compensation regardless of hardness or difficulty in removing. Rock as defined in the paragraph entitled, "Definitions," will not be encountered.
 - 3. Suitable backfill and fill material in the quantities required is available at the project site.
 - 4. Blasting will not be permitted. Remove material by drilling and use of expansion jacks or feather wedges, or the use of backhoe-mounted pneumatic hole punchers or rock breakers, or as approved by the Engineer.

PART 2 - PRODUCTS

2.1 REQUIRED EQUIPMENT

- A. Subgrade preparation for areas to receive GCL must include rolling with a self-propelled smooth drum roller.
- B. No equipment will be allowed within the limits of the lining system without prior approval from the Engineer. Submit all equipment to be used within the limits of the liner in accordance with Section 01300, Submittals including equipment weights, ground pressures, required lift thickness, etc.

PART 3 - EXECUTION

3.1 PREPARATION

- A. Protection and Restoration of Surfaces: Protect newly graded areas from traffic, erosion, and settlements. Repair and reestablish damaged or eroded slopes, elevations or grades and restore surface construction prior to acceptance. Protect existing streams, ditches and storm drain inlets from water-borne soil by means of straw bale dikes or filter fabric dams as needed. Conduct work in accordance with requirements specified in Section 01560, "Environmental Protection."
- B. Stockpile of Excavated Material: Stockpile excavated material where shown on plans and in such a manner that it will not obstruct the flow of runoff, streams, endanger a partly finished structure, impair the efficiency or appearance of facilities, or be detrimental to the completed work.

3.2 SURFACE PREPARATION

- A. Clearing: Brush, refuse, stumps, roots, and unmerchantable timber shall become the property of the Contractor and be removed as directed by the Engineer. Conduct work in accordance with requirements specified in Section 01560, "Environmental Protection."
- B. Stockpiling Topsoil: Strip approved topsoil from the site where excavation or grading is indicated and stockpile separately from other excavated material. Locate topsoil as shown on plans so that the material can be used readily for the finished grading. Protect and store in segregated piles until needed.
- C. Unsatisfactory Material: Remove organic matter, sod, muck, rubbish, and unsuitable soils under the limits of construction. Typical depth of removal of such unsuitable material will not be less than 12-inches.
- D. Protect structures, utilities, pavements, and other facilities from damage caused by settlement, lateral movement, undermining, washout, and other hazards created by earthwork operations.
- E. Provide erosion control measures to prevent erosion or displacement of soils.

3.3 DEWATERING

- A. Prevent surface water from entering excavations, from ponding on prepared subgrades, and from flooding Project site and surrounding area.
- B. Protect subgrades from softening and damage by rain or water accumulation.

3.4 GENERAL EXCAVATION

- A. Excavate to the indicated slopes, lines, depths and elevations. The Engineer will verify that the excavation has been performed in accordance with the Project Drawings. Stockpile excavated material in the area indicated on the Project Drawings. Prepare subgrade in accordance with paragraph 3.6, PREPARATION OF SUBGRADE AND COMPACTED BERMS, of this section.
- B. In the process of excavating over the existing lining system, it is unlikely that waste will be encountered. If waste is encountered, Contractor shall dispose of this waste on the active working face, as directed by the Owner, and cover any remaining exposed waste with a minimum of six (6) inches of clean soil of the same type as that used for the protective cover.
- C. Unclassified Excavation: Excavation is unclassified and includes excavation to required subgrade elevations regardless of the character of materials and obstructions encountered.
- D. Keep excavations free from water while construction is in progress. Notify the Engineer immediately in writing in the event that it becomes necessary to remove rock, hard material, or other material defined as unsatisfactory to a depth greater than indicated. Refill excavations cut below required subgrade elevations.

3.5 EXCAVATION FOR ANCHOR TRENCHES AND LEACHATE COLLECTION SYSTEM

- A. Excavate trenches to indicated slopes, lines, depths, and elevations. The Engineer shall verify that the trench has been constructed according to Project Drawings.
- B. Excavate anchor trenches to uniform widths as shown on Project Drawings. Excavate trench walls vertically from trench bottom to top, except rounded edges will be provided where liner materials enter anchor trenches so as to avoid sharp bends in the geosynthetic materials.
- C. If the trench is located in clay susceptible to desiccation, only the amount of trench required for one day of installation shall be excavated to minimize desiccation of trench soils.

3.6 PREPARATION OF SUBGRADE AND COMPACTED BERMS

- A. Fine-grade subgrade to smooth, uniform and compacted conditions, to elevations shown on Project Drawings. Remove all stones larger than 3/4-inch in diameter and any other objects which could damage overlying geosynthetic materials.
- B. Reconstruct subgrades damaged by freezing temperatures, frost, rain, accumulated water, or construction activities, as directed by the Engineer.
- C. Proof roll subgrade with self-propelled smooth drum roller or by methods acceptable to the Engineer to remove clods and non-uniform subgrade.
- D. Construct berms to the grades shown. Use suitable fill materials from on site as directed by the Owner and compact in loose lifts not to exceed 8-inches to 95% standard proctor density (ASTM D 698). Control the development of rills, repairing any that occur, and maintain the side slopes for the duration of the project.

3.7 UNAUTHORIZED EXCAVATION

- A. Fill unauthorized excavations as directed by the Engineer.

3.8 ANCHOR TRENCH BACKFILL

- A. The anchor trench shall be backfilled and compacted in loose lifts not to exceed 8-inches. Compaction shall be achieved using light, rubber-tired equipment or other light compaction equipment. Care shall be taken to prevent damage to the geosynthetic materials. At no time shall construction equipment come into direct contact with the geosynthetic clay liner, geomembrane or geonet. If damage occurs, it shall be repaired by the Contractor, in accordance with the specifications, prior to completion of backfilling.
- B. The anchor trench shall be compacted to 95% Maximum Dry Density as determined by ASTM D 698.

3.9 LEACHATE COLLECTION SYSTEM BACKFILL

- A. Excavate trenches for leachate collection and clean out lines to grades and cross sections shown on plans.
- B. Backfill with gravel drainage material in accordance with Section 02250, Leachate Collection Systems.

3.10 MOISTURE CONTROL

- A. Uniformly moisten or aerate subgrade or backfill layer before compaction to within $\pm 2\%$ of optimum moisture content or higher.
 - 1. Do not place backfill or fill material on surfaces that are muddy, frozen, or contain frost or ice.
 - 2. Remove and replace, or scarify and air-dry satisfactory soil material that is too wet to compact to specified density.
 - a. Stockpile or spread and dry removed wet satisfactory soil material.

3.11 GRADING

- A. General: Uniformly grade areas to a smooth surface, free from irregular surface changes. Comply with compaction requirements and grade to cross sections, lines, and elevations indicated. Provide a smooth transition between existing adjacent grades and new grades. Correct and control wind and water erosion.
- B. Site Grading: Grade to finished grades indicated within 0.10 foot. No rock will protrude above the finished grade elevation. Rock that protrudes will be removed below grade and the void backfilled and compacted to ASTM D 698 (95%). Grade areas to drain where possible. Existing grades which are to remain but are disturbed by the Contractor's operations shall be restored to preconstruction condition.
- C. Protection of Surfaces: Protect newly graded areas from traffic, erosion, and settlements that may occur and as required in the Section 01560 - Environmental Protection and as specified in paragraph 3.1.A of this Section entitled "Protection and Restoration of Surfaces." Repair or reestablish damaged grades, elevations, or slopes before work will be accepted.

3.12 FIELD QUALITY CONTROL

- A. The Contractor will allow the Engineer to inspect and test each subgrade and each fill or backfill layer. Do not proceed until test results for previously completed work verify compliance with requirements.
 - 1. Liner Subgrade: Proof roll to smooth surface such that no ruts or other surface indentions exceed one inch in depth.
 - 2. Trench Backfill: In each compacted initial and final backfill layer, perform at least one field in-place density test for each 150-feet or less of trench, but no fewer than two tests.
 - 3. Access Roadway: One in field density per 200 linear feet of roadway. Density requirement shall be 95% maximum dry density in accordance with ASTM D 698.
- B. When test results report that subgrades, fills, or backfills are below specified density, scarify and moisten or aerate, or remove and replace soil to the depth required, recompact and retest until required density is obtained.

3.13 PROTECTION

- A. Protecting Graded Areas: Protect newly graded areas from traffic, freezing, and erosion. Keep free of trash and debris.
- B. Repair and re-establish grades to specified tolerances where completed or partially completed surfaces become eroded, rutted, settled, or lose compaction due to subsequent construction operations or weather conditions.
 - 1. Scarify or remove and replace material to depth directed by the Engineer; reshape and recompact at optimum moisture content to the required density.
- C. Settling: Where settling occurs during the Project correction period, remove finished surfacing, backfill with additional approved material, compact, and reconstruct surfacing.
 - 1. Restore appearance, quality, and condition of finished surfacing to match adjacent work, and eliminate evidence of restoration to the greatest extent possible.

3.14 DISPOSAL OF SURPLUS AND WASTE MATERIALS

- A. Disposal: Transport surplus satisfactory soil to designated storage areas on the Owner's property. Stockpile or spread soil as directed by Engineer.
 - 1. Remove waste material, including unsatisfactory soil, trash, and debris, and dispose of it on the active face as directed by the Engineer.

END OF SECTION

SECTION 02240

GEOSYNTHETIC CLAY LINER

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

- A. Drawings, Construction Contract, and Division 1 - General Requirements apply to work of this section.

1.2 SECTION INCLUDES

- A. Geosynthetic Clay Liner (GCL).
- B. Installation of GCL.

1.3 RELATED SECTIONS

- A. Section 02245 - Geomembrane Liner.
- B. Section 02246 - Geotextile Fabrics.
- C. Section 02247 - Geocomposite Drainage Layer.
- D. Section 02248 - Gravel Drainage Material.
- E. Section 02250 - Leachate Collection Systems.

1.4 REFERENCES

Applicable Publications: The publications listed below form a part of this specification to the extent referenced. The publications are referred to in the text by the basic designation only. The latest publication in use at the time of the executed contract will be the one that governs this project.

- A. AMERICAN SOCIETY FOR TESTING AND MATERIALS (ASTM) STANDARDS
 1. ASTM D 4354 - Standard Practice for Sampling Geosynthesis for Testing.
 2. ASTM D 4632 – Standard Test Method for Determination of Water (Moisture) Content of Soils by Microwave Oven Heating.
 3. ASTM D 5261 – Standard Test Method for Measuring Mass per Unit Area of Geotextiles.
 4. ASTM D 5321 - Determining the Coefficient of Soil and Geosynthetic or Geosynthetic and Geosynthetic Friction by the Direct Shear Method.
 5. ASTM D 5887 - Test Method for Permeability of Geosynthetic Clay Liners.
 6. ASTM D 5890 - Test Method for the Free Swell of Bentonite Clay.
 7. ASTM D 5891 – Standard Test Method for Swell Index of Clay Mineral Component of Geosynthetic Clay Liners.
 8. ASTM D 5993 – Standard Test Method for Fluid Loss of Clay Component of Geosynthetic Clay Liners.
 9. ASTM D 6243 - Standard Test Method for Determining the Internal and Interface Shear Resistance of Geosynthetic Clay Liner by the Direct Shear Method.

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- 10. ASTM D 6496 - Standard Test Method for Average Bonding Peel Strength Between the Top and Bottom Layers of Needle-Punched Geosynthetic Clay Liners.
 - 11. ASTM D 6768 - Standard Test Method for Tensile Strength of Geosynthetic Clay Liners.
 - B. OWNER
 - 1. MSW Permit - Owner's TCEQ MSW Permit.
 - 2. Owner's Soil and Liner Quality Control Plan (SLQCP).
 - C. TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
 - 1. TCEQ - Municipal Solid Waste Regulations, 30 TAC Chapter 330.

1.5 QUALITY ASSURANCE

- A. Manufacturing
 - 1. The Manufacturer shall have at least four (4) years continuous experience in the manufacture of Geosynthetic Clay Liner (GCL) rolls and/or experience totaling 5,000,000 square feet of manufactured GCL. The manufacturer shall permit the Owner and the Engineer to visit the manufacturing plant.
- B. Installation
 - 1. The installation contractor shall have successfully installed a minimum of 1,000,000 square feet of similar lining material in solid waste containment structures, and shall submit evidence of his ability and capacity to perform this work. The installation contractor can meet these criteria by teaming with a subcontractor who is identified in the bid along with the firm's experience.
 - 2. Installation shall be performed under the constant direction of a single Field Installation Supervisor who shall remain on site and be responsible, throughout the liner installation, for liner layout, patching, testing, repairs, and all other activities by the Installer. This Installation Supervisor shall have installed or supervised the installation of a minimum of 1,000,000 square feet of GCL.

1.6 SUBMITTALS

- A. Manufacturer
 - 1. Quality control program and manual, or descriptive documentation.
 - 2. List of material properties and samples of GCL, including data pertaining to typical interface friction angles for the various products.
 - 3. A list documenting no less than five (5) completed facilities totaling a minimum of 5,000,000 square feet.
 - 4. Copy of quality control certificates in conformance with Sections 2.4 and the SLQCP.
- B. Installation Contractor
 - 1. Certification that the Installation Supervisor for the installer has reviewed the Quality Assurance Plan, the Project Plans, and these specifications.
 - 2. A list of at least five (5) completed facilities, totaling a minimum of 1,000,000 square feet for which the Contractor has installed a GCL.
 - 3. Proposed Installation Panel layout identifying seams and details. Layout plan must be approved by the Engineer at least ten (10) days before materials are ordered. The panel layout must provide a numbering scheme to be used in quality control/assurance procedures and shall provide that:
 - a. Seams run up and down slopes.
 - b. Field seam lengths are to be minimized.
 - c. GCL shall not have any penetrations.

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4. Written certification that Installer is capable of performing all necessary construction testing as required by the TCEQ.
 5. Any proposed variance or deviation from these documents shall be submitted in writing by the Installer to the Engineer a minimum of seven (7) working days prior to the scheduled start of GCL installation and will be accepted / rejected by the Engineer prior to start of installation activities.

1.7 WARRANTY

- A. A written Warranty shall be obtained from the Manufacturer (for material) and the Installation Contractor (for workmanship). These documents shall warrant the quality of the in-place liner.
 1. Manufacturer: Furnish a written warranty on a pro rata basis for a period of five (5) years. The warranty shall be against manufacturing defects or workmanship and against deterioration due to ozone, ultraviolet or other normal weather aging. The warranty shall be limited to replacement of material only, and shall not cover installation.
 2. Installation Contractor: Furnish a written warranty that the entire lining installed to be free of defects in material and workmanship and installed pursuant to the Owner's "Soil and Liner Quality Control Plan" (SLQCP) for a period of 2-years following the date of the Certificate of Completion. The Contractor shall agree to make any repairs or replacements made necessary by defects in materials or workmanship which become evident during the 2-year warranty period.

1.8 DELIVERY, STORAGE AND HANDLING

- A. Transportation: The GCL rolls or panels shall be packaged individually, in relatively impermeable and opaque protective covers, and shipped by appropriate means so that no damage is caused. Tears in the protective covers shall be repaired immediately. Transportation shall be the responsibility of the Installer.
- B. Delivery: Off-loading and storage of the GCL rolls is the responsibility of the Installer. The Installer shall be responsible for replacing any damaged or unacceptable material at no cost to the Owner. No off-loading shall be done unless the Engineer is present. Damage during off-loading shall be documented by the Engineer and Installer. All damaged rolls must be separated from the undamaged rolls until the proper disposition of that material has been determined by the Owner's Representative. The Owner's Representative will be the final authority on determination of damage.
- C. On-Site Storage
 1. The GCL material shall be stored in accordance with the Manufacturer's recommendation, so as to be protected from puncture, dirt, grease, water, moisture, mud, mechanical abrasions, excessive heat, or other damage.
 2. The rolls shall be stored on a prepared surface (not wooden pallets). GCL's consisting of bentonite supported by geotextiles shall not be stacked more than four rolls high or as recommended by the manufacturer. GCL's consisting of bentonite supported by geomembranes shall not be stacked more than two rolls high or as recommended by the manufacturer.

PART 2 - PRODUCTS

2.1 MATERIALS

- A. The GCL shall consist of natural sodium bentonite encapsulated between two polypropylene geotextiles.
- B. Accessory bentonite for seaming and detail work shall be the same material as in the GCL sheets and shall be as recommended by the manufacturer.
- C. Geotextiles will consist of woven or non-woven materials. At least one side of GCL shall be made of non-woven material.
- D. On slopes less than seven horizontal to one vertical (7:1), GCL shall be lightly reinforced by needle-punching or lock-stitching.
- E. On side slopes steeper than seven horizontal to one vertical (7:1), GCL shall be reinforced by either needle punching or lock-stitching for internal shear strength reinforcement.
- F. GCL to be installed on side slopes shall be comparable to GSE Bentoliner NSL or approved equal. GCL installed on floor area shall be comparable to GSE Bentoliner EC or approved equal.

2.2 RAW MATERIALS

- A. The GCL shall be manufactured of new, first-quality products and shall be manufactured specifically for the intended purpose.

2.3 ROLLS

- A. The GCL shall be supplied in rolls with a minimum width of 15 feet. Rolls in lengths greater than 125-feet may be 12-feet in width. Labels on each roll shall identify the following:
 - 1. Manufacturer.
 - 2. Product Identification.
 - 3. Roll Number.
 - 4. Roll Dimensions.
 - 5. Roll Weight.
- B. The roll length shall be maximized to provide the largest manageable sheet for the fewest field seams.
- C. Manufactured GCL sheets shall be constructed such that bentonite will not be displaced during transportation, storage and installation.

2.4 MANUFACTURER'S CERTIFIED TESTING

- A. Material Testing: Prior to use, the material shall be certified in writing by the manufacturer. The certificate must include roll identification number, testing procedure and test results. Report the following parameters:

TABLE 1 BENTONITE MATERIAL				
Property	Test Method	Value	Unit	Frequency
Free Swell	ASTM D 5890	24 min.	ml/2g	once every 50 tons
Fluid Loss	ASTM D 5891	18 max.	ml	once every 50 tons

TABLE 2 GEOTEXTILE MATERIAL (SLOPED AREAS)				
Property	Test Method	Value	Unit	Frequency
Woven Mass/Unit Area	ASTM D 5261	3.1 min	oz/yd ²	1/200,000 ft. ²
Nonwoven Mass/Unit Area	ASTM D 5261	6.0 min	oz/yd ²	1/200,000 ft. ²

TABLE 3 GEOTEXTILE MATERIAL (FLOOR AREAS)				
Property	Test Method	Value	Unit	Frequency
Woven Mass/Unit Area	ASTM D 5261	3.1 min	oz/yd ²	1/200,000 ft. ²
Nonwoven Mass/Unit Area	ASTM D 5261	3.0 min	oz/yd ²	1/200,000 ft. ²

TABLE 4 BENTONITE/GEOTEXTILE COMPOSITE MATERIAL (SLOPED AREAS)				
Property	Test Method	Value	Units	Frequency
Clay Mass/Unit Area	ASTM D 5993 (1)	0.75 min	psf	1/40,000 ft. ²
Permeability (5 psi)	ASTM D 5084	5.0x10 ⁻⁹ max	cm/sec	weekly
Grab Tensile Strength	ASTM D 4632	30	lbs/in	1/40,000 ft. ²
Peel Strength	ASTM D 6496	3.5	lbs/in	1/40,000 ft. ²
(1) Measured at 0% dry moisture content				

TABLE 5 BENTONITE/GEOTEXTILE COMPOSITE MATERIAL (FLOOR AREAS)				
Property	Test Method	Value	Units	Frequency
Clay Mass/Unit Area	ASTM D 5993 (1)	0.75 min	psf	1/40,000 ft. ²
Permeability (5 psi)	ASTM D 5084	5.0x10 ⁻⁹ max	cm/sec	weekly
Grab Tensile Strength	ASTM D 4632	30	lbs/in	1/40,000 ft. ²
Peel Strength	ASTM D 6496	1.0	lbs/in	1/40,000 ft. ²
(1) Measured at 0% dry moisture content				

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- B. Quality Control Inspection: For needle-punched GCL, manufacturer must provide written certification that material is "needle free" by continuous inspections for the presence of broken needles using a metal detector.

2.5 SEAM OVERLAP

- A. Match lines shall be imprinted on both edges of the upper geotextile fabric for bentonite/geotextile GCLs as a means for providing quality assurance of the overlap being within manufacturer's recommendations. Lines shall be printed such that they are easily visible and at lap distances recommended by the manufacturer.
- B. An additional line 12-inches from the edge will be included for overlap in leachate collection lines. Sheets will be overlapped a minimum of 12 inches at leachate collection sumps.

2.6 QUALITY CONTROL SPECIFICATIONS

- A. Sample Selection - Upon delivery to the installation site, test samples shall be obtained by the Owner to verify conformance to project plans and specifications as well as manufacturer's certifications. Samples shall be taken from selected rolls by removing the protective cover and cutting a full width, three (3) feet long strip. One revolution of the GCL may be discarded before cutting the sample. The sample roll shall be rewrapped and stored with other rolls. The sample strips shall be identified by type, style, lot and roll number. The machine direction shall be noted with a waterproof marker.
- B. Conformance Testing: Samples shall be tested by Owner for conformance with the properties shown in Table 6, below:

TABLE 6 GCL ON SITE CONFORMANCE TESTS				
Property	Test Method	Value	Unit	Frequency
Permeability (5 psi)	ASTM D 5084	5.0×10^{-9} max	cm/sec	1/100,000 ft ²
Clay Mass/Unit Area	ASTM D 5993	0.75 min	psf	1/100,000 ft ²
Direct Shear (Internal)	ASTM D 5321	22 (2)	degrees	one
Direct Shear (Interface)	ASTM D 5321	22 (2)	degrees	(1)
(1) Once per interface type				
(2) Peak value				

- C. See Section 01300, SUBMITTALS for submittal information on direct shear requirements.

PART 3 - EXECUTION

3.1 PREPARATION

- A. Before placing GCL, the Contractor shall provide written documentation that the surfaces to receive GCL have been inspected and are acceptable for installation of the lining. Acceptable surface conditions shall be as described in Section 02200, EARTHWORK and in the SLQCP with no excessive cracking (defined as cracks at least 1-inch in depth and 12-inches in length).

3.2 ANCHOR TRENCH

- A. Anchor trenches shall be excavated as specified prior to liner system placement.

3.3 PLACEMENT

- A. Sheets will be placed in such a manner as to reduce field seams to a minimum.
- B. Proof-roll subgrade prior to GCL placement. In order to minimize subgrade degradation, GCL placement will commence within four (4) hours of proof-rolling.
- C. The Installer shall be responsible for the following:
 - 1. No equipment or tools shall damage the GCL by handling, trafficking, or other means.
 - 2. No personnel working on the GCL shall smoke, wear damaging shoes, or engage in other activities that could damage the GCL.
 - 3. The method used to unroll the panels shall not cause crimps or other damage to the GCL.
 - 4. The method used to place the panels shall minimize wrinkles. Wrinkles shall be identified as to proper location and compensation shall be identified on the Contractor's and Engineer's drawings. Ballast shall be used to prevent relocation of the compensating wrinkles by wind.
 - 5. Adequate loading (e.g., sand bags or similar items that will not damage the GCL) shall be placed to prevent uplift by wind (in case of high winds, continuous loading is recommended along edges of panels to minimize risk of wind flow under the panels).
 - 6. Direct contact with the GCL shall be minimized, i.e., the GCL in traffic areas is protected by geotextiles, excess geomembrane, or other suitable materials.
 - 7. No objects which would be potentially harmful to the GCL or overlying layers remain under, within or on top of the GCL (i.e., tools, needles, stones, etc.).
 - 8. Dragging of GCL material on subgrade will be avoided.
- D. Weather Limitations: GCL placement shall not be done during any precipitation or times of impending precipitation, when the relative humidity exceeds 80 percent, or in the presence of excessive winds, as determined by the installation supervisor. The GCL shall not be placed in the presence of surface moisture (e.g., dew, frost) or on ponded water. GCL which becomes hydrated prior to being covered must be replaced.
- E. Geosynthetic Liner Protection: GCL placement will be limited to that amount that can be installed and covered with geomembrane in one working day. GCL will not be left uncovered and exposed to the elements at the end of any day.
- F. Damaged Material Replacement: GCL which has become hydrated before being covered shall be removed and replaced.

3.4 FIELD SEAMING

- A. Seam Overlap & Bentonite Fillet: Seams shall be overlapped as recommended by the manufacturer. For bentonite/geotextile GCLs overlaps shall extend to the manufacturer's printed match line. A fillet of dry granular bentonite will be poured at a rate of 1/4 pound per linear foot, or as recommended by the manufacturer if the GCL has non-woven geotextile encasement, along the entire length of all overlap seams. Sheets will be overlapped a minimum of 12 inches at leachate collection sumps.

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- B. Seams on Slopes: Panels shall be oriented so that the long edges are parallel to the direction of maximum slope. Lateral field seams on side slopes will be avoided if at all possible. However, if extremely long side slopes (longer than the maximum length of roll that the GCL material is available or manufactured) are included in the project, seams along the face of the side slopes will be considered under the following circumstances:
1. If seams will be required across side slopes, the Design Engineer will be contacted by the product manufacturer during the bid phase of the project.
 2. In all cases, should lateral seams be required on side slopes, the manufacturers of the products, the installers of the products, the Contractor, the Geotechnical Professional and the Design Engineer will review the situation and make recommendations as to the integrity of the seaming method and the entire lining system as it relates to the lateral seams.
 3. GCL panels will be overlapped a minimum of three (3) feet with uppermost panel overlapping the lower panel. A water resistant adhesive will be applied in the overlapped areas.

3.5 SIDE SLOPES

- A. On side slopes, non-woven geotextile material will be placed facing down.

3.6 REPAIRS

- A. Any necessary repairs to the GCL shall be made by placing a patch of the same material extending at least one (1) foot beyond the flaw or damaged area. Granular bentonite shall be added to the overlapped area at a uniform rate of at least 1/4 pound per linear foot. Adhesive of the type approved by the manufacturer may be used to keep patches in place during placement of overlying materials.

3.7 LEACHATE COLLECTION SUMP AND DITCH LINING

- A. Sheets shall be overlapped at least one foot at leachate collection sumps and ditches. An extra layer of GCL material will be placed at the bottom of leachate collection sumps.

3.8 GCL ACCEPTANCE

- A. The Installer shall retain all ownership and responsibility for the GCL until acceptance by the Owner.
- B. The GCL shall be accepted by the Owner when all of the following conditions are met:
1. Installation is finished.
 2. Verification of the adequacy of all field seams and repairs is complete.
 3. Written certification, including "as built" drawing(s), is provided by the Installer to the Engineer.
 4. Documentation of completed installation, including all reports is complete.
 5. Acceptance of "Soil and Liner Evaluation Report" by the TCEQ.

END OF SECTION

SECTION 02245

GEOMEMBRANE LINER

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

- A. Drawings, Construction Contract, and Division 1 - General Requirements apply to work of this section.

1.2 SECTION INCLUDES

- A. High Density Polyethylene (HDPE) geomembrane liner (GML).
- B. Installation of HDPE GML.

1.3 RELATED SECTIONS

- A. Section 02240 - Geosynthetic Clay Liner.
- B. Section 02246 - Geotextile Fabrics.
- C. Section 02247 - Geocomposite Drainage Layer.
- D. Section 02248 - Gravel Drainage Material.
- E. Section 02250 - Leachate Collection Systems.

1.4 REFERENCES

Applicable Publications: The publications listed below form a part of this specification to the extent referenced. The publications are referred to in the text by the basic designation only. The latest publication in use at the time of the executed contract will be the one that governs this project.

- A. AMERICAN SOCIETY FOR TESTING AND MATERIALS (ASTM) STANDARDS
 1. ASTM D 792 - Standard Test Methods for Density and Specific Gravity (relative density) of Plastics by Displacements.
 2. ASTM D 1004 – Standard Test Method for Tear Resistance of Plastic Film and Sheeting.
 3. ASTM D 1238 - Standard Test Method for Flow Rates of Thermoplastic by Extrusion Plastometer.
 4. ASTM D 3895 - Standard Test Methods for Oxidative-Induction Time of Polyolefins by Differential Scanning Calorimetry.
 5. ASTM D 4218 - Standard Test Method for Determination of Carbon Black Conduit in Polyethylene Compounds by the Muffle-Furnace Technique.
 6. ASTM D 4833 - Standard Test Method for Index Puncture Resistance of Geotextiles, Geomembrane, and Related Products.
 7. ASTM D 5199 - Standard Test Method for Measuring Nominal Thickness of Geotextile and Geomembranes.
 8. ASTM D 5397 - Standard Test Method for Evaluation of Stress Crack Resistance of Polyolefin Geomembranes using Notched Constant Tensile Load Test.
 9. ASTM D 5596 – Standard Test Method for Microscopic Evaluation of the Dispersion of Carbon Black in Polyolefin Geosynthetics.

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10. ASTM D 5721 – Standard Practice for Air-Oven Aging of Polyolefin Geomembranes.
 11. ASTM D 5885 – Standard Test Method for Oxidative Induction Time of Polyolefin Geosynthetics by High-Pressure Differential Scanning Calorimetry.
 12. ASTM D 5994 – Standard Test Method for Measuring Core Thickness of Textured Geomembrane.
 13. ASTM D 6392 – Standard Test Method for Determining the Integrity of Nonreinforced Geomembrane Seams Produced Using Thermo-Fusion Methods.
 14. ASTM D 6693 - Tensile Properties of Plastics.
 15. ASTM D 7466 – Standard Test Method for Measuring the Asperity Height of Textured Geomembranes.
- B. GEOSYNTHETIC INSTITUTE
1. GRI GM 13 - HDPE Liners.
- C. TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
1. TCEQ, 30 TAC Chapter 330 - Texas Commission on Environmental Quality, Municipal Solid Waste Regulations.
- D. OWNER
1. MSW Permit - Owner's TCEQ MSW Permit.

1.5 QUALITY ASSURANCE

- A. Manufacturing: The Manufacturer shall have at least five (5) years continuous experience in the manufacture of HDPE geomembrane rolls and/or experience totaling 2,000,000 square feet of manufactured HDPE geomembrane. The manufacturer shall permit the Owner and the Engineer to visit the manufacturing plant.
- B. Installation
1. The installation contractor shall be the manufacturer or an approved contractor trained and licensed to install the manufacturer's geomembrane.
 2. Installation shall be performed under the constant direction of a single Field Installation Supervisor who shall remain on site and be responsible, throughout the liner installation, for liner layout, seaming, patching, testing, repairs, and all other activities by the Installer. This Installation Supervisor shall have installed or supervised the installation and seaming of a minimum of 2,000,000 square feet of HDPE geomembrane. Actual seaming shall be performed under the direction of a Master Seamer (who may also be the Installation Supervisor) who has seamed a minimum of 2,000,000 square feet of HDPE geomembrane, using the same type of seaming apparatus specified in the current project. This Installation Supervisor and/or Master Seamer shall be present whenever seaming is performed.

1.6 SUBMITTALS

- A. Manufacturer
1. Quality control program and manual, or descriptive documentation.
 2. List of material properties and samples of liner.
 3. A list documenting no less than 5 completed facilities totaling a minimum of 2,000,000 square feet.
 4. Certification that all resin used in the manufacture of geomembrane for this job meets the specifications.
 5. Copy of quality control certificates issued by the HDPE resin supplier.
 6. Copy of quality control certificates in conformance with Sections 2.2 and 2.5, and the SLQCP.

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7. Certification that the geomembrane and extrudate produced for this project have the same properties.
- B. Installation Contractor
1. Certification that both the Installation Supervisor for the installer and the Master Seamer have reviewed the Quality Assurance Plan, the Project Plans, and these specifications.
 2. Three (3) samples of factory seams, if applicable. In addition, the Contractor shall submit three field seam samples. The Contractor shall also provide a list of seam properties, minimum values (see section 2.4), and test methods employed.
 3. A list of at least 5 completed facilities, totaling a minimum of 2,000,000 square feet for which the Contractor has installed an HDPE geomembrane.
 4. Proposed Installation Panel layout identifying seams and details.
 - a. Layout plan must be approved by the Engineer at least 10 days before materials are ordered. The panel layout must provide a numbering scheme to be used in quality control/assurance procedures and shall provide that:
 - 1) Seams run up and down slopes.
 - 2) Field seam lengths are to be minimized.
 - 3) GML shall not have any penetrations.
 5. Written certification that Installer is capable of performing all necessary construction testing as required by the TCEQ.
 6. Any proposed variance or deviation from these documents shall be submitted in writing by the Installer to the Engineer a minimum of seven (7) working days prior to the scheduled start of geomembrane installation and will be accepted/rejected by the Engineer prior to start of installation activities.
- C. Materials: Submit samples as required in SLQCP.

1.7 WARRANTY

- A. A written Warranty shall be obtained from the Manufacturer (for material) and the Installation Contractor (for workmanship). These documents shall warrant the quality of the in-place liner.
- B. Manufacturer: Furnish a written warranty on a pro-rata basis for a period of 2 years. The warranty shall be against manufacturing defects or workmanship and against deterioration due to ozone, ultraviolet or other normal weather aging. The warranty shall be limited to replacement of material only, and shall not cover installation.
- C. Installation Contractor: Furnish a written warranty that the entire lining installed to be free of defects in material and workmanship and installed pursuant to the "Soil and Liner Quality Control Plan" (SLQCP) for a period of 2 years following the date of the Certificate of Substantial Completion. The Contractor shall agree to make any repairs or replacements made necessary by defects in materials or workmanship which become evident during the 2 year warranty period.

1.8 DELIVERY, STORAGE AND HANDLING

- A. Transportation: The geomembrane rolls or panels shall be packaged and shipped by appropriate means so that no damage is caused. Transportation shall be the responsibility of the Installer.

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- B. Delivery: Off-loading and storage of the geomembrane is the responsibility of the Installer. The Installer shall be responsible for replacing any damaged or unacceptable material at no cost to the Owner. No off-loading shall be done unless the Engineer is present. Damage during off-loading shall be documented by the Engineer and Installer. All damaged rolls must be separated from the undamaged rolls until the proper disposition of that material has been determined by the Owner's Representative. The Owner's Representative will be the final authority on determination of damage.
 - C. On-Site Storage
 - 1. The geomembrane shall be stored so as to be protected from puncture, dirt, grease, water, moisture, mud, mechanical abrasions, excessive heat, or other damage.
 - 2. The rolls shall be stored on a prepared surface (not wooden pallets) and should not be stacked more than two rolls high.

PART 2 - PRODUCTS

2.1 MATERIALS

- A. The geomembrane shall be High-Density Polyethylene.
- B. Textured HDPE will have a coefficient of friction of GML to the geocomposite clay liner and geocomposite drainage layer of not less than 22°, as determined by third party conformance testing.

2.2 GEOMEMBRANE RAW MATERIALS

- A. The geomembrane shall be manufactured of new, first-quality resin and shall be compounded and manufactured specifically for the intended purpose. Carbon black (min 2% per ASTM D-4218) shall be added to the resin if the resin is not compounded for ultra-violet resistance. The resin manufacturer shall certify each batch for the properties shown in Tables 1 and 2.

2.3 ROLLS

- A. The geomembrane shall be supplied in rolls with a minimum width of 15 feet. Labels on each roll shall identify the thickness of the material, the length and width of the roll, batch and roll numbers, and name of manufacturer. The roll length shall be maximized to provide the largest manageable sheet for the fewest field seams
- B. The geomembrane rolls shall meet the properties shown on Table 1 for smooth membrane material, and Table 2 for textured membrane material.
Prior to use, the material shall be certified in writing by the manufacturer to meet the minimum physical properties shown on Tables 1 and 2. The certificate must include roll identification number, testing procedure and test results. Test results are required for every 100,000 square feet of material, every resin lot, or as required by SLQCP.

TABLE 1 TYPICAL PROPERTIES: 60 mil, Smooth Liner			
Property	Test Method	TEST RESULTS	
		Nominal ⁽¹⁾	Minimum ⁽²⁾
*Thickness (mils)	ASTM D 5199	60	54
*Sheet Density (g/cc)	ASTM D 1505		0.940
Melt Index (g/10 minutes)	ASTM D 1238		≤ 1.0
*Carbon Black Content, (%)	ASTM D 1603		2-3
*Carbon Black Dispersion	ASTM D 5596		(3)
TENSILE PROPERTIES:	ASTM D 638		
*Tensile Strength at Yield, ppi			126
*Tensile Strength at Break, ppi			228
*Elongation at Yield, %			12
*Elongation at Break, (2.0" G.L.)%			700
Tear Strength, lbs.	ASTM D 1004		42
Puncture Resistance, lbs.	ASTM D 4833		108
Stress Crack Resistance, hr.	ASTM D 5397		300
Oxidative Induction Time, mins.	ASTM D 3895		>100
SEAM PROPERTIES - Fusion Weld (4)	ASTM D 6392		
Shear Strength, ppi			120
Peel Strength, ppi			78
SEAM PROPERTIES - Extrusion Weld (4)	ASTM D 6392		
Shear Strength, ppi			120
Peel Strength, ppi			78
(1) Nominal values are average lot property values. (2) Minimum values, unless otherwise specified, are the average roll values as reported by the specified test method. (3) 9 of 10 Views in Categories 1 or 2 and 1 of 10 views in Category 3. (4) Seam properties to be field tested and tested by independent third party. See paragraph 2.4 of this section. * Denotes independent third party conformance test in addition to manufacturer's certification.			

TABLE 2 TYPICAL PROPERTIES: 60 mil, Textured Liner			
Property	Test Method	TEST RESULTS	
		Nominal (1)	Minimum (2)
*Thickness, mils	ASTM D 5994	60	54
*Sheet Density, g/cc	ASTM D 1505		0.940
Melt Index, g/10 minutes	ASTM D 1238		≤1.0
*Carbon Black Content, %	ASTM D 1603		2-3
*Carbon Black Dispersion	ASTM D 5596		(3)
TENSILE PROPERTIES	ASTM D 638		
*Tensile Strength at Yield, ppi.			126
*Tensile Strength at Break, ppi			90
*Elongation at Yield, %			12
*Elongation at Break (2.0" G.L.)%			100
Tear Strength, lbs.	ASTM D 1004		42
Puncture Resistance, lbs.	ASTM D 4833		90
Stress Crack Resistance, hr.	ASTM D 5397		300
Oxidative Induction Time, mins.	ASTM D 3895		>100
SEAM PROPERTIES - Fusion Weld (4)	ASTM D 6392		
Shear Strength, ppi			120
Peel Strength, ppi			78
SEAM PROPERTIES - Extrusion Weld (4)	ASTM D 6392		
Shear Strength, ppi			120
Peel Strength, ppi			78
(1) Nominal values are average lot property values. (2) Minimum values, unless otherwise specified, are the average roll values as reported by the specified test method. (3) 9 of 10 Views in Categories 1 or 2 and 1 of 10 views in Category 3. (4) Seam properties to be field tested and test by independent third party. See paragraph 2.4 of this section. (5) 9 of 10 Views in Categories 1 or 2 and 1 of 10 Views in Category 3. * Denotes independent third party conformance test in addition to manufacturer's certification.			

2.4 FIELD SEAMS

A. The field seams shall be tested as follows:

1. Shear seam specimens are 1 inch wide, with a grip separation of 4 inches plus the width of the seam. The seam is to be centered between the clamps. The grip separation rate is 2-ipm.
2. Both shear seam strength and peel tests shall be run on five replicate specimens. A break through the weld or at the weld-sheet interface shall be considered a Non-FTB (failure) in both seam strength (shear) and peel strength tests.
3. Approved field seaming processes are hot shoe fusion welding and extrusion welding.
4. Welding rods or beads used for extrusion welding shall be HDPE and the physical properties shall be the same as those of the resin used in the manufacture of the HDPE geomembrane.

2.5 QUALITY CONTROL SPECIFICATIONS

A. Raw Materials

1. Resin

- a. All resins for use in Geomembrane must pass a candidate pre-approval process before being eligible for use. Each incoming rail car shall be sampled by compartment with the following testing performed and compared to the manufacturer's specifications:

- 1) Density: ASTM D 792, Method B.
- 2) Melt Index: ASTM D 1238.

2. Additives

- a. All additives and concentrates must pass a candidate pre-approval process. All incoming materials are to be statistically sampled with the following testing performed and compared to the manufacturer's specifications:

- 1) Density: ASTM D 792, Method B.
- 2) Melt Index: ASTM D 1238.
- 3) Carbon Black Content: ASTM D 4218.

B. Finished Product: On-Line During Production

1. Inspection

- a. Performed on each roll.

1) Thickness

- (a) A full width sample shall be cut from the end of each roll, and thickness shall be checked across the entire sample.

2) Appearance

- (a) Constant monitoring of:
 - (1) Sheet surface appearance.
 - (2) Knife-cut edge.
 - (3) Folds, holes, creases, abrasions, or other damage.

2. Roll Identification

- a. The Q.C. Engineer controls all paperwork, including roll tags. Four tags per roll shall be used on the following:

- 1) Inside the core.
- 2) On the production roll sample.
- 3) On the roll surface.

3. Out-of-Spec. Material

- a. Any roll not meeting the specification for any of the above inspections shall be placed on hold.

C. Finished Product: Post Production

1. Sampling

- a. Test samples shall be obtained from the rolls of material to be delivered to the site for conformance testing. The samples shall be tested for the following requirements at the rates specified.

2. Testing Requirements - Resin

- a. Specific Gravity/Density

- 1) Test Method: ASTM D 792, Method B.
- 2) Test Frequency: Not less than 1 test per 100,000 square feet with not less than 1 test per resin lot.

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- b. Melt Flow Index
 - 1) Test Method: ASTM D 1238.
 - 2) Test Frequency: Not less than 1 test per 100,000 square feet with not less than 1 test per resin lot.
 - 3. Testing Requirements - Finished Product
 - a. Thickness
 - 1) Test Method: ASTM D 5994 (Textured), ASTM D 5199 (Smooth).
 - 2) Test Frequency: 1 per 100,000 ft.² and 1 test per resin lot.
 - b. Density
 - 1) Test Method: ASTM D 792, Method B.
 - 2) Test Frequency: Not less than 1 test per 200,000 lbs with not less than 1 test per resin lot.
 - 3) Minimum Number of Tests: 4.
 - c. Carbon Black Content
 - 1) Test Method: ASTM D 1603.
 - 2) Test Frequency: Not less than 1 test per 20,000 lbs with not less than 1 test per resin lot.
 - 3) Minimum Number of Tests: 4.
 - d. Carbon Black Dispersion
 - 1) Test Method: ASTM D 5596.
 - 2) Test Frequency: Not less than 1 test per 45,000 lbs with not less than 1 test per resin lot.
 - 3) Minimum Number of Tests: 4.
 - e. Tensile Properties
 - 1) Test Method: ASTM D 638.
 - 2) Test Frequency: Not less than 1 test per 20,000 lbs with not less than 1 test per resin lot.
 - 3) Minimum Number of Tests: 4.
 - f. Puncture Resistance
 - 1) Test Method: D 4833.
 - 2) Test Frequency: Not less than 1 test per 45,000 lbs with not less than one test per resin lot.
 - 3) Minimum Number of Tests: 4.
 - g. Tear Resistance
 - 1) Test Method: ASTM D 1004.
 - 2) Test Frequency: Not less than 1 test per 45,000 lbs with not less than 1 test per resin lot.
 - 3) Minimum Number of Tests: 4.
 - 4. Reporting
 - a. All results shall be logged into the batch file. Any testing that yields "out-of-spec" results shall be brought to the immediate attention of the Q.C. Manager. All material produced after the last sample meeting all specifications shall be retrieved and placed on hold.
- D. Finished Product: Laboratory Post-Production
- 1. Reporting
 - a. All results shall be logged into the batch file. These results shall be the official properties for that batch. Any batch that fails any specification shall be placed on hold for further evaluation.

PART 3 - EXECUTION

3.1 ANCHOR TRENCH

- A. The anchor trench shall be excavated as specified prior to liner system placement.

3.2 PLACEMENT

- A. The Installer shall be responsible for the following:
 - 1. No equipment or tools shall damage the geomembrane by handling, trafficking, or other means.
 - 2. No personnel working on the geomembrane shall smoke, wear damaging shoes, or engage in other activities that could damage the geomembrane.
 - 3. The method used to unroll the panels shall not cause scratches or crimps in the geomembrane and shall not cause indentations in the supporting soil greater than one inch deep or damage to the underlying geosynthetic clay liner.
 - 4. The method used to place the panels shall minimize wrinkles. Wrinkles shall be identified as to proper location and compensation shall be identified on the Contractor's and Engineer's drawings. Ballast shall be used to prevent relocation of the compensating wrinkles by wind.
 - 5. Adequate loading (e.g., sand bags or similar items that will not damage the geomembrane) shall be placed to prevent uplift by wind (in case of high winds, continuous loading is recommended along edges of panels to minimize risk of wind flow under the panels).
 - 6. Direct contact with the geomembrane shall be minimized, i.e., the geomembrane in traffic areas is protected by geotextiles, extra geomembrane, or other suitable materials.
- B. Weather Limitations
 - 1. Geomembrane deployment shall proceed between ambient temperatures of 32° F to 90° F. Below 40° F, preheat of the GML will be required.
 - 2. Geomembrane placement shall not be done during any precipitation, in the presence of excessive moisture (e.g., fog, rain, dew, frost) or in the presence of excessive winds, as determined by the Installation Supervisor.
- C. Geomembrane Protection
 - 1. Geomembrane will not be left exposed to weather for more than seven (7) consecutive calendar days.
- D. Factory Seam Quality Verifications
 - 1. The Engineer will require the Contractor to test up to 20% of factory fusion welds (non-destructive air pressure test and/or vacuum test) in the field to verify factory test results. Additional testing at the Installer's expense will be required if failed tests are obtained in the field.

3.3 FIELD SEAMING

- A. Seams shall be oriented parallel to the line of maximum slope, i.e., oriented down, not across the slope. In corners and odd-shaped geometric locations, the number of field seams shall be minimized.
- B. No base T-seam shall be closer than 5 feet from the toe of the slope. Seams shall be aligned with the least possible number of wrinkles and "fishmouths." If a fishmouth or wrinkle is found, it shall be relieved and cap-stripped.

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- C. Seam Overlap
1. Panels of geomembrane must have a finished overlap of a minimum of 4 inches for hot shoe fusion welding and 3 inches for extrusion welding, but in any event sufficient overlap shall be provided to allow peel tests to be performed on the seam.
 2. No solvent or adhesive may be used unless the product is approved by the Owners Representative. (Samples shall be submitted to the Design Engineer for testing and evaluation).
 3. The procedure used to temporarily bond adjacent panels together shall not damage the geomembrane; in particular, the temperature of hot air at the nozzle of any spot welding apparatus shall be controlled such that the geomembrane is not damaged.
- D. Seaming Equipment and Accessories
1. Approved equipment for field seaming are hot shoe fusion welders and extrusion welders.
 - a. Hot Shoe Welder, 110 Volt, 10 Amps.
 - b. Extrusion Welder, 220 Volt, 19 Amps.
 - c. High-speed, 10,000 rpm, 42 inch side grinder with 80-grit discs.
 - d. 7.5 KW Generator, single-phase with 110/220 Volt Outputs.
 - e. Power Cord, minimum S.O. type, 10 O.S.H.A. approved electrical cord with O.S.H.A. approved twist-type plugs and connections.
 - f. Seam Vacuum Tester for non-destructive seam and patch testing.
 - g. Field Tensiometer, capable of performing seam and peel adhesion tests for quantitative testing on-site.
- E. Test Seams
1. Field test seams shall be conducted on geomembrane liner to verify that seaming conditions are satisfactory. Test seams shall be conducted for each seamer at the beginning of each seaming period, at the Engineer's discretion, and at least once each 4 hours, for each seaming apparatus used that day.
 2. All test seams shall be made at a location selected by the Engineer in the area of the seaming and in contact with the subgrade. The test seam samples shall be 12-inches wide and 10 feet long for hot shoe welding and 4 feet long for extrusion welding with the seam centered lengthwise. Specimens 1 inch wide shall be cut from each opposite end of the test seam by the Engineer. The Engineer shall use a tensiometer provided by the Installer to test these specimens for shear and peel. If a test seam fails to meet field seam specifications, the seaming apparatus and/or seamer shall not be accepted and shall not be used for seaming until the deficiencies are corrected and two consecutive successful full test seams are achieved.
 3. At the very least, the peel adhesion and bonded shear strength must be 62% and 95%, respectively, of the strength of the parent material, but no less than 78 ppi and 120 ppi, respectively.
- F. Non-Destructive Seam Testing: The Installer shall non-destructively test all field seams over their full length. All test equipment, including but not limited to the following shall be furnished by the Installer:
1. Vacuum Box Testing
 - a. Equipment for testing single wedge fusion seams and extrusion seams shall be comprised of the following:
 - 1) A vacuum box assembly consisting of a rigid housing, a transparent viewing window, a soft rubber gasket attached to the bottom, port hole or valve assembly, and a vacuum gauge.
 - 2) A steel vacuum tank and pump assembly equipped with a pressure controller and pipe connections.

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- 3) A rubber pressure/vacuum hose with fittings and connections.
 - 4) A plastic bucket and wide paint brush.
 - 5) A soapy solution.
 - b. The following procedures shall be followed by the installer:
 - 1) Excess sheet overlap shall be trimmed away.
 - 2) Clean the window, gasket surfaces and check for leaks.
 - 3) Energize the vacuum pump and reduce the tank pressure to 5 psi.
 - 4) Wet a strip of geomembrane approximately 12 inches by 48 inches (length of box) with the soapy solution.
 - 5) Place the box over the wetted area and compress.
 - 6) Close the bleed valve and open the vacuum valve.
 - 7) Ensure that a leak tight seal is created.
 - 8) For a period of approximately 15 seconds, examine the geomembrane through the viewing window for the presence of soap bubbles.
 - 9) If no bubbles appear after 15 seconds, close the vacuum valve and open the bleed valve, move the box over the next adjoining area with a minimum 3 inches overlap and repeat the process.
 - 10) All areas where soap bubbles appear shall be marked and repaired and then retested.
 - c. The following procedures shall apply to locations where seams cannot be non-destructively tested, as determined by the Engineer:
 - 1) If the seam is accessible to testing equipment prior to final installation, the seam shall be non-destructively tested prior to final installation.
 - 2) If the seam cannot be tested prior to final installation, the seaming operations shall be observed by the Engineer for uniformity and completeness.
2. Air Pressure Testing (For Double Fusion Seam Only)
- a. The following procedures are applicable to those processes which produce a double seam with an enclosed space.
 - 1) Equipment for testing double fusion seams shall be comprised of the following:
 - (a) An air pump equipped with pressure gauge capable of generating and sustaining a pressure between 25 and 30 psi and mounted on a cushion to protect the geomembrane.
 - (b) A manometer equipped with a sharp hollow needle, or other approved pressure feed device.
 - b. The following procedures shall be followed by the Installer:
 - 1) Seal one end of the seam to be tested.
 - 2) Insert needle or other approved pressure feed device through the sealed end of the channel created by the double wedge fusion weld.
 - 3) Energize the air pump to verify the unobstructed passage of air through the channel.
 - 4) Seal the other end of the channel.
 - 5) Energize the air pump to a pressure of 30 psi, close valve, and sustain pressure for approximately 5 minutes.
 - 6) If loss of pressure exceeds 4 psi, or pressure does not stabilize, locate faulty area, repair and retest.
 - 7) Remove needle or other approved pressure feed device and seal.

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- G. Destructive Seam Testing: The Installer shall provide the Engineer with a minimum of one destructive test sample per 500 feet of seam length from a location specified by the Engineer. The Installer shall not be informed in advance of the sample location.
1. Sampling Procedure: In order to obtain test results prior to completion of liner installation, samples shall be cut by the Installer as the seaming progresses. A destructive test must be done for each welding machine used for seaming or repairs. Sampling times and locations shall be determined by the Engineer. The Engineer must witness the obtainment of all field test samples and the Installer shall mark all samples with their location roll and seam number. The Installer shall also record in written form the date, time, location, roll seam number, ambient temperatures, and pass or fail description. A copy of the information must be attached to each sample portion. All holes in the geomembrane resulting from obtaining the seam samples shall be immediately repaired. All patches shall be vacuum tested.
 2. Size and Disposition of Samples: The samples shall be 12 inches wide by 48 inches long with the seam centered lengthwise. The sample shall be cut into two equal length pieces, and given to the Engineer.
 3. Field Testing: The Installer shall cut six 1-inch wide replicate specimens from his sample and these shall be tested by the Engineer. The Installer shall test two specimens (four when possible for testing both tracks on dual-track fusion welded seams) for peel strength. All tests to be witnessed by the Engineer. To be acceptable, both test specimens must pass. Any specimen that fails through the weld or by adhesion at the weldsheet interface is a Non-FTB break and shall be considered a failure.
 4. Independent Laboratory Testing: The Engineer will package and ship all destructive seam samples to an independent testing Laboratory for determination and verification of all field shear and peel strengths. The test method and procedures to be used by the Independent Laboratory shall be the same used in field testing, where seam samples are 1-inch wide, and the grip separation rate is 2-ipm. The minimum passing criteria for independent laboratory testing are all three of the following:
 - a. All seam samples tested in the peel mode must fail in FTB.
 - b. At least four of five seam samples from each peel and shear determination must meet the minimum specified value.
 - c. The average value from all five seam samples from each peel and shear determination must meet the minimum specified value.
 - d. The above criteria apply to both tracks from each dual-track fusion welded seam before it is considered as passing. ALL FAILED LAB TESTS WILL BE PAID FOR BY THE INSTALLER.
 5. Archive Samples: The Installer will package and ship the remaining samples to the Engineer for archival. The samples shall include information that indicates where the sample was taken.
 6. Procedures for Destructive Test Failure: The following procedures shall apply whenever a sample fails the field destructive test.
 - a. The installer shall cap strip the seam between the failed location and any passed test location.
 - b. The installer can retrace the welding path to an intermediate location (at a minimum of 10 feet from the location of the failed test), at the Engineer's discretion, and take a small sample for an additional field test. If this test passes, then the seam shall be cap stripped between that location and the original failed location. If the test fails, then the process is repeated.
 - c. Over the length of seam failure, the Contractor shall either cut out the old seam, reposition the panel and reseam, or add a cap strip, as required by the Engineer.

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- d. After reseaming or placement of the cap strip, additional destructive field test(s) shall be taken within the reseamed area. The reseamed sample shall be found acceptable if test results are approved by the Engineer. If test results are not acceptable, this process shall be repeated until the reseamed length is judged satisfactory by the Engineer.
 - e. In the event that a sample fails a laboratory destructive test, then the above procedures shall be followed, considering laboratory tests exclusively.
 - f. The Engineer will document all actions taken in conjunction with destructive test failures.
- H. Defects and Repairs: All seams and non-seam areas of the geomembrane shall be inspected by the Engineer for defects, holes, blisters, undispersed raw materials, and any sign of contamination by foreign matter. Because light reflected by the geomembrane helps to detect defects, the surface of the geomembrane shall be clean at the time of inspection. The geomembrane surface shall be brushed, blown, or washed by the Installer if the amount of dust or mud inhibits inspection. The Engineer shall decide if cleaning of the geomembrane is needed to facilitate inspection.
- 1. Evaluation: Each suspect location in seam and non-seam areas shall be non-destructively tested as appropriate in the presence of the Engineer. Each location that fails the non-destructive testing shall be marked by the Engineer, and repaired accordingly.
 - 2. Repair Procedures:
 - a. Defective seams shall be restarted/reseamed as described in these specifications.
 - b. Small holes shall be repaired by extrusion cap welding. If the hole is larger than 3 inch, it shall be patched.
 - c. Tears shall be repaired by patching. Where the tear is on a slope or an area of stress and has a sharp end it must be rounded prior to patching.
 - d. Blisters, large holes, undispersed raw materials, and contamination by foreign matter shall be repaired by patches.
 - e. Surfaces of HDPE which are to be patched shall be abraded and cleaned no more than 15 minutes prior to the repair. No more than 10% of the thickness shall be removed.
 - f. Patches shall be round or oval in shape, made of the same geomembrane, and extend a minimum of 6 inches beyond the edge of defects. All patches shall be of the same compound and thickness as the geomembrane specified. All patches shall have their top edge beveled with an angle grinder prior to placement on the geomembrane. Patches shall be applied using approved methods only.
 - 3. Restart/Reseaming Procedures: The welding process shall restart by grinding the existing seam and rewelding a new seam. Welding shall commence where the grinding started and must overlap the previous seam by at least 2 inches. Reseaming over an existing seam without regrinding shall not be permitted.
 - 4. Verification of Repairs:
 - a. Each repair shall be non-destructively tested, except when the Engineer requires a destructive seam sample obtained from a repaired seam. Repairs that pass the non-destructive test shall be taken as an indication of an adequate repair. Failed tests indicate that the repair shall be repeated and retested until passing test results are achieved.
 - b. Recording of Results: daily documentation of all non-destructive and destructive testing shall be provided to the Engineer by the Installer. This documentation shall identify all seams that initially failed the test and include evidence that these seams were repaired and successfully retested.

3.4 GEOMEMBRANE ACCEPTANCE

- A. The Installer shall retain all ownership and responsibility for the geomembrane until acceptance by the Owner. The surface of the geomembrane shall not have striations, roughness, pinholes, or bubbles and shall be free of holes, blisters, undispersed raw materials, or any contamination by foreign matter; except that if in the opinion of the Engineer the blemish will not adversely affect properties and use of the geomembrane, the Engineer may accept the geomembrane after sufficient laboratory test data are provided to support such acceptance, and further, provided all such testing is done at the sole expense of the Installer.
- B. The geomembrane liner shall be accepted by the Owner when all of the following conditions are met:
 - 1. Installation is finished.
 - 2. Verification of the adequacy of all field seams and repairs, including associated testing, is complete.
 - 3. Written certification, including "as built" drawing(s), is provided by the Installer to the Engineer.
 - 4. Documentation of completed installation, including all reports is complete.
 - 5. Acceptance of "Geomembrane Liner Evaluation Report" by the TCEQ.

END OF SECTION

SECTION 02246

GEOTEXTILE FABRICS

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

- A. Drawings, Construction Contract, and Division 1 - General Requirements apply to work of this section.

1.2 SECTION INCLUDES

- A. Geotextile Fabric Specification.
- B. Geotextile Fabric Installation.

1.3 RELATED SECTIONS

- A. Section 02245 - Geomembrane Liner.
- B. Section 02247 - Geocomposite Drainage Layer.
- C. Section 02248 - Gravel Drainage Layer.
- D. Section 02250 - Leachate Collection Systems.

1.4 REFERENCES

- A. AMERICAN SOCIETY FOR TESTING AND MATERIALS (ASTM) STANDARDS
 1. ASTM D 3776 – Standard Test Method for Mass Per Unit Area (Weight) of Fabric.
 2. ASTM D 3786 - Standard Test Method for Bursting Strength of Textile Fabrics – Diaphragm Bursting Strength Test Method.
 3. ASTM D 4354 - Standard Practice for Sampling of Geosynthetics for Testing.
 4. ASTM D 4355 - Standard Test Method for Deterioration of Geotextiles from Exposure to Light, Moisture, and Heat in a Xenon Arc Type Apparatus.
 5. ASTM D 4491 - Standard Test Methods for Water Permeability of Geotextiles by Permittivity.
 6. ASTM D 4533 - Standard Test Method for Trapezoidal Tearing Strength of Geotextiles.
 7. ASTM D 4751 - Standard Test Method for Determining Apparent Opening Size of a Geotextile
 8. ASTM D 4833 - Standard Test Method for Index Puncture Resistance of Geotextiles, Geomembranes, and Related Products
 9. ASTM D 5034 - Standard Test Method for Breaking Strength and Elongation of Textile Fabrics (Grab Test).
 10. ASTM D 5035 - Standard Test Method for Breaking Force and Elongation of Textile Fabrics (Strip Method)
 11. ASTM D 5199 - Standard Test Method for Measuring the Nominal Thickness of Geosynthetics.
 12. ASTM D 5261 - Standard Test Method for Measuring Mass per Unit Area of Geotextile.

1.5 SUBMITTALS

- A. Shop Drawings and Product Data
 - 1. Manufacturer's product data.
 - 2. Manufacturer's Installation Instructions.
- B. Manufacturer's Certification
 - 1. Manufacturer must certify that all geotextile fabric has been inspected and that no broken needles are present in each roll of material.
- C. Contractor's Experience Record
 - 1. Indicate experience of installing manufacturer's product.
 - 2. Provide at least 5 reference names with recent telephone numbers on past municipal solid waste landfill projects.

1.6 QUALITY ASSURANCE

- A. Manufacturer:
 - 1. Certify that the company has at least 5 years experience.
 - 2. Certify upon job completion that fabric was installed in accordance with manufacturer's recommendations and in conformance to the contract specifications.
- B. Contractor
 - 1. Certify experience exceeds 2,000,000 square feet of fabric in the past 5 years.

1.7 PACKAGING AND STORAGE

- A. Rolled on a cardboard core and wrapped in plastic with sealed ends.
- B. Material will be covered to block sunlight.
- C. Store material in a manner to avoid contact with soil.

PART 2 - PRODUCTS

2.1 GEOTEXTILE FABRIC

- A. Nonwoven fabric.
- B. Acceptable Material.
 - 1. Polypropylene.

2.2 GEOTEXTILE COMPONENTS

- A. Geotextile Filter. Encompass gravel drainage material for leachate collection system.

2.3 GEOTEXTILE FILTER SPECIFICATIONS

Property	Unit	Test Method	Frequency	Minimum Average Roll Value
*Fabric Weight	oz/yd ²	ASTM D-5261	1 per 100,000 ft ²	8.0 oz
*Grab Tensile Strength	lbs	ASTM D-5034 ASTM D-5035	1 per 100,000 ft ²	220
*Grab Elongation	%	ASTM D-5034 ASTM D-5035	1 per 100,000 ft ²	50
*Puncture Strength	lbs	ASTM D-4833	1 per 100,000 ft ²	120
*Permittivity	Sec ⁻¹	ASTM D-4491	1 per 100,000 ft ²	1.30
*Denotes independent third party conformance test in addition to manufacturer's certification.				

PART 3 - EXECUTION

3.1 EQUIPMENT

- A. All equipment, tools and machines used in the performance of the work shall be subject to approval prior to commencement of work. The equipment shall be maintained in satisfactory working condition at all times.

3.2 CONSTRUCTION INSPECTION

- A. The Contractor shall conduct a visual inspection of each panel or sheet as it is unrolled. The Engineer shall be notified of any damage.

3.3 GEOTEXTILE PLACEMENT

- A. Material will be placed in the locations shown on the plans. Placement shall be conducted by experienced and trained personnel, including supervisors, foreman, and skilled laborers who are qualified and approved by the manufacturer of the geotextile. All placement shall be in strict accordance with the geotextile manufacturers recommendations. The placement shall be performed to provide a complete sheet without holes, tears, excessive wrinkles, creases, or other imperfections.

3.4 FIELD SEAMS

- A. Geotextile fabric may be placed by overlapping the edges a minimum of 18-inches or by sewing a 2-inch to 4-inch overlapped seam. The contractor shall replace any geomembrane liner that is damaged as a result of the sewing process.

3.5 BALLAST

- A. To protect installation from excessive wind, all geotextile fabric in place must be protected by ballasting the fabric with weighted sandbags. Sandbags must be placed as fabric is installed and not removed until gravel drainage material is ready to be placed.

3.6 REPAIRS

- A. Repairs to damaged geotextile fabric will be made in accordance with the geotextile manufacturers recommendations.

END OF SECTION

SECTION 02247

GEOCOMPOSITE DRAINAGE LAYER

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

- A. Drawings, Construction Contract, and Division 1 - General Requirements apply to work of this section.

1.2 SECTION INCLUDES

- A. Dual Geotextile/high density polyethylene (HDPE) drainage geonet geocomposite specification.
- B. Geocomposite installation.

1.3 RELATED SECTIONS

- A. Section 02245 - Geomembrane Liner.
- B. Section 02250 - Leachate Collection Systems.

1.4 REFERENCES

- A. AMERICAN SOCIETY FOR TESTING AND MATERIALS (ASTM) STANDARDS
 1. ASTM D 413 – Standard Test Methods for Rubber Property-Adhesion to Flexible Substrate.
 2. ASTM D 1238 - Standard Test Methods for Melt Flow Rates of Thermoplastic by Extrusion Plastometer.
 3. ASTM D 1505 – Standard Test Method for Density of Plastics by the Density-Gradient Technique.
 4. ASTM D 1603 - Standard Test Methods for Carbon Black in Olefin Plastics.
 5. ASTM D 3776 - Standard Test Methods for Mass Per Unit Area (Weight) of Fabric.
 6. ASTM D 3786 - Standard Test Methods for Bursting Strength of Textile Fabrics – Diaphragm Bursting Strength Testing Method.
 7. ASTM D 4355 - Standard Test Method for Deterioration of Geotextiles by Exposure to Light, Moisture and Heat in a Xenon Arc Type Apparatus.
 8. ASTM D 4491 - Standard Test Methods for Water Permeability of Geotextiles by Permitting.
 9. ASTM D 4533 - Standard Test Methods for Trapezoidal Tearing Strength of Geotextiles.
 10. ASTM D 4632 - Standard Test Method for Breaking Load and Elongation of Geotextiles.
 11. ASTM D 4716 - Standard Test Method for Determining the (In-Place) Flow Rate Per Unit Width and Hydraulic Transmissivity of a Geosynthetic Using a Constant Thread.
 12. ASTM D 4751 - Standard Test Method for Determining Apparent Opening Size of a Geotextile.
 13. ASTM D 4833 - Standard Test Method for Index Puncture Resistance of Geomembranes, and Related Products.

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14. ASTM D 5034 - Standard Test Method for Breaking Strength and Elongation of Textile Fabrics (Grab Test)
 15. ASTM D 5035 - Standard Test Method for Breaking Force and Elongation of Textile Fabrics (Strip Method)
 16. ASTM D 5199 - Standard Test Method for Measuring the Nominal Thickness of Geosynthetics.

1.5 SUBMITTALS

- A. Shop Drawings and Product Data
 1. Manufacturer's product data.
 2. Manufacturer's Installation Instructions.
- B. Manufacturer's Certification
 1. Manufacturer must certify that all geotextile geocomposite has been inspected and that no broken needles are present in each roll of material.
- C. Contractor's Experience Record
 1. Indicate experience of installing manufacturer's product.
 2. Provide at least 5 reference names with recent telephone numbers on past municipal solid waste landfill projects.

1.6 QUALITY ASSURANCE

- A. Manufacturer:
 1. Certify that the company has at least 5 years experience.
 2. Certify upon job completion that geocomposite was installed in accordance with manufacturer's recommendations and in conformance to the contract specifications.
- B. Contractor
Certify experience exceeds 2,000,000 square feet of geocomposite in the past 5 years.

1.7 MANUFACTURER'S CERTIFICATION

- A. Manufacturer shall submit certification indicating material delivered meets project specifications.
- B. Heat-bonded HDPE drainage geonet/dual geotextile geocomposite will be supplied in rolls which are tagged as follows:
 1. Manufacturer's name.
 2. Product Identification.
 3. Lot Number.
 4. Roll Number.
 5. Dimensions of Roll.

1.8 STORAGE

- A. Material shall be wrapped in plastic with sealed ends.
- B. Material will be covered to block sunlight.
- C. Store material in a manner to avoid contact with soil.

PART 2 - PRODUCTS

2.1 TYPE

- A. Dual Geotextile/Geonet Geocomposite comparable to GSE Fabrinet (200 mil. 8 oz/sy) or approved equal.

2.2 GENERAL

- A. Manufacturing Procedure: Supplied geonet/geotextile geocomposite shall be manufactured by heat bonding geotextile to both sides of geonet. No glue, adhesive, or other foreign substance shall be permitted. No product exhibiting burned through geotextiles shall be permitted.
- B. Manufacturing Requirements: Supplied geonet/geotextile geocomposite shall be manufactured to exhibit a bond between the HDPE drainage net and the geotextile, or geotextiles, which shall be greater than that between soil and the geotextile (average peel strength shall be • 1 lb. per inch per ASTM D-413). Peel strength shall be tested a minimum of once every 50,000 square feet of material manufactured.

2.3 HDPE DRAINAGE GEONET CORE

- A. Manufacture Information: HDPE drainage geonet core shall be made by continuous extrusion of a web, forming the geometry required to provide the specified Transmissivity as a homogeneous three-dimensional structure. The resin shall be selected to provide an optimum combination of strength, environmental resistance and resistance to the high compressive loads that might reduce transmissivity. Geonet shall contain stabilizers to prevent ultraviolet light degradation.
- B. HDPE Drainage Geonet Core Properties: HDPE drainage geonet core shall be no less than 7.5 linear feet wide. Other than listed material properties, core material shall meet or exceed the following properties:

Property	Test Method	Frequency	Minimum Value	Units
*Carbon Black Content (Range)	ASTM D1603	1 per 100,000 ft ²	2-3	%
*Unit Weight (Nominal)	ASTM D3776 (Option C)	1 per 100,000 ft ²	0.94	g/cm ³
*Tensile Strength MD (Range)	ASTM D5034 ASTM D5035	1 per 100,000 ft ²	45	lbs/in
*Transmissivity @10,000 psf (Min)	ASTM D4716	1 per 100,000 ft ²	2 x 10 ⁻³	m ² /sec
*Denotes independent third party conformance test in addition to manufacturer's certification.				

- C. Geotextile Fabric Properties: Geotextile fabric bonded to drainage geonet shall be a nonwoven, needle punched polyester or polypropylene fabric. All geotextile shall conform to the following properties:

Property	Test Method	Frequency	Minimum Value	Units
*Unit Weight (MARV)	ASTM D5261	1 per 100,000 ft ²	8.0	oz/yd ²
*Grab Tensile (MARV)	ASTM D4632	1 per 100,000 ft ²	220	lbs
*Puncture Resistance	ASTM D4833	1 per 100,000 ft ²	120	lbs
*Permittivity	ASTM D4491	1 per 100,000 ft ²	1.3	sec ⁻¹
MARV = Minimum Average Roll Value				
*Denotes independent third party conformance test in addition to manufacturer's certification.				

- D. Complete Geocomposite Properties:

Property	Test Method	Frequency	Minimum Value	Units
*Transmissivity	ASTM D4716	1 per 100,000 sf	1x10 ⁻⁴	m ² /sec
*Ply Adhesion	ASTM D7005	1 per 100,000 sf	1.0	lbs/in
*Denotes independent third party conformance test in addition to manufacturer's certification.				

PART 3 - EXECUTION

3.1 GENERAL

- A. Exhibit care in keeping the geocomposite free of debris and clean prior to installation. If not free from soil and debris, clean just prior to installation.
1. Dual Geotextile Geocomposite shall be placed over the entire lined area.

3.2 FIELD SEAMS

- A. Field Seams shall be parallel to maximum slope direction.
- B. When deploying, adjacent rolls may be butted net to net or overlapped and upper layer of geotextile heat tacked every 4-to-5 linear feet or sewn. If butted, net should be secured with plastic ties provided by the manufacturer approximately every 4-to-5 linear feet along the roll length. If overlapped, 1 tie every 5 linear feet is sufficient. No metallic ties shall be used. Horizontal seams shall be tied at 1 linear foot intervals.
- C. After securing net, geotextile can be overlapped, overlapped and heat tacked every 4-to-5 linear feet, or sewn. Where sewn, geotextile overlap, beyond edge of HDPE Geonet, before sewing, shall exhibit a minimum average roll value of 6 inches. Geocomposite shall not be welded to geomembrane.

3.3 PLACING

- A. Contractor shall handle geocomposite in a manner which will ensure against damage in any form. Install over geomembrane liner keeping tension on geocomposite; and position by hand, if necessary, to minimize wrinkles.
- B. Geocomposite shall not be placed across slope (in horizontal direction).

3.4 BALLAST

- A. Care shall be taken to avoid wind problems. Weight with sand bags, or equivalent, during installation and do not remove weight materials until cover material is in place.

3.5 DAMAGE TO GEOMEMBRANE LINER

- A. Any damage to the GML will be repaired by the Contractor at Contractor's expense in accordance with Section 02245 - Geomembrane Liner.

3.6 GEOCOMPOSITE MATERIAL PROTECTION

- A. Contractor will take measures to protect the completed geocomposite and liner system after installation is complete. Protective soil cover must be placed within 14 calendar days of geocomposite installation.

END OF SECTION

SECTION 02248

GRAVEL DRAINAGE MATERIAL

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

- A. Drawings, Construction Contract, and Division 1 - General Requirements apply to work of this section.

1.2 SECTION INCLUDES

- A. Gravel Drainage Material.
- B. Drainage Material Installation.

1.3 RELATED SECTIONS

- A. Section 02245 - Geomembrane Liner.
- B. Section 02246 - Geotextile Fabrics.
- C. Section 02247 - Geocomposite Drainage Layer.
- D. Section 02250 - Leachate Collection Systems.

1.4 REFERENCES

Applicable Publications: The publications listed below form a part of this specification to the extent referenced. The publications are referred to in the text by the basic designation only. The latest publication in use at the time of the executed contract will be the one that governs this project.

- A. AMERICAN SOCIETY FOR TESTING AND MATERIALS (ASTM) STANDARDS:
 - 1. ASTM C 33 – Standard Test Methods for Specification for Concrete Aggregates.
 - 2. ASTM C 88 – Standard Test Method for Soundness of Aggregates by Use of Sodium Sulfate or Magnesium Sulfate.
 - 3. ASTM C 131 – Standard Test Method for Resistance of Degradation of Small Size Coarse Aggregates by Abrasion and Impact in the Los Angeles Machine.
 - 4. ASTM C 136 – Standard Test Method for Sieve Analysis of Fine and Course Aggregates.
 - 5. ASTM D 75 – Standard Test Method for Sampling Aggregates.
 - 6. ASTM D 2434 – Standard Test Method for Permeability of Granular Soils (Constant Head).
 - 7. ASTM D 2487 - Standard Practice for Classification of Soils for Engineering Purposes.
 - 8. ASTM D 4373 – Standard Test Method for Rapid Determination of Carbonate Content of Soils.

1.5 QUALITY ASSURANCE

- A. Contractor must provide written certification that the drainage gravel meets or exceeds the performance requirements of this specification.
- B. Contractor must provide all necessary documentation as specified.

1.6 SUBMITTALS

- A. The following information must be obtained and submitted by the Contractor in accordance to Section 01300, "Submittals".
1. Gravel Material to be used. Minimum five gallon bucket.
 2. Gradation Results.
 3. Soundness and Loss Test Results.
 4. Permeability Test Results.
 5. Calcium Carbonate Contents.

PART 2 - PRODUCTS

2.1 GRAVEL

- A. Gravel shall consist of clean, sound, hard, durable, round particles of stone or gravel per ASTM C-33. The gravel shall be free of silt and clay as defined by ASTM D2487, vegetable matter, and other objectionable materials or coatings.
- B. Gravel Quality
1. Crushed materials will not be acceptable.

Property	Test Method	Maximum Loss %
Soundness	ASTM C88	18

- C. Gradation
1. The gravel should meet the gradation requirements of ASTM D448 size numbers 467, 57, 67, or 7. The maximum gravel size shall not exceed two-inches. Gradation may be adjusted to meet or exceed permeability requirements.
- D. Permeability: 1.0×10^{-2} cm/sec or higher. (ASTM D-2434 @ Field Density.)
- E. Calcium Carbonate: Not to exceed 15% by mass in accordance with ASTM D 3042.
- F. The gravel shall be tested for gradation (ASTM D422) at a minimum of one test per 3,000-cubic yards or per lined area.

PART 3 - EXECUTION

3.1 GENERAL

- A. Gravel drainage material must be placed in a manner to prevent damage to the underlying geotextile fabric, geomembrane or geocomposite clay liner. Any damage to the geotextile fabric, geomembrane or geocomposite clay liner will be repaired or replaced in accordance with the specifications at the expense of the Contractor.

3.2 PLACEMENT

- A. Gravel drainage material will be placed in accordance with Section 02250 - Leachate Collection Systems.
- B. Gravel around leachate pipe shall be done in a manner to prevent deflection or loading of the pipe.

3.3 COMPLETION

- A. Following gravel installation, the gravel will be covered with the encompassing geotextile fabric so that the ends of the geotextile fabric overlap at least 18-inches, as shown on the plans.

3.4 THICKNESS VERIFICATION

- A. The required thickness of drainage materials will be verified by surveyed methods on an established grid system with not less than one verification point per 5,000 square feet of area.

END OF SECTION

SECTION 02250

LEACHATE COLLECTION SYSTEMS

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

- A. Drawings, Construction Contract, and Division 1 - General Requirements apply to work of this section.

1.2 SECTION INCLUDES

- A. Polyethylene (PE) Pipe Material.
- B. Polyethylene (PE) Pipe Installation.

1.3 RELATED SECTIONS

- A. Section 02245 - Geomembrane Liner.
- B. Section 02246 - Geotextile Fabrics.
- C. Section 02247 - Geocomposite Drainage Layer.
- D. Section 02248 - Gravel Drainage Material.

1.4 REFERENCES

- A. AMERICAN SOCIETY FOR TESTING AND MATERIALS (ASTM) STANDARDS
 - 1. ASTM D 1248 – Standard Specification for Polyethylene Plastics Molding Extrusion Materials for Wire and Cable.
 - 2. ASTM D 2487 – Standard Practice for Classification of Soils for Engineering Purposes.
 - 3. ASTM D 2837 – Standard Test Method for Obtaining Hydrostatic Design Basis for Thermoplastic Pipe Materials or Pressure Design Basis for Thermoplastic Pipe Products.
 - 4. ASTM D 3350 – Standard Specification for Polyethylene Plastics Pipe and Fittings Materials.
- B. AMERICAN ASSOCIATION OF STATE HIGHWAY AND TRANSPORTATION OFFICIALS
 - 1. M 252 – Standard Specification for Corrugated Polyethylene Drainage Pipe.

1.5 SUBMITTALS

- A. Shop Drawings and Product Data
 - 1. Provide piping layout with all bends, tees, elbows, etc.
 - 2. Pipe manufacturer's data.
 - 3. Pipe Manufacturer's Installation Data.
- B. Manufacturer's Certification
 - 1. Manufacturer must certify that the materials supplied meet all the requirements of these specifications.
- C. Contractor's Experience Record
 - 1. Indicate past experience installing manufacturer's product.

1.6 QUALITY ASSURANCE

- A. Manufacturer
 - 1. Certify that the company has manufactured this product for at least five years.
 - 2. Certify material meets or exceeds these requirements specified herein.
- B. Contractor
 - 1. Provide experience record for installing manufacturer's product. Minimum five years experience.

1.7 FIELD MEASUREMENTS

- A. Verify that field measurements are as indicated on the shop drawings.

1.8 HANDLING OF PIPE

- A. Pipe shall be stored on clean, level ground to prevent undue scratching or gouging of the pipe. If the pipe must be stacked for storage, such stacking should be done in accordance with the pipe manufacturer's recommendations. The handling of the pipe should be done in such a manner that it is not damaged by dragging over sharp objects or cut by chokers or lifting equipment.
- B. Joined segments of pipe shall be handled so as to avoid damage to the pipe or joining system. When lifting sections of pipe, chains or cable type chokers should be avoided. Nylon slings are preferred. Spreader bars should be used when lifting long fused sections. Care should be exercised to avoid cutting or gouging the pipe.

1.9 REPAIR OF DAMAGED SECTIONS

- A. Segments of pipe having cuts or gouges in excess of 10% of the wall thickness of the pipe should be cut out and removed. The undamaged portions of the pipe shall be rejoined using one of the methods identified below as approved by the specifying engineer.

PART 2 - PRODUCTS

2.1 POLYETHYLENE PIPE

- A. Must be ASTM D-1248, Type III, Class C, Grade P-34, Category 5.
- B. PPI rating of PE-3408.
- C. Cell Classification: ASTM D 3350, 345434C.
- D. Hydrostatic Design Basis shall not be less than 1600 psi (11.03 MPA) as per ASTM D-2837.
- E. Minimum Standard Dimension Ratio (SDR): 11.

2.2 FITTINGS

- A. Type: Same as pipe.
- B. Bends: Only long radius bends acceptable.
- C. Dissimilar Pipe Connections: Connections between corrugated pipe and smooth heat fusion pipe shall be made with flange adaptors and slip-on metal flanges. Metal flanges shall be cast or ductile iron. Bolts and nuts shall be stainless steel.

PART 3 - EXECUTION

3.1 INSTALLATION

- A. Place a 6-inch thick layer of gravel on top of the geotextile material across the entire length and width of trench.
- B. Do not drive heavy vehicles or equipment on top of the material to avoid damage to geomembrane liner.
- C. Using hand held mechanical tampers, carefully consolidate the material.
- D. Place the pipe in the center of the trench and place gravel.
- E. Place gravel under the haunches of the pipe in 2-inch lifts followed by hand held mechanical compaction up to the springline of the pipe.
- F. Above the springline, lifts of gravel may be 4-inches thick, followed by hand held mechanical compaction.
- G. After gravel is placed to full depth, cover the top with the geotextile fabric, overlapping a minimum of 18-inches.

3.2 PIPE JOINING

- A. Sections of polyethylene pipe should be joined into continuous sections on the job site using manufacturer's recommended methods.
- B. The joining method shall be the heat fusion method performed in strict accordance to the manufacturer's recommendations.
- C. The heat fusion equipment used should be capable of meeting all conditions recommended by the pipe manufacturer, including but not limited to, temperature requirements, alignment and fusion pressures.
- D. All bends, tees, and fittings may be shop made in accordance with manufacturers recommendations.

3.3 PIPE JOINING CORRUGATED POLYETHYLENE PIPE

- A. Sections of corrugated polyethylene pipe shall be placed into continuous sections on the job site using manufacturer's recommended methods.
- B. Pipe shall be joined using manufacturer's coupling pieces and ties.

END OF SECTION

SECTION 02260

PROTECTIVE SOIL COVER

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

- A. Drawings, Construction Contract, and Division 1 - General Requirements apply to work of this section.

1.2 SECTION INCLUDES

- A. Protective Soil Cover Specification.
- B. Protective Soil Cover Installation.

1.3 REFERENCES

The publications listed below form a part of this specification to the extent referenced. The publications are referred to in the text by basic designation only.

- A. TEXAS COMMISSION ON ENVIRONMENTAL QUALITY:
 - 1. TCEQ, 30 TAC Chapter 330 - Texas Commission on Environmental Quality, Municipal Solid Waste Regulations.
- B. OWNER:
 - 1. MSW Permit - Owner's TCEQ MSW Permit.

1.4 WEATHER LIMITATION

- A. Protective soil cover shall be constructed when the atmospheric temperature is above 35 degrees F. When the temperature falls below 35 degrees F, the Contractor shall protect all areas of completed protective soil cover by approved methods against detrimental effects of freezing. Areas of completed protective soil cover damaged by freezing, rainfall, or other weather conditions shall be corrected to meet specified requirements. Protective soil cover placement shall not occur on rainy days or when rain is imminent.

1.5 SUBMITTALS

- A. Submit list of all equipment proposed for use in placing and maintaining protective cover. No equipment will be allowed within the limits of the liner system without approval of the Engineer.
- B. Submit in accordance with Section 01300, Submittals, including equipment weight, ground pressure information, required lift thickness information, etc. Unapproved equipment operating on the floor of the liner system or the side slopes will not be allowed.

PART 2 - PRODUCTS

2.1 MATERIALS

- A. Material used is a coarse sand that is stockpiled on site near the project limits. All material shall be free of debris and rocks larger than 2 inches in diameter.

2.2 EQUIPMENT

- A. Tracked equipment used to place soil cover on the horizontal portion of the liner system must be low ground pressure type (5.0 psi maximum track pressure).
- B. Equipment that exerts ground pressures of higher than 5.0 psi on the lining system will not be approved unless contractor can certify that these conditions can be met with a specific lift thickness of protective cover. Submit calculations to document the certification.
- C. Only low ground pressure equipment (< 5.0 psi) equipment will be allowed on the sideslope of the lining system. Submit list of equipment to be used on the sideslopes, including equipment weights, ground pressures, required lift thicknesses, etc. for Engineer approval prior to placing equipment on the sideslopes. It will be Contractor's responsibility to demonstrate that equipment used on the sideslopes will not damage the liner or cause a "sliding" failure.

PART 3 - EXECUTION

3.1 STOCKPILING MATERIAL

- A. If necessary, materials shall be stockpiled in the manner and at locations designated. Prior to stockpiling, the storage sites shall be cleared, drained, and leveled by the Contractor. Approved material available from excavation or grading shall be stockpiled in the manner and at locations designated.

3.2 GRADE CONTROL

- A. The finished and completed protective soil cover shall conform to the grades, lines, cross sections, and dimensions shown.

3.3 LAYER THICKNESS

- A. The completed thickness of the protective soil cover shall be as indicated. Protective soil cover will be placed such that the top surface, during spreading operations, is a minimum of 2-feet above the geocomposite material. Thickness shall be measured perpendicular to the subgrade.

3.4 COMPACTION

- A. Compaction control is not required; however, it should be stable for construction and disposal equipment.

3.5 THICKNESS CONTROL

- A. The thickness of the select-material subbase course shall be measured at intervals providing at least one measurement for each 5,000 square feet or major fraction thereof of protective soil cover. The thickness measurement shall be made by survey. The Contractor will provide survey control during construction. The Owner will provide final thickness survey after Contractor notifies owner protective soil cover has been placed and ready for verification survey by Owner. Any areas of inadequate thickness requiring a resurvey will be done at Contractor's expense.

3.6 HYDRAULIC CONDUCTIVITY

- A. Pre-construction and conformance testing for protective cover soils will include minimum hydraulic conductivity with minimum conformance testing frequency of one analysis per 100,000 square feet of cover surface area. Hydraulic conductivity shall be no less than 1×10^{-4} cm/sec.

3.7 PLACEMENT

- A. Contractor will take measures to protect the completed liner system after installation is complete. No portion of the liner system will remain exposed for more than fifteen (15) days after installation is complete and the system has been accepted by the Owner and the Engineer.
- B. Place the protective cover material with machinery that, in the opinion of the Engineer, will not damage any portion of the liner system or leachate collection system or cause "sliding" of the lining system or any part of the system. Equipment used to place the protective cover must not exert a ground pressure load greater than 5-psi on the liner or leachate collection system and must be approved by the Engineer prior to utilization on the system.

3.8 MAINTENANCE

- A. The protective soil cover shall be maintained in a satisfactory condition until accepted.

END OF SECTION

SECTION 02500

ROADWAY CONSTRUCTION

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

- A. Drawings, Construction Contract, and Division 1 - General Requirements apply to work of this section.

1.2 SUMMARY

- A. The Contractor shall furnish all labor, materials and equipment necessary to perform the work as specified and in the locations shown on the drawings. It shall consist of grading and compacting necessary to bring the surface of the finished grade to the cross sections and grades shown on the plans.
 - 1. Grades shall be established and maintained by the Contractor. In establishing the grades, due allowances shall be made for existing improvements, proper drainage, and adjoining property rights.
 - 2. Paving work shall not begin until all related excavation work has been completed.
 - 3. Paving work shall consist of asphalt pavement or caliche surface as shown on plans.
 - 4. The same material used as flexible base under the asphalt pavement shall be used for the caliche roads.

1.3 APPLICABLE PUBLICATIONS

The publications listed below for a part of this specification to the extent referenced. The publications are referred to in the text by the basic designation only.

- A. American Society for Testing and Materials (ASTM):
 - 1. ASTM C 131 Standard Test Method for Resistance to Degradation of Small-Size Coarse Aggregate by Abrasion and Impact in the Los Angeles Machine.
 - 2. ASTM D 698 Standard Test Methods for Laboratory Compaction Characteristics of Soil Using Standard Effort (12,400 ft-lb/ft³).
 - 3. ASTM D 2027 Standard Specification for Cutback Asphalt (Medium-Curing Type).
 - 4. ASTM D 2172 Standard Test Methods for Quantitative Extraction of Bitumen from Bituminous Paving Mixtures.
 - 5. ASTM D 2950 Standard Test Methods for Density of Bituminous Concrete in Place by Nuclear Methods.
 - 6. ASTM D 6938 Standard Test Method for In-Place Density and Water Content of Soil and Soil-Aggregate by Nuclear Methods (Shallow Depth).
 - 7. ASTM E 329 Standard Specification for Agencies Engaged in Construction Inspection and/or Testing.
- B. American Association of State Highway and Transportation Officials (AASHTO):
 - 1. AASHTO T 180 Moisture-Density Relations of Soils.
 - 2. AASHTO T 230 Determining Degree of Pavement Compaction of Bituminous Aggregate Mixture.
 - 3. AASHTO T 30 Mechanical Analysis of Extracted Aggregate.

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- C. Texas Department of Transportation (TxDOT)
1. "Standard Specifications for Construction of Highways, Streets and Bridges, 1993."

1.4 TESTING

- A. Subgrade Testing:
1. Each 6-inch lift of compacted subgrade material will be tested in accordance with ASTM D 698, and shall meet or exceed 95% density ($\pm 2\%$ optimal moisture).
 2. The top of the subgrade shall be of such smoothness that when tested with a 16-foot straight-edge, it shall not show any deviation in excess of 2 inches, or shall not be more than 0.1 foot from true grade as established by grade hubs or pins. Any deviation in excess of these amounts shall be corrected as directed by the Engineer.
- B. Flexible Base/Caliche Surface Testing:
1. Material used in the construction of the flexible base course for asphalt paving or as a caliche surface course will be tested in 6-inch lifts per ASTM D 698, and shall meet or exceed 95% density ($\pm 2\%$ optimal moisture).
 2. Owner's testing agency shall take one test for each 250 linear feet of road, using nuclear methods as defined in ASTM D 6938.
 3. Thickness Tests: Measure thickness of base course at intervals such that there will be a depth measurement for at least each 500 square yards of completed base or surface course. Make depth measurements by test holes, at least 3 inches in diameter, through the base or surface course. Where base course deficiency is more than 1/2-inch, correct by scarifying, adding mixture of proper gradation, reblading, and recompacting. Where the measured thickness is more than 1/2-inch thicker than indicated, consider it as the indicated thickness plus 1/2 inch for determining the average. The average thickness is the average of the depth measurements and shall not under-run the thickness indicated.
 4. Smoothness Tests: Test with a straight-edge, applied parallel with and at right angles to the center line of the paved area. Correct deviations in the surface in excess of 3/8-inch by loosening, adding or removing material, reshaping, watering and compacting. The smoothness requirements specified herein apply only to the top layer when multiple courses are constructed.
- C. Asphalt testing shall be performed by a qualified independent testing laboratory to be selected by the Owner.
1. Testing for asphalt conformance shall be done in accordance with ASTM E 329. The following tests shall be performed and results submitted to the Engineer:
 - a. A temperature check on the surface course for each load of asphalt during paving by a technician from a qualified testing laboratory. Temperature during placement shall be in the range of 260° to 325°F.
 - b. Density on compaction, 97% of laboratory compacted density.
 - c. Thickness corings for every 250 linear feet of pavement.
 - d. Extraction test of one coring from the surface course for each 250 linear feet of road.
 - e. Marshall stability of not less than 1,300. Test for each 250 tons of bituminous concrete.
- D. Only passing tests as required under this section shall be paid for by the Owner. The Contractor shall pay for all other tests. Results of the tests shall be forwarded in report form to the Architect. All paving disturbed as a result of corings shall be replaced and repaired by the Contractor at his expense.

1.5 ASPHALT DESIGN MIX

- A. The job mix formula together with the test data shall be furnished to the Engineer for approval not less than 10 days in advance of the placement of the material. Testing shall have been accomplished not more than one year prior to date of material placement. The job mix formula shall indicate the percentage passing for each specified sieve size and the percent asphalt to be used for each asphalt concrete mixture.
- B. Mixture Properties
Gradation of mineral aggregate shall be specified. Percentage of bituminous material provided in the bituminous mixtures shall be within the limits specified. Mixtures shall have the following physical properties:

TEST PROPERTY	VALUES
Stability (50 Blows)	Not less than 1,300 pounds
Flow (0.01 inch)	Not more than 16 nor less than 8
Percent Air Void	Not less than 3 nor more than 8 for binder course; not less than 3 nor more than 5 for wearing course.
Percent Voids in Mineral Aggregates	See TxDOT Item 340

- C. Quantity of Bituminous Material
Mix asphalt cement with aggregates or corresponding mixes in the following proportions:

TABLE II	
ASPHALT CEMENT PERCENT BY WEIGHT OF TOTAL MIX	
Binder Course	Wearing Course
4 to 8	4 to 7

- D. Asphalt pavement must generally comply with TxDOT requirements as noted in this specification section 1.03.A.3, as noted below:
1. Wearing Surface, Type C mix, TxDOT Item 340.
 2. Asphalt Stabilized Base, TxDOT Item 340. (No reclaimed asphalt allowed.)

1.6 WEATHER LIMITATIONS

- A. Apply prime and tack coats only when ambient temperature is above 50° F., and when temperature has not been below 35° F. for 12 hours immediately prior to application. Do not apply during rainy weather or when base is wet or contains an excess of moisture.
1. Construct asphalt concrete surface course only when atmospheric temperature is above 40° F. and base is dry.
 2. Base course may be placed when air temperature is above 30° F., and rising.

PART 2 - MATERIALS

2.1 FLEXIBLE BASE/CALICHE SURFACE

- A. The flexible base or caliche surface course aggregate shall consist of sound, durable particles of crushed stone, crushed gravel, or caliche. It shall be the responsibility of the Contractor to

obtain materials that will meet the grade and smoothness requirements specified herein after all compaction and proof rolling operations have been completed. Coarse aggregate shall be angular particles of uniform density. The coarse aggregate shall have a percentage of wear not to exceed 45 when tested by ASTM Test Method C-131. The fine aggregate shall be angular particles produced by crushing stone that meets the requirements for wear and soundness specified for coarse aggregate. Caliche shall comply with the requirements of TxDOT as defined in, Section 1.3.A.3 of this specification. Caliche shall meet TxDOT Item 247.2 - Flexible Base, Type "C", Grade 4. The gradation of the flexible base shall be of the following:

1. Sieve Designation	Percentage by Weight Retained Square Mesh Sieve
1-3/4"	0
No. 4	40-75
No. 40	60-85

2. The portion of the aggregate passing the No. 40 sieve shall be either nonplastic or shall have a liquid limit not greater than 40 and a plasticity index not greater than 12.

2.2 ASPHALT STABILIZED BASE

- A. Asphalt Stabilized Base (ASB) shall consist of aggregate and asphalt cement mixed hot in a mixing plant in accordance with TxDOT requirements defined in Section 1.3.A.3 of this specification. ASB shall meet the TxDOT specification Item 340. Reclaimed asphalt pavement will not be allowed in the mix.

2.3 ASPHALT

- A. All paving work and materials shall conform generally to all requirements of this specification Section 1.3.A.3.

2.4 BITUMINOUS PRIME COAT

- A. The specifications for the bituminous materials are:
1. Cutback Asphalt MC-30.
 2. Blotter Material (Sand).

2.5 BITUMINOUS SURFACE (ASPHALT)

- A. The asphaltic materials shall be:
1. Asphalt cement, viscosity grade AC-10.
 2. Emulsified asphalt, grade RS-2h.
 3. Cationic asphalt emulsion, grade CRS-2h.

2.6 BITUMINOUS TACK COAT

- A. Tack coat shall be Grade MC-70, or SS-1 asphalt, emulsion asphalt. Emulsified asphalt shall comply with the requirements of this specification Section 1.3.A.3.

PART 3 - EXECUTION

3.1 GENERAL

- A. The Contractor shall verify that the subgrades have been shaped to true line and elevations and that all drainage facilities and underground utilities are complete.

3.2 SUBGRADE

- A. Paving shall be done in dry weather when subgrade is stable. Ground moisture shall not be sealed under paving.
- B. Scarify all cut areas and areas to receive fill material to a minimum depth of 6 inches, and disc or blade until material is free of large clods. The scarified soil will then be moisture conditioned to not less than 2 percent below optimum moisture content and then compacted and tested as specified in section 1.4. The pavement subgrade shall be reworked and recompacted immediately prior to placing the pavement system.
- C. All boulders, organic materials, soft clay, spongy or yielding material shall be removed and replaced with material which will provide the specified compaction. All submerged stumps, roots or other perishable matter encountered in preparation of the subgrade shall be removed to a depth of not less than two feet below subgrade.
- D. After the subgrade has been compacted to the specified density, the area shall be fine graded to a tolerance of 0.1 foot from the grades shown or indicated on the drawings.
- E. The Paving Contractor shall verify that the subgrades have been shaped to true line and elevations and that all drainage facilities and underground utilities are complete.

3.3 BASE COURSE/CALICHE SURFACE COURSE

- A. The base shall be constructed in accordance with all terms included in these Specifications.
- B. The mixed materials shall be placed on the subgrade or subbase in layers of uniform thickness. The spreader shall contain a hopper, an adjustable screen and be so designed that there will be uniform, steady flow of material from the hopper. The spreader shall be capable of laying material without segregation across the full width of the lane to a uniform thickness and to a uniform loose density. Each compacted layer of material shall be 6" or less in thickness. If the material thickness exceeds 6", it shall be placed so that when compacted they will be true to the grades required with the least possible disturbance. Where the base course is constructed in more than one layer, the previously constructed layers shall be cleaned of loose and foreign matter by sweeping with power sweepers, power brooms, or hand brooms, as directed. The water content of the material shall be maintained during the placing period at the optimum percentage (+ 2%) as determined by AASHTO T-180. Such adjustments in placing procedures or equipment shall be made as may be directed to obtain true grades, or minimize segregation and degradation, to reduce accelerate loss or gain of water, and to insure a satisfactory base course or caliche surface course.
- C. The surface of the base course shall be finished by blading or with automated equipment especially designed for this purpose and by rolling with a steel-wheeled roller. In no case shall thin layers of materials be added to the top layer of the base course or caliche surface course in order to meet the grade.

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- D. After construction is completed, maintain the base course or caliche surface course throughout, except where portion of the succeeding course is under construction thereon. Maintenance includes drainage, rolling, shaping, and watering, as necessary, to maintain the course in proper condition. Correct deficiencies in thickness, composition, construction, smoothness, and density, which develop during the maintenance, to conform to the requirements specified herein. Maintain sufficient moisture by light sprinkling with water at the surface to prevent a dusty condition.

3.4 BITUMINOUS PRIME COAT

- A. Apply primer to base course at a minimum rate of 0.25 gallons per square yard and not more than 0.35 gallons per square yard.
- B. Allow prime coat to cure 48 hours without being disturbed.

3.5 ASPHALT PAVEMENT

- A. Construct asphalt concrete surface course only when atmospheric temperature is above 40°F, and when base is dry.
 - 1. The required density shall be attained before the plant mix, after having been placed at 260° – 325° F, reaches a temperature of 150°F.
 - 2. Rolling shall start as soon as the hot-mix material can be compacted without displacement. Rolling shall continue until thoroughly compacted and all roller marks have disappeared to 97% of laboratory-compacted density. On areas too small for the roller, a vibrating plate compactor or hand tamper shall be used to achieve thorough compaction.
 - 3. Construct hot-plant mix bituminous concrete surface course over prepared base course in accordance with this specification Section 1.3.A.3.

3.6 CLEANING UP

- A. Remove all surplus materials, rubble, cartons, and other debris. Remove caliche materials from adjacent surfaces and leave job in neat, clean condition.

END OF SECTION

SECTION 03300

CAST-IN-PLACE CONCRETE

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

- A. Drawings, Construction Contract, and Division 1 - General Requirements apply to work of this section.

1.2 SECTION INCLUDES

- A. This section of the specifications covers all of the work required for constructing the sump access structure.
- B. Concrete for this project shall conform to the requirements of this section. The Contractor shall furnish all materials, equipment, tools, labor, superintendence, and incidentals necessary to perform the work in accordance with the drawings and these specifications.

1.3 REFERENCES

The latest editions of the following specifications and references govern work of this section and constitute minimum requirements. Where specific requirements in this section of the Specifications are more stringent, they shall supersede the corresponding requirements of these Referenced Specifications.

AMERICAN CONCRETE INSTITUTE (ACI)

ACI 301	Specifications for Structural Concrete Buildings
ACI 301	Manual of Standard Practice for Detailing Reinforced Concrete Structures
ACI 318	Building Code Requirements for Reinforced Concrete
ACI 347	Recommended Practice for Concrete Formwork
ACI 613	Recommended Practice for Concrete Formwork
ACI 614	Recommended, Practice for Measuring, Mixing, and Placing Concrete
ACI Comm.	Selection and Use of Aggregates for Concrete 621
SP-7 ACI	Manual of Concrete Inspection
ACI 305R	Hot Weather Concreting

AMERICAN SOCIETY FOR TESTING MATERIALS (ASTM)

ASTM A-82	Cold Drawn Steel Wire for Concrete Reinforcement
ASTM A-615	Deformed and Plain Billet-Steel Bars for Concrete Reinforcement
ASTM A-616	Rail-Steel Deformed and Plain Bars for Concrete Reinforcement
ASTM A-706	Low-Alloy Steel Deformed Bars for Concrete Reinforcement
ASTM C-31	Making & Curing Concrete Compression and Flexure Test Specimens in the Field.
ASTM C-33	Concrete Aggregates
ASTM C-39	Compressive Strength of Molded Concrete Cylinders
ASTM C-40	Organic Impurities In Fine Aggregates for Concrete

ASTM C-42	Standard Method of Obtaining and Testing Drilled Cores and Sawed Beams of Concrete.
ASTM C-94	Standard Method of Obtaining and Testing Drilled Cores and Sawed Beams of Concrete
ASTM C-136	Standard Method of Test for Sieve or Screen Analysis of Fine and Coarse Aggregate
ASTM C-138	Standard Method of Test for Weight per Cubic Foot, Yield and Air Content (Gravimetric) of Concrete
ASTM C-143	Standard Method of Test for Slump of Portland Cement Concrete
ASTM C-150	Standard Specification for Portland Cement
ASTM C-171	Sheet Material for Concrete Curing
ASTM C-172	Standard Method of Sampling Fresh Concrete
ASTM C-173	Air Content of Freshly Mixed Concrete by the Volumetric Method
ASTM C-192	Standard Method of Making and Curing Concrete Compression and Flexure Test Specimens in the Laboratory
ASTM C-231	Standard Method of Test for Air Content of Freshly Mixed Concrete by the Pressure Method
ASTM C-260	Air-Entraining Admixture for Concrete
ASTM C-309	Liquid Membrane-Forming Compounds for Curing Concrete
ASTM C-494	Chemical Admixtures for Concrete
ASTM C-618	Fly Ash and Raw or Calcined Natural Pozzolan for use as a Mineral Admixture in Portland Cement Concrete

PORTLAND CEMENT ASSOCIATION (PCA)

Design and Control for Concrete Mixtures

AMERICAN WELDING SOCIETY (AWS)

AWS D12.1 Recommended Practices for Welding Reinforcing Steel, Metal Inserts and Connections in Reinforced Concrete Construction

U.S. ARMY CORPS OF ENGINEERS

CRD C-572 Specification of Water Stops

TEXAS DEPARTMENT OF TRANSPORTATION

Standard Specifications for Construction of Highways, Streets and Bridges

LATEST EDITION OF EACH OF THE ABOVE GOVERNING STANDARDS SHALL APPLY

1.4 RELATED SECTIONS

- A. Excavation or filling for concrete structures and other miscellaneous concrete work shall conform to the lines and grades as shown on the plans or as established in the field and shall be as specified in Section 02200 – Excavating and Earthwork.

1.5 SUBMITTALS

- A. Product Data: For each type of manufactured material and product indicated.
 - 1. Fiber reinforcement.
 - 2. Admixtures
 - 3. Curing materials.
- B. Design Mixes: For each concrete mix. Include alternate mix designs when characteristics of materials, project conditions, weather, test results, or other circumstances warrant adjustments. Submitted compressive test results must be less than 6 months old.
 - 1. Indicate amounts of mix water to be withheld for later addition at Project site.

1.6 QUALITY ASSURANCE

- A. Installer Qualifications: An experienced installer who has completed concrete Work similar in material, design, and extent to that indicated for this Project and whose work has resulted in construction with a record of successful in-service performance.
- B. Manufacturer Qualifications: A firm experienced in manufacturing ready-mixed concrete products complying with ASTM C 94 requirements for production facilities and equipment.
 - 1. Manufacturer must be certified according to the National Ready Mixed Concrete Association's Certification of Ready Mixed Concrete Production Facilities.
- C. Testing Agency Qualifications: An independent testing agency, acceptable to authorities having jurisdiction, qualified according to ASTM C 1077 and ASTM E 329 to conduct the testing indicated, as documented according to ASTM E 548.
 - 1. Personnel conducting field tests shall be qualified as ACI Concrete Field Testing Technician, Grade 1, according to ACI CP-1 or an equivalent certification program.

PART 2 - PRODUCTS

2.1 CEMENT

- A. Portland cement shall conform to the latest revisions of A.S.T.M. Designation C-150, Type II, and shall be of an approved brand. Only one brand of cement will be permitted in any one structure. Plant tests and certificates of conformity with the specification shall be furnished with each carload of cement.

2.2 FINE AGGREGATE

- A. Fine aggregate shall consist of hard, strong, durable and uncoated particles of natural sand, washed and screened. The aggregate shall be free from injurious amounts of clay, soft or flaky materials, loam or organic impurities and the grading shall conform to the following:

Percentage Passing Square Openings

<u>No. 4</u>	<u>No. 16</u>	<u>No. 50</u>	<u>No. 100</u>	<u>No. 200</u>
95-100	45-70	15-30	3-8	0-3

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- B. Fineness modulus shall not vary more than plus or minus 0.20 from that of approved sample, which shall be between 2.20 and 2.90.

2.3 COARSE AGGREGATE

- A. Coarse aggregate shall consist of hard, tough, durable and uncoated particles of washed and screened gravel or crushed stone. It shall be free of vegetation, soft, friable, thin, or elongated particles.
- B. Maximum size of coarse aggregate shall be governed by the conditions of placement of the concrete and shall not be greater than 3/4 of the distance between reinforcing bars. In no case shall the maximum size be greater than 2 inches. All aggregates shall be approved before use.

2.4 WATER

- A. Water shall be clean, clear, free from oil, acid or organic matter and free from injurious amounts of alkali, salts, or other chemicals.

2.5 FORMS

- A. The forms shall be of wood or metal and shall be of sufficient strength to support the concrete without bulging between supports and sufficiently water tight to hold the concrete mortar. The forms shall be constructed such that the finished concrete shall be of the form and dimensions shown on the plans. All form work for exposed surfaces shall be of such material and so constructed as to produce a smooth, even surface when the concrete is placed. All forms shall be oiled before use. In general, wall forms may be removed after the concrete has been in place for 24 hours. All exposed edges shall have a 3/4-inch chamfer whether or not shown on the details. Immediately upon removal of the forms, any honeycombed sections shall be repaired as directed.

2.6 CONCRETE MIX

- A. Class "A" concrete shall contain not less than 5.5 sacks of cement per cubic yard. No more water shall be used than is required to produce a workable mix and in no case will the water content exceed 5.0 gallons per sack of cement. The proportioning of the constituents of the concrete shall be such as to produce a dense, and workable mixture, and the mix shall be approved before any concrete is placed.
- B. The minimum 28 day compressive strength for Class A concrete shall be 4000 psi.
- C. Pipe embedment concrete shall contain not less than 4 sacks of cement per cubic yard. No more water than 8 gallons of water per sack of cement shall be used. The proportioning of the constituents of the concrete shall be such as to produce a dense and workable mixture, and the mix shall be approved before any concrete is placed.
- D. Cement Stabilized Backfill for backfill stabilization shall contain a minimum 2 sacks of cement per cubic yard. No more water than 10 gallons per sack of cement shall be used.

2.7 EXPANSION JOINTS

- A. Where pre-molded expansion joint material is shown on the plans such material shall be ½ inch or 3/4 –inch Bituminous type preformed joint filler, AASHTO M-33 as shown on the drawings. Contractor shall submit on proposed expansion joint material and submit documentation that certifies it meets AASHTO M-33 requirements.

PART 3 - EXECUTION

3.1 MIXING

- A. All aggregates shall be accurately weighed or measured by volume. The concrete shall be mixed in an approved batch mixer equipped with an accurate water measuring tank, and shall be mixed for one and one half minutes after all materials are in the mixer. "Ready Mixed" or "Transit Mix" concrete may be used. If used, it shall conform to these specifications and the "Standard Specifications for Ready Mixed Concrete", A.S.T.M. Serial Designation C 94.
- B. Each mixer and agitator shall have attached thereto in a prominent place, a metal plate or plates on which are plainly marked, for the various uses for which the equipment is designed, the capacity of the drum or container in terms of the volume of mixed concrete and the speed of rotation of the mixing drum, blades or paddles. Stationary mixers shall be equipped with an acceptable timing device that will not permit the batch to be dispatched until the specified mixing time is elapsed. Truck mixers, shall be equipped with means by which the number of revolutions of the drum blades, or paddles may be readily verified.
- C. The mixer, when loaded to capacity, shall be capable of combining the ingredients of the concrete within the specified time into a thoroughly mixed and uniform mass and of discharging the concrete with a satisfactorily degree of uniformity. No mixer or agitator shall be used if the results of slump tests of individual samples taken at approximately the one quarter, and the three quarter points of the placement differ by more than 2-inches. Mixers and agitators shall be inspected frequently for changes in condition due to accumulations of hardened concrete or mortar, or to wear of blades.
- D. Truck mixers shall have adequate water supply and metering devices. No water can be added to the concrete after the initial mixing without the permission of the Engineer.
- E. After mixing, the concrete shall be transported to the forms in a manner which will prevent separation or segregation of the aggregates and shall be placed without undue delay. It shall be deposited as nearly as practicable in its final position in order to avoid rehandling or flowing of the concrete. As the concrete is placed, it shall be vibrated by means of a vibrator of the type which is submerged in the concrete.
- F. Mixing at mixing speed shall begin immediately after all ingredients are in the mixer. For complete mixing in the truck each batch shall be mixed not less than 70 or more revolutions of the drum. For partial mixing in the truck each batch shall be mixed not less than 50 nor more than 100 revolutions of the drum. Mixing speed shall be as designated by the manufacturer. All revolutions after the prescribed mixing time shall be at agitating speed. The agitating speed shall be not less than one nor more than four revolutions per minute. The drum shall be kept in continuous motion from the time mixing is started until the discharge is completed.

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- G. The maximum time interval between the introduction of the mixing water to the cement and aggregates, and the placing of the concrete in the forms shall not exceed the following:

AIR OR CONCRETE TEMPERATURE (Whichever is Higher)	MAXIMUM TIME
90 degrees F. or above (Air Only)	45 minutes
75 degrees F. to 89 degrees F.	60 minutes
35 degrees F. to 74 degrees F.	90 minutes

- H. Concrete shall not be placed when the ambient temperature is less than 40 degrees Fahrenheit and falling, but may be placed if the temperature is 40 degrees Fahrenheit and rising. Concrete shall not be placed when the temperature will drop below 35 degree Fahrenheit within 24 hours after placement as projected by the National Weather Service unless properly protected. The temperature of the concrete at the time of placement in the forms shall not be less than 50 degrees Fahrenheit nor more than 90 degrees Fahrenheit. When placing concrete in freezing weather, means shall be provided for keeping the concrete at a temperature of at least 50°F for not less than 72 hours after placing or until the concrete has thoroughly hardened. Concrete shall not be placed when weather conditions are unsuitable for such work.

3.2 TRANSPORTING

- A. Concrete shall be handled from the mixer to the place of final deposit in a manner that will prevent segregation and when practicable, shall be deposited in its final position without re-handling or flowing. All equipment used in transporting concrete shall be maintained in a clean condition. Concrete shall not be delivered from hoists, by spout, by trough, or dumped into carts with a free fall of more than 4 feet. Every precaution shall be taken to prevent separation or loss of ingredients while transporting the concrete. Runways for carts or buggies shall not bear upon the reinforcing or fresh concrete. Pumping and conveying of concrete shall be done only after approval by the Engineer and with equipment that will insure a continuous flow without segregation.

3.3 PLACING

- A. Concrete shall not be placed until all reinforcement is securely and properly fastened in its correct position. Form ties shall be checked and re-tightened where necessary. Forms and reinforcement shall be inspected and approved by the Engineer prior before beginning placement of concrete. All embedded items shall be in place and clean-out openings closed before such inspection. A procedure for inspection of forms reinforcing, inserts, etc., prior to all concrete placement will be instituted and coordinated by the Engineer. At least 24 hours prior to concrete placement the Contractor shall submit an inspection sheet to the Engineer. The inspection sheet, to be developed shall show the location and quantity of concrete to be placed, the time and date schedule for placement and shall be signed by the Contractor's representative. Signing of this sheet will certify that all of the items necessary have been inspected, and that the area is ready for final review by the Engineer. If the Engineer determines that the corrections are excessive, the placement should be rescheduled and the Engineer notified 12 hours before scheduled placement after the corrections are made. A representative of the Engineer will be on the job during the

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- placement of concrete and concrete shall not be placed unless the Engineer or his representative is present.
- B. Concrete shall be placed in a manner that will prevent segregation, thoroughly embed all reinforcement and fixtures, fill all angles in the forms and prevent formation of aggregate pockets or honeycomb. Placement in walls columns or other deep forms shall be done through openings in the forms, spaced at frequent intervals, or through tremies so that the free fall shall not exceed 4 feet. Points of depositing the concrete shall be spaced so that the concrete surfaces can be kept level without using vibrators or other equipment to cause it to flow into place.
 - C. Concrete shall be placed with the aid of approved mechanical vibrating equipment. Vibration shall be applied to the concrete and shall be of sufficient intensity and duration to cause flow or settlement of the concrete, thoroughly compacting, and complete embedment of reinforcement and fixtures. Supplemental forking and spading by hand may be required to secure dense uniform surfaces and complete filling of corners and angles.
 - D. Excessive spading or vibrating causing undue water gain or segregation will not be permitted. If moderate working causes excessive water gain the mix shall be adjusted. Excess water shall be removed when it appears. When concrete in floors or slabs are deposited on the ground, the subgrade shall be thoroughly compacted and moistened before placement. A grill tamp shall be used on floor slabs. Completed sections shall conform to the details on the contract drawings and the concrete shall be dense, uniform and free of aggregate pockets or honeycomb.
 - E. Concrete in vertical walls shall be placed in continuous horizontal layers approximately 18 inches in depth. Not more than one hour shall elapse between the placing of successive layers of concrete in any portion of a structure included in a continuous placement.
 - F. The contractor shall adhere to the requirements ACI 306 and ACI 605 for cold and hot weather concreting respectively.
 - G. Concrete shall generally not be placed during high winds with blowing dust that will contaminate the surface and cause entrapment of sand and dust particles in the finished surfaces.

3.4 SLUMP

- A. The slump of all concrete shall be between 3 and 6 inches with the condition of placement governing the slump to be used. In all cases the Engineer shall specify the slump to be used prior to placement. When a 3 inch slump is specified, the allowable tolerance shall be 1/2 inch. When the specified tolerance is greater than 3 inches the tolerance shall be 1 inch. In general flat work will require a slump of approximately 3" and concrete for vertical members, i.e. walls columns, etc. shall be 5 inches. Slump for concrete to be added to CMU units shall be 6 inches.

3.5 WEATHER

- A. Mixed concrete from plant shall be transported in truck mixers. The elapsed time from the addition of cementitious material to the mix until the concrete is deposited in place at the work site shall not exceed 90 minutes when the concrete is hauled in truck mixers. Retempering concrete by adding water or by other means will not be permitted. With transit mixers additional water may be added to the batch materials and additional mixing performed to increase the slump to meet the specified requirements provided the addition of water is performed within 45 minutes after the initial mixing operations and provided

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- the water/cementitious ratio specified in the approved mix design is not exceeded and approved by the Engineer
- B. No concrete shall be mixed, placed or finished when the natural light is insufficient, unless an adequate and approved artificial lighting system is operated.
- C. Cold Weather
1. Unless authorized in writing by the Engineer; mixing and concreting operations shall be discontinued when a descending air temperature in the shade and away from artificial heat reaches 40 degrees Fahrenheit and shall not be resumed until an ascending air temperature in the shade and away from artificial heat reaches 35 degrees Fahrenheit.
 2. The aggregate shall be free of ice, snow and frozen lumps before entering the mixer. The temperature of the mixed concrete shall not be less than 50 degrees Fahrenheit at the time of placement. Concrete shall not be placed on frozen material nor shall frozen aggregates be used in the concrete.
 3. When concreting is authorized during cold weather, water and/or the aggregates may be heated to not more than 150 degrees Fahrenheit. The apparatus used shall heat the mass uniformly and shall be arranged to preclude the possible occurrence of overheated areas which might be detrimental to the materials.
- D. Hot Weather: During periods when the maximum daily air temperature exceeds 90 degrees Fahrenheit, the Contractor shall perform all concrete placement during the night time hours unless temperature controls are implemented and approved by the Engineer. During the periods of hot weather when the maximum daily air temperature exceeds 85 degrees Fahrenheit the following precautions shall be taken.
1. The forms and/or the underlying surface shall be sprinkled with water immediately before placing the concrete. The concrete shall be placed at the coolest temperature practicable and in no case shall the temperature of the concrete when placed exceed 90 degrees Fahrenheit. The aggregates and/or mixing water shall be cooled as necessary to maintain the concrete temperature at or not more than the specified maximum. If concrete temperature exceeds 95 degrees Fahrenheit as measured in accordance with ASTM C 1064, it shall be rejected.
 2. The finished surfaces of the newly laid concrete surface shall be kept damp by applying a water-fog or mist with approved spraying equipment until the concrete surface is covered by the curing medium. If necessary wind screens shall be provided to protect the concrete from an evaporation rate in excess of 0.2 pounds per square feet per hour as determined in accordance with Figure 2.1.5 in ACI 305R, Hot Weather Concreting, which takes into consideration relative humidity, wind velocity, and air temperature. When conditions are such that problems with plastic cracking can be expected and particularly if any plastic cracking begins to occur, the Contractor shall immediately take such additional measures as necessary to protect the concrete surface. Such measures shall consist of wind screens, more effective fog sprays and similar measures commencing immediately behind the concrete placement. If these measures are not effective in preventing plastic cracking concreting operations shall be immediately stopped.

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3. The Contractor shall submit a Hot Weather Concrete Construction Plan and have it reviewed by the Engineer 30 calendar days prior to concrete placements when the ambient temperature exceeds 85 degrees Fahrenheit. This plan shall conform to ACI 305R and other requirements specified herein and shall include, but not be limited to the demonstration of how the concrete temperature during batching and mixing will be kept below 90 degrees Fahrenheit, how the concrete will be protected from the rapid evaporation of surface moisture, the proper use of water reducers with re-dosing charts and procedures, and curing procedures.
 4. Concrete placement shall be limited to night time hours when the average daily air temperature is or is forecasted to exceed 90 degrees Fahrenheit.
- E. Protection of Concrete from Plastic Cracking
1. The finished surfaces of the newly laid concrete shall be kept damp by applying a water-fog or mist with approved spraying equipment until the concrete is finished and is covered by the curing medium. When the evaporation rate is less than 0.2 pounds per square foot per hour, one (1) coat of liquid concrete curing compound shall be applied at a minimum rate of one hundred (150) square feet per gallon. When the evaporation rate is from 0.2 to 0.4 pounds per square foot per hour, one (1) coat of liquid concrete curing compound shall be applied, at a minimum rate of one hundred (100) pounds per square feet per gallon. When the evaporation rate is greater than 0.4 but less than 0.6 pounds per square foot per hour, two (2) coats of liquid concrete curing compound shall be applied each coat at one hundred (100) square feet per gallon. When the evaporation rate is 0.6 pounds per square foot per hour, concreting operations shall be terminated or not be initiated. The evaporation rates shall be determined in accordance with Figure 305R which takes into consideration relative humidity, wind velocity and air temperature.
 2. The forms and/or the underlying surface shall be sprinkled with water immediately before placing the concrete. The concrete shall be placed at the coolest temperature practicable and in no case shall the-temperature of the concrete when placed exceed ninety (90) degrees Fahrenheit. The aggregates and/or mixing water shall be cooled as necessary to maintain the concrete temperature at or not more than the specified maximum. Chilled water shall be used to ensure the concrete temperature is below ninety (90) degrees Fahrenheit.
 3. When conditions are such that problems with plastic cracking can be expected and particularly if any plastic cracking begins to occur, the Contractor shall immediately take such additional measures as necessary to protect the concrete surface. Such measures shall consist of the requirements as shown in Table 3. If these measures are not effective in preventing plastic cracking, concreting operations shall be immediately stopped, and all Portland cement concrete that is cracked, shall be removed and replaced by the Contractor at no additional cost to the Owner.

3.6 FINISHING

- A. Exposed Vertical Surfaces: Such surfaces shall have all tie rod holes filled, fins and rough edges removed and all defects removed or patched. Following this the surfaces shall be rubbed with carborundum stones and clean, clear water until a smooth surface, uniform in color and texture has been obtained. This finishing shall be done as soon as is practical after removal of forms.
- B. Unexposed Vertical SURFACES: Such surfaces shall be finished as specified for exposed vertical surfaces except that no rubbing will be required.

3.7 EMBEDDED ITEMS

- A. All bolts, pipe, pipe sleeves, inserts or other fixtures required by the plans or these specifications to be embedded in the concrete, shall be set accurately in place and maintained in such positions during concreting operations.

3.8 TESTS

- A. Test certificates for cement shall be furnished as specified in Item 4.1 above. The Contractor shall furnish results of tests made by a competent commercial laboratory on each material source he proposed to use before start of construction and material shall not be shipped until such results have been examined by the Engineer and the source of material approved. Laboratory mix designs and conformation cylinders will not be required for this project. However, the proposed mix for each class of concrete shall be submitted to the Engineer for approval prior to placing any concrete. The cost of all pre-construction tests shall be borne by the Contractor. Additional test certificates shall be furnished on the aggregate if the material source is changed.
- B. Seven day and twenty-eight day compressive tests shall be conducted on all cylinders. A set of 4 cylinders shall be taken for each placement of fifty cubic yards, or portion thereof.

3.9 REINFORCING

- A. Bar Reinforcing: Except where plain bars are specifically shown on the plans, all bar reinforcing shall be deformed bars. The deformed bar reinforcing shall conform to the requirements of ASTM A-615 Grade 60. Plain steel bars including 1/4 inch diameter bars shall conform to the requirements of ASTM A-307, grade 60. Weldable reinforcing bars shall conform to ASTM-A-706.
- B. Welded Wire Fabric: Welded wire fabric shall be as designated on the drawings and shall conform to the requirements of the Texas State Department of Transportation "Standard Specifications for Construction of Highways, Streets and Bridges" Item 440.2 Materials.
- C. Storing Reinforcing: Reinforcing stored at the site shall be protected from accumulation of grease, mud, or other foreign matter and from rust producing conditions. Bars shall be free from loose flaky rust, scale, oil, mud or structural defects when incorporated in the structures.
- D. Fabrication and Placing: Reinforcement shall be accurately fabricated to the dimensions and shapes shown on the plans in accordance with the ACI Manual of Standard Practice unless variations are specifically shown on the plans.
- E. Reinforcement shall be accurately placed and adequately supported by concrete, metal or other approved chairs, spacers, or ties and shall be secured against displacement. Reinforcement shall be placed in specified positions within the following tolerances:
- F. Depth in structural slabs, flexural members, walls and columns: $\pm 1/4$ inch.
- G. Longitudinal location of bends and ends of bars: ± 2 inches except that the required concrete cover at ends of members shall not be reduced.
- H. Unless noted otherwise on the Contract Drawings, the concrete cover for reinforcing shall be in accordance with the requirements of the ACI Building Code Requirements for Reinforced Concrete (ACI 318).
- I. Splices shall be made as shown on the Contract Drawings by lapping the bars the required amount and securely wiring them together. Where details of splices are not shown or where unanticipated splices are required, they shall be made in a location approved by the

-
- Engineer and the length of lap shall be as required by the ACI Building Code Requirements for Reinforced Concrete (ACI 318).
- J. Reinforcing bars partially embedded in concrete shall not be field bent, except as indicated on the Contract Documents or permitted by the Engineer.
 - K. Torch cutting of reinforcing bars will not be allowed.
 - L. Mats of wire fabric shall overlap each other sufficiently to maintain a uniform strength and shall be fastened securely at the ends and edges.

3.10 JOINTS

- A. Construction and expansion joints shall be constructed at the locations and in accordance with the details shown on the drawings. If it becomes necessary to stop placement of concrete between joints, or if the Contractor desires for his own convenience to construct joints other than those shown, such joints shall be made only at locations approved by the Engineer and all such joints shall be constructed in accordance with the plans and specifications.
- B. All horizontal joints shown on the plans shall be made truly horizontal and chamfered. Vertical joints shall be truly vertical.
- C. Before concreting operations are resumed at any construction joint, or wherever fresh concrete is to be bonded to hardened concrete, the surface of the hardened concrete shall be cut or chipped to remove laitance and expose aggregate. The surface of the concrete shall be thoroughly cleaned, saturated, then sloshed with a coating of neat cement grout against which the fresh concrete shall be placed before the grout has attained initial set. Care shall be taken to insure that the first layer of new concrete contains sufficient mortar for adequate bond.
- D. All joints shall be constructed in a workman like manner with joints truly vertical or horizontal, as required, and at right angles to the axis of the member in which the joint occurs. Expansion joint material shall be accurately positioned and nailed onto existing concrete to the lines and dimensions shown on the drawings so that the expansion joint material is accurately held in place during placement of new concrete.

3.11 CURING AND PROTECTING

- A. All concrete shall be cured by applying a liquid membrane coating to all exposed surfaces, provided the materials and method of application are first approved by the Engineer. The coating shall conform to A.S.T.M. Designation C-309. Care shall be taken to prevent mechanical injury to concrete work during the curing period and until the work is accepted. Any work damaged prior to acceptance shall be repaired to the satisfaction of the Engineer.
- B. All concrete work shall be protected until such time as it has set up sufficiently to prevent damage by vandals.
- C. Suitable means shall be provided to prevent concrete from freezing for not less than 72 hours after placing. Any concrete damaged by freezing shall be removed and replaced by the Contractor at his expense. The addition of any admixture of chemicals to the concrete to prevent freezing shall not be allowed, unless specifically approved by the Engineer.

3.12 DEFECTIVE WORK

- A. Any defective work disclosed after the forms have been removed shall be immediately removed and replaced. If any dimensions are deficient, or if any section is not constructed to the proper grade, or if the surface of the concrete is bulged, uneven, or shows honeycomb, which in the opinion of the Engineer cannot be repaired satisfactorily, the entire section shall be removed and replaced at the expense of the Contractor.

3.13 FORMWORK REMOVAL

- A. Forms may be removed only upon approval by the ENGINEER. In general, removal of wall forms within 24-hours. Adequate re-shoring shall be placed when forms are removed and backfilling is begun, and shall remain in place until the design 28 day compressive strength is attained. The attained strength shall be determined from standard test cylinders molded, cured and broken in accordance with ASTM C31. The strength of the concrete shall be assumed to be the average strength of the two cylinders tested. If the Contractor wishes to determine the strength of the concrete prior to the 28 day tests, the Contractor shall bear the cost as well as the responsibility of obtaining additional cylinders as well as the tests.
- B. It shall be the responsibility of the Contractor, in all form removal, to prevent damage or marring of the concrete surfaces.

3.14 BACKFILLING

- A. Backfill behind and adjacent to all concrete work shall be made from good quality topsoil. This material shall be free from organic material such as leaves, grass, roots and other unsuitable materials and free of rocks or stones. The Contractor shall provide a smooth, even slope between the existing ground and the top of curb or other concrete structure.
- B. Care shall be taken during the backfill and cleanup process not to scrape, chip, crack or otherwise damage the concrete including tire marks from equipment or trucks. Any damaged concrete will be removed and replaced at the expense of the Contractor.

END OF SECTION

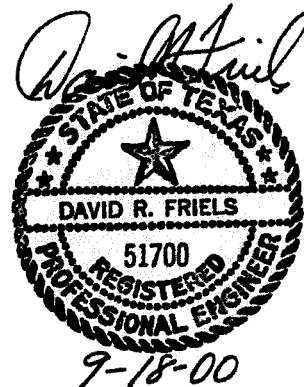
APPENDIX A

SOIL AND LINER QUALITY CONTROL PLAN (SLQCP)

**CITY OF MIDLAND LANDFILL
MIDLAND COUNTY, TEXAS
TNRCC PERMIT NO. 1605-B**

**SITE DEVELOPMENT PLAN PART III
ATTACHMENT 10
SOILS AND LINER QUALITY CONTROL PLAN**

Prepared for
City of Midland
September 2000



Prepared by
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Project 794606

CONTENTS

1	INTRODUCTION	1-1
1.1	Purpose	1-1
1.2	Definitions	1-1
2	CONSTRUCTION QUALITY ASSURANCE FOR SUBGRADE AND GENERAL FILL	2-1
2.1	Subgrade	2-1
2.2	General Fill	2-2
2.3	Surveying	2-2
3	CONSTRUCTION QUALITY ASSURANCE FOR SOIL LINER	3-1
4	GEOSYNTHETIC CLAY LINER	4-1
4.1	Delivery	4-1
4.2	Conformance Testing	4-1
4.3	Installation	4-1
4.3.1	Subgrade Preparation	4-2
4.3.2	Deployment	4-2
4.3.3	Protection	4-3
4.4	Repairs	4-3
4.5	Documentation	4-4
5	CONSTRUCTION QUALITY ASSURANCE FOR GEOMEMBRANE LINERS	5-1
6	CONSTRUCTION QUALITY ASSURANCE FOR GEOCOMPOSITE	6-1
6.1	Delivery	6-1
6.2	Quality Control Testing	6-1
6.3	Installation	6-1
6.3.1	Surface Preparation	6-1
6.3.2	Deployment	6-2
6.4	Repairs	6-2

CONTENTS (Continued)

7	CONSTRUCTION QUALITY ASSURANCE FOR PIPING	7-1
7.1	Delivery	7-1
7.2	Quality Control Testing	7-1
7.3	Installation	7-2
7.3.1	Surface Preparation	7-2
7.3.2	Deployment	7-2
8	CONSTRUCTION QUALITY ASSURANCE FOR DRAINAGE AGGREGATE	8-1
8.1	Materials	8-1
8.2	Testing	8-2
9	CONSTRUCTION QUALITY ASSURANCE FOR GEOTEXTILES	9-1
9.1	Delivery	9-1
9.2	Quality Control Testing	9-1
9.3	Installation	9-1
9.3.1	Surface Preparation	9-1
9.3.2	Deployment	9-2
9.4	Repairs	9-2
10	CONSTRUCTION QUALITY ASSURANCE FOR PROTECTIVE COVER	10-1
10.1	Materials	10-1
10.2	Quality Assurance Testing	10-1
10.3	Installation	10-1
11	LINERS CONSTRUCTED BELOW GROUNDWATER	11-1
11.1	Applicability	11-1
11.2	Seasonal High Water Elevations	11-1
11.3	Excavation Below the Groundwater Level	11-1
11.4	Control of Seepage During Construction	11-2
11.5	Required Ballast Thickness	11-2
12	REPORTS ACCEPTABILITY DETERMINATION	12-1

CONTENTS (Continued)

APPENDIX A

Liner Construction and Testing Handbook

APPENDIX B

Seasonal High Groundwater Elevations

APPENDIX C

Interface Shear Test Results

APPENDIX D

Liner / LCS Detail Drawing

TABLES

4-1 Standard Tests on GCL Material

5-1 Required Contractor's Quality Control Testing for Geomembranes

1 INTRODUCTION

1.1 Purpose

This Soils and Liner Quality Control Plan (SLQCP) has been prepared to provide the Owner, Design Engineer, Construction Quality Assurance Professional of Record, the Contractor, and the Geosynthetics Contractor the means to govern the construction quality and to satisfy the environmental protection requirements. This document conforms to the current Texas Natural Resource Conservation Commission (TNRCC) Municipal Solid Waste Rules (MSWR) and the current TNRCC Liner Construction and Testing Handbook.

The City of Midland incorporates by reference the current version of the "Liner Construction and Testing Handbook" (LCTH) published in accordance with §330.6 Municipal Solid Waste Regulations (30 Texas Administrative Code, Chapter 330) as a part of the permit Soils and Liner Quality Control Plan (SLQCP) for the Midland Landfill. The LCTH specifically addresses soil liners and flexible membrane liners and does not cover leachate collection systems. Therefore, additional sections have been included to supplement the LCTH. A copy of the latest revision, dated July 1, 1994, of the LCTH is included as Appendix A.

1.2 Definitions

Whenever the terms listed below or in the TNRCC Liner Construction and Testing Handbook are used, the intent and meaning shall be interpreted as indicated.

Construction Quality Assurance Professional of Record (POR)

The POR is an authorized representative of the owner and has overall responsibility for construction quality assurance and confirmation that the facility was constructed in general accordance with plans and specifications approved by the permitting agency. The POR will be registered as a Professional Engineer in Texas or an engineering geologist certified by the American Institute of Professional Geologists (AIPG) with a registered specialty in Engineering Geology. Experience and education should include geotechnical engineering, engineering geology, soil mechanics, geotechnical laboratory testing, construction quality assurance, quality control testing, and hydrogeology. The POR will show competency and experience in certifying like installations, be approved by the permitting agency, and be presently employed by or practicing as a geotechnical engineer

or as an engineering geologist in a recognized geotechnical/environmental engineering organization. The credentials of the POR will meet or exceed the minimum requirements of the permitting agency.

The POR may also be known as or referred to as the Construction Quality Assurance (CQA) Engineer, Resident Project Representative, the Geotechnical Quality Control/Quality Assurance Professional (GQCP), or the Geotechnical Professional (GP).

Any references to monitoring, testing, or observations to be performed by the POR should be interpreted to mean the POR or CQA monitors working under the POR's direction.

Conformance Tests

These are tests of materials which are conducted prior to installation on the project. Conformance test samples are samples either submitted or obtained specifically for conformance testing.

Construction Tests

These are tests of materials or constructed products that occur during construction.

Construction Quality Assurance Monitors

These are representatives of the POR who work under direct supervision of the POR. The CQA monitor is responsible for quality assurance monitoring and performing on-site tests and observations. The CQA monitor is on site full time during construction and reports directly to the POR. Any references to monitoring, testing, or observations to be performed by the POR should be interpreted to mean the POR or CQA monitors working under the POR's direction. The CQA monitor performing daily QA/QC observation and testing shall be NICET - certified in geotechnical engineering technology at level 2 or higher for soils and geomembrane testing; or have a minimum of four years of directly related experience; or be a graduate engineer or geologist with one year of directly related experience.

Contract Documents

These are the official set of documents issued by the owner. The documents include bidding requirements, contract forms, contract conditions, specifications, contract drawings, addenda, and contract modifications.

Contract Specifications (Specifications)

These are the qualitative requirements for products, materials, and workmanship upon which the contract is based.

Contractor

This is the person or persons, firm, partnership, corporation, or any combination, private or public, who, as an independent contractor, has entered into a contract with the owner, and who is referred to throughout the contract documents by singular number and masculine gender.

Design Engineer

These individuals or firms are responsible for the design and preparation of the project construction drawings and specifications. Also referred to as "designer" or "engineer."

Geomembrane

See Flexible Membrane Liner (FML) in the TNRCC Liner Construction and Testing Handbook. Geomembrane liner (GL) and FML are used interchangeably.

Geosynthetics Contractor

This individual is also referred to as the "contractor," and is the person or firm responsible for geosynthetic installation. This definition applies to any person installing geosynthetic clay, geomembrane, geocomposite, or geotextile, even if not his primary function.

Seasonal High Water Table

The highest measured or calculated water level in an aquifer during investigations for a permit application and/or any groundwater characterization studies at a site. The seasonal high water table is determined from a compilation of the highest measured water level from each applicable monitor well and piezometer screened in the aquifer.

Nonconformance

This is a deficiency in characteristic, documentation, or procedure that renders the quality of an item or activity unacceptable or indeterminate. Examples of non-conformance include, but are not limited to, physical defects, test failures, and inadequate documentation.

Operator

The organization that will operate the disposal unit (i.e., City of Midland).

Operator's Representative

This is the person that is an official representative of the operator responsible for planning, organizing, and controlling the design and construction activities.

Panel

This is a unit area of the geomembrane (FML) that will be seamed in the field.

Quality Assurance

This is a planned and systematic pattern of procedures and documentation to ensure that items of work or services meet the requirements of the contract documents. Quality assurance includes documentation of quality control. Quality assurance activities will be performed by the POR, the CQA monitor, and independent laboratories.

Quality Control

These actions provide a means to measure and regulate the characteristics of an item or service to comply with the requirements of the contract documents. Quality control will be performed by the contractor or his suppliers.

2 CONSTRUCTION QUALITY ASSURANCE FOR SUBGRADE AND GENERAL FILL

2.1 Subgrade

Subgrade refers to a surface that is exposed after stripping topsoil, filling low areas, or excavating to establish the grade directly beneath the liner system.

Prior to beginning liner construction, the subgrade area will be stripped to a depth sufficient to remove all loose surface soils or soft zones within the exposed excavation. The liner subgrade area will be proof-rolled with heavy rubber tired construction equipment or a heavy compactor to detect soft zones or areas subject to pumping. Areas of soft soils will be recompacted and areas subject to pumping will be undercut to firm material and backfilled with suitable compacted earth fill.

Because the subgrade consists of in situ dense sand or caliche and unacceptable areas are expected to be infrequent and relatively small, visual examination of the subgrade preparation and documentation by the POR (or CQA monitor) will generally be sufficient to evaluate its suitability as a foundation for the soil or geosynthetic clay (GCL) liner. Typical criteria that may be used for this evaluation include:

- No rutting or pumping under construction traffic or during proofrolling
- No seepage over a period of time of at least one week
- No softening of the excavation surface
- No softness or sheen within secondary features
- No water accumulation in shallow test probes

Physical testing may also be used to evaluate the prepared subgrade or fill placed in large areas if considered desirable by the CQA monitor.

The CQA monitor will approve the prepared subgrade prior to the placement of soil or GCL liner or structural fill. Approval will be based on proof rolling observations, a review of test information, if applicable, and monitoring of the subgrade preparation.

2.2 General Fill

General fill material will be used in the establishment of proper subgrade elevations and in the construction of perimeter embankments. General fill will be placed in uniform lifts which do not exceed 8 inches in loose thickness and are compacted to at least 90 percent of standard Proctor (ASTM D 698) at a moisture content ranging from two percentage points below optimum to three percentage points above optimum (-2 to +3).

2.3 Surveying

Surveys will be conducted to verify the lines and grade of the liner system. A survey grid will be established with a minimum of one point per 5,000 square feet of surface area for thickness verification of the various liner components. The allowable vertical tolerance for the finished subgrade is + or - 0.2 feet or as approved by the engineer.

The survey will be used to establish as-built information and verify that the:

- Subgrade (bottom of liner system) complies with design grades and does not extend below the approved permit grades (within accepted construction tolerances)
- Individual components meet the minimum thickness requirements at each of the grid points
- Top of liner, protective cover, and leachate collection system (LCS) trenches comply with the design grades
- Coordinates of the constructed cell

3 CONSTRUCTION QUALITY ASSURANCE FOR SOIL LINER

City of Midland has adopted the current version of the "Liner Construction and Testing Handbook" (LCTH), published by the TNRCC, as a part of the SLQCP. Soil liner construction quality assurance is addressed in the LCTH. A copy of the latest version of the LCTH is included as Appendix A.

4 GEOSYNTHETIC CLAY LINER

4.1 Delivery

The Geosynthetic Clay Liner (GCL) shall be shipped in rolls which are wrapped individually in relatively impermeable and opaque protective covers. The rolls may be stacked only as allowed by manufacturer's recommendations. The GCL rolls must be stored above ground and protected from moisture.

4.2 Conformance Testing

The GCL shall consist of sodium bentonite contained between geotextiles or adhered to a geomembrane. A certificate of analysis for each clay lot shall be submitted as part of the quality control documentation. The finished GCL must have a permeability no greater than 5×10^{-9} cm/sec (test method ASTM D5084 or GR1 GCL-2), have a free swell (test method ASTM D5890) of at least 24 ml/2g, and a fluid loss (test method ASTM D5891) no greater than 18 ml. The manufacturer shall provide recommended seaming procedures and supporting test documentation showing the GCL seams are no more permeable than the GCL itself at a confining pressure anticipated in the field.

GCL testing shall be performed by the manufacturer and the third-party independent laboratories. The POR will review the manufacturer's certification (quality control certificate) and verify that the GCL meets the values given in the plans or specifications for those tests listed in Table 4-1.

4.3 Installation

All installation of GCL shall be monitored continuously during construction by the POR or CQA Monitor. All references to the POR in this section shall mean the POR and/or the CQA Monitor under his direct supervision. The installer shall provide a panel layout plan which will be reviewed by the POR prior to any material deployment.

4.3.1 Subgrade Preparation

The subgrade surface shall be relatively smooth and free of foreign and organic material, sharp objects, exposed soil or aggregate particles greater than 1 inch, or other deleterious materials. GCL will not be placed over a wet subgrade or ponded water.

Prior to GCL installation, the POR will verify the following:

- The finish grades have been verified by the surveyor.
- The subgrade has been sprayed with water (if dry) and proof-rolled with a minimum of two passes of heavy, rubber tired construction equipment or a heavy compactor.
- The subgrade surface has been rolled with a smooth drum roller to provide a uniform surface that does not contain materials which could damage the GCL or adjacent layer.

4.3.2 Deployment

Equipment used to deploy GCL over soil shall not cause excessive rutting of the subgrade. GCL placed over geosynthetics shall be placed by hand or using light equipment with low contact pressure rubber tires. Deployed GCL panels should contain no folds or excessive slack. Generators, gasoline or solvent cans, tools, or supplies shall not be placed directly on GCL. Installation personnel shall not smoke or wear damaging shoes when working on GCL.

GCL on sidewalls shall not be unrolled perpendicular to the slope. GCL should be anchored at the top of the slope and then unrolled downslope to prevent wrinkles and folds. Horizontal seams shall not be allowed on slopes except where the roll length is less than the slope length as specified herein.

The POR shall observe the GCL as it is deployed for thin spots, or other panel defects. The POR shall record all defects and the disposition of the defects (panel rejected, patch installed, etc.). All repairs are to be made in accordance with the specifications at the discretion of the POR. The POR shall verify that only panels which can be covered in one day are deployed and that the GCL panels are not placed during wet, rainy weather. In accordance with the construction specifications, the POR shall also verify the following:

- Proper GCL deployment techniques.
- Proper overlap.

- Seams are constructed per manufacturer's recommendations.
- Defects are patched and overlapped properly.
- On sidewalls, the GCL is anchored at the top and then unrolled.

On occasion where the manufactured roll length is less than the slope length (i.e., length from anchor trench to 5 feet past the toe) it will be necessary to have end laps. Horizontal seams may be used only on the sidewalls where a full roll length is too short to extend from the anchor trench to 5 feet past the toe of the slope. Horizontal seams are to be constructed as follows:

- Horizontal seams will be located in the lower half of the slope
- There will be a minimum overlap of 3 feet, shingled in the down slope direction
- Seams will be staggered; i.e., the horizontal seams will be at least 20 feet apart for any two adjacent panels

The POR shall observe the GCL for premature hydration. All GCL that has prematurely hydrated shall be removed and replaced with new GCL. These observations will be documented in the Geosynthetic Clay Liner Evaluation Report (GCLER) or Geomembrane Liner Evaluation Report (GLER). Premature hydration occurs when the GCL is saturated prior to placement of the cover or drainage aggregate. A typical guide for premature hydration would be material that is displaced under normal foot traffic.

4.3.3 Protection

Construction equipment on the GCL (or composite liner system) shall be minimized to reduce the potential for damage or puncture. The POR shall verify that small equipment such as generators are placed on scrap geomembrane material (rub sheets). The POR shall verify that the GCL is not displaced while overlying materials are being placed.

4.4 Repairs

Repairs shall be constructed in accordance with the manufacturer's recommendations. Repairs shall extend at least 12 inches beyond the extent of damage.

4.5 Documentation

GCL installation will be documented in a GCLER. The GCLER may be submitted as a separate document upon completion of the installation of geosynthetics, or combined with the GLER and submitted upon completion of protective cover installation.

Table 4-1

Standard Tests on GCL Material

Tester	Test	Type of Test	Standard Test Method	Frequency of Testing
Supplier or GCL Manufacturer	Bentonite	Free Swell	ASTM D5890	per 50 tons and every truck or railcar
		Fluid Loss	ASTM D5891	per 50 tons and every truck or railcar
	GCL Product	Clay Mass/Unit Area @ 0% moisture	ASTM D5993	per 40,000 ft ²
		Grab Tensile Strength	ASTM D4632	per 200,000 ft ²
		Bentonite Moisture Content	ASTM D 2216 or D 4643	per 40,000 ft ²
		Permeability (1)	GRI GCL-2 or ASTM D5084	Per week for each production line
	Geomembrane	Mass per Unit Area	ASTM D 1505 or ASTM D 5261	per 100,000 ft ²
		Thickness	ASTM D 5199 or ASTM D 5994	per 200,000 ft ²
		Tensile Properties	ASTM D 638	per 200,000 ft ²
Independent Laboratory	GCL Product	Clay Mass/Unit Area @ 0% moisture	ASTM D5993	per 100,000 ft ²
		Permeability (1)	GRI GCL-2 or ASTM D5084	per 100,000 ft ²
		Interface Shear (2)	ASTM D 5321	per GCL/adjoining material type and GCL Internal Shear ⁽¹⁾

(1) Not required for geomembrane backed GCL, but manufacturer certification must be provided.

(2) Interface shear testing is applicable for slopes steeper than 7H:1V, but will not be required for any cell utilizing the same materials that were used for a previous cell if test results for these materials are available and were satisfactory. Test samples shall be hydrated unless a geomembrane is installed on both sides of the GCL. Test results developed for construction of the Pit 3, Phase 1 liner are provided in Appendix C.

5 CONSTRUCTION QUALITY ASSURANCE FOR GEOMEMBRANE LINERS

City of Midland has adopted the current version of the "Liner Construction and Testing Handbook" (LCTH), published by the TNRCC, as a part of the SLQCP. Construction Quality Assurance for Geomembrane liners (GL) is addressed in the LCTH. A copy of the latest revision of the LCTH is included as Appendix A.

The LCTH includes a requirement for manufacturer's quality control test and third party conformance test of geomembrane materials to be conducted in accordance with NSF 54. Subsequent to publication of the LCTH, NSF 54 has been replaced with GRI GM13. Therefore, geomembrane testing will be conducted in accordance with GRI GM13 and as outlined in Table 5-1. Oven aging testing is not required unless the installed geomembrane panels will be exposed to sun and weather without protective cover for longer than a six-month period.

**Table 5-1
Required Contractor's Quality Control Testing Submittals for
Geomembranes**

Test	Type of Test	Standard Test Method	Frequency of Testing (Minimum)
Resin	Specific Gravity/Density	ASTM D 792, Method A or ASTM D 1505	Per 100,000 SF and every resin lot
	Melt Flow Index	ASTM D 1238	Per 100,000 SF and every resin lot
Manufacturer's Quality Control	Thickness	ASTM D 5199 (smooth) or D5994 (textured)	Per Roll of Geomembrane
	Specific Gravity/Density	ASTM D 1505/D 792	Per 200,000 pounds
	Carbon Black Content	ASTM D 1603	Per 20,000 pounds
	Carbon Black Dispersion	ASTM D 5596	Per 45,000 pounds
	Tensile Properties	ASTM D 638 / Type IV	Per 20,000 pounds
	Tear	ASTM D 1004	Per 45,000 pounds
	Puncture	ASTM D 4833	Per 45,000 pounds
	Stress Crack Resistance	D 5397	Per GRI-GM 10
	Oxidative Induction Time	D 3895 or D 5885	Per 200,000 pounds
	Oven Aging @ 85°	D 5721 and D 3895 or D 5885	Per each formulation

6 CONSTRUCTION QUALITY ASSURANCE FOR GEOCOMPOSITE

6.1 Delivery

The drainage geocomposite shall be shipped in rolls which are wrapped with protective covering. Each roll shall be marked with the manufacturers name, lot number, roll number, and roll dimensions. The rolls shall be protected from mud, soil, dirt, dust, debris, cutting, or impact forces. Damaged rolls shall be rejected and removed from the site or stored at a location separate from accepted rolls.

6.2 Quality Control Testing

The drainage geocomposite manufacturer (or supplier) shall conduct quality control testing and certify that all materials delivered to the site comply with project specifications. The material certifications shall be reviewed by the POR to verify that the geocomposite meets the values given in the plans or specifications. Third party conformance testing will not be required.

6.3 Installation

All installation of geocomposite shall be monitored continuously during construction by the CQA Monitor working under the direct supervision of the POR.

6.3.1 Surface Preparation

Prior to geocomposite installation, the CQA Monitor shall verify the following:

- Lines and grades have been verified by the surveyor.
- Debris, soil, and other materials have been removed from the geomembrane surface.
- The underlying geomembrane installation, including all required documentation, has been completed for the area being covered.

- If placed directly on clay liner, the surface does not contain stones that could damage the geocomposite or the geomembrane.

6.3.2 Deployment

During deployment of the geocomposite, the CQA Monitor shall verify the following:

- Disposition of any defects (panel rejected, patch installed, etc.) All repairs are to be made in accordance with the specifications.
- That equipment used to deploy the geocomposite does not damage the geocomposite or underlying geomembrane.
- That people working on the geocomposite do not smoke, wear shoes that could damage the geocomposite, or engage in activities that could damage the geocomposite or underlying geomembrane.
- That the geocomposite is anchored to prevent movement by the wind.
- That the geocomposite remains free of contaminants such as soil, grease, fuel, etc.
- That the geocomposite is relatively free of tension, stress, folds, wrinkles, or creases.
- That adjacent rolls of geocomposite are overlapped, tied, and seamed in accordance with the specifications or manufacture's recommendations.

6.4 Repairs

Holes or tears in the drainage geocomposite shall be repaired by placing a geocomposite patch extending 2 feet beyond the edges of the hole or tear and tying the patch every 6 inches or heat bonding the geotextiles. A hole only in the upper geotextile shall be patched with a piece of geotextile in a similar manner, except the patch should be heat bonded to the underlying geotextile.

7 CONSTRUCTION QUALITY ASSURANCE FOR PIPING

7.1 Delivery

The POR will verify that upon delivery, the pipe and pipe fittings are in compliance with the requirements of the construction specifications. Stacking or insertion of the other construction materials onto or into the pipe and pipe fittings shall be prohibited. The contractor shall use pliable straps, slings, or rope to lift the pipe. The contractor shall use at least two support points when lifting pipe sections greater than 20 feet in length.

7.2 Quality Control Testing

Prior to the installation of pipe, the pipe manufacturer will provide a quality control certificate for each lot or batch of pipe delivered. The quality control certificate will be signed by a responsible party employed by the pipe manufacturer. The quality control certificate will include:

- Property data sheet including all specified properties, measured using test methods indicated in the specifications, or equivalent.
- A certification that property values given in the property data sheet are minimum values and are guaranteed by the pipe manufacturer.

The POR or the CQA Monitor shall verify that:

- The property values certified by the pipe manufacturer meet all of the specifications.
- The measurements of properties by the pipe manufacturer are properly documented and that the test methods used are acceptable.
- Pipe perforations are the correct size and spacing according to the project specifications and are in compliance with the filter requirements for the drainage aggregate to be used as given in Section 8.

7.3 Installation

All installation of pipe shall be monitored continuously during construction by the POR or CQA Monitor working under the direct supervision of the POR.

7.3.1 Surface Preparation

Prior to pipe installation, the CQA Monitor shall verify the following:

- Lines and grades have been verified by the surveyor.
- The pipe trenches are free of any deleterious material that may damage the pipe or underlying geomembrane or may clog the pipe.

7.3.2 Deployment

During pipe and fitting installation, the POR shall verify that:

- Pipes and fittings are not broken, cracked, or otherwise damaged or unsatisfactory.
- Prior to fusing (if required), the pipe installer will provide a fusion surface area which is clean and free of moisture, dust, dirt, debris of any kind, and foreign material. Prior to gluing (if required), the pipe and fittings are clean and dry.
- Pipe and fittings are being installed in accordance with specifications, manufacturer's recommendations, and accepted practices.
- People and equipment utilized to install the pipe do not damage the pipe or any other component of the liner system.
- Bedding has been placed for the pipe in accordance with project plans and specifications.

8 CONSTRUCTION QUALITY ASSURANCE FOR DRAINAGE AGGREGATE

8.1 Materials

Granular drainage material around the leachate collection pipes will consist of durable particles of natural gravel, crushed stone or expanded shale light weight aggregate. The material shall be free of conspicuous amounts of clay or other unsuitable materials. The aggregate shall have a loss of mass due to calcium carbonate of less than 15 percent in accordance with JLT-S-105-89 or ASTM D 3042 modified to use a solution of hydrochloric acid having a pH of 5. The drainage aggregate shall meet ASTM D 448, size number 467, 57, 67, or 7. Drainage materials not complying with the above gradations may also be approved by the POR if demonstrated to have a hydraulic conductivity of at least 1×10^{-2} cm/sec. The drainage aggregate gradation shall conform to the filter requirements consistent with the perforations in the leachate collection pipe. At a minimum, the drainage aggregate will meet the following criteria:

For circular holes:

$$\frac{\text{85 Percent Size of Filter Material}}{\text{Hole Diameter}} > 1.7$$

For slots:

$$\frac{\text{85 Percent Size of Filter Material}}{\text{Slot Width}} > 2.0$$

Aggregate (sand or gravel) may also be used as an alternate to the geocomposite drainage layer. The aggregate will have a minimum hydraulic conductivity of 1×10^{-2} cm/sec. If the aggregate includes particles greater than $\frac{3}{8}$ inch size, the geomembrane will be protected by geotextile prior to placing the drainage layer. The material will be placed and spread with low ground pressure equipment that will not damage the underlying geomembrane. Under no circumstances shall there be less than 12 inches of material between the spreading equipment and the geomembrane.

8.2 Testing

The coarse aggregate shall be tested for gradation (ASTM D 422) at a minimum of 1 test per 3,000 cubic yards or per lined area. The aggregate shall be free of organics, clay, foreign objects, or other deleterious materials. The physical characteristics of the aggregate shall be evaluated through visual observation and laboratory classification testing before construction and visual observation during construction. The coarse aggregate may be sampled more frequently at the discretion of the CQA monitor. The test results for the coarse aggregate used in leachate collection system will be included in the GLER.

9 CONSTRUCTION QUALITY ASSURANCE FOR GEOTEXTILES

9.1 Delivery

Geotextile shall be shipped in rolls that are wrapped in opaque covers. Each roll shall be marked with the manufacturer's name, lot number, roll number, and roll dimensions. Materials shall be stored in a location that will protect the rolls from precipitation, mud, dirt, dust, puncture, cutting, or any other damaging conditions. Damaged rolls shall be rejected and removed from the site or stored at a location separate from accepted rolls.

9.2 Quality Control Testing

The geotextile manufacturer shall conduct quality control testing and certify that the materials delivered to the site comply with project specifications. The material certification shall be reviewed by the POR and accepted for the project prior to placement of any of the material.

9.3 Installation

All installation of geotextile shall be monitored continuously during construction by the CQA Monitor.

9.3.1 Surface Preparation

Prior to geotextile installation, the CQA Monitor shall verify the following:

- Lines and grades have been verified by the surveyor.
- Debris, soil, dust, and other materials are removed from the surface being prepared for geotextile deployment.
- That all geomembrane defects have been repaired.
- That required destructive and nondestructive testing of the geomembrane and seams have been completed.

9.3.2 Deployment

During geotextile placement, the CQA Monitor shall verify the following:

- Defects are repaired in accordance with the specifications.
- That equipment used does not damage the geotextile.
- That people working on the geotextile do not smoke, wear shoes that could damage the geotextile, or engage in activities that could damage the geotextile.
- That the seams are overlapped in accordance with the specifications.
- That seams are continuously sewn or heat bonded in accordance with the specifications and consistent with the manufacturer's recommendations.

9.4 Repairs

Repair procedures include:

- Patching - used to repair holes, tears, and large defects
- Removal - used to replace areas with large defects where the preceding method is not appropriate

If located on a slope, a panel with a defect, hole, or tear, which exceeds 10 percent of the width of the panel, shall be removed and replaced. Otherwise, a patch with a minimum 12-inch overlap in all directions shall be heat bonded or sewn in place.

10 CONSTRUCTION QUALITY ASSURANCE FOR PROTECTIVE COVER

10.1 Materials

The protective cover shall consist of soil or a soil aggregate mixture that is free of organics, large angular rocks, foreign objects, or other deleterious materials that could damage the underlying geosynthetics. The protective cover material shall have a hydraulic conductivity of at least 1×10^{-4} cm/sec or chimney drains may be used. Chimney drains, when used, will be constructed by extending the gravel in the LCS trench and sump through the protective cover. The minimum width of aggregate (at the top of the chimney) will be at least 1.5 feet, and at all points across the trench there will be a minimum of 2 feet of gravel or soil over the geomembrane. Chimney drains will be constructed over the sumps by extending the chimney from the trench laterally across the sump. Where it is necessary for hauling or compacting equipment to travel directly over the trenches, the chimney drain will be interrupted for approximately 20 feet and the aggregate will be covered with at least 2 feet of soil.

10.2 Quality Assurance Testing

If chimney drains are not used to provide flow paths to the LCS, soil testing must be conducted to verify that the hydraulic conductivity of protective cover soil is at least 1×10^{-4} cm/sec. Hydraulic conductivity tests shall be conducted at a minimum frequency of 1 test for each 100,000 square feet of cover surface area (horizontal projection). Testing of protective cover will not be required if chimney drains are used.

10.3 Installation

All installation of protective cover shall be monitored continuously during construction by the CQA Monitor.

Drainage aggregates and protective cover shall be placed in lifts using low ground pressure equipment as shown below.

Equipment Ground Pressure (psi)	Minimum Lift Thickness (in.)
<4	12
4 - 8	18
8 - 16	24
>16	36

During installation of the protective cover, the CQA Monitor shall verify the following:

- The protective cover layer is spread using low ground pressure equipment.
- The protective cover is spread with a minimum of 12 inches of soil between the spreading equipment and the installed geosynthetics. Under no circumstances shall construction equipment come in direct contact with the installed geosynthetics.
- Protective cover placed on slopes shall be spread by pushing up the slope.
- The thickness of the protective cover has been verified with surveying procedures of a minimum of 1 survey point per 5,000 square feet with a minimum of 2 survey points regardless of size.
- That underlying geosynthetic installations are not damaged during placement operations.

11 LINERS CONSTRUCTED BELOW GROUNDWATER

11.1 Applicability

Liners that are constructed below groundwater may experience uplift from the hydrostatic force of the groundwater. In such cases, appropriate groundwater control measures will be implemented until adequate ballast has been placed.

The analyses, design, and construction of any liner constructed below groundwater will be accomplished in accordance with TAC 330.203 and the latest TNRCC Guidance Document (which at this time is the *Liners Constructed Below the Seasonal High Water Table*, April 1997).

11.2 Seasonal High Water Elevations

A Seasonal High Groundwater Elevation Map has been developed using water level data representing the highest recorded water levels at the various monitoring wells across the landfill site and is included in Appendix B. The current Seasonal High Groundwater Elevation Map shall be used to evaluate and design the liners for short-term and long-term stability. Prior to construction of a new cell, the map will be updated by checking groundwater elevations from all monitoring events subsequent to the date of the last revision.

The current Seasonal High Groundwater Elevation Map will be submitted with each GCLER or GLER along with an evaluation of the need for soil ballast to overcome hydrostatic pressure on the bottom of the liner.

11.3 Excavation Below the Groundwater Level

A Sectorized Fill Layout which shows permitted excavation contours has been included for reference in Appendix B. Based on the current Seasonal High Groundwater Elevation Map, the liner subgrade will be above the seasonal high groundwater levels and groundwater will not be encountered during the excavation of any future cells. During construction, the subgrade must be kept at a surface-dry condition to provide a firm and unyielding subgrade for construction of the soil liner system. If seepage is encountered, construction measures as discussed below in Section 11.4 will be employed.

11.4 Control of Seepage During Construction

The base of the proposed excavation has been designed to fall within the caliche strata above the highest expected groundwater level. Isolated soft spots or wet zones, if encountered, will be over-excavated and sealed with low-permeability materials before commencing liner system construction. It is not anticipated that mechanical dewatering techniques will be required.

The POR shall observe the liner subgrade to confirm that the liner system will not undergo uplift from hydrostatic forces during construction. Among other criteria to be used, the subgrade shall be free of seepage and rutting and there should be no soft or wet areas. Additionally, the POR will periodically observe and evaluate the liner system construction to verify that no failure of the liner system due to uplift has occurred.

11.5 Required Ballast Thickness

As noted above, it is not anticipated that additional ballast will be required for the liner system in any of the future cells since the excavations will not extend below the current seasonal high water level, and the groundwater levels have generally been decreasing during the monitoring period. If, however, groundwater elevations change and an isolated area requires ballast in excess of the permitted protective cover (or LCS aggregate), ballast will be provided by additional soil protective cover and documented in the GLER.

12 REPORTS ACCEPTABILITY DETERMINATION

All field and laboratory sampling and testing of components of the liner or geomembrane and its construction must be under the direct supervision of a POR or his qualified representative. Any completed lined area that fails to meet the minimum specified conditions of the required tests for a liner or geomembrane must be reworked or replaced to achieve the required results. Inability to achieve the required results through reworking shall be cause for rejection of the area in question. All reworked areas shall be retested to prove adequacy to meet all the applicable requirements.

In accordance with §330.206(b), no area may be used for the receipt of solid waste until the Commission has given confirmation of its acceptance of the required liner evaluation report(s) (i.e., SLER and GLER or GCLER), or fourteen days from the date(s) of arrival of the GLER or GCLER at the Municipal Solid Waste Division, TNRCC have lapsed.

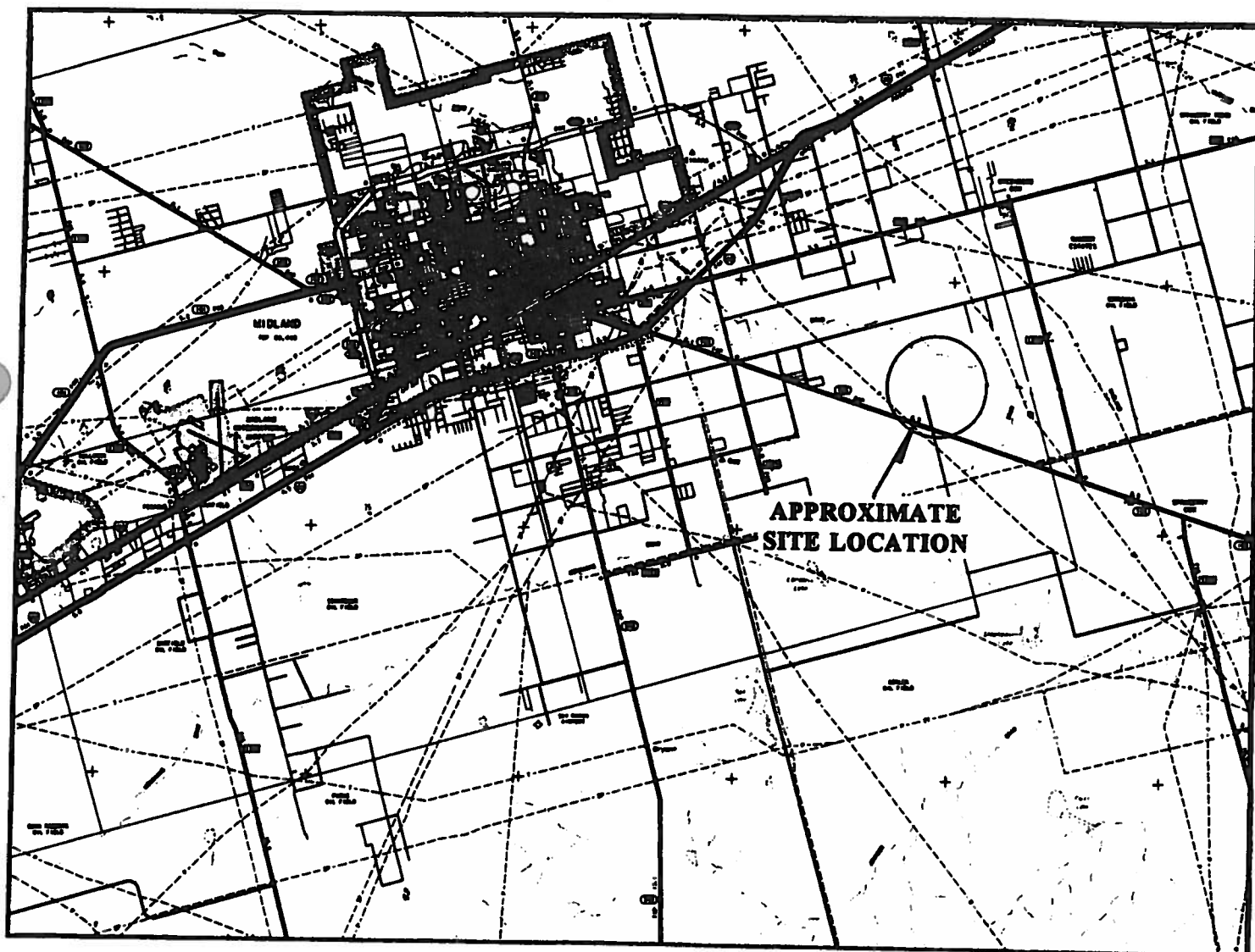
APPENDIX B

SOIL BORINGS

PART III
ATTACHMENT 4
APPENDIX 6
TRINITY ENGINEERING TESTING CORPORATION REPORT (1995)
CITY OF MIDLAND SOLID WASTE LANDFILL NO. 1605-B
MIDLAND COUNTY, TEXAS

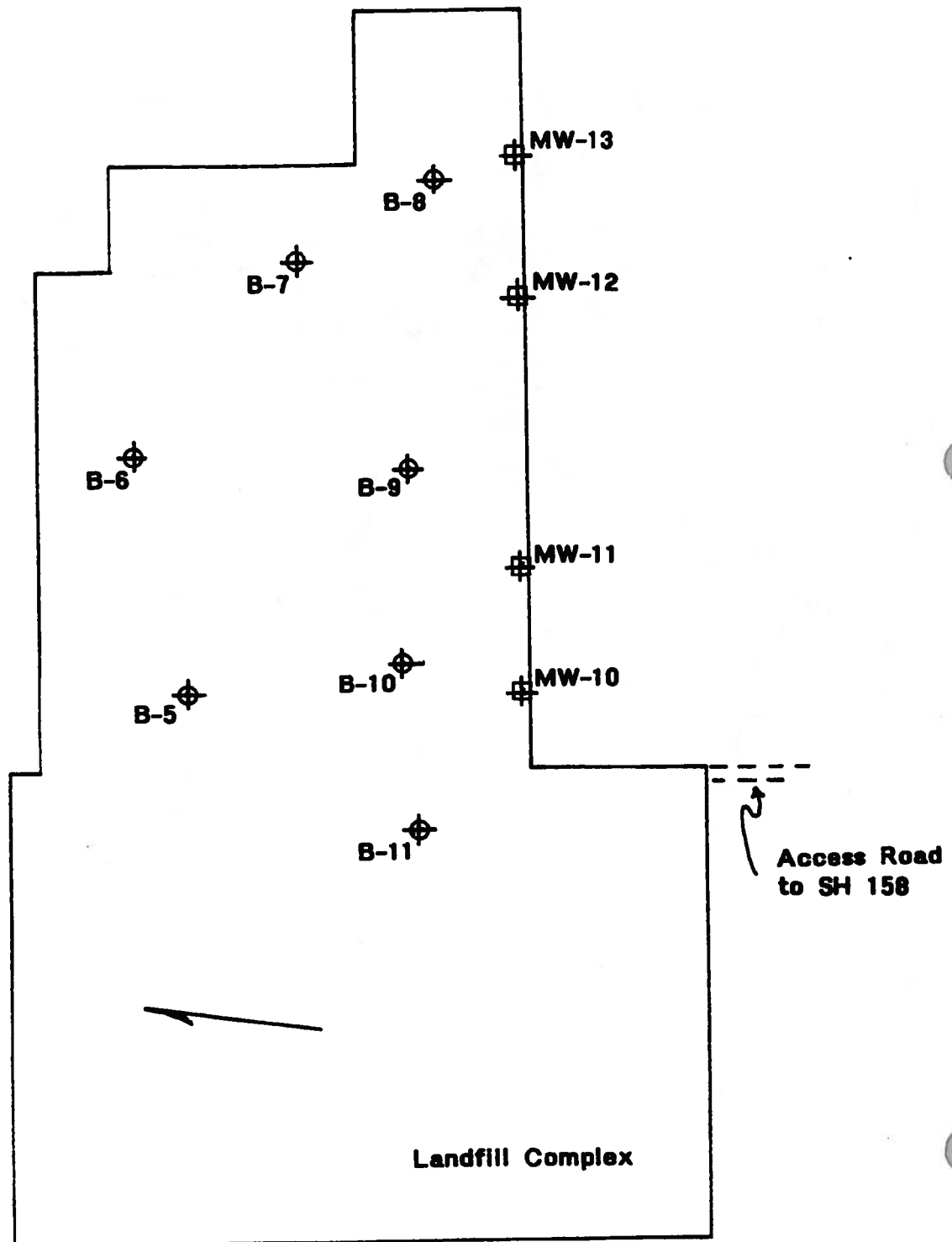
Municipal Solid Waste Landfill No. 1605
City of Midland, Texas

SITE VICINITY MAP



Municipal Solid Waste Landfill No. 1605
City of Midland, Texas

APPROXIMATE BORING LOCATIONS



Municipal Solid Waste Landfill No. 1605
City of Midland, Texas

SUMMARY OF SOIL CLASSIFICATION TEST RESULTS

<u>Boring Number</u>	<u>Depth in feet</u>	<u>Liquid Limit %</u>	<u>Plasticity Index %</u>	<u>% Passing 200-mesh Sieve</u>	<u>Natural Moisture Content %</u>	<u>Classification</u>	<u>Material Description</u>
HDR-5	10.0-11.5	23	5	30.6	6.6	SC-SM	Red-Tan SILTY CLAYEY SAND
HDR-5	20.0-21.5	28	6	31.1	13.4	SC-SM	White-Tan SILTY CLAYEY SAND
HDR-5	30.0-30.4	NP*	NP*	27.1	4.9	SM	Red SILTY SAND
HDR-5	55.0-56.5	NP*	NP*	8.7	19.0	SP-SM	Tan SILTY SAND
HDR-5	65.0-66.5	22	4	5.3	18.6	SP-SC	Tan POORLY-GRADED SAND
HDR-6	10.0-11.5	50	19	18.2	16.2	SM	Tan SILTY SAND with Gravel
HDR-6	15.0-16.5	47	12	22.6	20.6	SM	Tan SILTY SAND with Gravel
HDR-6	25.0-25.2	73	50	49.9	20.1	SC	Pink CLAYEY SAND
HDR-6	50.0-50.5	NP*	NP*	10.3	16.8	SP-SM	Tan SAND with Silt
HDR-7	15.0-16.5	NP*	NP*	13.8	10.6	SM	Red-Tan SILTY SAND
HDR-7	20.0-21.5	22	7	35.1	15.5	SC-SM	Red-Tan SILTY CLAYEY SAND
HDR-7	25.0-26.5	26	14	48.5	16.8	SC	Tan-White CLAYEY SAND
HDR-7	30.0-31.5	24	10	38.9	18.4	SC	Tan-White CLAYEY SAND
HDR-7	50.0-51.0	26	1	16.7	22.7	SM	Tan-White SILTY SAND

*Non-plastic

**Municipal Solid Waste Landfill No. 1605
City of Midland, Texas**

SUMMARY OF SOIL CLASSIFICATION TEST RESULTS (cont'd)

<u>Boring Number</u>	<u>Depth in feet</u>	<u>Liquid Limit %</u>	<u>Plasticity Index %</u>	<u>% Passing 200-mesh Sieve</u>	<u>Natural Moisture Content %</u>	<u>Classi- fication</u>	<u>Material Description</u>
HDR-7	80.0-80.8	30	11	12.3	15.2	SC	White-Tan CLAYEY SAND
HDR-8	15.0-16.5	32	20	43.6	19.2	SC	Tan CLAYEY SAND
HDR-8	25.0-26.5	NP*	NP*	4.2	34.3	SW	Tan SAND
HDR-8	60.0-61.5	32	15	39.4	27.0	SC	Tan CLAYEY SAND
HDR-9	5.0-6.5	47	29	41.7	14.8	SC	Red-Tan CLAYEY SAND
HDR-9	35.0-35.2	61	28	27.3	38.5	SM	Tan-White SILTY SAND
HDR-9	40.0-41.5	23	7	31.5	27.2	SC-SM	Red-Tan SILTY CLAYEY SAND
HDR-9	55.0-56.5	30	12	4.3	20.1	SP	Red-Tan SAND
HDR-10	10.0-11.5	23	5	30.6	6.6	SC-SM	White-Tan SILTY CLAYEY SAND
HDR-10	25.0-25.9	29	NP*	21.2	11.2	SM	White-Tan SILTY SAND with Gravel
HDR-10	45.0-45.6	29	9	12.8	24.3	SC	Pink-White CLAYEY SAND with Gravel
HDR-11	5.0-6.5	20	3	30.5	6.5	SM	Red-Brown SILTY SAND
HDR-11	25.0-25.4	24	1	18.6	7.9	GM	White-Pink CLAYEY SAND
HDR-11	40.0-41.5	19	NP*	31.9	14.4	SM	Tan SILTY SAND

*Non-plastic

**Municipal Solid Waste Landfill No. 1605
City of Midland, Texas**

SUMMARY OF SOIL CLASSIFICATION TEST RESULTS (cont'd)

<u>Boring Number</u>	<u>Depth in feet</u>	<u>Liquid Limit %</u>	<u>Plasticity Index %</u>	<u>% Passing 200-mesh Sieve</u>	<u>Natural Moisture Content %</u>	<u>Classi- fication</u>	<u>Material Description</u>
HDR-11	50.0-51.3	NP*	NP*	27.7	18.5	SM	Pink-Tan SILTY SAND
HDR-11	60.0-61.5	22	3	15.7	19.7	SM	Pink-Tan SILTY SAND
MW-10	5.0-6.5	19	3	34.6	4.7	SM	Orange-Brown SILTY SAND
MW-10	15.0-15.4	32	10	39.6	8.9	SC	White-Tan CLAYEY SAND
MW-10	55.0-56.5	25	8	37.7	20.2	SC	Tan CLAYEY SAND
MW-11	10.0-11.5	33	9	36.7	13.7	SM	White-Tan SILTY SAND
MW-11	25.0-26.5	30	7	29.4	11.5	SC-SM	White-Tan SILTY CLAYEY SAND
MW-12	15.0-15.5	28	15	36.2	8.9	SC	Tan CLAYEY SAND
MW-12	35.0-36.5	37	8	22.7	15.0	SM	Tan SILTY SAND with Gravel
MW-12	50.0-50.4	23	9	21.9	24.2	SC	Tan CLAYEY SAND
MW-13	10.0-11.5	22	8	35.4	8.1	SC	Red-Tan CLAYEY SAND
MW-13	20.0-21.5	NP*	NP*	20.3	3.2	SM	Tan SILTY SAND
MW-13	25.0-25.5	23	6	33.4	7.3	SC-SM	White-Tan SILTY CLAYEY SAND
MW-13	40.0-41.5	NP*	NP*	26.7	12.6	SM	White-Tan SILTY SAND
MW-13	45.0-45.9	26	4	28.0	14.4	SM	White SILTY SAND
MW-13	65.0-66.5	42	23	44.3	25.0	SC	Tan CLAYEY SAND

*Non-plastic

Municipal Solid Waste Landfill No. 1605
City of Midland, Texas

SUMMARY OF UNIT DRY WEIGHT, MOISTURE CONTENT,
AND UNCONFINED COMPRESSION RESULTS

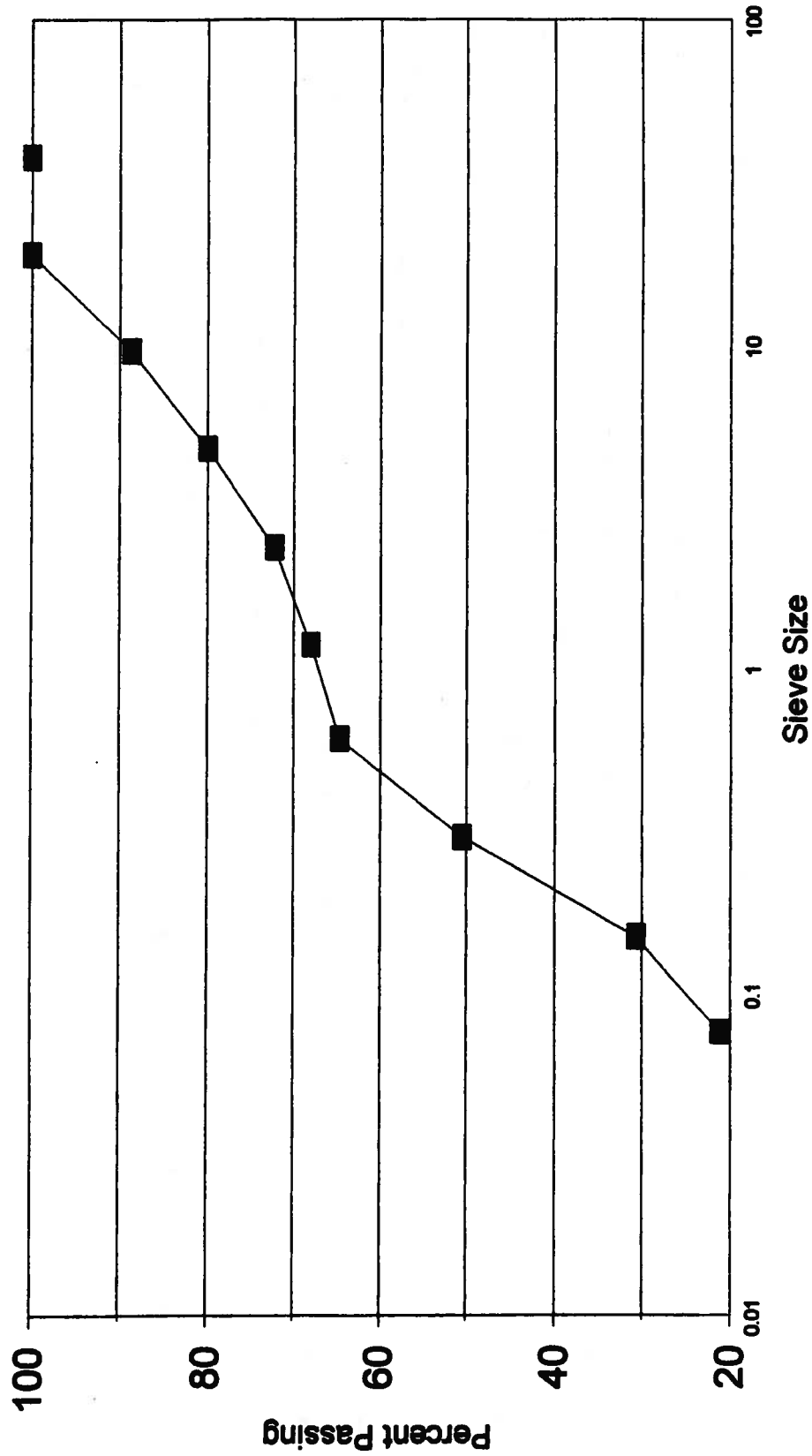
<u>Boring Number</u>	<u>Depth in feet</u>	<u>Unit Dry Weight, pcf*</u>	<u>Natural Moisture Content, %</u>	<u>Air Voids, %</u>	<u>Q_u, tsf**</u>	<u>Material Description</u>
HDR-5	72.5	130.6	8.5	3.0	45.8	Red SHALE
HDR-7	84.0	---	---	---	16.0	Red-Brown SHALE
HDR-10	75.0	---	---	---	8.9	Red SHALE
MW-10	45.0	---	---	---	34.3	Tan-White SANDSTONE
MW-11	45.0	---	---	---	50.8	Pink SANDY LIMESTONE

*pounds per cubic foot

**tons per square foot

Sieve Analysis Plot

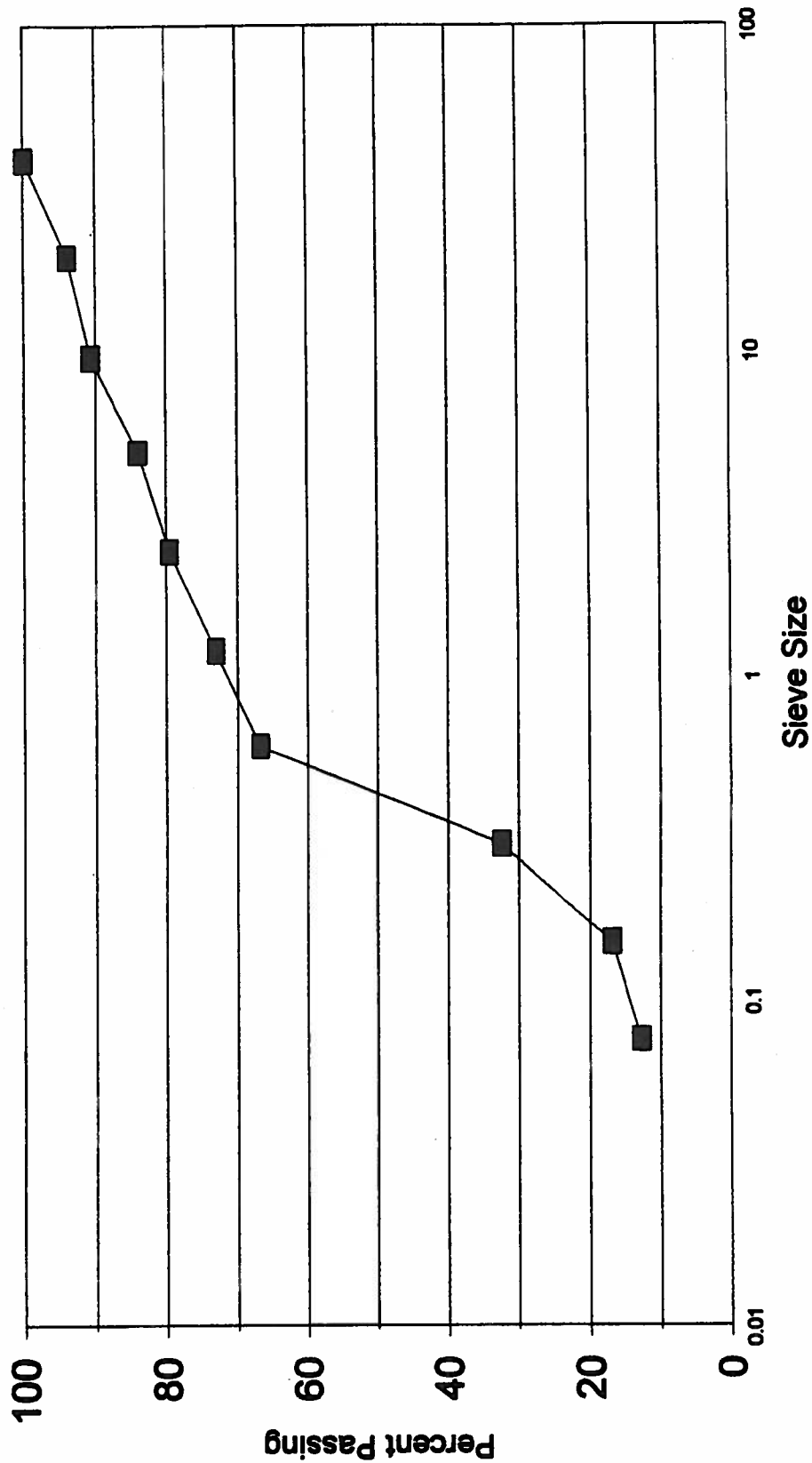
City of Midland Landfill



■ B-10, 25.0-25.9'

Sieve Analysis Plot

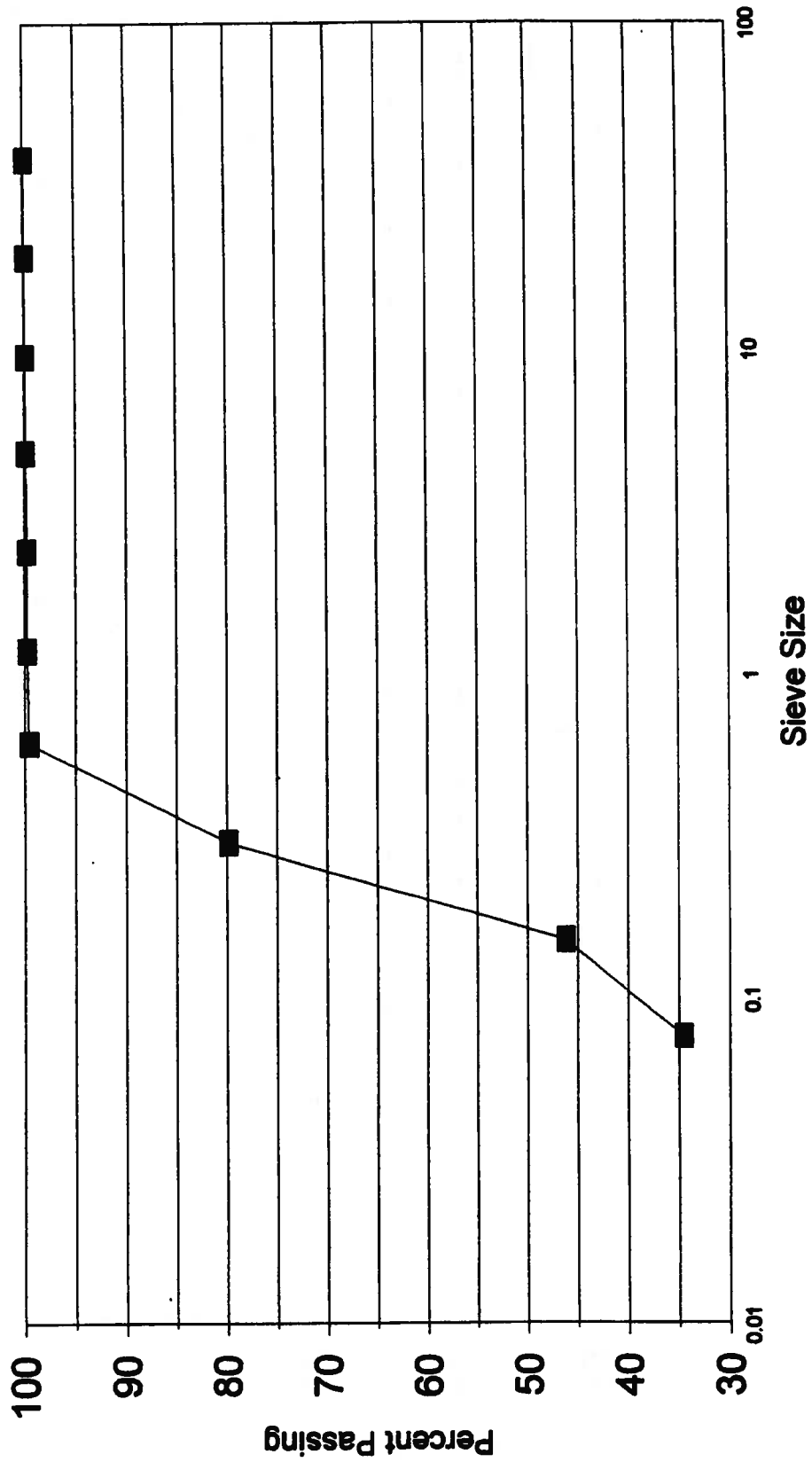
City of Midland Landfill



—■— B-10, 45.0-45.7'

Sieve Analysis Plot

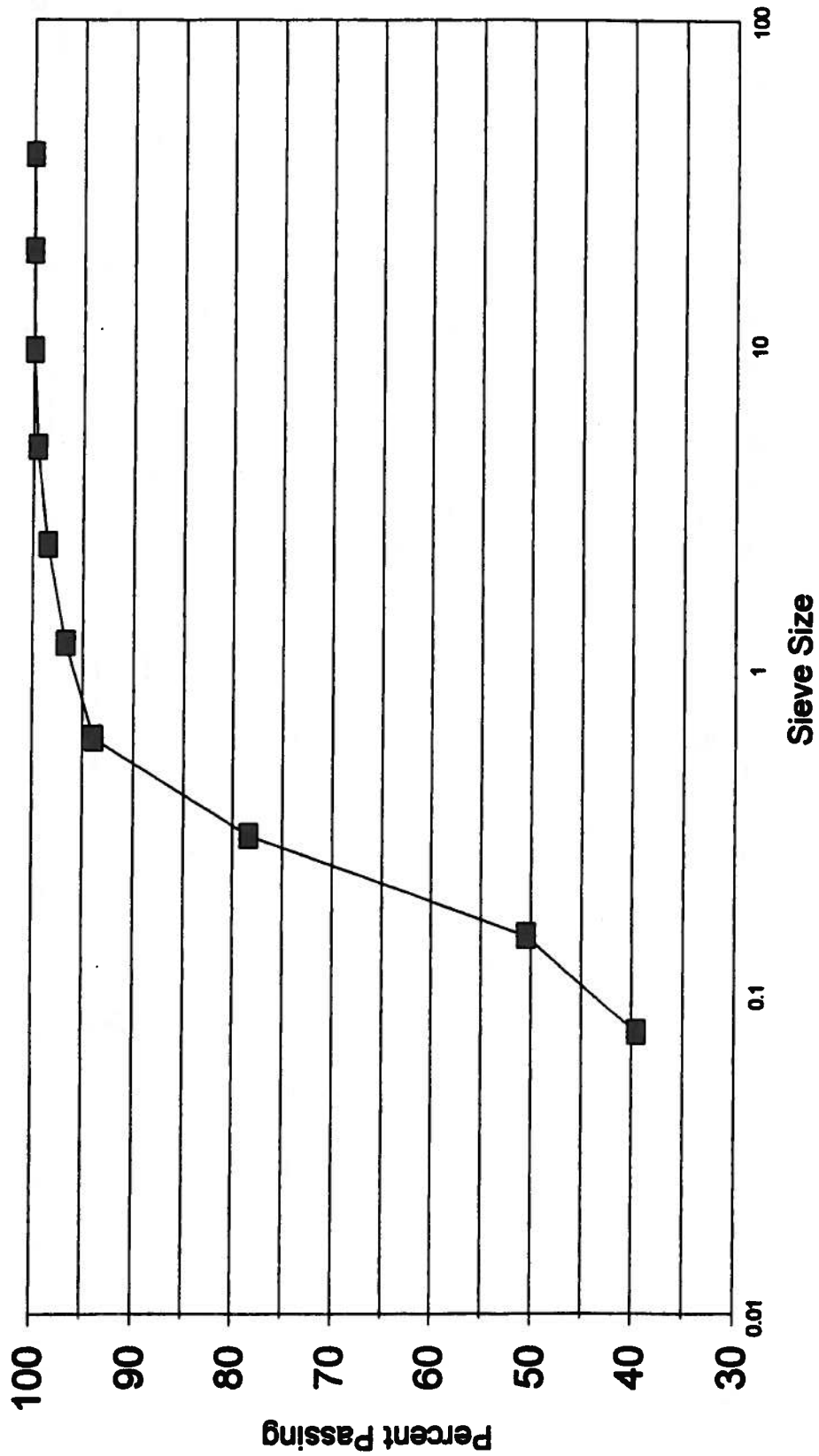
City of Midland Landfill



■ MW-10, 5.0-6.5'

Sieve Analysis Plot

City of Midland Landfill

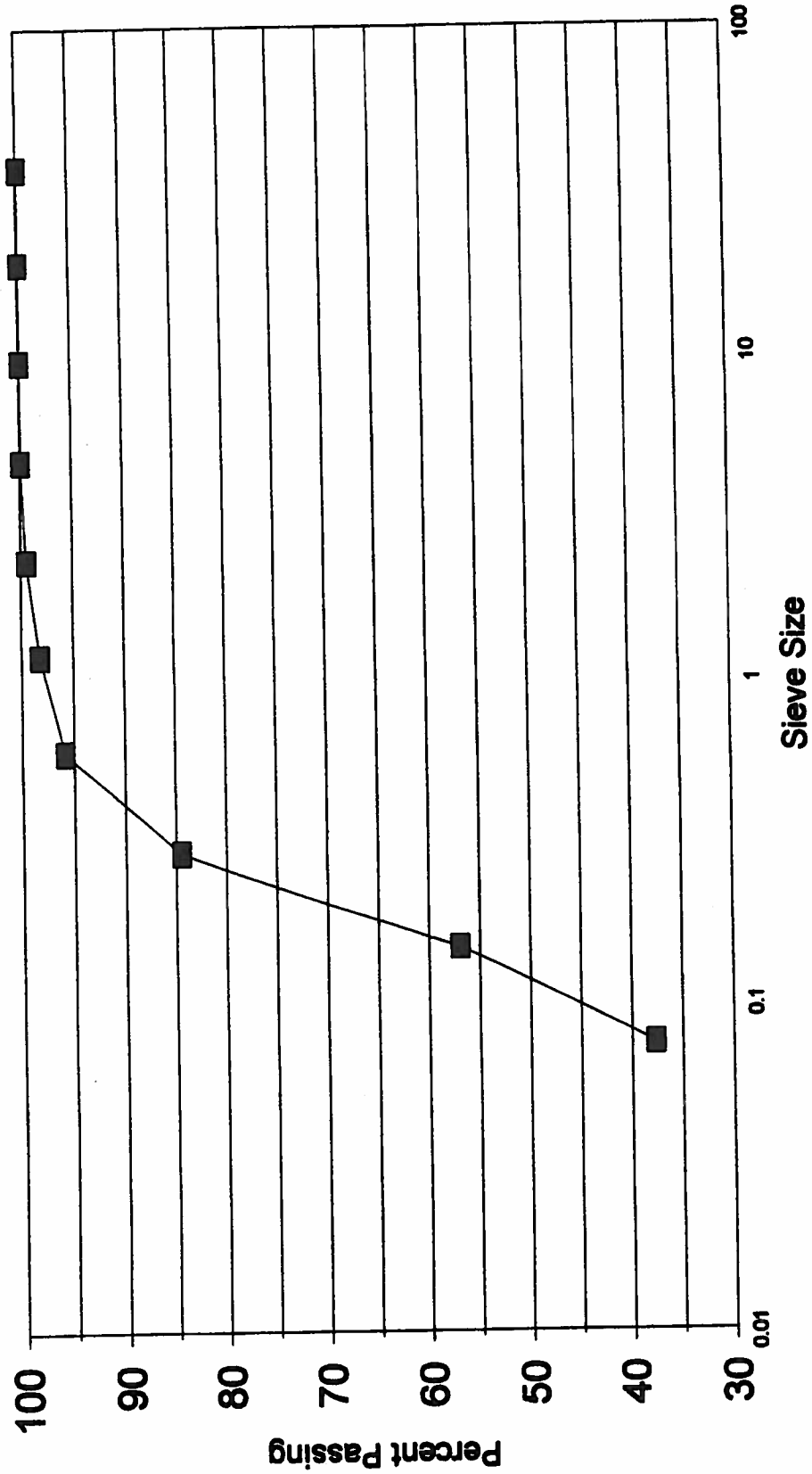


■ MW-10, 15.0-15.5'



Sieve Analysis Plot

City of Midland Landfill



■ MW-10, 55.0-56.5'

EXPLANATION OF SYMBOLS AND TERMS USED ON LOGS OF BORINGS

DEPTH FEET	SYMBOL	SAMPLE	N-BLOWS PER FOOT	MATERIAL DESCRIPTION	CORE DRILLED	CORE RECOVERED	ELEV.	DEPTH SCALE
5	(See Symbols Below)			undisturbed push tube sample				
		3.5		pocket penetrometer test				
				disturbed sample				
		15		split spoon sample and standard penetration blow count	▽ water surface			
				wash boring, no sample recovery				
10				Texas cone penetration.....TCP Test 100 Blows=3"				
15				NX-size core sample	5.0'	4.0'		

TYPICAL SOIL AND ROCK SYMBOLS

	Well-Graded Gravel (GW)		Silty Sand (SM)		Shale		Limestone
	Poorly-Graded Gravel (GP)		Clayey Sand (SC)		Sandy Shale		Shaley Limestone
	Silty Gravel (GM)		Silt (ML)		Weathered Shale		Weathered Limestone
	Clayey Gravel (GC)		Lean Clay (CL)		Sandstone		Dolomite
	Well-Graded Sand (SW)		Elastic Silt (MH)		Conglomerate		Fill Material
	Poorly-Graded Sand (SP)		Fat Clay (CH)		Caliche		Asphaltic Concrete

DEGREE OF WEATHERING

- Unweathered .. Rock in its natural state without visible sign of decomposition or discoloration
- Slightly Weathered Slight discoloration without visible sign of decomposition
- Weathered Complete discoloration with zones of slightly decomposed rock
- Severely Weathered Complete discoloration and decomposition, approaching soil texture and appearance

SOIL STRUCTURE

- Calcareous Containing calcium carbonate
- Slickensided ... The presence of planes of weakness having a slick and glossy appearance
- Fissured Breaks along definite planes of fracture with little resistance to fracturing
- Laminated Alternating thin layers or lenses of varying material or color
- Interbedded ... Alternating layers of varying material

The Log of Boring is a representation of the subsurface materials at the specific boring location and within the depth explored. The transition between strata may be gradual and variations in material types and depths between borings can be expected. Water level observations represent those conditions at the time of exploration and may vary with time and location on the site.

EXPLANATION OF SYMBOLS AND TERMS USED ON LOGS OF BORINGS

DEPTH FEET	SYMBOL	SAMPLE	N-BLOWS PER FOOT	MATERIAL DESCRIPTION	CORE DRILLED	CORE RECOVERED	ELEV.	DEPTH SCALE
5	(See Symbols Below)			undisturbed push tube sample				
			3.5...	pocket penetrometer test				
				disturbed sample				
			15....	split spoon sample and standard penetration blow count				
				wash boring, no sample recovery				
10				Texas cone penetration.....TCP Test 100 Blows=3"				
15				NX-size core sample	5.0'	4.0'		

TYPICAL SOIL AND ROCK SYMBOLS

	Well-Graded Gravel (GW)		Silty Sand (SM)		Shale		Limestone
	Poorly-Graded Gravel (GP)		Clayey Sand (SC)		Sandy Shale		Shaley Limestone
	Silty Gravel (GM)		Silt (ML)		Weathered Shale		Weathered Limestone
	Clayey Gravel (GC)		Lean Clay (CL)		Sandstone		Dolomite
	Well-Graded Sand (SW)		Elastic Silt (MH)		Conglomerate		Fill Material
	Poorly-Graded Sand (SP)		Fat Clay (CH)		Caliche		Asphaltic Concrete

DEGREE OF WEATHERING

Unweathered	.. Rock in its natural state without visible sign of decomposition or discoloration
Slightly Weathered	 Slight discoloration without visible sign of decomposition
Weathered	 Complete discoloration with zones of slightly decomposed rock
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SOIL STRUCTURE

Calcareous	 Containing calcium carbonate
Slickensided	... The presence of planes of weakness having a slick and glossy appearance
Fissured	 Breaks along definite planes of fracture with little resistance to fracturing
Laminated	 Alternating thin layers or lenses of varying material or color
Interbedded	... Alternating layers of varying material

The Log of Boring is a representation of the subsurface materials at the specific boring location and within the depth explored. The transition between strata may be gradual and variations in material types and depths between borings can be expected. Water level observations represent those conditions at the time of exploration and may vary with time and location on the site.

LOG OF BORING

Project: City of Midland Landfill

Location: Midland, Texas

Date: 08-30-95 Type: Core

SFC Elev. : 2,694.9

Boring No. HDR10

DEPTH FEET	SYMBOL	SAMPLE	TEST RESULTS	MATERIAL DESCRIPTION	CORE		LL	PI	% -200 SOIL CLASS.	
					DRILLED	RCVRD				
5		X	39	Red - Brown CLAYEY SAND, fine grained, quartz						
10		X	19	Pink SILTY SAND, fine grained, calcareous						
15		X	40	White - Tan SILTY SAND, fine to coarse grained, calcareous, some gravel			23	5	30.6	SC-SM
20		X	58							
25		X	50	= 5 1/2"						
30		X	50	= 5 1/2"			29	NP	21.2	SM
35		X	50	= 4"						
40				Pink SANDSTONE	4.5'	0.9'				
45				Tan - White SANDY LIMESTONE with Chert						
				▽ Water Surface 08-30-95						
				Pink - White SANDY LIMESTONE with Chert	5.0'	1.5'				
				Continued						



LOG OF BORING

Project: City of Midland Landfill

SFC Elev. : 2

Location: Midland, Texas

Date: 08-30-95 **Type:** Core

Boring No. HDR10

DEPTH FEET	SYMBOL	SAMPLE	TEST RESULTS	MATERIAL DESCRIPTION	CORE		LL	PI	% -200 SOIL CLASS.	
					DRILLED	RCVRD				
			50	= 1" Pink - White SANDY LIMESTONE with Chert	4.5'	1.0'				
50			50	= 3 1/2"	4.5'	0'				
55			38	Pink - White SAND with Gravel, coarse, calcareous and quartz						
60			60							
65			46							
70			32							
75										
			50	= 3.5" Red SHALE	5.0'	4.5'				
80										
Total Depth of Boring = 80.0 Feet										
Note: The boring was advanced to 40.0 feet below the ground surface without using drilling fluid and groundwater was encountered at that depth.										



**Trinity
Engineering Testing
Corporation**

LOG OF BORING

Project: City of Midland Landfill

SFC Elev. : 2,697.3

Location: Midland, Texas

Date: 09-28-95 **Type:** Core

Boring No.: MW10

DEPTH FEET	SYMBOL	SAMPLE	TEST RESULTS	MATERIAL DESCRIPTION	CORE		LL	PI	% -200 SOIL CLASS.	
					DRILLED	RCVRD				
			8	Brown SILTY SAND, fine grained, quartz						
5			21	Orange - Brown SILTY SAND, fine grained, quartz			19	3	34.6	SM
10			32	White - Tan CLAYEY SAND, fine grained calcareous						
15			50 = 4 1/2"				32	10	39.6	SC
20			50 = 4"							
25			50 = 4"							
30			50 = 1"	Tan SILTY SAND, fine grained, calcareous						
35			50 = 4"	Tan - White SILTY SAND, fine grained, calcareous						
40			50 = 1"	▽ Water Surface 09-28-95	5.0'	0'				
45				Tan White SANDSTONE with Chert, calcareous						
				Continued						



Trinity
Engineering Testing
Corporation

LOG OF BORING

Project: City of Midland Landfill

SFC Elev. : 2,600

Location: Midland, Texas

Date: 09-28-95 Type: Core

Boring No. MW10

DEPTH FEET	SYMBOL	SAMPLE	TEST RESULTS	MATERIAL DESCRIPTION	CORE		LL	PI	% -200 SOIL CLASS.	
					DRILLED	RCVRD				
50				Tan - White SANDSTONE with Chert, calcareous	5.0'	0'				
			50	= 1/2"						
55			65	Tan CLAYEY SAND, coarse to fine grained, calcareous and quartz			25	8	37.7	SC
60			50							
			50							
65			50							
			50	= 4"						
Total Depth of Boring = 68.5 Feet										
Note: The boring was advanced to 40.5 feet below the ground surface without using drilling fluid and groundwater was encountered at that depth.										



**Trinity
Engineering Testing
Corporation**

LOG OF BORING

Project: City of Midland Landfill

SFC Elev. : 2,692.2

Location: Midland, Texas

Date: 09-27-95 **Type:** Core

Boring No. MW11

DEPTH FEET	SYMBOL	SAMPLE	TEST RESULTS	MATERIAL DESCRIPTION	CORE		LL	PI	% -200 SOIL CLASS.	
					DRILLED	RCVRD				
		X	16	Red - Brown SILTY SAND, fine grained, quartz						
5		X	14	Orange - Brown SILTY SAND, fine grained, quartz						
10		X	23	White - Tan SILTY SAND, fine grained, quartz and calcareous						
15		X	45							
20		X	50							
25		X	50 = 3"							
30		X	50 = 2"	Tan SANDY LIMESTONE with Chert						
35		X	50 = 2"							
40		X	50 = 3 1/2"							
45		X								
				Continued						

▽ Water Surface
09-27-95

4.5' 2.5'



Trinity
Engineering Testing
Corporation

LOG OF BORING

Project: City of Midland Landfill

SFC Elev. : 2,69

Location: Midland, Texas

Date: 09-27-95 **Type:** Core

Boring No. MW11

DEPTH FEET	SYMBOL	SAMPLE	TEST RESULTS	MATERIAL DESCRIPTION	CORE		LL	PI	% -200 SOIL CLASS.	
					DRILLED	RCVRD				
				Pink SANDY LIMESTONE	5.0'	0.5'				
50										
		X	50	= 5"						
55				Pink - Tan SILTY SAND, fine to coarse grained, quartz and calcareous						
		X	53							
60										
		X	67							
			50	= 5"						
Total Depth of Boring = 63.0 Feet										
Note: The boring was advanced to 36.0 feet below the ground surface without using drilling fluid and groundwater was encountered at that depth.										



City Council Agenda

Approved for Agenda:

City Manager's Office

MEETING DATE: 11/27/2012

TO: City Council / City Manager

FROM: Morris Williams, Solid Waste Director

SUBJECT: Consider a resolution approving an RFQ to conduct an in depth Solid Waste Department Operational Review.

Purpose:

Consider approving a request for qualifications (RFQ) to seek professional services to conduct an in depth review of the current Solid Waste Operations.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Directional / Informational

Fiscal Impact:

N/A

Discussion:

The City of Midland is seeking statements of qualifications (SOQs) from parties interested in performing an objective in-depth review and analysis of the City of Midland Municipal Solid Waste Facility (COM Landfill), residential and commercial refuse collection, the Citizens Collection Station (CCS), the City's current recycling program and other applicable elements that will increase efficiency of the Solid Waste Department (Solid Waste).

The Solid Waste Operational Review will include an objective examination of the COM Landfill, residential and commercial refuse collection, the CCS, the City's current recycling program, department structure and staffing, rates and fees, amongst other topics. The Operational Review will determine whether opportunities exist to decrease expenses and/or increase revenue throughout the solid waste operations. It will also include an overall financial review and evaluation of the Solid Waste Department.

RESOLUTION NO. _____

RESOLUTION AUTHORIZING THE CITY MANAGER TO ADVERTISE A REQUEST FOR QUALIFICATIONS FROM FIRMS TO CONDUCT PROFESSIONAL IN-DEPTH OPERATIONAL REVIEW SERVICES FOR THE CITY OF MIDLAND SOLID WASTE DEPARTMENT; AND AUTHORIZING THE CITY MANAGER TO NEGOTIATE AN AGREEMENT FOR SAID PROFESSIONAL SERVICES WITH THE MOST QUALIFIED PROVIDER; AND PROVIDING THAT NO SUCH AGREEMENT SHALL BECOME EFFECTIVE UNTIL APPROVED BY THE CITY COUNCIL

WHEREAS, the City Council finds it to be in the public interest to approve the request for qualifications and to authorize the City of Midland to accept statements of qualifications for professional in-depth operational review services for the City of Midland Solid Waste Department; and

WHEREAS, the City Council finds it to be in the public interest to negotiate a professional services agreement for said professional services with the most qualified provider, provided however, that no such agreement shall become effective until approved by the City Council;

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

SECTION ONE. That the request for qualifications for professional in-depth operational review services, being on file in the office of the City Secretary and referenced by the date and number of this Resolution, is hereby approved.

SECTION TWO. That the City Manager, or his designee, is hereby authorized and directed to advertise the request for qualifications from qualified providers.

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

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

by the following vote:

Council members voting “AYE”:

Council members voting “NAY”:

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

Courtney Sharp, City Manager

APPROVED AS TO CONTENT
AND COMPLETENESS:

Morris Williams, Director of Solid Waste

APPROVED AS TO FORM:

Keith Stretcher, City Attorney



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: 11/27/2012

TO: City Council / City Manager

FROM: Stuart Purvis, Utilities Director

SUBJECT: Consider a Resolution Approving Change Order Number 2 for the Headworks Improvements - Replacement of Influent Screens Project with Red River Construction Company and Appropriate Funds

Purpose:

Consider a resolution approving Change Order Number 2 for the Headworks Improvements - Replacement of Influent Screens Project with Red River Construction Company and appropriate funds.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Directional / Informational

Fiscal Impact:

Award amount is \$325,553 from the Water and Sewer Fund. That the sum of \$325,553 is hereby appropriated from the Water and Sewer Fund (300) Unappropriated Fund Balance (5650) to the Influent Screens Replacement Project (8966).

Discussion:

On June 14, 2011, the City Council awarded the WPCP Headworks Improvements Screen Replacement Project to Red River Construction in the amount of \$5,357,080. This project includes the replacement of influent screens, digester gas piping, and rehabilitation of the number 3 digester.

On May 22, 2012, Change Order Number 1 was approved in the amount of \$503,002. HDR is the design firm for this project.

Change Order Number 2 includes the following:

1. Addition of a camera pole for the security camera. The existing pole was found to be too unstable for use holding a camera. Additional cost for the new pole and necessary wiring was \$2,674.17 with no additional days on the contract.

2. After Digester 3 was drained it was found the existing electrical conduit to the level transmitter was too corroded to be reused. Additional cost to replace this conduit was \$2,716.19 with no additional days on the contract.

3. After several projects at the Water Pollution Control Plant that have modified control wiring, it was found that some of the SCADA wiring was not correctly routed or terminated. Additional cost to correct these wiring issues was \$3,744.79 with no additional days on the contract.

4. Two 8" valves were found to not be operational on the sludge system. Their operation was necessary for the contactor to complete their work. Cost to replace these valves was \$5,493.87 with no additional days on the contract.

5. Modifications were required for the front gate security system to add 3 phase power to the gate operator, delete the keypad and add a card system matching the one at the Water Purification Plant. Additional cost for these modifications was \$5,292.50 with no additional days on the contract.

6. Additional work was required for the wash pumps to allow for operation of the new influent screens. A relief valve, isolation valve and piping for the four booster pumps was provided. Additional cost for these items was \$24,367.43 with no additional days on the contract.

7. Modifications were required for the wash system on the new influent screens to accommodate the increased pressures of the modified wash system. Additional cost for this modification was \$43,426.52 with no additional days on the contract.

8. Once the new screens were installed, it was found that access for maintenance was through the use of folding ladders, 15 feet in the air, over rotating equipment. This was not determined to be safe so the addition of catwalks was pursued to provide safe and reliable access to the mechanisms. Additional cost for these catwalks was \$209,737.70 with no additional days on the contract.

9. Modifications to install a new 48" slide gate (existing one was failed during construction), to modify the ram press due to failing components, and costs to provide an extra width gasket to seal the membrane on digester number 3. Additional cost for these items was \$28,099.51 and no additional days on the contract.

This results in a net increase to the contract of \$325,552.68 with no additional days to the contract.

RESOLUTION NO.

**RESOLUTION AUTHORIZING THE EXECUTION OF
CHANGE ORDER NUMBER TWO WITH RED RIVER
CONSTRUCTION COMPANY, INCORPORATED,
ADDING \$325,553.00 FOR ADDITIONAL WORK TO
THE EXISTING CONTRACT FOR THE HEADWORKS
IMPROVEMENTS - REPLACEMENT OF INFLUENT
SCREENS PROJECT; AND APPROPRIATING
\$325,553.00; THE ORIGINAL CONTRACT WAS FOR
\$5,357,080.00; THIS CHANGE ORDER BRINGS THE
TOTAL CONTRACT PRICE TO \$6,185,735.00**

WHEREAS, the City Council finds it to be in the public interest to authorize the execution of Change Order No. 2 with Red River Construction Company, Inc., for additional work to the existing contract for the Headworks Improvements - Replacement of Influent Screens Project, and to appropriate necessary funds;

**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, Change Order No. 2 with Red River Construction Company, Inc., for additional work to the existing contract for the Headworks Improvements - Replacement of Influent Screens Project, said change order being on file in the office of the City Secretary and referenced by the date and number of this Resolution.

SECTION TWO. That the sum of \$325,553.00 is hereby appropriated from the Water and Sewer Fund (300) Unappropriated Fund Balance (5650) to the Influent Screens Replacement Project (8966).

SECTION THREE. That the City Treasurer is hereby authorized to pay Red River Construction Company, Inc., according to the terms of the contract referenced herein as amended from funds appropriated herein upon the proper receipt of an invoice approved by the City Manager.

On motion of Council member _____, seconded by Council member _____, the above and foregoing resolution was adopted by the City Council of the

City of Midland at a regular meeting on the _____ day of _____, A.D., 2012, by
the following vote:

Council members voting "AYE":

Council members voting "NAY":

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

Courtney Sharp, City Manager

APPROVED AS TO CONTENT
AND COMPLETENESS:

Stuart Purvis, Director of Utilities

APPROVED AS TO FORM:

Keith Stretcher, City Attorney



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: 11/27/2012

TO: City Council / City Manager

FROM: Stuart Purvis, Utilities Director

SUBJECT: Consider a Resolution Authorizing the Mayor to Negotiate and Execute a Contract with the Midland County Fresh Water Supply District Number 1 to Investigate Additional Water Supplies in Winkler County.

Purpose:

Consider a Resolution Authorizing the Mayor to Negotiate and Execute a Contract with the Midland County Fresh Water Supply District Number 1 to Investigate Additional Water Supplies in Winkler County.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Directional / Informational

Fiscal Impact:

Award amount of \$2,350,000 from the Water and Sewer Fund. That the sum of \$2,350,000 is hereby appropriated from the following sources in the following amounts to the T-Bar Additional Supply Project (9023):

Water and Sewer Fund (300) Unappropriated Fund Balance (5650)	\$355,302
T-Bar Ranch Fund (340) Unappropriated Fund Balance (5650)	\$1,475,857
1993 W&S REV BOND CONSTRUCTION Fund (365) Unappropriated Fund Balance (5650)	\$ 12,992
1996 W&S REV BOND CONSTRUCTION Fund (366) Unappropriated Fund Balance (5650)	\$ 20,376
1999 W&S FLT RATE REV CONST (TEX-CAP) (375) Unappropriated Fund Balance (5650)	\$ 485,473

Discussion:

This project will fund the Midland County Fresh Water Supply District Number 1 in their investigation of additional water supplies in Winkler County. Specifically it will be utilized to construct a well into the Capitan Reef formation to characterize the quantity and quality of that water. This formation is over 4,000 feet deep so the cost of the well are significant but indications are that there is an abundance of water there.

RESOLUTION NO. _____

**RESOLUTION AUTHORIZING THE MAYOR TO
NEGOTIATE AND EXECUTE AN INTERLOCAL
AGREEMENT WITH THE MIDLAND COUNTY FRESH
WATER SUPPLY DISTRICT #1 FOR THE DRILLING OF
A WELL INTO THE CAPITAN REEF COMPLEX
AQUIFER TO PROMOTE THE CITY'S FUTURE
WATER SUPPLY; AND APPROPRIATING FUNDS**

WHEREAS, the City Council finds it to be in the public interest to authorize the Mayor to negotiate and execute an interlocal agreement with the Midland County Fresh Water Supply District #1 for the drilling of a well into the Capitan Reef Complex Aquifer at a cost of approximately \$2,350,000.00;

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

SECTION ONE. That the Mayor is hereby authorized and directed to negotiate and execute, on behalf of the City of Midland, an interlocal agreement with the Midland County Fresh Water Supply District #1 for the drilling of a well into the Capitan Reef Complex Aquifer at a cost of approximately \$2,350,000.00.

SECTION TWO. That the sum of \$2,350,000.00 is hereby appropriated from the following sources in the following amounts to the T-Bar Additional Supply Project (9023):

- Water and Sewer Fund (300) Unappropriated Fund Balance (5650).....\$355,302.00

- T-Bar Ranch Fund (340) Unappropriated Fund Balance (5650).....\$1,475,857.00

- 1993 W&S REV BOND CONSTRUCTION Fund (365)

Unappropriated Fund Balance (5650).....\$12,992.00

- 1996 W&S REV BOND CONSTRUCTION Fund (366)

Unappropriated Fund Balance (5650).....\$20,376.00

- 1999 W&S FLT RATE REV CONST (TEX-CAP) (375)

Unappropriated Fund Balance (5650).....\$485,473.00

SECTION THREE. That the City Treasurer is hereby authorized and directed to pay the Midland County Fresh Water Supply District #1 pursuant to the terms of said agreement

from funds appropriated herein upon receipt of proper invoices or statements approved by the City Manager.

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

Council members voting "AYE":

Council members voting "NAY":

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

Courtney Sharp, City Manager

APPROVED AS TO CONTENT
AND COMPLETENESS:

Stuart Purvis, Utilities Director

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

ESTIMATED DEPTHS

T-BAY
CAPITAN REEF
PROPOSED
LOCATION "A"

Wells

Bore Hole

26" Hole
~40' or competent ground

19" Hole

12-1/4" Hole

8-3/4" Hole

Casing

20" Casing
Cement to surface with
Type A cement

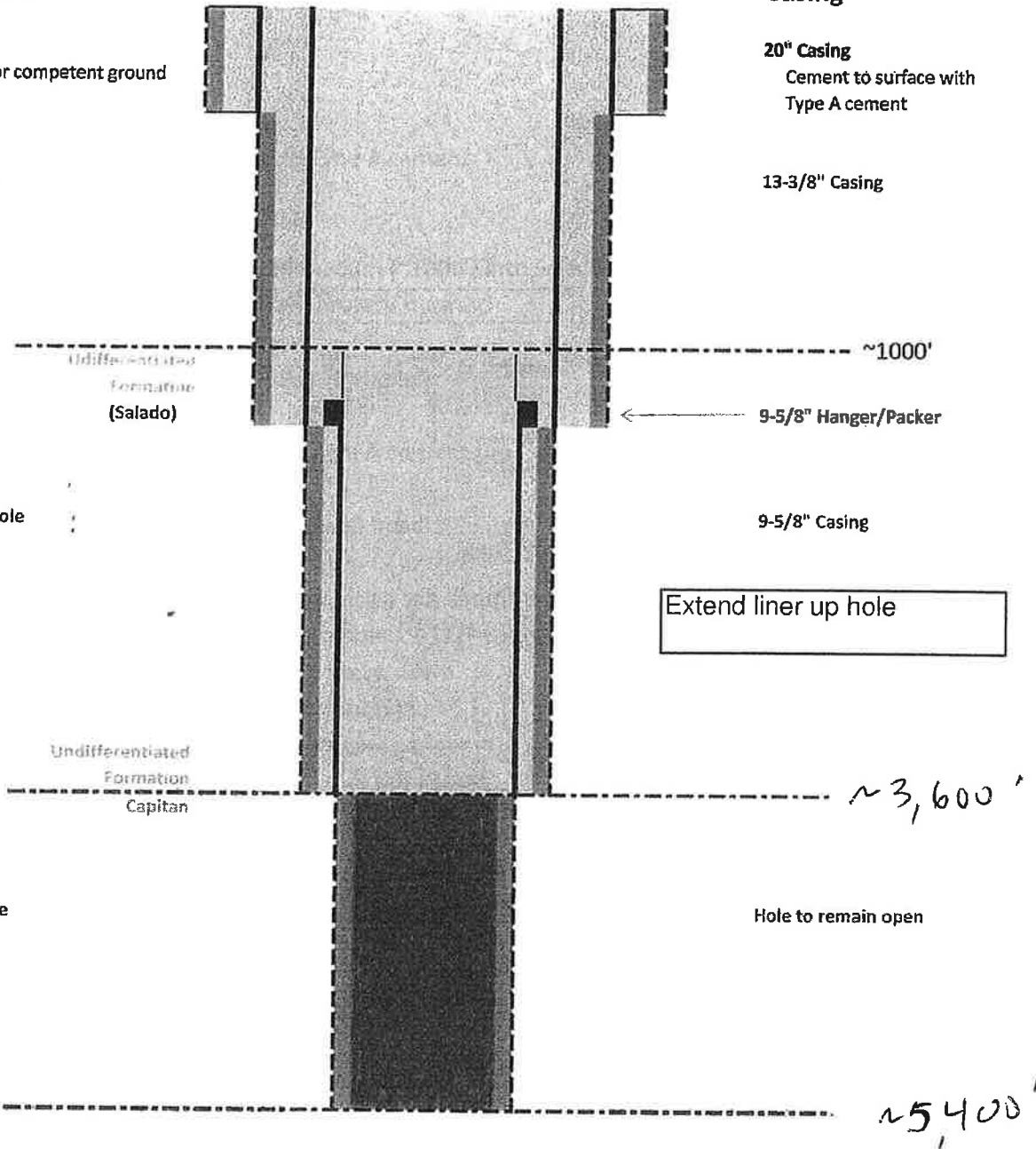
13-3/8" Casing

9-5/8" Hanger/Packer

9-5/8" Casing

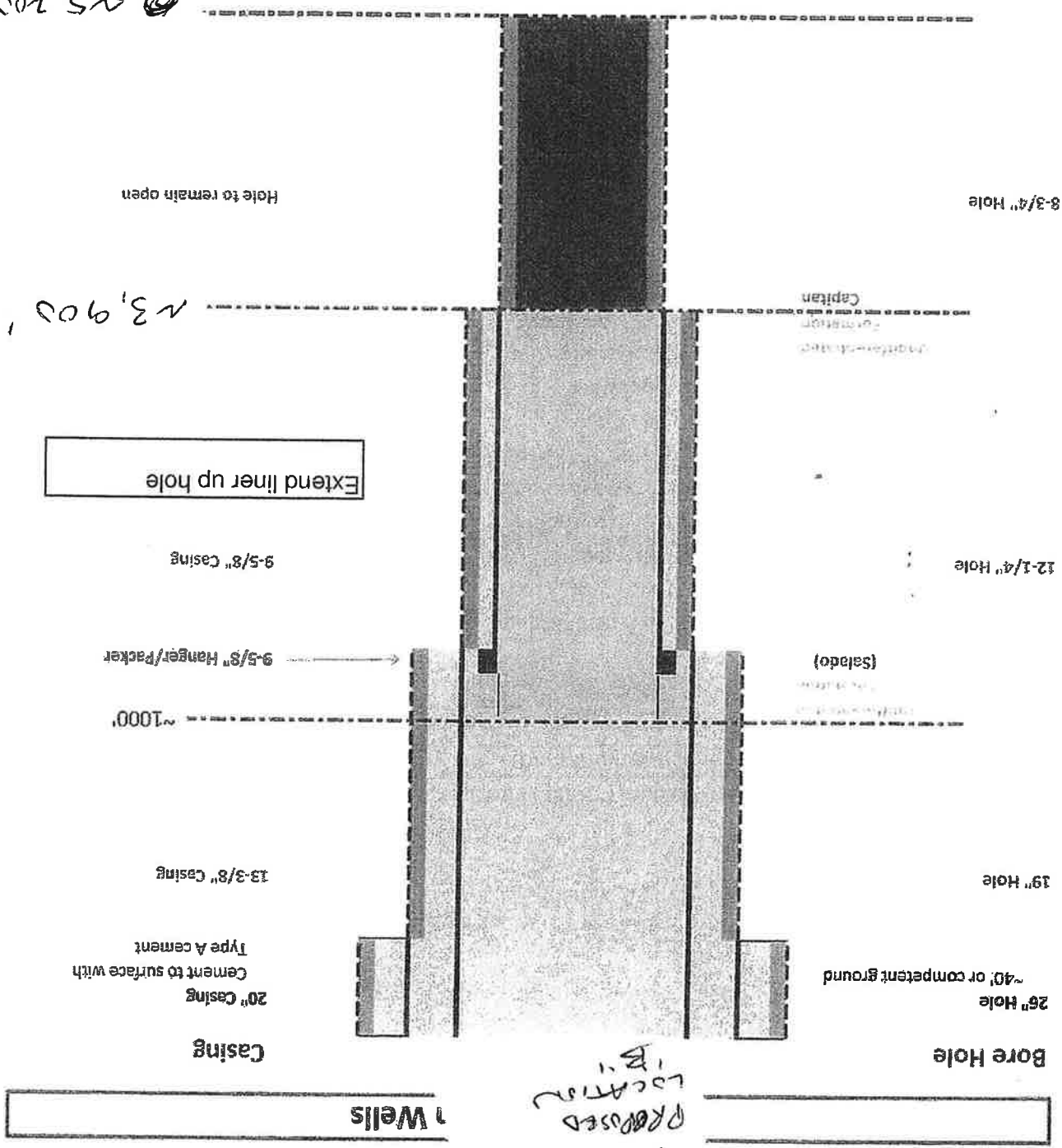
Extend liner up hole

Hole to remain open



~5,200'

~3,900'



ESTIMATED DEPTHS
T-5AR
CAPITAN REEF
PROPOSED
LOCATION
1 B"

Legend

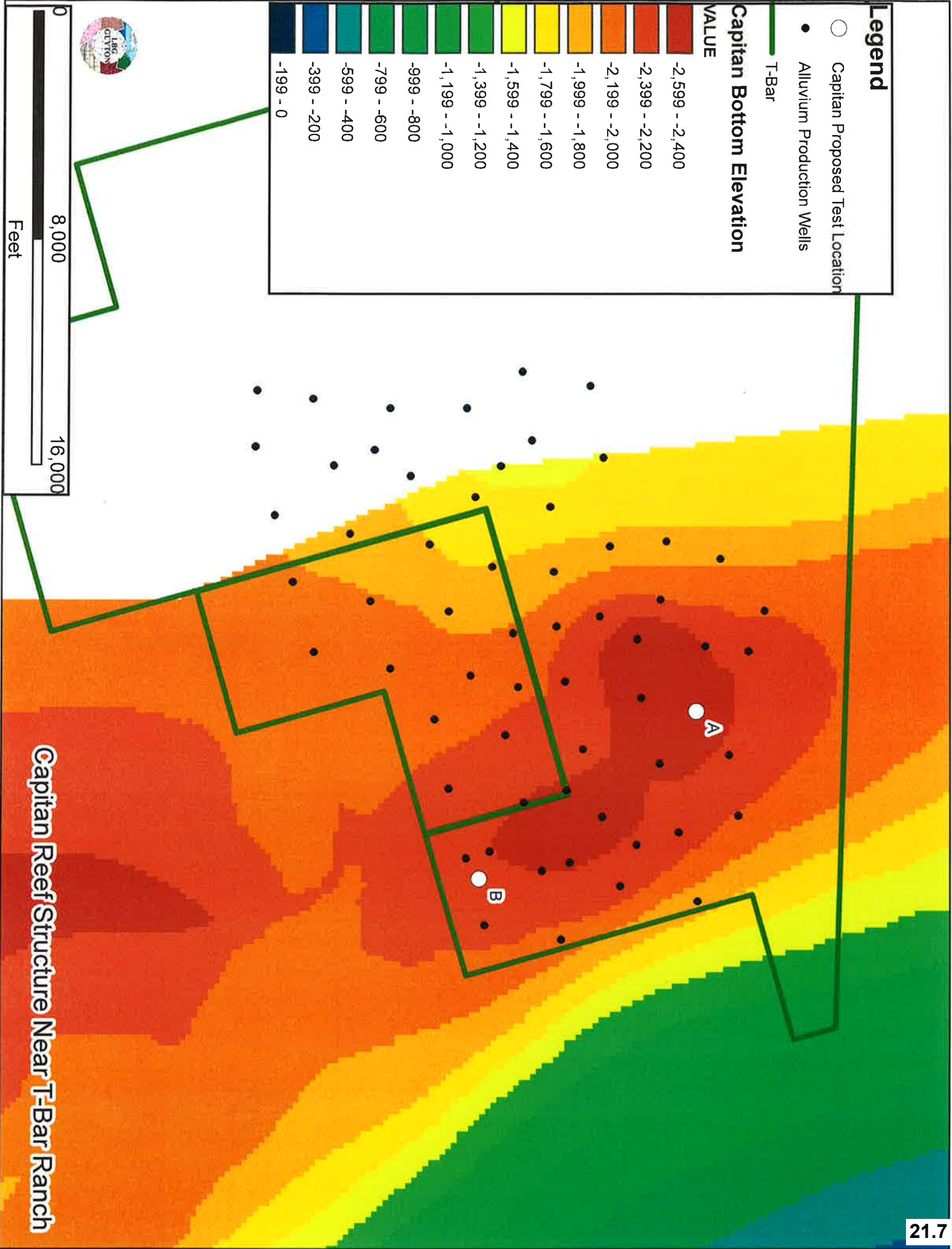
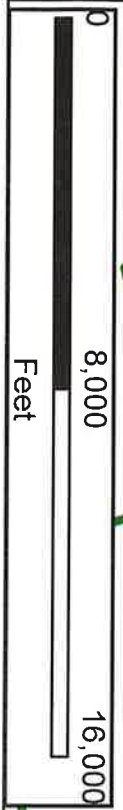
- Capitan Proposed Test Location
- Alluvium Production Wells

T-Bar

Capitan Bottom Elevation

VALUE

-2,599 - -2,400
-2,399 - -2,200
-2,199 - -2,000
-1,999 - -1,800
-1,799 - -1,600
-1,599 - -1,400
-1,399 - -1,200
-1,199 - -1,000
-999 - -800
-799 - -600
-599 - -400
-399 - -200
-199 - 0



Capitan Reef Structure Near T-Bar Ranch

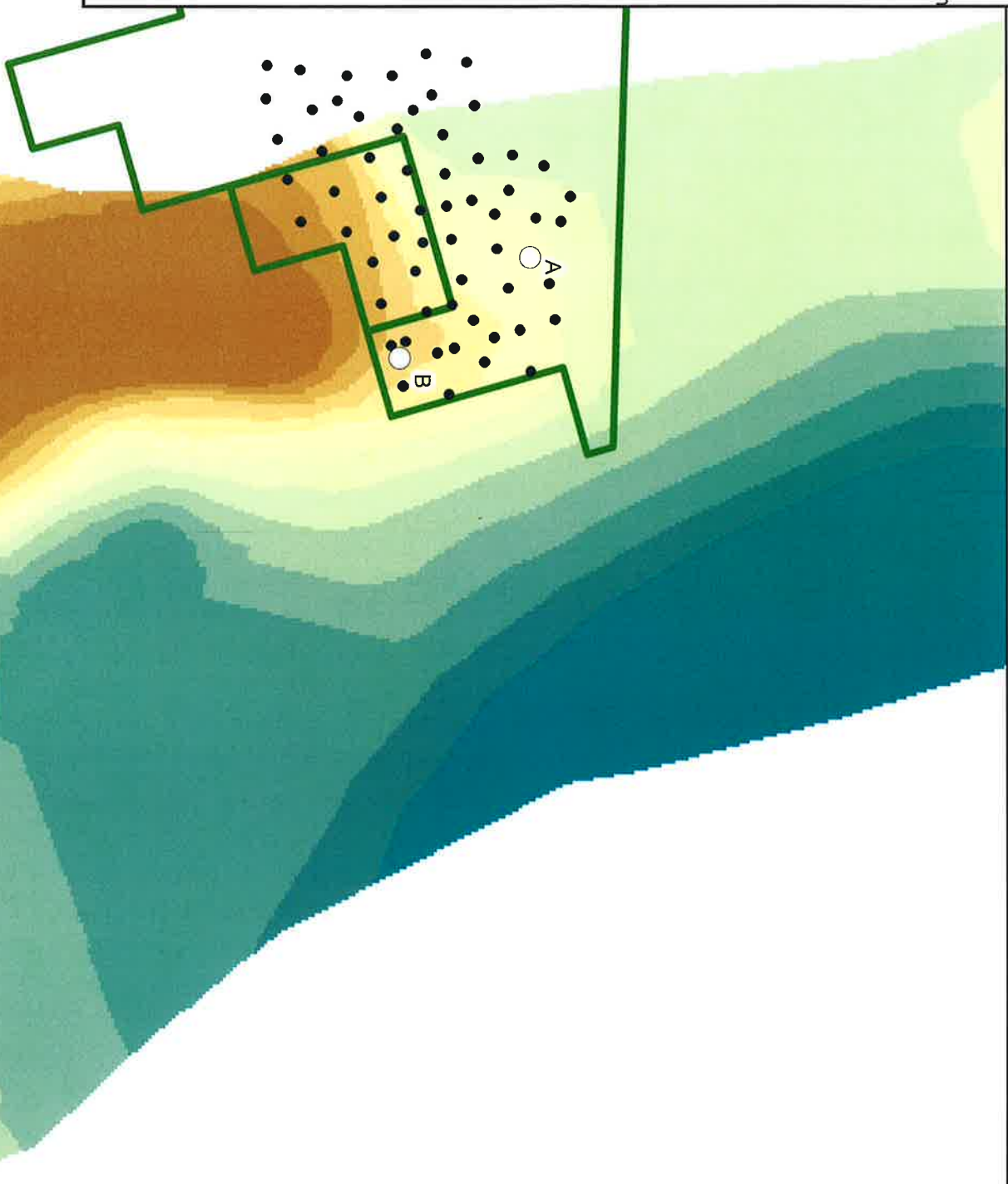
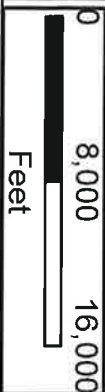
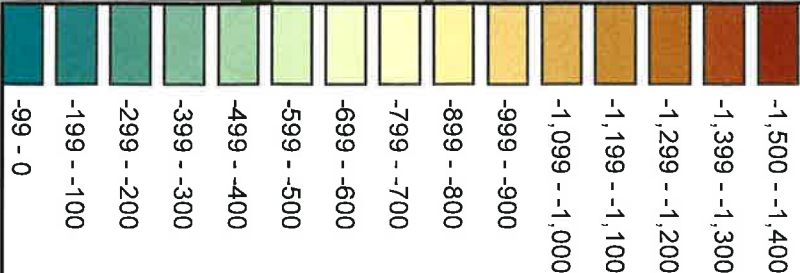
Legend

- Capitan Proposed Test Location
- Alluvium Production Wells

T-Bar

Capitan Top Elevation

VALUE



Capitan Reef Structure Near T-Bar Ranch



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: 11/13/2012

TO: City Council / City Manager

FROM: Stuart Purvis, Utilities Director

SUBJECT: 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, 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.

Purpose:

Consider an ordinance on second reading for changing the second tier of water rates.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Directional / Informational

Fiscal Impact:

The change in rates is to reflect additional water availability from CRMWD.

Discussion:

Current inside city water rates and structure are as follows:

Commercial customers using greater than 10,000 gallons for indoor use:

Base Rate (includes first 2,000 gallons) \$14.71

Water usage between 2-10,000 gallons/month

\$3.50 per thousand gallons

Water usage between 10-25,000 gallons/month

\$4.60 per thousand gallons

Water usage above 25,000 gallons/month

\$6.20 per thousand gallons

Apartments:

Charge per unit for first 2,000 gallons/month

pursuant to criteria for calculating apartments

\$11.95 per unit

Residential customers:

Base Rate (includes first 2,000 gallons)	\$14.71	
Water usage between 2-10,000 gallons/month		\$3.50 per thousand gallons
Water usage between 10-25,000 gallons/month		\$23.00 per thousand gallons
Water usage above 25,000 gallons/month		\$31.00 per thousand gallons

All rates are subject to a 2.5% increase on an annual basis unless modified by the City Council.

Proposed inside city water rates and structure are as follows:

Commercial customers using greater than 10,000 gallons for indoor use:

Base Rate (includes first 2,000 gallons)	\$14.71	
Water usage between 2-10,000 gallons/month		\$3.50 per thousand gallons
Water usage between 10-25,000 gallons/month		\$4.60 per thousand gallons
Water usage above 25,000 gallons/month		\$6.20 per thousand gallons

Apartments:

Charge per unit for first 2,000 gallons/month pursuant to criteria for calculating apartments	\$11.95 per unit
--	------------------

Residential customers:

Base Rate (includes first 2,000 gallons)	\$14.71	
Water usage between 2-10,000 gallons/month		\$3.50 per thousand gallons
Water usage between 10-25,000 gallons/month		\$4.60 per thousand gallons
Water usage above 25,000 gallons/month		\$31.00 per thousand gallons

All rates are subject to a 2.5% increase on an annual basis unless modified by the City Council.

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE III, “DEPARTMENTS”, CHAPTER 1, “WATER DEPARTMENT”, SECTION 2, “RATES,” SUBSECTION (A), “CUSTOMERS INSIDE OF CITY LIMITS,” SUB-SUBSECTION 1., “WATER RATES,” OF THE CITY CODE OF MIDLAND, TEXAS, SO AS TO DECREASE THE RATES CHARGED TO CUSTOMERS INSIDE THE CITY LIMITS FOR WATER; 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 rates or charges for water services provided by the City of Midland need to be revised in order to adequately compensate the City for such service; and

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 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,” Subsection (A), “Customers Inside of City Limits,” Sub-subsection 1, “Water 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 \$14.71 for the first 2,000 gallons or less;
 - ii. \$3.50 per 1,000 gallons for all water usage exceeding 2,000 gallons up

- to 10,000 gallons;
- iii. \$4.60 per 1,000 gallons for all water usage exceeding 10,000 gallons up to 25,000 gallons;
- iv. \$31.00 per 1,000 gallons for all water usage exceeding 25,000 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 \$14.71 for the first 2,000 gallons or less;
 - ii. \$3.50 per 1,000 gallons for all water usage exceeding 2,000 gallons up to 10,000 gallons;
 - iii. \$4.60 per 1,000 gallons for all water usage exceeding 10,000 gallons up to 25,000 gallons;
 - iv. \$6.20 per 1,000 gallons for all water usage exceeding 25,000 gallons.
 - v. The City Manager may amend Attachment “A” as he finds necessary.
- (c) All water rates will increase by 2.50% each year on the anniversary of the effective date of this ordinance unless otherwise modified by the City Council.
- (d) For apartments, the minimum charge shall be \$11.95 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 \$1,195.00 for the first 200,000 gallons or less of water used. Apartment units shall be calculated pursuant to Subsection (B) of this Section.

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.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the _____ day of _____, A.D., 2012; and passed to second reading on motion of Council member _____, seconded by Council member _____, by the following vote:

Council members voting “AYE”:

Council members voting “NAY”:

The above and foregoing ordinance was read in full and finally adopted by the following vote upon motion of Council member _____, seconded by Council member _____, on the _____ day of _____, A.D., 2012, at a regular meeting of the City Council:

Council members voting “AYE”:

Council members voting “NAY”:

PASSED AND APPROVED THIS _____ day of _____, A.D., 2012.

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

Courtney Sharp, City Manager

APPROVED AS TO FORM:

Keith Stretcher, City Attorney



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: November 27, 2012

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, AICP

SUBJECT: Consider an ordinance on second reading annexing and adopting a service plan for Tract 1, being a 283.36-acre tract of land out of Sections 11 & 12, Block 40, T-2-S, T&P RR. Co. Survey, Midland County, Texas. (Generally located on the north side of I-20, east of NCR 1250)

Purpose: Consider an ordinance on second reading annexing and adopting a service plan for Tract 1, being a 283.36-acre tract of land out of Sections 11 & 12, Block 40, T-2-S, T&P RR. Co. Survey, Midland County, Texas. (Generally located on the north side of I-20, east of NCR 1250)

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

There is no cost to the City to process the annexation of this property.

Discussion:

First reading was held November 13th. It is now appropriate for the Council to consider an ordinance on second reading annexing and adopting a service plan for this approximate 284-acre tract.

Attachments:

Map
Proposed Ordinance and Exhibit B: Service Plan

ORDINANCE NO.

AN ORDINANCE EXTENDING THE BOUNDARIES OF THE CITY OF MIDLAND, TEXAS, BY ADDING THERETO CERTAIN AREAS ADJOINING THE PRESENT CITY LIMITS, BEING A 283.36-ACRE TRACT OF LAND OUT OF SECTIONS 11 AND 12, BLOCK 40, T-2-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION ONE HEREOF (GENERALLY LOCATED ON THE NORTHEAST CORNER OF THE INTERSECTION OF WEST INTERSTATE 20 AND SOUTH COUNTY ROAD 1250); AND APPROVING A PUBLIC SERVICE PLAN

WHEREAS, public hearings before the City Council of the City of Midland, Texas, a home rule municipal corporation, where all interested persons were provided an opportunity to be heard on the proposed annexation of the hereinafter described territory, were held in the City Council Chambers on October 9, 2012 and October 16, 2012; and

WHEREAS, notice of such public hearings was published in a newspaper having general circulation in the City of Midland, Texas, and in the below described territory, on September 26, 2012;

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

SECTION ONE. That the following described property adjoining the present boundary lines of the City of Midland, Texas, be and the same is hereby annexed to and incorporated within the boundary of the City of Midland, Texas:

Being a 283.36-acre tract of land out of Sections 11 and 12, Block 40, T-2-S, T&P RR Co. Survey, Midland County, Texas, and being more fully described by metes and bounds attached hereto as Exhibit "A" and incorporated herein by reference for all legal purposes.

SECTION TWO. That the service plan, attached hereto as Exhibit "B", which provides for the extension of municipal services into the area described above in Section One, is hereby approved.

SECTION THREE. That this ordinance be published in the official newspaper in the City of Midland, Texas, and the same shall not be effective until after the publication

thereof.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the day of , A.D., 2012; and passed to second reading on motion of Council member , seconded by Council member , by the following vote:

Council members voting “AYE”:

Council members voting “NAY”:

The above and foregoing ordinance was read in full and finally adopted by the following vote upon motion of Council member , seconded by Council member , on the day of , A.D., 2012, at a regular meeting of the City Council:

Council members voting “AYE”:

Council members voting “NAY”:

PASSED AND APPROVED THIS day of , A.D., 2012.

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

James R. Nichols, Assistant City Manager

APPROVED AS TO FORM:

Keith Stretcher, City Attorney



ENVIRONMENTAL • CIVIL ENGINEERING • LAND SURVEYING

FIRM # 001363

521 NORTH TEXAS • ODESSA, TEXAS 79761

(432) 332-5058 or 580-8812 • FAX (432) 332-8812

TRACT 1

**ZONING OF 283.36 ACRES LOCATED IN
SECTIONS 11 AND 12, BLOCK 40, T-2-S,
T&P RR. CO. SURVEY
MIDLAND COUNTY, TEXAS**

Annexation Boundary Being More Particularly Described By Metes and Bounds As Follows:

Beginning at (Y= 10,674,929.48' and 1,726,413.48') at a ½" Iron rod with cap marked 'LCA ODESSA TX' in the north line of that certain 83.94 acre tract of land as recorded as Document Number 2011-25191 of the Official Public Records of Midland County, Texas and the south line of the remainder of that certain 262.16 acre tract as recorded in Volume 3053, Page 260 of said Official Public Records of Midland County, Texas, said corner also being in the east right-of-way line of S. County Road 1250, whence a ½" Iron rod found at the northwest corner of said Section 11 and the northeast corner of Section 10, of said Block 40, bears S 75°41'16" W, a distance of 60.00 feet and N 14°18'44" W, a distance of 2,019.48 feet;

THENCE N 59°44'40" E, along the common line of said 83.94 acre tract and said remainder of the 262.16 acre tract, a distance of 4,623.24 feet to a ½" Iron rod with cap marked 'LCA ODESSA TX' set in the west line of Capstone Business Park as recorded in Cabinet I Page 62 of the Plat records of Midland County, Texas;

THENCE S 29°53'42" E, along the common line of said Capstone Business Park and said 83.94 acre tract, a distance of 442.04 feet to a ½" Iron rod with cap marked 'LCA ODESSA TX' found at the southwest corner of said Capstone Business Park and a northwest corner of said remainder of the 262.16 acre tract;

THENCE N 81°49'30" E, along the south line of said Capstone Business Park and a north line of said remainder of the 262.16 acre tract, a distance of 659.82 feet to a ½" Iron rod with cap marked "LCA ODESSA TX" found at a northeast corner of that certain 49.14 acre tract as recoded as Document Number 2011-11208 of said Official Public Records of Midland County, Texas, a southwest corner of that certain 64.90 acre tract as recorded in Volume 3067 Page 111 of said Official Public Records of Midland County, Texas, and also being in the east line of said Section 11 and the west line of Section 12 of said Block 40;

THENCE N 81°49'30" E, along the north line of said 49.14 acre tract and the south line of said 64.90 acre tract, a distance of 12.38 feet to a ½" Iron rod with cap marked "LCA ODESSA TX";

THENCE S 89°31'05" E, along the north line of said 49.14 acre tract, a distance of 243.68 feet to a point of deflection;

THENCE S 52°51'09" E, along the east line of said 49.14 acre tract, a distance of 141.25 feet to a point of deflection;

THENCE S 35°09'09" E, along the east line of said 49.14 acre tract, a distance of 243.00 feet to a ½" Iron rod with cap marked "PLS 1974" for a point of deflection;

THENCE S 19°58'27" E, along the east line of said 49.14 acre tract, a distance of 207.01 feet to a ½" Iron rod with cap marked "PLS 1974" for a point of deflection;

THENCE S 31°35'47" E, along the east line of said 49.14 acre tract, a distance of 209.31 feet to a ½" Iron rod with cap marked "PLS 1974" for a point of deflection;

THENCE S 41°45'16" E, along the east line of said 49.14 acre tract, a distance of 237.73 feet to a ½" Iron rod with cap marked "PLS 1974" for a point of deflection;

THENCE S 09°09'10" W, along the east line of said 49.14 acre tract, a distance of 270.80 feet to a ½" Iron rod with cap marked "PLS 1974" for a point of deflection;

THENCE S 34°06'54" E, along the east line of said 49.14 acre tract, a distance of 332.00 feet to a ½" Iron rod with cap marked "PLS 1974" for the southeast corner of said 49.14 acre tract in the north right-of-way of Interstate Highway 20;

THENCE S 59°43' 33" W, along the south line of said 49.14 acre tract and the north right-of-way of said Interstate Highway 20, pass the west line of said Section 12 and the east line of said Section 11 at 645.43 feet, whence a 1 ½" Iron pipe found at the common corner of said Sections 11 and 12 bears S 14°16'05" E, a distance of 2,247.50 feet, pass the southwest corner of said 49.14 acre tract and the southeast corner of that certain 78.33 acre tract which is a remainder of that certain 127.39 acre tract as recorded in Volume 2717, Page 565 of said Official Public Records of Midland County, Texas at 1518.90 feet, in all a total distance of 3,735.66 feet to a ½" Iron rod at the southwest corner of said 78.25 acre tract and a southeast corner of said remainder of the 262.16 acre tract;

THENCE N 14°10'22" W, along the west line of said 78.33 acre tract and an east line of said remainder of the 262.16 acre tract, a distance of 800.00 feet to a ½" Iron rod with cap marked "LCA ODESSA TX" at an ell corner of this tract;

THENCE S 59°43'08" W, pass a ½" Iron rod with cap marked "LCA ODESSA TX" found at the easternmost southeast corner of that certain 59.59 acre tract as recorded as Document Number 2011-25191 and the northeast corner of Drill Site 1107 at 62.45 feet, pass a ½" Iron rod with cap marked "LCA ODESSA TX" found at the northwest corner of said Drill Site and the northernmost northeast corner of that certain 12.00 acre tract as recorded as Document Number 2011-25724 at 272.45 feet, pass the northwest corner of said 12.00 acre tract and the northeast corner of that certain 8.00 acre tract as recorded as Document Number 2011-22942 at 797.78 feet, in all a total distance of 1,251.08 feet to a ½" Iron rod with cap marked "LCA ODESSA TX" found at the northwest corner of said 8.00 acre tract and an ell corner of said 59.59 acre tract;

THENCE S 14°10'22" E, along an east line of said 59.59 acre tract and the west line of said 8.00 acre tract, a distance of 800.00 feet to a ½" Iron rod with cap marked "LCA ODESSA TX" found at the western

southeast corner of said 59.59 acre tract and the southwest corner of said 8.00 acre tract in the north right-of-way of said Interstate Highway 20:

THENCE S 59°43'09" W, along the south line of said 59.59 acre tract and the north right-of-way of said Interstate Highway 20, a distance of 1,066.89 feet to a ½" Iron rod with cap marked 'LCA ODESSA TX' at a cutback corner at the intersection of said Interstate Highway 20 and S. County Road 1250;

THENCE N 67°17'48" W, along said cutback, a distance of 24.08 feet to a ½" Iron rod with cap marked 'LCA ODESSA TX' in the said east right-of-way line of S. County Road 1250;

THENCE N 14°18'44" W, along the east right-of-way line of said S. County Road 1250, a distance of 2,455.64 feet to the Point of the Beginning containing 283.36 surface acres of land.

The Coordinates, Bearings, and Distances recited above are relative to the Texas Coordinate System, 1983 NAD (Central Zone) with a combined grid factor of 0.999883998 and a Theta Angle of -00°56'11" at Y=10,679,971.15' and X=1,732,752.34' and are based upon the City of Midland Control Monument "43/93" as published in US Survey Feet as provided by the City of Midland, Texas.

This document was prepared under 22 TAC 663.21, and is not to be used to convey or establish interest in real property except those rights and interest implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared.

LCA

Aaron S. Burrell, RPLS # 5689
22 October 2012



LCA Project Number 2011-058



Page 3 of 3

CASE NO. Z-12-042

EXHIBIT B
SERVICE PLAN FOR
Tract 1

Being a 283.36-acre tract of land out of Sections 11 & 12, Block 40, T-2-S, T&P RR. Co. Survey, Midland County, Texas. (Generally located on the north side of I-20, east of SCR 1250)

DEVELOPMENT SERVICES

Existing Services: Water service is available to Tract 1. This property is adjacent to the I-20 Service Road and to SCR 1250.

- A. Type of service to be provided upon annexation: Tract 1 is adjacent to the north I-20 service road and to SCR 1250. Engineering services, platting, traffic studies and controls will be required as warranted. Development and utility extension plans, right-of-ways, easements, and other typical development matters will be reviewed at the time plats are prepared for this land.
- B. Capital improvements to begin within 2 1/2 years: None

UTILITIES

Existing Services: Water service is available to Tract 1.

- A. Type of service to be provided upon annexation: None.
- B. Capital improvements to begin within 2 1/2 years: None

POLICE

Existing Services: None

- A. Type of service to be provided upon annexation: emergency and routine call response.
- B. Capital improvements to begin within 2 1/2 years: No improvements anticipated.

FIRE

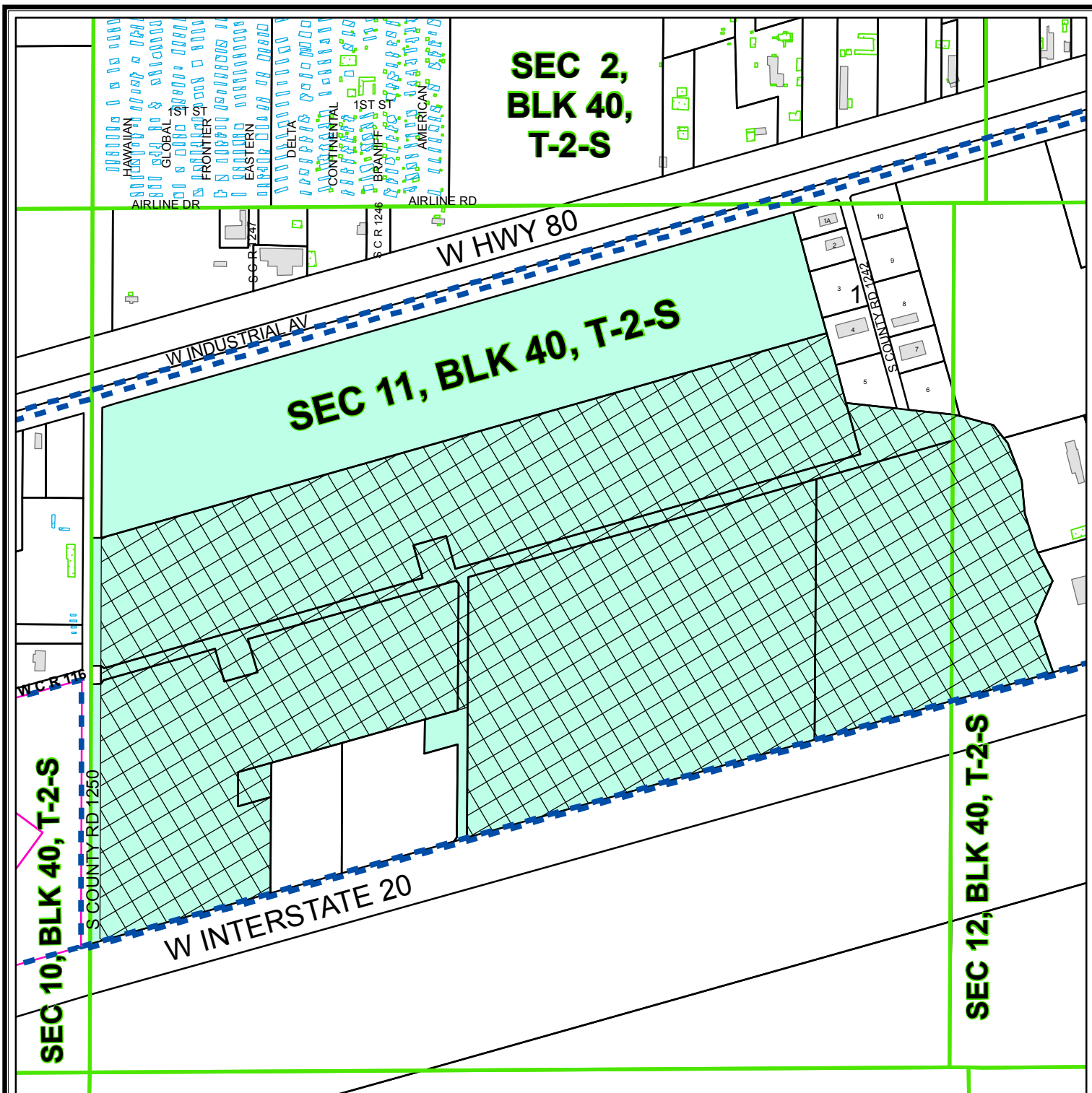
Existing Services: Fire and emergency response provided through agreement with Midland County

- A. Fire and EMS Service to be provided upon the effective date of annexation: All services are currently available and will continue following annexation.
- B. Capital improvements to begin within 2 1/2 years: None anticipated.

COMMUNITY SERVICES

Existing Services: Health and Senior Services
throughout Midland County including on site
septic system permitting

- A. Type of service to be provided upon annexation: Animal Control services including pick up, impoundment, records maintenance, adoption and education will be immediately available.
- B. Capital improvements to begin within 2 1/2 years: None anticipated.



PROPOSED ANNEXATION MAP

M - 12 - 007

Scale: 1" = 850'

TRACT 1

Consider a request for the annexation of a 283.36-acre tract of land out of Sections 11 and 12, Block 40, T-2-S, T & P RR Co. Survey, Midland County, Texas.

LEGEND

- ANNEXATION BOUNDARY
- CITY LIMITS
- SURVEY SECTION
- COUNTY PARCEL
- CITY PARCEL
- PUBLIC BLDGS
- PRIVATE BLDGS
- ACCESSORY BLDGS



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City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: November 27, 2012

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, AICP

SUBJECT: Consider an ordinance on second reading annexing and adopting a service plan for Tract 2, being a 75.90-acre tract of land out of Sections 37 & 38, Block 40, T-1-S, T&P RR. Co. Survey, Midland County, Texas. (Generally located south of SH 191 and Deauville Boulevard)

Purpose: Consider an ordinance on second reading annexing and adopting a service plan for Tract 2, being a 75.90-acre tract of land out of Sections 37 & 38, Block 40, T-1-S, T&P RR. Co. Survey, Midland County, Texas. (Generally located south of SH 191 and Deauville Boulevard)

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

There is no cost to the City to process the annexation of this property.

Discussion:

First reading was held November 13th. It is now appropriate for the Council to consider an ordinance on second reading annexing and adopting a service plan for this approximate 76-acre tract.

Attachments:

Map
Proposed Ordinance and Exhibit B: Service Plan

ORDINANCE NO.

AN ORDINANCE EXTENDING THE BOUNDARIES OF THE CITY OF MIDLAND, TEXAS, BY ADDING THERETO CERTAIN AREAS ADJOINING THE PRESENT CITY LIMITS, BEING A 75.90-ACRE TRACT OF LAND OUT OF SECTIONS 37 AND 38, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION ONE HEREOF (GENERALLY LOCATED ON THE SOUTHWEST CORNER OF THE INTERSECTION OF TRADEWINDS BOULEVARD AND DEAUVILLE BOULEVARD); AND APPROVING A PUBLIC SERVICE PLAN

WHEREAS, public hearings before the City Council of the City of Midland, Texas, a home rule municipal corporation, where all interested persons were provided an opportunity to be heard on the proposed annexation of the hereinafter described territory, were held in the City Council Chambers on October 9, 2012 and October 16, 2012; and

WHEREAS, notice of such public hearings was published in a newspaper having general circulation in the City of Midland, Texas, and in the below described territory, on September 26, 2012;

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

SECTION ONE. That the following described property adjoining the present boundary lines of the City of Midland, Texas, be and the same is hereby annexed to and incorporated within the boundary of the City of Midland, Texas:

Being a 75.90-acre tract of land out of Sections 37 and 38, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas, and being more fully described by metes and bounds attached hereto as Exhibit "A" and incorporated herein by reference for all legal purposes.

SECTION TWO. That the service plan, attached hereto as Exhibit "B", which provides for the extension of municipal services into the area described above in Section One, is hereby approved.

SECTION THREE. That this ordinance be published in the official newspaper in the City of Midland, Texas, and the same shall not be effective until after the publication

thereof.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the day of , A.D., 2012; and passed to second reading on motion of Council member , seconded by Council member , by the following vote:

Council members voting “AYE”:

Council members voting “NAY”:

The above and foregoing ordinance was read in full and finally adopted by the following vote upon motion of Council member , seconded by Council member , on the day of , A.D., 2012, at a regular meeting of the City Council:

Council members voting “AYE”:

Council members voting “NAY”:

PASSED AND APPROVED THIS day of , A.D., 2012.

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

James R. Nichols, Assistant City Manager

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

Legal Description for a 75.90 Acre Annexation Tract
Located in Sections 37 and 38, Block 40,
T-1-S, T. & P. RR. Co Survey,
Midland County, Texas

Boundary being further described by metes and bounds as follows:

BEGINNING at (N= 10,692,705.22' E= 1,727,508.15') a ½" iron rod with a plastic cap marked "PLS 1974" set at the Southwest corner of Westridge Park Addition, Section 6, as recorded in Cabinet F, Page 183, Plat Records of Midland County being the Northwest corner of this tract, from whence the Northwest corner of said Section 37, and the Northeast corner of said Section 38 bears S75°15'55"W, a distance of 55.35 feet and N14°25'48"W a distance of 1062.52 feet;

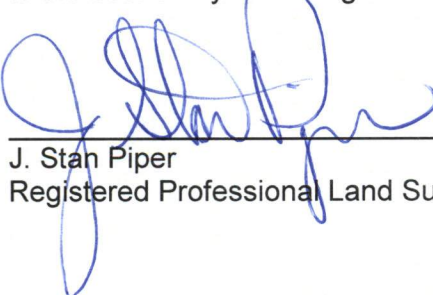
1. THENCE N75°13'55"E with the said South boundary line of Deauville Boulevard, at 120.28 feet pass a ½" iron rod with a plastic cap marked "PLS 1974" set at the Northwest corner of a 25.00 Acre Tract surveyed this day, continuing for a total distance of 1526.06 feet to a ½" iron rod with a plastic cap marked "PLS 1974" found at a point of curvature of said Deauville Boulevard;
2. THENCE with a curve to the right in an Easterly direction with the said South line of Deauville Boulevard, along a radius of 1945.00 feet, a delta angle of 29°30'35", an arc length of 1001.76 feet, and a chord length of 990.72 feet, which bears N89°59'13"E, to a ½" iron rod with a plastic cap marked "PLS 1974" set at a point of tangency;
3. THENCE S75°15'30"E with the said South line of Deauville Boulevard, a distance of 975.96 feet to a ½" iron rod with a plastic cap marked "PLS 1974" set at a point of curvature;
4. THENCE with a curve to the right in a Easterly direction with a radius of 15.00 feet, a delta angle of 90°00'00", an arc length of 23.56 feet, and a chord length of 21.21 feet, which bears S30°15'30"E, to a ½" iron rod with a plastic cap marked "PLS 1974" set at a point of tangency;
5. THENCE S14°44'30"W with the West boundary line of Tradewinds Boulevard, a distance of 634.15 feet to a ½" iron rod with a plastic cap with top broken found at a point of curvature;
6. THENCE with a curve to the left in a Southerly direction with said West line of Tradewinds Boulevard, with a radius of 3054.93 feet, a delta angle of 08°55'06", an arc length of 475.51 feet, and a chord length of 475.03 feet which bears S10°16'57"W to a ½" iron rod with a plastic cap marked "RPLS 4413" found at the Southeast corner of this tract;
7. THENCE N59°11'15"W a distance of 424.66 feet to a ½" iron rod with a plastic cap marked "PLS 1974" set at a corner of this tract and a 15.3 Acre Tract previously surveyed;
8. THENCE N73°58'32"W with the North line of a 20 foot wide alley and the North line of Legends Park Cabinet I, Page 76, Plat Records, a distance of 516.83 feet to a ½" iron rod with a plastic cap marked "RPLS 4413" found at a corner of this tract and said Legends Park Addition;
9. THENCE N76°33'46"W with the North boundary line of a Storm Water Detention Basin for Legends Park, a distance of 210.44 feet to a corner of this tract and said Legends Park;
10. THENCE N86°55'08"W with the North boundary line of a Storm Water Detention Basin for Legends Park, a distance of 172.71 feet to a corner of this tract and said Legends Park;

JUL 16 2012

11. THENCE S82°28'46"W with the North boundary line of a Storm Water Detention Basin for Legends Park, a distance of 171.39 feet to a corner of this tract and said Legends Park ;
12. THENCE S76°13'03"W with the North boundary line of said 108.712 Acre Tract as described in Instrument 2009-19786 Official Public Records of Midland County, a distance of 1625.90 feet to a ½" iron rod with a plastic cap marked "RPLS 4413" found in the common line of said Sections 37 and 38 at the Northwest corner of said 108.712 Acre Tract;
13. THENCE S75°34'12"W, a distance of 60.00 feet to a ½" iron rod with a plastic cap marked "PLS 1974" set at the Southwest corner of this tract;
14. THENCE with the said proposed West ROW line, along curve turning to the right in a Northerly direction with a radius of 1560 .00 feet, a delta angle of 13°23'55", an arc length of 364.81 feet, a chord length of 363.98 feet which bears N07°43'51"W, to a ½" iron rod with a plastic cap marked "PLS 1974" set at a point of tangency of said ROW line;
15. THENCE N01°01'53"W with the said proposed West ROW line, at 75.69 feet pass the East line of said Section 38 and the West line of said Section 37, continuing for a total distance of 164.19 feet to a ½" iron rod with a plastic cap marked "PLS 1974" set at a point of curvature corner;
16. THENCE with the said proposed West ROW line, along a curve to the left in a Northerly direction, with a radius of 1440.00 feet, a delta angle of 17°39'48", an arc length of 443.93 feet, with a chord length of 442.17 feet, which bears N09°51'47"W to a point of compound curvature of said ROW line;
17. THENCE with curve to the left along said West ROW line in a Northerly direction with a radius of 4440.00 feet, a delta angle of 00°03'17", an arc length of 4.24 feet, and a chord length of 4.24 feet, which bears N18°50'10"W to the Place of Beginning, having an area of 75.90 Acres.

Bearings, distances, and coordinates are relative to the Texas State Plane Coordinate System, NAD 1983/86, Central Zone, with a combined grid factor of 0.9998958, and a theta angle equal to - 0°54'48.39" at U.S.C. & G. station "MIDLAND" with published values of Y= 10,690,154.70 and X= 1,746,696.78 in U.S. Survey Feet.

I, J. Stan Piper, Registered Professional Land Surveyor, do hereby certify that this legal description is based on an actual survey made by me or under my supervision, and that the same is true and correct to the best of my knowledge and ability as surveyed on the ground July 2, 2012.


J. Stan Piper
Registered Professional Land Surveyor

Prepared for:
Parkhill, Smith, and Cooper, Inc.
1700 West Wall St. Suite 100
Midland, TX 79701

PIPER SURVEYING COMPANY, P.O. BOX 60432, MIDLAND, TX, 79711, 432-550-7810

CASE NO. 11-12-012



EXHIBIT B
SERVICE PLAN FOR
Tract 2

Being a 75.90-acre tract of land out of Sections 37 & 38, Block 40, T-1-S, T&P RR. Co. Survey, Midland County, Texas. (Generally located south of SH 191 and Deauville Boulevard)

DEVELOPMENT SERVICES

Existing Services: Water and sewer services are adjacent to Tract 2 . This property is adjacent to the multiple paved public roads.

- A. Type of service to be provided upon annexation: Tract 2 is adjacent to Deauville Boulevard and the extension of Avalon Drive and Tradewinds Boulevard. Engineering services, platting, traffic studies and controls will be required as warranted. Development and utility extension plans, right-of-ways, easements, and other typical development matters will be reviewed at the time plats are prepared for this land.
- B. Capital improvements to begin within 2 1/2 years: None

UTILITIES

Existing Services: Water and sewer service is adjacent to Tract 2.

- A. Type of service to be provided upon annexation: None.
- B. Capital improvements to begin within 2 1/2 years: None

POLICE

Existing Services: None

- A. Type of service to be provided upon annexation: emergency and routine call response.
- B. Capital improvements to begin within 2 1/2 years: No improvements anticipated.

FIRE

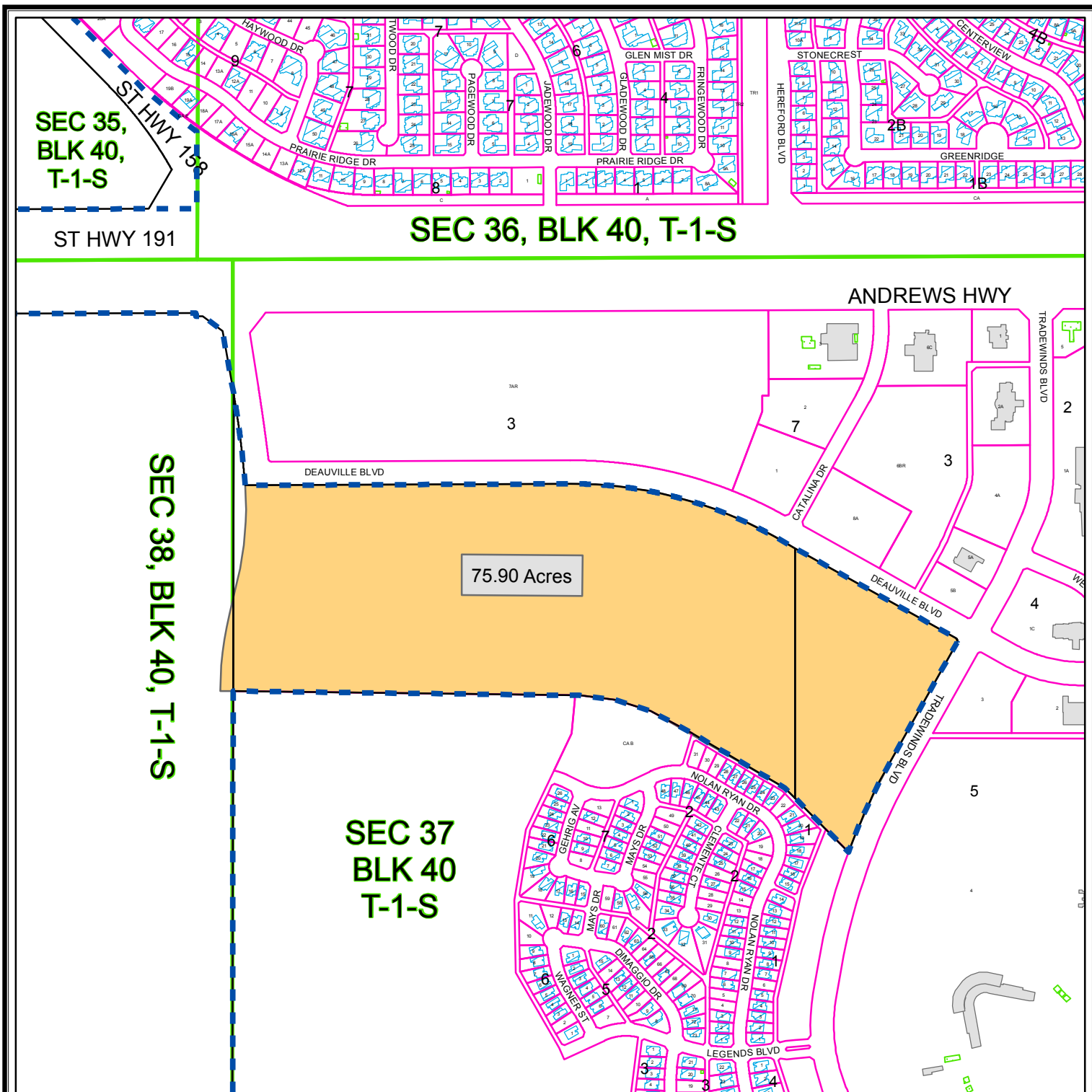
Existing Services: Fire and emergency response provided through agreement with Midland County

- A. Fire and EMS Service to be provided upon the effective date of annexation: All services are currently available and will continue following annexation.
- B. Capital improvements to begin within 2 1/2 years: None anticipated.

COMMUNITY SERVICES

Existing Services: Health and Senior Services
throughout Midland County including on site
septic system permitting

- A. Type of service to be provided upon annexation: Animal Control services including pick up, impoundment, records maintenance, adoption and education will be immediately available.
- B. Capital improvements to begin within 2 1/2 years: None anticipated.



PROPOSED ANNEXATION MAP

M - 12 - 012

Scale: 1" = 650'

TRACT 2

Consider a request for the annexation of a 75.90-acre tract of land out of Sections 37 and 38, Block 40, T-1-S, T & P RR Co. Survey, Midland County, Texas.

LEGEND

- ANNEXATION BOUNDARY
- CITY LIMITS
- SURVEY SECTION
- CITY PARCEL
- COUNTY PARCEL
- PUBLIC BLDGS
- PRIVATE BLDGS



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City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: November 27, 2012

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, AICP

SUBJECT: Consider an ordinance on second reading annexing and adopting a service plan for Tract 3, being a 30.98-acre tract of land out of Section 35, Block 40, T-1-S, T&P RR. Co. Survey, Midland County, Texas. (Generally located on the north side of I-20, east of NCR 1250)

Purpose: Consider an ordinance on second reading annexing and adopting a service plan for Tract 3, being a 30.98-acre tract of land out of Section 35, Block 40, T-1-S, T&P RR. Co. Survey, Midland County, Texas. (Generally located on the north side of I-20, east of NCR 1250)

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

There is no cost to the City to process the annexation of this property.

Discussion:

First reading was held November 13th. It is now appropriate for the Council to consider an ordinance annexing and adopting a service plan for this approximate 31-acre tract.

Attachments:

Map
Proposed Ordinance and Exhibit B: Service Plan

ORDINANCE NO.

AN ORDINANCE EXTENDING THE BOUNDARIES OF THE CITY OF MIDLAND, TEXAS, BY ADDING THERETO CERTAIN AREAS ADJOINING THE PRESENT CITY LIMITS, BEING A 30.98-ACRE TRACT OF LAND OUT OF SECTION 35, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION ONE HEREOF (GENERALLY LOCATED ON THE EAST SIDE OF STATE HIGHWAY 158, APPROXIMATELY ½ MILE NORTHWEST OF STATE HIGHWAY 191); AND APPROVING A PUBLIC SERVICE PLAN

WHEREAS, public hearings before the City Council of the City of Midland, Texas, a home rule municipal corporation, where all interested persons were provided an opportunity to be heard on the proposed annexation of the hereinafter described territory, were held in the City Council Chambers on October 9, 2012 and October 16, 2012; and

WHEREAS, notice of such public hearings was published in a newspaper having general circulation in the City of Midland, Texas, and in the below described territory, on September 26, 2012;

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

SECTION ONE. That the following described property adjoining the present boundary lines of the City of Midland, Texas, be and the same is hereby annexed to and incorporated within the boundary of the City of Midland, Texas:

Being a 30.98-acre tract of land out of Section 35, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas, and being more fully described by metes and bounds attached hereto as Exhibit "A" and incorporated herein by reference for all legal purposes.

SECTION TWO. That the service plan, attached hereto as Exhibit "B", which provides for the extension of municipal services into the area described above in Section One, is hereby approved.

SECTION THREE. That this ordinance be published in the official newspaper in the City of Midland, Texas, and the same shall not be effective until after the publication

thereof.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the day of , A.D., 2012; and passed to second reading on motion of Council member , seconded by Council member , by the following vote:

Council members voting “AYE”:

Council members voting “NAY”:

The above and foregoing ordinance was read in full and finally adopted by the following vote upon motion of Council member , seconded by Council member , on the day of , A.D., 2012, at a regular meeting of the City Council:

Council members voting “AYE”:

Council members voting “NAY”:

PASSED AND APPROVED THIS day of , A.D., 2012.

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

James R. Nichols, Assistant City Manager

APPROVED AS TO FORM:

Keith Stretcher, City Attorney



110 W. Louisiana Ave. Suite. 110
MIDLAND TEXAS 79701-3414
OFFICE (432) 687-0865 FAX (432) 687-0868
www.team-west.com

TRACT 3A

October 22, 2012

FIELD NOTES OF A 3.623 ACRE TRACT OF LAND OUT OF SECTION 35, BLOCK 40, T-1-S, T & P RR. COMPANY SURVEY, MIDLAND COUNTY, TEXAS:

NOTE: The following bearings, distances, coordinates, and area's shown hereon are based upon the Texas Plane Coordinate System, NAD 83, Texas Central Zone:

BEGINNING at (N:10,695,524.77, E:1,724,716.47) the South corner of the herein described tract a point in the Northerly right of way line of State Highway No. 158;

THENCE N 59°04'32" W with the northerly right of way line of said State Highway No. 158 a distance of 986.13 feet to a point for the West corner of the herein described tract;

THENCE N 30°55'48" E a distance of 160.00 feet to a point for the North corner of the herein described tract a point in the centerline of proposed Mosswood Drive;

THENCE S 59°04'48" E with the centerline of proposed Mosswood Drive a distance of 986.10' to a point in the City of Midland City Limits Line for the East corner of the herein described tract;

THENCE S 30°55'12" W with the City of Midland City Limits Line for a distance of 160.07 feet to the POINT OF BEGINNING.

Subject tract having an area of 3.623 acres.

GRASSLAND ESTATES WEST, SECTION 9

ANNEXED AREA PDHD – 1F1



CASE NO. 2-12-034

EXHIBIT B
SERVICE PLAN FOR
Tract 3

Being a 30.98-acre tract of land out of Section 35, Block 40, T-1-S, T&P RR. Co. Survey, Midland County, Texas. (Generally located north side of SH 158, approximately ½ mile northwest of SH 191)

DEVELOPMENT SERVICES

Existing Services: Water and sewer service is adjacent to Tract 3 . This property is adjacent to the multiple paved public roads.

- A. Type of service to be provided upon annexation: Tract 3 is adjacent to SH 158 and existing neighborhood streets located to the east. Engineering services, platting, traffic studies and controls will be required as warranted. Development and utility extension plans, right-of-ways, easements, and other typical development matters will be reviewed at the time plats are prepared for this land.
- B. Capital improvements to begin within 2 1/2 years: None

UTILITIES

Existing Services: Water and sewer service is adjacent to Tract 3.

- A. Type of service to be provided upon annexation: None.
- B. Capital improvements to begin within 2 1/2 years: None

POLICE

Existing Services: None

- A. Type of service to be provided upon annexation: emergency and routine call response.
- B. Capital improvements to begin within 2 1/2 years: No improvements anticipated.

FIRE

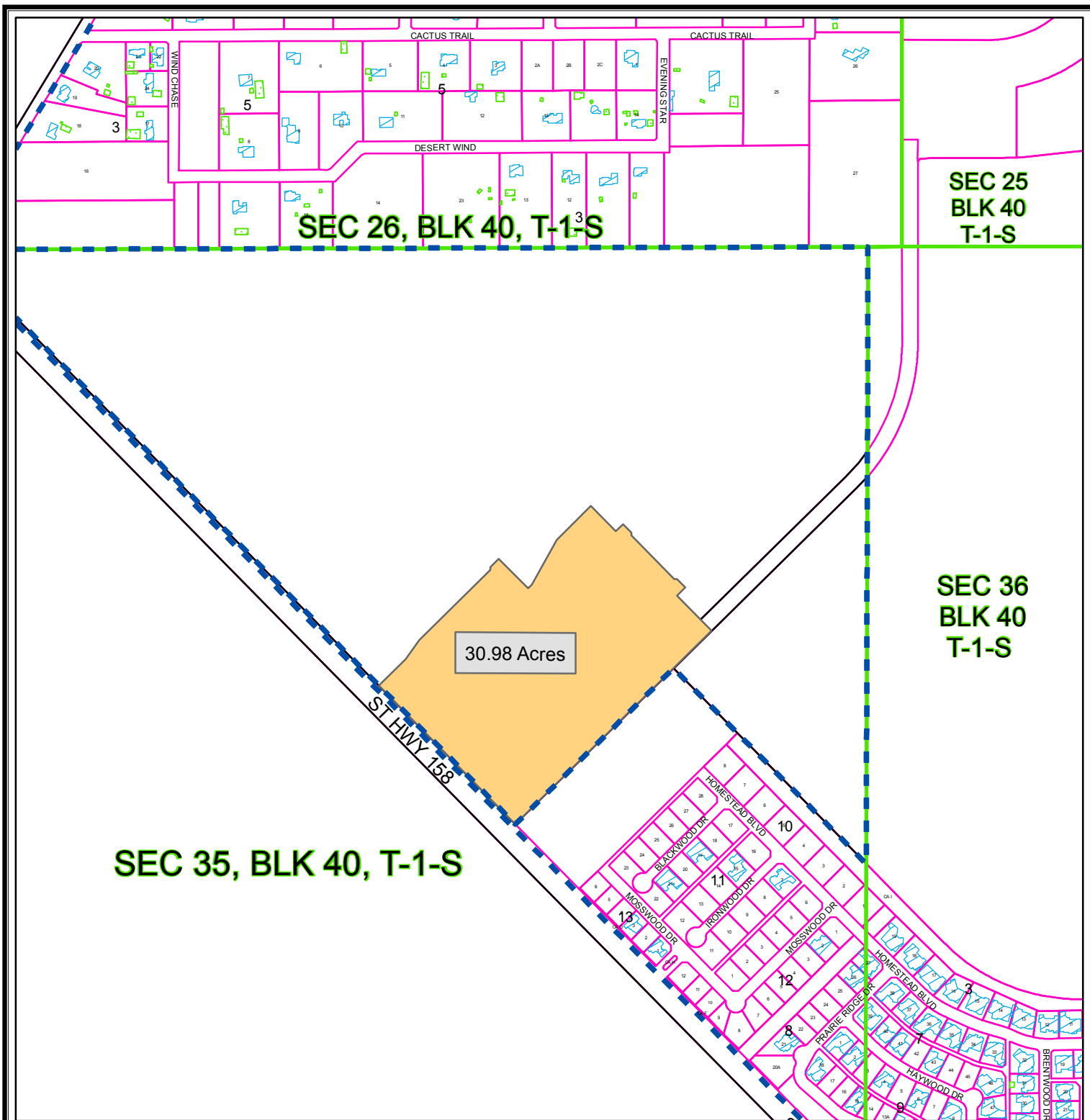
Existing Services: Fire and emergency response provided through agreement with Midland County

- A. Fire and EMS Service to be provided upon the effective date of annexation: All services are currently available and will continue following annexation.
- B. Capital improvements to begin within 2 1/2 years: None anticipated.

COMMUNITY SERVICES

Existing Services: Health and Senior Services
throughout Midland County including on site
septic system permitting

- A. Type of service to be provided upon annexation: Animal Control services including pick up, impoundment, records maintenance, adoption and education will be immediately available.
- B. Capital improvements to begin within 2 1/2 years: None anticipated.



PROPOSED ANNEXATION MAP

M - 12 - 021

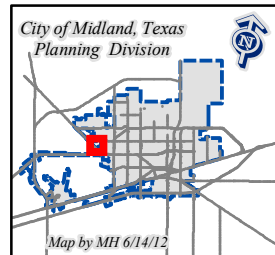
Scale: 1" = 700'

TRACT 3

Consider a request for the annexation of a 30.98-acre tract of land out of Section 35, Block 40, T-1-S, T & P RR Co. Survey, Midland County, Texas.

LEGEND

- ANNEXATION BOUNDARY
- CITY LIMITS
- CITY PARCEL
- COUNTY PARCEL
- PUBLIC BLDGS
- PRIVATE BLDGS
- ACCESSORY BLDGS



© THE CITY OF MIDLAND - 2012
 THE CITY OF MIDLAND SHALL NOT BE RESPONSIBLE FOR ANY DECISIONS BASED UPON THE USE OF THIS DATA
 WHILE THIS DATA IS MADE AVAILABLE TO THE PUBLIC, IT WAS CREATED FOR INTERNAL USE BY THE CITY OF MIDLAND WHICH MAKES NO CLAIM AS TO ITS ACCURACY OR COMPLETENESS. THIS DATA IS NOT DESIGNED TO BE USED AS A PRIMARY TOOL IN PERMITTING, CITING, OR OTHER DECISIONS BASED SOLELY ON THE INFORMATION CONTAINED HEREIN.



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: November 27, 2012

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, AICP

SUBJECT: Consider an ordinance on second reading annexing and adopting a service plan for Tract 4, being a 193.29-acre tract of land out of Sections 11 & 12, Block 40, T-2-S, T&P RR. Co. Survey, Midland County, Texas. (Generally located on the south side of the W. Loop 250 intersection at I-20)

Purpose: Consider an ordinance on second reading annexing and adopting a service plan for Tract 4, being a 193.29-acre tract of land out of Sections 11 & 12, Block 40, T-2-S, T&P RR. Co. Survey, Midland County, Texas. (Generally located on the south side of the W. Loop 250 intersection at I-20)

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

There is no cost to the City to process the annexation of this property.

Discussion:

First reading was held November 13th. It is now appropriate for the Council to consider an ordinance on second reading annexing and adopting a service plan for this approximate 193-acre tract.

Attachments:

Map
Proposed Ordinance and Exhibit B: Service Plan

ORDINANCE NO.

AN ORDINANCE EXTENDING THE BOUNDARIES OF THE CITY OF MIDLAND, TEXAS, BY ADDING THERETO CERTAIN AREAS ADJOINING THE PRESENT CITY LIMITS, BEING A 193.29-ACRE TRACT OF LAND OUT OF SECTIONS 11 AND 12, BLOCK 40, T-2-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION ONE HEREOF (GENERALLY LOCATED ON THE SOUTH SIDE OF INTERSTATE 20, SOUTH OF SOUTH LOOP 250 WEST); AND APPROVING A PUBLIC SERVICE PLAN

WHEREAS, public hearings before the City Council of the City of Midland, Texas, a home rule municipal corporation, where all interested persons were provided an opportunity to be heard on the proposed annexation of the hereinafter described territory, were held in the City Council Chambers on October 9, 2012 and October 16, 2012; and

WHEREAS, notice of such public hearings was published in a newspaper having general circulation in the City of Midland, Texas, and in the below described territory, on September 26, 2012;

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

SECTION ONE. That the following described property adjoining the present boundary lines of the City of Midland, Texas, be and the same is hereby annexed to and incorporated within the boundary of the City of Midland, Texas:

Being a 193.29-acre tract of land out of Sections 11 and 12, Block 40, T-2-S, T&P RR Co. Survey, Midland County, Texas, and being more fully described by metes and bounds attached hereto as Exhibit "A" and incorporated herein by reference for all legal purposes.

SECTION TWO. That the service plan, attached hereto as Exhibit "B", which provides for the extension of municipal services into the area described above in Section One, is hereby approved.

SECTION THREE. That this ordinance be published in the official newspaper in the City of Midland, Texas, and the same shall not be effective until after the publication

thereof.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the day of , A.D., 2012; and passed to second reading on motion of Council member , seconded by Council member , by the following vote:

Council members voting “AYE”:

Council members voting “NAY”:

The above and foregoing ordinance was read in full and finally adopted by the following vote upon motion of Council member , seconded by Council member , on the day of , A.D., 2012, at a regular meeting of the City Council:

Council members voting “AYE”:

Council members voting “NAY”:

PASSED AND APPROVED THIS day of , A.D., 2012.

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

James R. Nichols, Assistant City Manager

APPROVED AS TO FORM:

Keith Stretcher, City Attorney



ENVIRONMENTAL • CIVIL ENGINEERING • LAND SURVEYING

FIRM # 001363

**521 NORTH TEXAS • ODESSA, TEXAS 79761
(432) 332-5058 or 580-8812 • FAX (432) 332-8812**

Legal Description

For a 193.29 Acre Tract of Land,
Located in Sections 11 & 12, Block 40, T-2-S,
T&P RR Company Survey,
Midland County, Texas

TRACT 4

Boundary Being More Fully Described By Metes and Bounds As Follows:

BEGINNING at a point in the east line of said Section 12, the south right-of-way line of Interstate 20 and the existing City of Midland city limits line for the northeast corner of this tract;

THENCE South $14^{\circ}17'45''$ East with the east line of said Section 12, a distance of 2628.47 feet to a point for the southeast corner of said Section 12 and the northeast corner of Section 13, said Block 40, being the southeast corner of this tract;

THENCE South $75^{\circ}08'38''$ West with the south line of said Section 12 and the north line of said Section 13, a distance of 5285.27 feet to a point for the northeast corner of said Section 14, being a point of deflection in the south line of this tract;

THENCE South $76^{\circ}14'20''$ West with the south line of said Section 12 and the north line of said Section 14, a distance of 194.33 feet to a point for the southwest corner of said Section 12 and the southeast corner of said Section 11, being a point of deflection in the south line of this tract;

THENCE South $75^{\circ}09'10''$ West with the south line of said Section 11 and the north line of said Section 14, a distance of 3235.10 feet to a point in the south line of Tract 20 recorded in Volume 3131, Page 210, Official Records, Midland County, Texas, being a point of deflection in the south line of this tract;

THENCE North $59^{\circ}43'34''$ East with the south line of said Tract 20, at a distance of 3365.73 feet pass the east line of said Section 11 and the west line of said Section 12, continuing for a total distance of 5311.20 feet to a point in the west line of a 100 acre tract recorded in Volume 2422, Page 247, Official Records, Midland County, Texas and in the said City of Midland city limits line, being a point of deflection in the north line of this tract;

THENCE South $30^{\circ}16'41''$ East with the west line of said 100 acre tract and said City of Midland city limits line, a distance of 1049.42 feet to a point for the southwest corner of said 100 acre tract, being a point of deflection in the north line of this tract;

THENCE North $59^{\circ}43'19''$ East with the south line of said 100 acre tract and said City of Midland city limits line, a distance of 2300.29 feet to a point for the southeast corner of said 100 acre tract, being a point of deflection in the north line of this tract;

THENCE North 30°16'41" West with the east line of said 100 acre tract and said City of Midland city limits line, a distance of 1257.69 feet to a point of deflection in the north line of this tract;

THENCE North 59°49'06" East with said City of Midland city limits line, a distance of 1511.98 feet to the Point of Beginning, containing 193.29 acres of land.

Bearings and distances are relative to the Texas Coordinate System, 1983 NAD, Central Zone, with a combined grid factor of 0.9998771. Acreage stated is average surface.

This document was prepared under 22 TAC 663.21, and is not to be used to convey or establish interest in real property except those rights and interest implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared.

LCA, Inc.



Aaron S. Burrell, R.P.L.S. 5689

22 August, 2012

LCA Project Number 2012-058



CASE NO. 2-12-041

EXHIBIT B
SERVICE PLAN FOR
Tract 4

Being a 193.29-acre tract of land out of Sections 11 & 12, Block 40, T-2-S, T&P RR. Co. Survey,
Midland County, Texas. (Generally located south of the W Loop 250 intersection at I-20)

DEVELOPMENT SERVICES

Existing Services: Water and sewer service is not available to Tract 4 . This property is adjacent to the south I-20 service road.

- A. Type of service to be provided upon annexation: Tract 4 is adjacent to the south I-20 service road. Engineering services, platting, traffic studies and controls will be required as warranted. Development and utility extension plans, right-of-ways, easements, and other typical development matters will be reviewed at the time plats are prepared for this land.
- B. Capital improvements to begin within 2 1/2 years: None

UTILITIES

Existing Services: Water and sewer service is not available to Tract 4.

- A. Type of service to be provided upon annexation: None.
- B. Capital improvements to begin within 2 1/2 years: None

POLICE

Existing Services: None

- A. Type of service to be provided upon annexation: emergency and routine call response.
- B. Capital improvements to begin within 2 1/2 years: No improvements anticipated.

FIRE

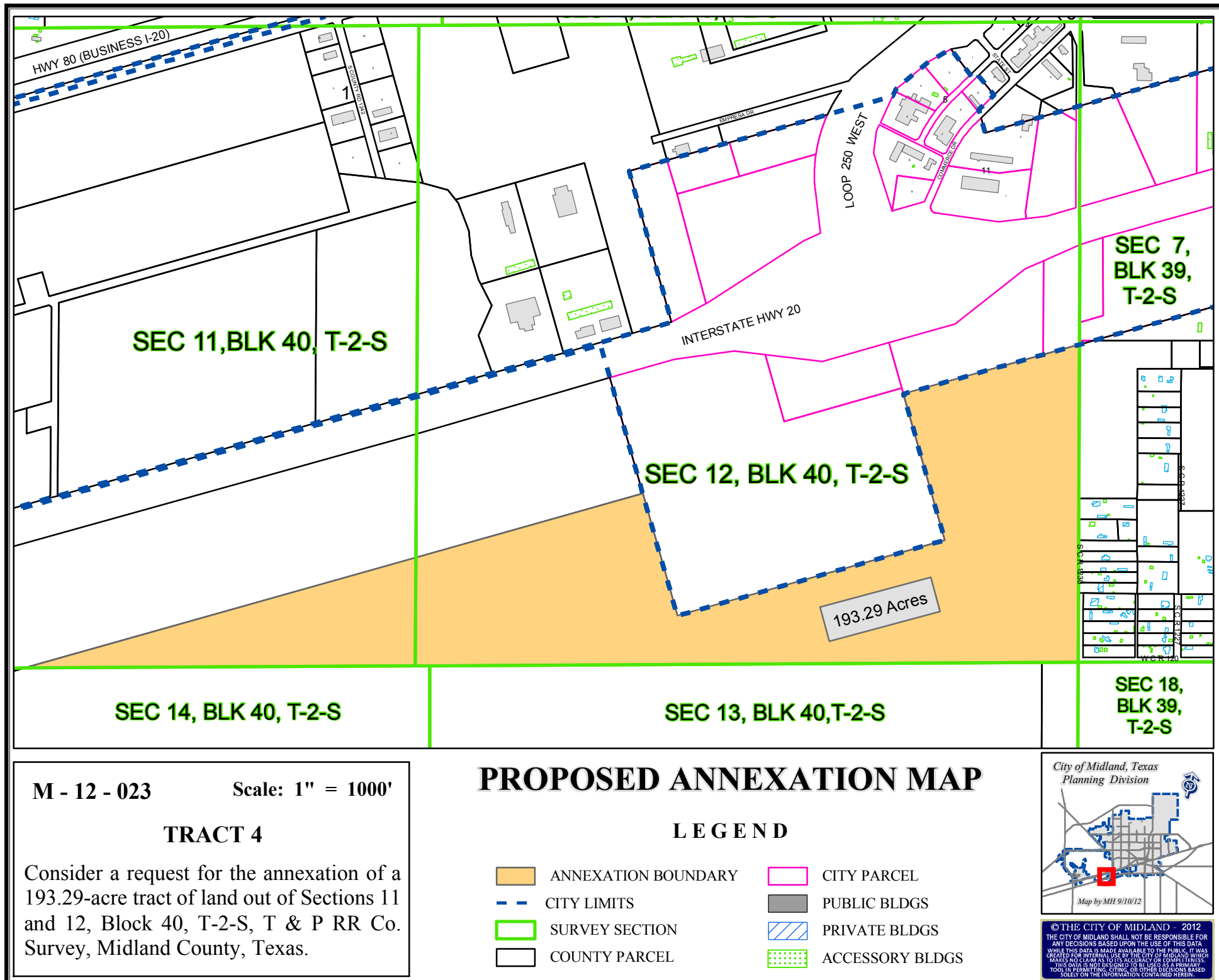
Existing Services: Fire and emergency response provided through agreement with Midland County

- A. Fire and EMS Service to be provided upon the effective date of annexation: All services are currently available and will continue following annexation.
- B. Capital improvements to begin within 2 1/2 years: None anticipated.

COMMUNITY SERVICES

Existing Services: Health and Senior Services
throughout Midland County including on site
septic system permitting

- A. Type of service to be provided upon annexation: Animal Control services including pick up, impoundment, records maintenance, adoption and education will be immediately available.
- B. Capital improvements to begin within 2 1/2 years: None anticipated.





City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: November 27, 2012

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, Planning Division Manager

SUBJECT: Consider an ordinance on second reading on a request by the Davidheiser Family Trust for a zone change from MH, Mobile Home District and LR-2, Local Retail District to MF-1, Multiple-Family Dwelling District.

Purpose:

Consider an ordinance on second reading for a zone change from MH District and LR-2 District to MF-1 District on a 22.46-acre tract of land.

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

There is no cost to the City to process this application.

Discussion:

The applicant wishes to construct apartments on this property. This requires a zone change to an MF-1 District and approval of site plans. The site plans are not yet available; therefore, the applicant is requesting the MF-1 District zoning at this time, and will submit the site plans for public hearing review once they are available. Thus, two separate applications will be reviewed before any apartment development could occur. Following a recommendation for approval by the Planning and Zoning Commission, the City Council voted on November 13th to approve this request. The ordinance is now ready for second and final reading approval.

ORDINANCE NO.

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 22.46-ACRE TRACT OF LAND OUT OF SECTION 1, BLOCK 39, T-2-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED MH, MANUFACTURED HOME DISTRICT, IN PART, AND LR-2, LOCAL RETAIL DISTRICT, IN PART, TO BE USED AS AN MF-1, MULTIPLE-FAMILY DWELLING DISTRICT (GENERALLY LOCATED ON THE EAST SIDE OF LAMESA ROAD, APPROXIMATELY 1,100 FEET NORTH OF INTERSTATE 20); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

WHEREAS, the City Planning and Zoning Commission and the Governing Body of the City of Midland, in compliance with the City Charter and the State law with reference to the creation of Districts under the zoning ordinance regulations and zoning map, have given the requisite notices by United States mail, publication and otherwise; and after a full and fair hearing to all of the property owners generally and particularly to those interested persons situated in the affected area and in the vicinity thereof, the Governing Body finds that the public health, safety and general welfare will be best served by the creation of an MF-1, Multiple-Family Dwelling District, as set out hereinafter;

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

SECTION ONE. That Chapter 1, Title XI, of the City Code of Midland, Texas, and the official zoning map of the City of Midland, Texas, are hereby amended insofar as the hereinafter described property is concerned, which is presently zoned MH, Manufactured Home District, in part, and LR-2, Local Retail District, in part, and it shall be used as an MF-1, Multiple-Family Dwelling District, said property being described as follows:

A 22.46-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 "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., 2012; and passed to second reading on motion of Council member _____, seconded by Council member _____, by the following vote:

Council members voting “AYE”:

Council members voting “NAY”:

The above and foregoing ordinance was read in full and finally adopted by the following vote upon motion of Council member _____, seconded by Council member _____, on the _____ day of _____, A.D., 2012, at a regular meeting of the City Council:

Council members voting “AYE”:

Council members voting “NAY”:

PASSED AND APPROVED THIS _____ day of _____, A.D., 2012.

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

James R. Nichols, Assistant City Manager

APPROVED AS TO FORM:

Keith Stretcher, City Attorney



ENVIRONMENTAL • CIVIL ENGINEERING • LAND SURVEYING

FIRM # 001363

**521 NORTH TEXAS • ODESSA, TEXAS 79761
(432) 332-5058 or 580-8812 • FAX (432) 332-8812**

Legal Description
For a 22.46 Acre Tract of Land,
Located in Section 1, Block 39, T-2-S,
T&P RR Company Survey,
Midland County, Texas

Boundary Being More Fully Described By Metes and Bounds As Follows:

BEGINNING at a point in the south right of way line of Latta Street and west line of a 101.30 acre tract recorded in Volume 3111, Page 857, Midland County Deed Records at the northeast corner of Lot 10, Block 6, Carol Crest Addition (an unrecorded subdivision), being the northwest corner of this tract;

THENCE North 75°41'51" East with the south right of way line of said Latta Street, a distance of 879.12 feet to a point of curvature in the south right of way line of said Latta Street, being a point of curvature in the north line of this tract;

THENCE along a curve to the left in a northeasterly direction with the south right of way line of said Latta Street, said curve having a radius length of 330.00 feet, an arc length of 318.96 feet, a delta angle of 55°22'47" and a chord length of 306.69 feet bearing North 48°00'27" East to a point for the northeast corner of this tract;

THENCE South 14°20'17" East through said 101.30 acre tract, a distance of 981.80 feet to a point for the southeast corner of this tract;

THENCE South 75°39'43" West through said 101.30 acre tract, a distance of 1150.77 feet to a point in the west line of said 101.30 acre tract and the east line of Block 7, said Carol Crest Addition to a point for the southwest corner of this tract;

THENCE North 14°20'17" West with the west line of said 101.30 acre tract and the east lines of said Blocks 7 and 6, a distance of 840.00 feet to the Point of Beginning.

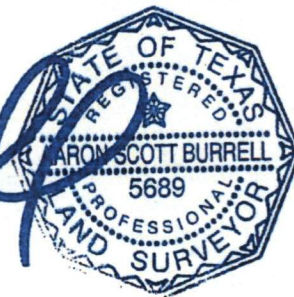
Containing 22.46 acres of land, as shown on the attached exhibit.

Bearings are relative to the Texas Coordinate System, 1983 NAD, Central Zone.

This document was prepared under 22 TAC 663.21, and is not to be used to convey or establish interest in real property except those rights and interest implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared.

LCA, Inc.


Aaron S. Burrell, R.P.L.S. 5689



14 September, 2012

RECEIVED

OCT 2 2012

**CITY OF MIDLAND
PLANNING DIVISION OFFICE**

LCA Project Number 2012-094

EXHIBIT A

Page 1 of 1

CASE NO. 2-12-035

27.5

PLANNING AND ZONING COMMISSION

October 15, 2012

CASE: Z-12-035.

REQUEST: Hold a public hearing and consider a request for a zone change from MH, Manufactured Home District and LR-2 District to MF-1, Multiple-Family Dwelling District.

APPLICANT/OWNER: Davidheiser Family Trust.

REPRESENTATIVE: LCA

LEGAL DESCRIPTION: A 22.46-acre tract out of Section 1, Block 39, T-2-S, T&P RR Company Survey, Midland County, Texas.

LOCATION: South side of Latta Street, approximately 270 feet east of Lamesa Road.

DETAILS OF REQUEST:

1. This property is located just east of Lamesa Road. It was zoned MH District in 1981, but has remained vacant. The applicant desires to construct an apartment complex consisting of two- and three-story buildings. However, a site plan and elevation drawings are not available at this time. The only known criteria are that the maximum building height will be three stories, and the maximum density is 16 dwelling units per acre. Therefore, the applicant is requesting a zone change to an MF-1 District. If approved, a second application must be submitted for site plan approval, in the same manner as a zone change, before a building permit can be issued.

SURROUNDING ZONING AND LAND USE:

2. Access to this property will be from Latta Street, along the north property line. The staff has recommended a second access point from Lamesa Road via a strip of land owned by the applicant and located between what appear as platted lots that are zoned LR-2 District. As stated earlier, the LR-2 District appears to have been established several decades ago. The term "platted lots" is a misnomer, in that these lots are a part of the *unrecorded* Carol Crest Addition. While land was

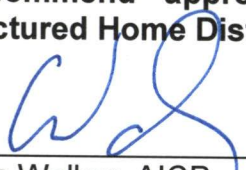
sold off in accordance to this unrecorded plat, and many deeds in the area refer to this unrecorded plat, the City of Midland does not recognize the Carol Crest plat as a valid plat, because it was not approved in the manner prescribed by law. Farther east along Latta Street is another apartment complex. To the west, across Lamesa Road, is a former mobile home park that was annexed into the City as a non-conforming use. However, the park has since been abandoned, and has lost its non-conforming status. The land to the south is vacant, and is zoned LR-2 District and BP District.

ANALYSIS:

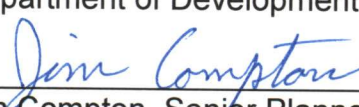
3. The Comprehensive Plan contains several recommendations pertaining to apartment development in Midland. A preferred location is adjacent to an arterial street, to handle the volume of traffic. This site does not meet these criteria, but it is within 270 feet of Lamesa Road, which is an arterial street. Apartments are also used as a buffer, or transition, between more intensive retail zoning found at arterial street intersections and the more restrictive residential uses found farther from arterial streets. At 16 dwelling units per acre, this property could support 360 apartment units. While this slightly exceeds the maximum limit of 300 dwelling units contained in the Comprehensive Plan, we find that the current market conditions are pushing for larger complexes with more units. And with the low density requested, we have no objection to this proposal. We would take this opportunity to remind the applicant that a subdivision plat must be approved, in addition to the aforementioned site plan, before any development could occur.

STAFF RECOMMENDATION:

We recommend approval of this request for a zone change from MH, Manufactured Home District and LR-2, Local Retail District to MF-1 District.



Cameron Walker, AICP
Planning Division Manager
Department of Development Services



Jim Compton, Senior Planner
Department of Development Services

Attachments:

Application
Maps

Case Number: Z-12-035

CITY OF MIDLAND
Planning Division

APPLICATION TO CHANGE ZONING CLASSIFICATION

Landgraf, Crutcher & Associates, Inc.

432-332-5058

Applicant Name

Contact #'s

521 N. Texas

Odessa, Texas 79761

Address

Zip Code

Davidheiser Family Trust

805-499-8925

Property Owner Name

Contact #'s

1222 Calle Las Casas, Thousand Oaks, California

91360

Address

Zip Code

Landgraf, Crutcher & Associates, Inc.

432-332-5058

Representative Name

Contact #'s

521 N. Texas

Odessa, Texas 79761

Address

Zip Code

Street address and Legal Description of property (complete Lot, Block, and Subdivision Name description below, or, if not in a recorded plat, attach a Metes and Bounds Description. Describe by tracts if more than one zoning district is requested): See Attached

Reason for requesting a zone change: Better Use of Property

PRESENT ZONE: MH & LR-1

REQUESTED ZONE: MF-3 /

(List by tracts if more than one zoning district is requested)

Present Use of Property: Vacant

Proposed Use of Property: Multi-Family

How will zone change affect the public health, safety and welfare? Will provide much needed housing

Describe how conditions affecting the property have changed since it was designated its present zone: Demand for multi-family units has increased

Will a Specific Use Permit with Term for alcoholic beverages sales be 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 CD in .pdf and .jpg format: _____

SIGNATURE (by property owner only - authorized agent must sign affidavit below)

Property Owner (signature): _____ Date: _____

If an agent is authorized by the property owner to file and execute the application on behalf of the property owner, the agent must complete the affidavit below.

State of Texas §

County of Midland §

Before me, the undersigned authority, on this day personally appeared 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 has the legal right, power and authority to sign said owner's name hereto as his/her attorney in fact.

Joe M. Tucker
Authorized Agent (signature)

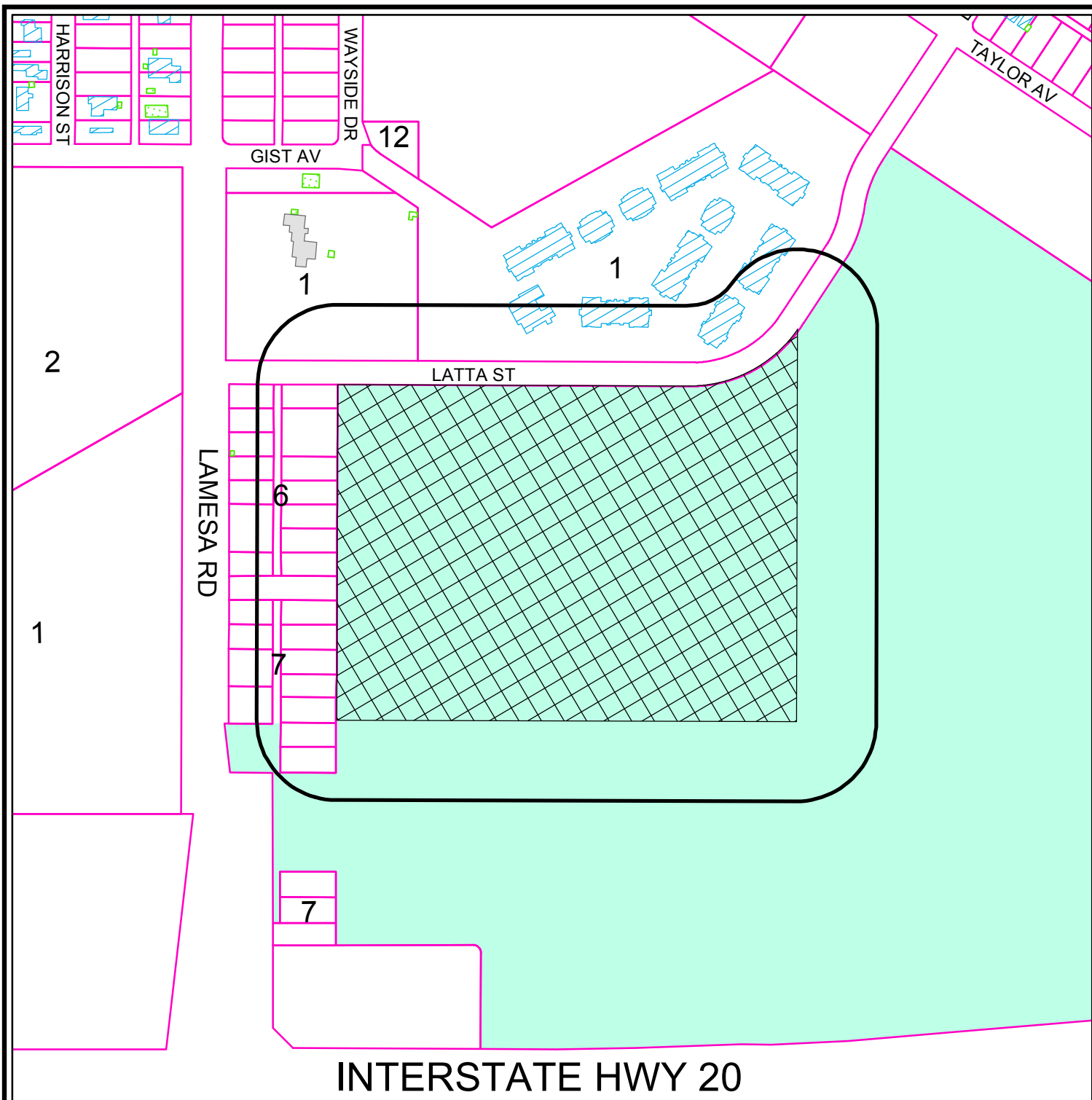
Subscribed and sworn to before me, by the said Joe M. Tucker, this 31st day of August, 2012, to certify which witness my hand and seal of office.

FOR OFFICE USE ONLY	
Rec'd By: <u>PS</u>	Date: <u>8/31</u>
Assigned: <u>JC</u>	
For: <u>P&Z</u>	On: <u>10/15/12</u>

Shani Dawson
Notary Public, Midland County, Texas



****Application will not be considered for scheduling until reviewed by a planner.****



INTERSTATE HWY 20

PROPERTY OWNER NOTIFICATION MAP

Z - 12 - 035

Scale: 1" = 350'

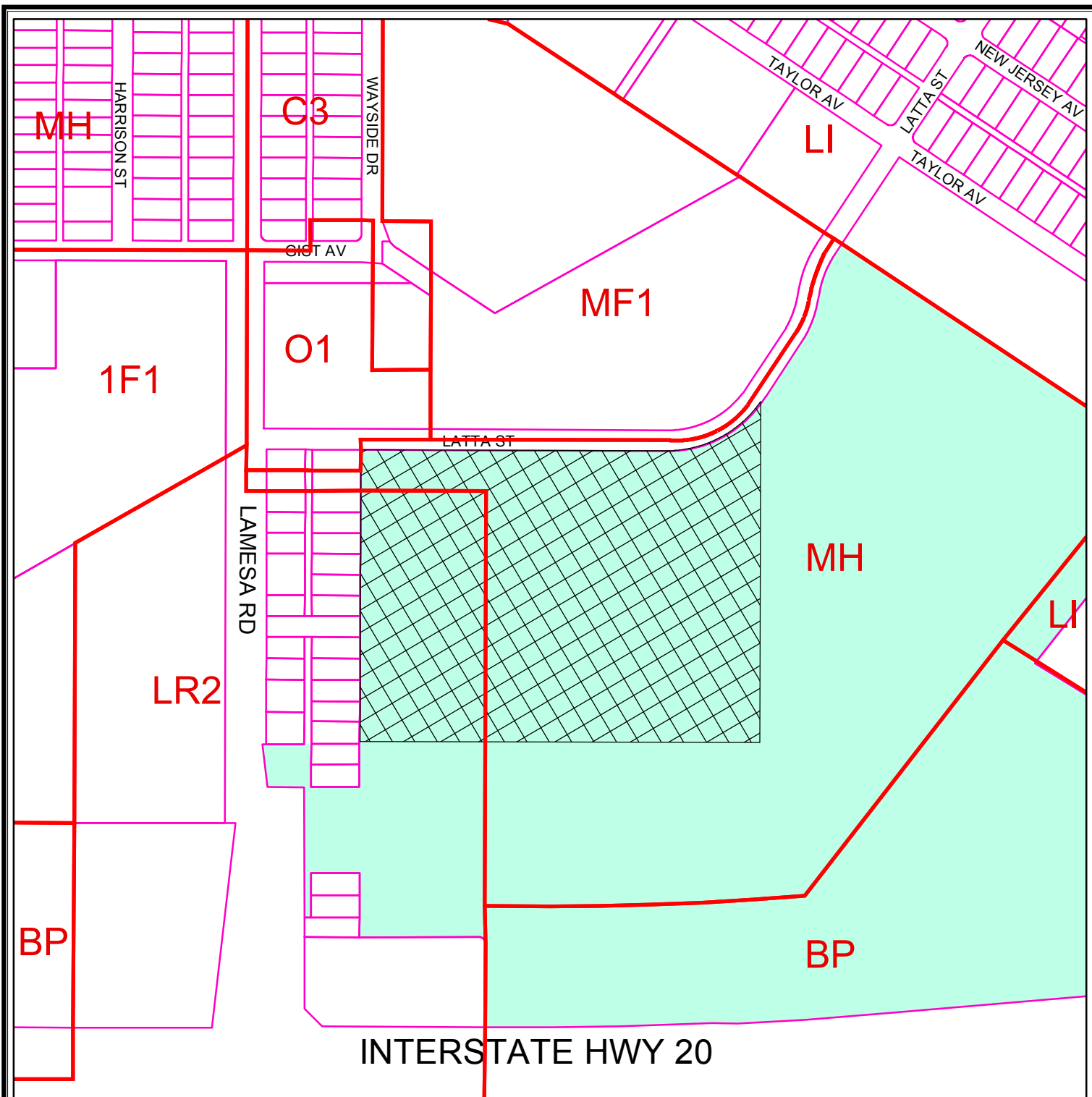
Consider a request for a zone change from MH, Mobile Home Dwelling District and LR-2, Local Retail District to MF-1, Multiple Family Dwelling District on a 22.46-acre tract of land out of Section 1, Block 39, T-2-S, T & P RR Co. Survey, Midland County, Texas.

LEGEND

- CITY LIMITS
- 200 FT. LEGAL NOTICE LIMIT
- PARCEL
- PUBLIC BLDGS
- PRIVATE BLDGS
- ACCESSORY BLDGS



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ZONING MAP

Z - 12 - 035

Scale: 1" = 400'

Consider a request for a zone change from MH, Mobile Home Dwelling District and LR-2, Local Retail District to MF-1, Multiple Family Dwelling District on a 22.46-acre tract of land out of Section 1, Block 39, T-2-S, T & P RR Co. Survey, Midland County, Texas.

LEGEND

ZONING PARCELS

ZONING DISTRICTS:

FD	FUTURE DEVELOPMENT	BP	BUSINESS PARK
PD	PLANNED DISTRICT	P	PARKING
AE	AGRICULTURE ESTATE	O1, O2	OFFICE
CE	COUNTRY ESTATE	NS	NEIGHBORHOOD SERVICE
1F1, 1F2, 1F3	ONE-FAMILY DWELLING	LR1, LR2, LR3	LOCAL RETAIL
MH	MOBILE HOME DWELLING	C1, C2, C3	COMMERCIAL
TH	TOWNHOUSE DWELLING	IP, IP1, IP2, IP3	INDUSTRIAL PARK
2F	TWO-FAMILY DWELLING	LI	LIGHT INDUSTRY
MF1, MF2	MULTIPLE FAMILY DWELLING	HI	HEAVY INDUSTRY

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City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: 11/27/2012

TO: City Council / City Manager

FROM: Cameron Walker, Planning Division Manager

SUBJECT: Consider an ordinance on second reading on a request by Javi's Restaurant for a Specific Use Permit with term. (Generally located on the northeast corner of the intersection of Rankin Hwy and W. Francis Avenue.)

Purpose:

Consider an ordinance on second reading on a request by Javi's Restaurant for a Specific Use Permit with term. No changes have been made to this item since its first reading on November 13, 2012.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Directional / Informational

Fiscal Impact:

There is no cost to the City associated with approving this request.

Discussion:

ORDINANCE NO. _____

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS LOT 7, LESS THE WEST 5 FEET, AND LOTS 8, 9 AND 10, BLOCK 20, BELMONT ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTHEAST CORNER OF THE INTERSECTION OF RANKIN HIGHWAY AND WEST FRANCIS AVENUE), WHICH IS PRESENTLY ZONED LR-3, LOCAL RETAIL DISTRICT, BY PERMITTING SAID PROPERTY TO BE USED UNDER A SPECIFIC USE PERMIT WITH TERM FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A 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 LR-3, Local Retail District, to-wit:

Lot 7, less the west 5 feet, Lots 8, 9 and 10, Block 20, Belmont Addition, City and County of Midland, Texas;

is hereby changed to permit said property to be used under a Specific Use Permit With Term for the sale of all alcoholic beverages for on-premises consumption in a restaurant, together

with the uses permitted in the present PD, Planned District for a Shopping Center.

SECTION TWO. That said property shall be subject to the following conditions and restrictions:

- A. That the restaurant shall not exceed 10,000 contiguous square feet in area.
- B. That the days and hours of alcoholic beverage sales and consumption shall be limited to the following:

Monday through Sunday with the following limitations:
 - 1) Main Dining Area: 11:00 a.m. until 2:00 p.m, with a maximum occupancy of 200 seats.; and
 - 2) Banquet Room: 2:00 p.m. to 12:00 a.m. (Midnight), with a maximum of occupancy of 80 seats.
- C. That the sale of alcoholic beverages for on-premise consumption shall comply with Section 11-1-10(C)(1)(a) of the Midland City Code.

SECTION THREE. The provisions of this ordinance are to be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances, inconsistent with or in conflict with any of the provisions of this ordinance are hereby expressly repealed to the extent of any such inconsistency or conflict.

SECTION FOUR. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this ordinance. The Council of the City of Midland hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

SECTION FIVE. The penalty for violation of this ordinance shall be in accordance with the general penalty provisions contained in Section 1-3-1 of the City Code of Midland, Texas, which provides for a fine not exceeding two thousand dollars (\$2,000.00).

SECTION SIX. The City Secretary is hereby authorized and directed to publish the descriptive caption of this ordinance in the manner and for the length of time prescribed by the law as an alternative method of publication.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the _____ day of _____, A.D., 2012; and passed to second reading on motion of Council member _____, seconded by Council member _____, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

The above and foregoing ordinance was read in full and finally adopted by the following vote upon motion of Council member _____, seconded by Council member _____, on the _____ day of _____, A.D., 2012, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2012.

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

James R. Nichols, Assistant City Attorney

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

TAYLOR STREET



RECEIVED

AUG 9 2012

CITY OF MIDLAND
PLANNING DIVISION OFFICE

IN ACCORDANCE WITH TITLE COMMITMENT NUMBER 00094984, ISSUED JUNE 2, 2008, THE FOLLOWING EASEMENTS AND RIGHT-OF-WAYS FROM SCHEDULE B, EXCEPTION 10 ARE SHOWN ON THIS PLAT:

F) BLANKET RIGHT-OF-WAY TO ATLANTIC OIL PRODUCING COMPANY IN VOLUME 38, PAGE 428, DEED RECORDS OF MIDLAND COUNTY, TEXAS; ASSIGNED TO FIN-TEX PIPE LINE COMPANY IN VOLUME 554, PAGE 373, DEED RECORDS OF MIDLAND COUNTY, TEXAS; AND AMENDED TO FIN-TEX PIPE LINE COMPANY AND AMERICAN PETROFINA PIPELINE COMPANY IN VOLUME 737, PAGE 44, DEED RECORDS, MIDLAND COUNTY, TEXAS.

G) BLANKET RIGHT-OF-WAY TO MAGNOLIA PIPE LINE COMPANY IN VOLUME 43, PAGE 472, DEED RECORDS OF MIDLAND COUNTY, TEXAS

H) BLANKET RIGHT-OF-WAY DEED TO AMERICAN TELEPHONE & TELEGRAPH COMPANY IN VOLUME 44, PAGE 21, DEED RECORDS OF MIDLAND COUNTY, TEXAS.

FOR FLOOD INSURANCE RATING PURPOSES: THIS PROPERTY LIES WITHIN FLOOD INSURANCE ZONE DESIGNATION "X" AS DEPICTED ON FLOOD INSURANCE RATE MAP (FIRM) NUMBER 48329-C0202F, MIDLAND COUNTY, TEXAS AND INCORPORATED AREAS EFFECTIVE DATE, SEPTEMBER 16, 2001 AS ISSUED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA). CENSUS TRACT NO. 14.00

EXHIBIT

A

SURVEY PLAT

CASE NO. S-12-DIC 28.6

1503 RANKIN HIGHWAY

N15°14'00"W 300.00'

CONCRETE CURB AND GUTTER

LIGHT POLE

STOP SIGN

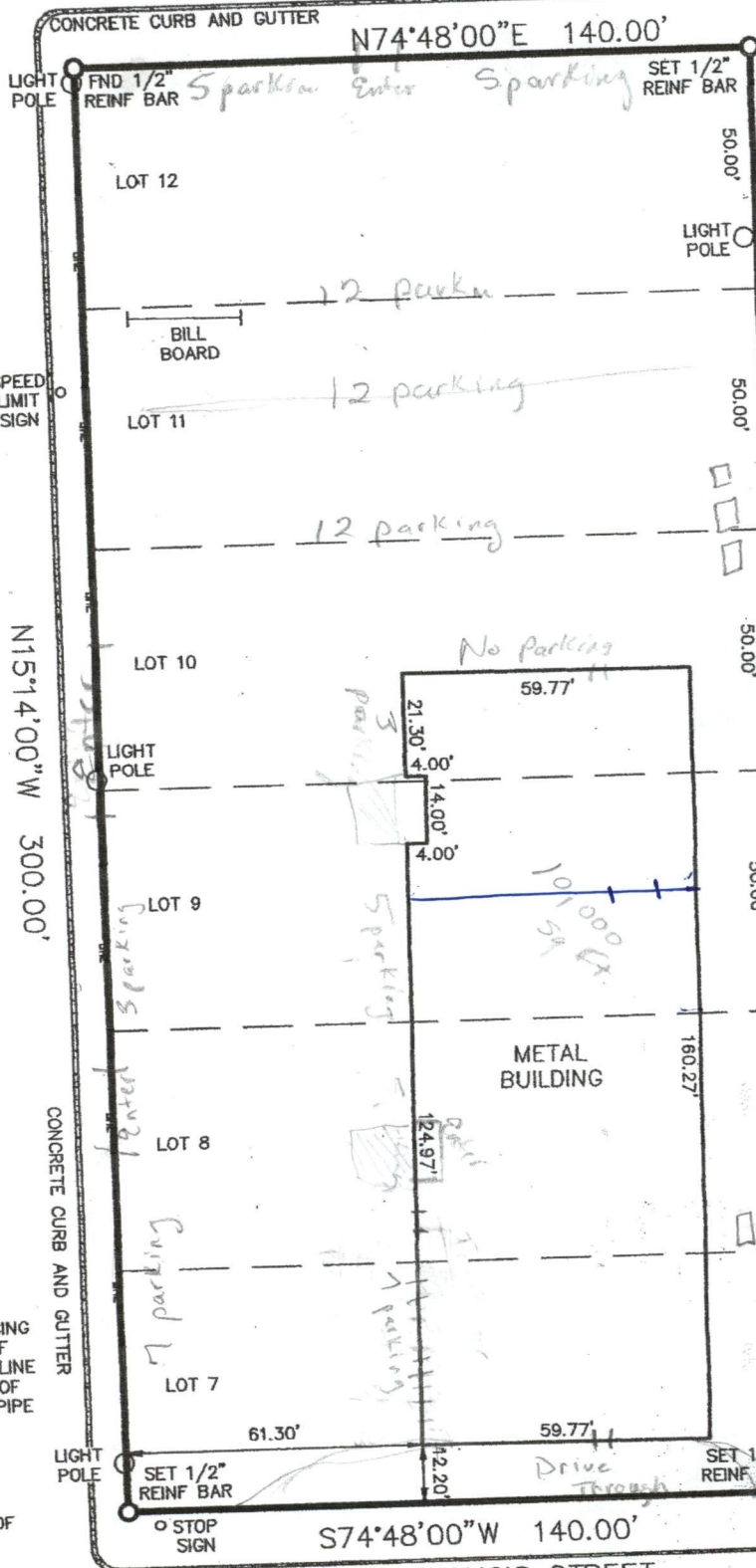
CONCRETE CURB AND GUTTER

S74°48'00"W 140.00'

FRANCIS STREET

S15°14'00"E 300.00'

20 FOOT ALLEY



PLANNING AND ZONING COMMISSION

October 15, 2012

CASE: S-12-010

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: Javi's Restaurant

OWNER: Bertha Ramirez

LEGAL DESCRIPTION: Lot 7, less the west 5 feet, and lots 8 thru 10, Block 20, Belmont Addition, City and County of Midland, Texas.

LOCATION: Generally located on the northeast corner of the intersection of Rankin Hwy and W. Francis Avenue.

CURRENT ZONING: LR-3, Local Retail

DETAILS OF REQUEST:

1. Javi's Restaurant operates east of Rankin Highway and north of Francis Avenue. The restaurant management is requesting a specific use permit with term. The restaurant contains a main service area with a seating capacity of 200, and a smaller banquet room with a seating capacity of 80. The total seats being requested by the applicant is 280 for operation purposes. The restaurant has a total floor area of 10,000 square feet, and is requesting the sale of alcohol from 11:00 a.m. -12:00 a.m. Restaurant management would like to only have the main dining area open for their morning service until 2:00 p.m. Management would then close this portion of the restaurant, and open their banquet room to serve appetizers and drinks from 2:00 p.m. until close.

SURROUNDING ZONING AND LAND USE:

2. The property is located within a medium sized LR-3, Local Retail District that runs north to south along Rankin Highway. It is bounded to the north and south by similar sized LR-2, Local Retail Districts, is bounded to the west by a medium sized C-3, Commercial District, and is bounded to the east by a large MH, Mobile Home District. Across the street from the property is Bill William's Tire Center, and La Herradura Restaurant. North of this property is a private residence, and south of this property is Out West Ice.

ANALYSIS:

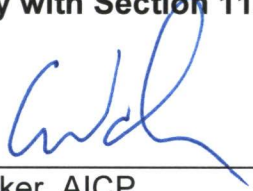
3. Javi's Restaurant has a maximum floor area of 10,000 square feet with seating indoors for 280 persons. The restaurant is currently operating with only the main serving area, and management would like to remodel their banquet room to expand service. Restaurant management would like to keep the main serving area open until 2:00 p.m. and then stop providing service. At this time, management would then open the banquet room where they would server appetizers and drinks. The requested hours of operation are Monday through Sunday from 11:00 a.m. until 2:00 p.m. for the main service area, and 2:00 p.m. until close for the banquet room. To allow flexibility to the owner, staff recommends that hours of operation are from 11:00 a.m. until midnight for seven days a week; Monday through Sunday.

STAFF RECOMMENDATION:

We recommend approval of the request for a Specific Use Permit with Term for on-premise consumption of alcoholic beverages in a Restaurant, together with the uses permitted in the LR-3, Local Retail District, subject to the following conditions:

- A. That the restaurant shall be limited to 10,000 square feet in contiguous area and occupancy shall be limited to 280 seats total, with 200 seats for the main dining area and 80 seats for the banquet room.
- B. That alcoholic beverages may be sold only during the hours specified as follows:

Monday through Sunday 11:00 a.m. to 12:00 a.m.
- C. That the sale of alcoholic beverages for on-premise consumption shall comply with Section 11-1-10(C)(1)(a) of the City Code.


Cameron Walker, AICP
Planning Division Manager
Department of Development Services


Martin Siwek, City Planner
Department of Development Services

Attachments:

Application
Maps
Exhibits A

Case Number: S-12-010

CITY OF MIDLAND
Planning Division

APPLICATION FOR A SPECIFIC USE PERMIT WITH TERM
FOR THE SALE OF ALCOHOLIC BEVERAGES
FOR ON-PREMISE CONSUMPTION

Javi's Restaurant 432 684 4898
Applicant Name Phone/e-mail
1511 RANKIN HWY 79701
Address Zip Code
Bertha Ramirez 5595096
Property Owner Name Phone/e-mail
1407 W. G. Rd. 130 79706
Address Zip Code
Midland TX. javisrestaurant@aatt.net
Operator (if different from Applicant or Property Owner) Phone/e-mail
Address Zip Code

Type of Business: Restaurant
(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.)

BELMONT ADDITION BLK 20 LOTS 7-10

Current Zoning: LR-3

Max. Floor Area: 10,000 Seating Capacity: 90 200 main + 80 banquet
280 Total

Proposed hours and days of alcoholic beverage sales: 11am - 12am
Mon. - Sunday

Reason for request: _____

REQUIRED SUBMITTALS

1. Application fee: \$300 ____.
2. Site plan – 16 copies (FOLDED) ____.
3. On a CD in .pdf and .jpg digital format ____.

SIGNATURES:

Applicant: _____ Date: _____

Property Owner: Bertha Ramirez Date: 7-20-2012

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

NA

Before me, the undersigned authority, on this day personally appeared

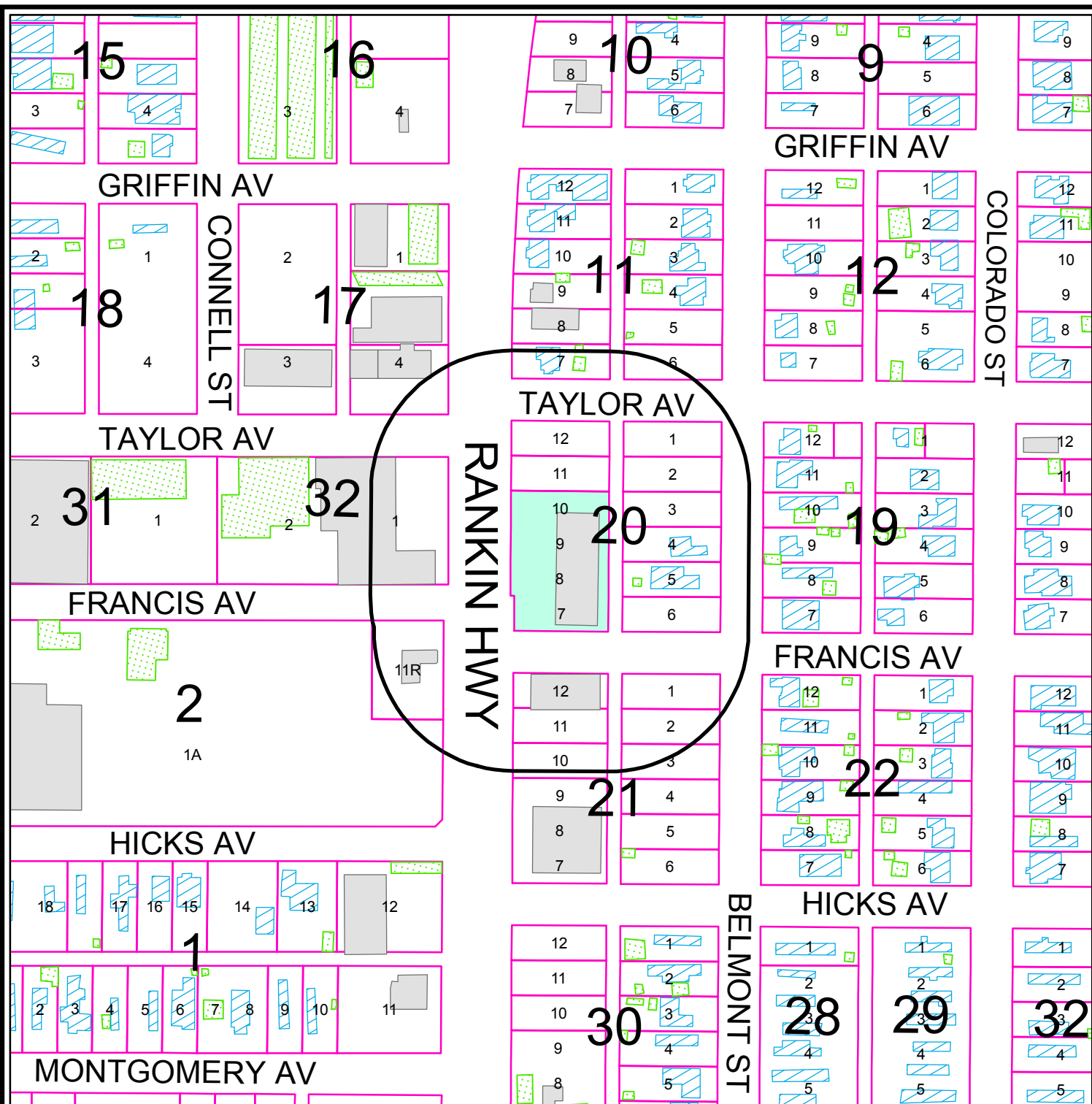
Bertha Ramirez who, being by me duly sworn, upon oath says: That (s)he is authorized by _____, the owner of the above described property, to fully represent him/her in this application and that (s)he had the legal right, power and authority to sign said owner's name hereto as his/her attorney in fact.

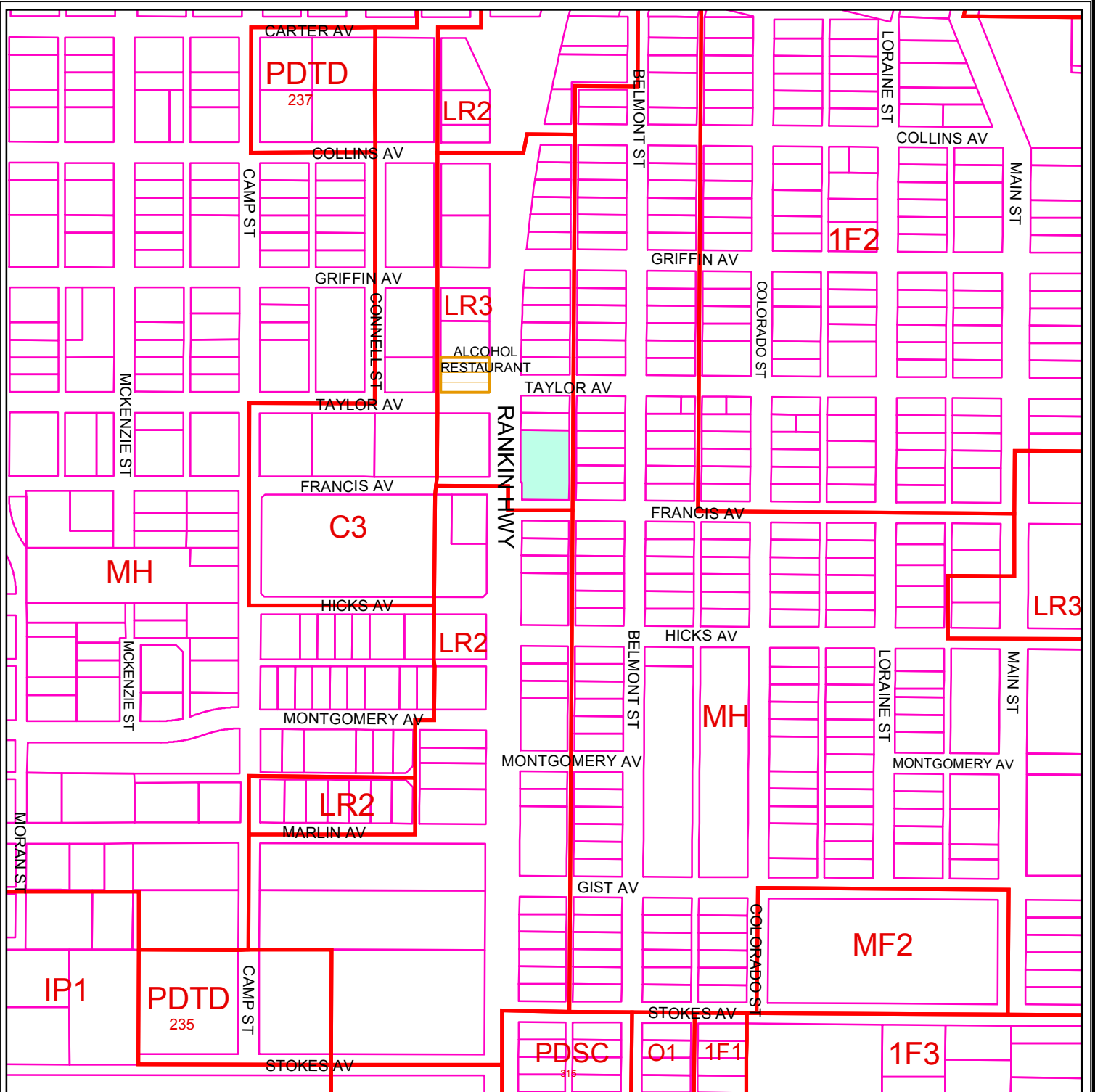
Subscribed and sworn to before me, this ____ day of _____, 20 ____, to certify which witness my hand and seal of office.

NOTARY PUBLIC, MIDLAND COUNTY, TEXAS

FOR OFFICE USE ONLY	
Rec'd By: <u>JA/AZ</u>	Date: <u>7/20/12</u>
Assigned: <u>MS</u>	
For: <u>P+Z</u>	On: <u>10/1/12</u>

****Application will not be considered for scheduling until reviewed by a planner.****





ZONING MAP

S - 12 - 010

Scale: 1" = 400'

Consider a request for a Specific Use Permit With Term for the sale of all alcoholic beverages, for on-premises consumption, in a restaurant, on Lot 7, less the west 5 feet, and on Lots 8 thru 10, Block 20, Belmont Addition, 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	O1, O2	OFFICE
CE	COUNTRY ESTATE	NS	NEIGHBORHOOD SERVICE
1F1, 1F2, 1F3	ONE-FAMILY DWELLING	LR1, LR2, LR3	LOCAL RETAIL
MH	MOBILE HOME DWELLING	C1, C2, C3	COMMERCIAL
TH	TOWNHOUSE DWELLING	IP, IP1, IP2, IP3	INDUSTRIAL PARK
2F	TWO-FAMILY DWELLING	LI	LIGHT INDUSTRY
MF1, MF2	MULTIPLE FAMILY DWELLING	HI	HEAVY INDUSTRY

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City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: November 27, 2012

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, Planning Division Manager

SUBJECT: Consider an ordinance on second reading on a request by Jeff Benson for a Specific Use Permit with Term for the sale of all alcoholic beverages, for on-premises consumption, in a Theater/Amusement Center.

Purpose:

Consider an ordinance on second reading on a request by Jeff Benson for a Specific Use Permit with Term for the sale of all alcoholic beverages, for on-premises consumption, in a Theater/Amusement Center, on Lot 1A, Block 2, Gateway Plaza, City and County of Midland, Texas. (Generally located on the northeast corner of the intersection of W. Business 20 and Liberty Drive).

Recommended City Council Action

☒ Approve ☐ Deny ☐ Direction/Informational

Fiscal Impact:

There is no cost to the City to process this application.

Discussion:

Cinergy Cinemas is currently being construction at Liberty Drive and Business I-20. The owner, Jeff Benson, requests to provide alcoholic beverage sales to adult patrons attending movies in one of the 11 theaters, the lobby area, or one of the many entertainment settings (arcade game area, party rooms, etc.) throughout the Cinergy Cinema complex for on-premise consumption. The proposed hours of operation for serving alcoholic beverages are noon to 2:00 a.m., seven days a week. In order for the staff to serve guests on the premises, a specific use permit with term must be approved. Designed to be a family-friendly entertainment venue, the alcoholic beverage sales are anticipated to be a very-low percent of gross sales in comparison to a typical restaurant or nightclub serving alcohol in Midland. Mr. Benson shared with staff that alcohol sales are typically below five percent at other Cinergy venues. This permit would allow on-premise consumption of all alcoholic beverages over a maximum floor area of 50,271 square feet. Staff concurs with the Planning and Zoning Commission that the proposal is in line with the original concept Mr. Benson promoted to the City and provides a unique entertainment attraction to our citizens and visitors. First reading was held on November 13th; no letters of opposition have been received.

Attachments:

Application
Maps
Exhibit A – Floor Plan

ORDINANCE NO.

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS LOT 1A, BLOCK 2, GATEWAY PLAZA, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTHEAST CORNER OF THE INTERSECTION OF WEST BUSINESS 20 AND LIBERTY DRIVE), WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A SHOPPING CENTER, BY PERMITTING SAID PROPERTY TO BE USED UNDER A SPECIFIC USE PERMIT WITH TERM FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A THEATER / AMUSEMENT CENTER 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 PD, Planned District for a Shopping Center, to-wit:

Lot 1A, Block 2, Gateway Plaza, 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 theater / amusement

center, together with the uses permitted in the present PD, Planned District for a Shopping Center.

SECTION TWO. That said property shall be subject to the following conditions and restrictions:

- A. That the maximum serving area for alcoholic beverages shall not exceed 50,271 square feet as designated on Exhibit "A", which is attached hereto and incorporated herein.
- B. That the days and hours of alcoholic beverage sales and consumption shall be limited to the following: each day of the week from 12:00 p.m. (Noon) until 2:00 a.m. of the following day.
- C. That alcohol sales operations shall conform to all laws and regulations established by the City of Midland and the State of Texas.

SECTION THREE. The provisions of this ordinance are to be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances, inconsistent with or in conflict with any of the provisions of this ordinance are hereby expressly repealed to the extent of any such inconsistency or conflict.

SECTION FOUR. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this ordinance. The Council of the City of Midland hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

SECTION FIVE. The penalty for violation of this ordinance shall be in accordance with the general penalty provisions contained in Section 1-3-1 of the City Code of Midland, Texas, which provides for a fine not exceeding two thousand dollars (\$2,000.00).

SECTION SIX. The City Secretary is hereby authorized and directed to publish the descriptive caption of this ordinance in the manner and for the length of time prescribed by the law as an alternative method of publication.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the _____ day of _____, A.D., 2012; and passed to second reading on motion of Council member _____, seconded by Council member _____, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

The above and foregoing ordinance was read in full and finally adopted by the following vote upon motion of Council member _____, seconded by Council member _____, on the _____ day of _____, A.D., 2012, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2012.

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

James R. Nichols, Assistant City Attorney

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

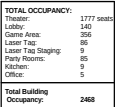
Revision Dates		
Rev#	Date	Comments
B	05-10-2012	Addendum B
	06-01-2012	Issued for Bid
1	06-19-2012	Revision 1

Cinergy
Cinemas -
Midland

Energy Cinemas

Egress Plan

RELEASED FOR CONSTRUCTION



1 FIRST FLOOR EGRESS PLAN
A0.10 3/32" = 1'-0"

PLANNING AND ZONING COMMISSION

October 15, 2012

CASE: S-12-011.

REQUEST: Hold a public hearing and consider a request for a Specific Use Permit with Term for on-premise consumption of all alcoholic beverages in a Theater/Amusement Center.

APPLICANT/OWNER: Jeff Benson.

LEGAL DESCRIPTION: Lot 1A, Block 2, Gateway Plaza, City and County of Midland, Texas.

LOCATION: Generally located on the northeast corner of the intersection of W. Business 20 and Liberty Drive.

CURRENT ZONING: PD, Planned District for a Shopping Center.

ASSOCIATED CASES: Z-12-003.

DETAILS OF REQUEST:

1. On February 28, 2012 the City Council approved a planned district site plan to allow the construction of a movie theater and family entertainment complex on this site. Consistent with his other Cinergy Cinema locations, Mr. Benson requests to provide alcoholic beverage sales to adult patrons attending a movie in one of the 11 theaters, the lobby area, or one of the many entertainment settings (arcade game area, party rooms, etc.) throughout the Cinergy Cinema complex for on-premise consumption. The proposed hours of operation for serving alcoholic beverages to adults of legal drinking age are noon to midnight, seven days a week. In order for the staff to service guests on the premises, a specific use permit with term for a theater/amusement center must be approved. This permit would allow on-premise consumption of all alcoholic beverages over a maximum floor area of 50,271 square feet.

SURROUNDING ZONING AND LAND USE:

2. This property is bounded on the north by Starboard Drive, on the west by Liberty Drive, and Business I-20 and the Loop 250 Exit Ramp to the south and southeast, respectively. Neighboring zoning is Local Retail with LR-3 to both the east and west and LR-2 to the north, all of which is currently undeveloped. A 96-unit apartment complex is located further north. Across Business I-20 is a fully-developed IP-3, Industrial Park District.

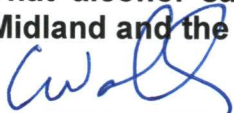
ANALYSIS:

3. One of the unique aspects of Cinergy Cinemas' business model is the dine-in movie experience which includes a full food and beverage menu with alcoholic drinks. This dine-in, multi-theater business mix, is also positioned around a large, interior arcade/amusement center that will also be included in the serving area for alcoholic beverages. Designed to be a family-friendly entertainment venue, the alcoholic beverage sales are anticipated to be a very-low percent of gross sales in comparison to a typical restaurant or nightclub serving alcohol in Midland. Mr. Benson shared with staff an anticipated revenue percentage for alcohol sales that was below 5 percent. The seating capacity is nearly 1,800 fixed seats for the movie theaters, party rooms will have typical movable seating, and the gaming area will also have seating that is less easily defined in terms of some movable chairs or stools and some sit-in or ride-on games themselves than could be considered seats. The nature of the arcade area is also to have a rotating selection and style of games that may frequently alter the seating and floor footprint of this area. To avoid any ambiguity in defining this permit in terms of seating or seating capacity, we are recommending approval based upon the extents of the provided floor plan (Exhibit – A) with the maximum serving area for alcoholic beverages not to exceed 50,271 square feet. Staff believes that the proposal is in line with the original concept Mr. Benson promoted to the City and provides a unique entertainment attraction to our citizens and visitors.

STAFF RECOMMENDATION:

Staff recommends approval of this request for a Specific Use Permit with Term for on-premise consumption of all alcoholic beverages in a Theater/Amusement Center, subject to the following conditions:

- A. That the maximum serving area for alcoholic beverages not to exceed 50,271 square feet as designated on Exhibit A;
- B. That the days and hours of alcoholic beverage sales and consumption shall not exceed the following: Each day of the week from noon until midnight;
- C. That alcohol sales operations shall conform to all laws established by the City of Midland and the State of Texas;



Cameron Walker, AICP
Planning Division Manager
Department of Development Services



Ken Van Dyne, Senior Planner
Department of Development Services

Attachments:

Application
Floor Plan – Exhibit A
Maps

Case Number: S-12-011

CITY OF MIDLAND

Planning Division

APPLICATION FOR A SPECIFIC USE PERMIT WITH TERM FOR THE SALE OF ALCOHOLIC BEVERAGES FOR ON-PREMISE CONSUMPTION

Jeff Benson	(214) 750-6607
Applicant Name	Phone/e-mail
11311 North Central Expwy., Suite 336, Dallas, Texas	75243
Address	Zip Code

Jeff Benson	(214) 750-6607
Property Owner Name	Phone/e-mail
11311 North Central Expwy., Suite 336, Dallas, Texas	75243
Address	Zip Code

Operator (if different from Applicant or Property Owner)	Phone/e-mail
Address	Zip Code

Type of Business: Movie Theater
(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.)

Gateway Plaza, Section 3, Lot 1A, Block 2. In Section 1, Block 40, T-1-S, T&P, RR Co. Survey, City and County of Midland, Texas

Current Zoning: PDSC

Max. Floor Area: 50,271 Seating Capacity: 1780

Proposed hours and days of alcoholic beverage sales: Noon-Midnight (12p-12a)

Reason for request: To serve alcoholic beverages to adults of age for a festive movie going experience.

REQUIRED SUBMITTALS

1. Application fee: \$300 ✓.

2. Site plan – 16 copies (FOLDED) ✓.
3. On a CD in .pdf and .jpg digital format Emailed

SIGNATURES:

Applicant: Andrew L. Mellen Date: 7-26-12

Property Owner: _____ 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

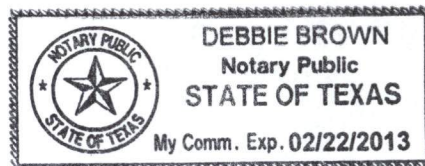
Andrew L. Mellen who, being by me duly sworn, upon oath says: That (s)he is authorized by Jeff Benson, the owner of the above described property, to fully represent him/her in this application and that (s)he had the legal right, power and authority to sign said owner's name hereto as his/her attorney in fact.

Subscribed and sworn to before me, this 26th day of July, 20 12, to certify which witness my hand and seal of office.

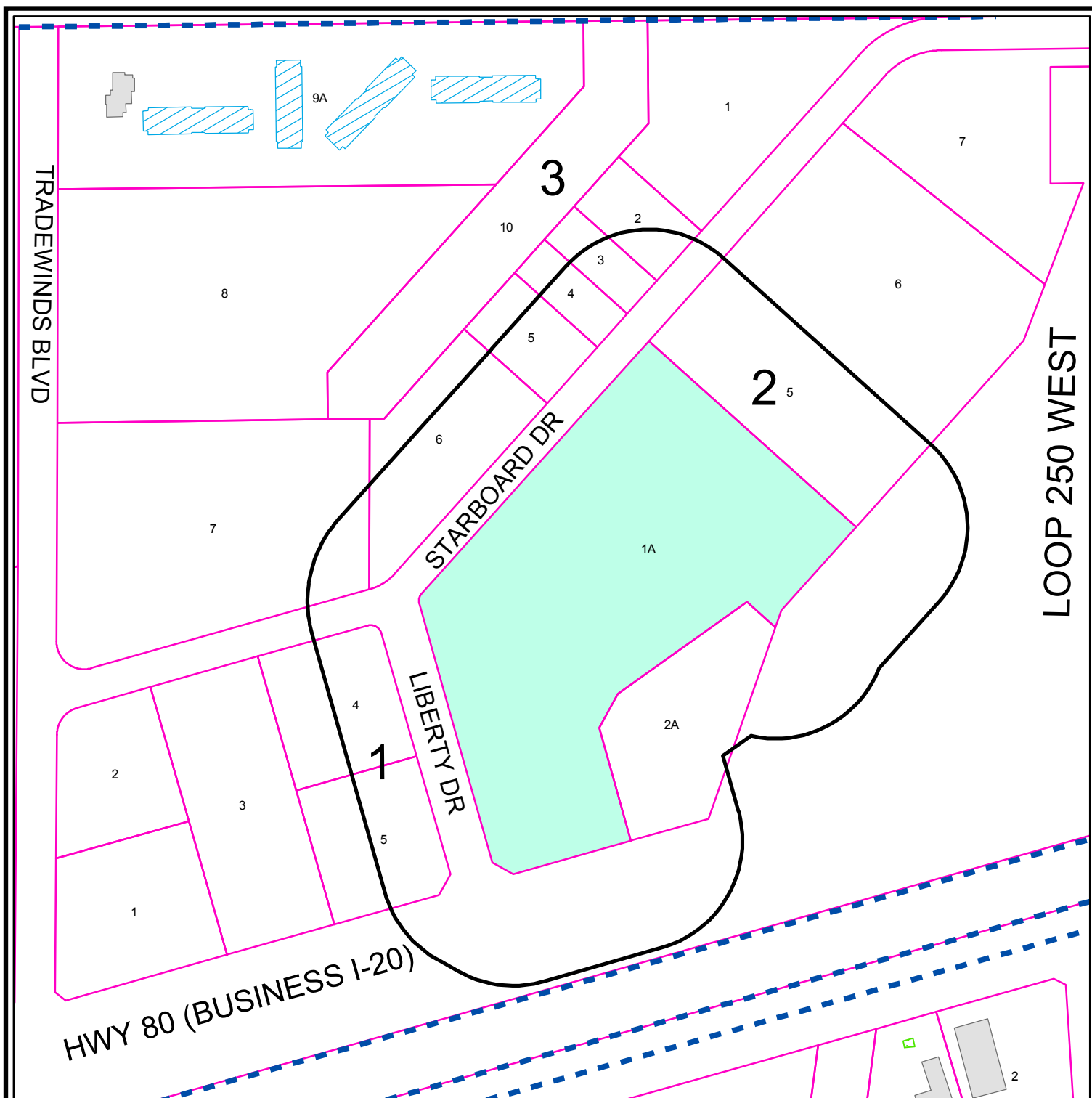
Debbie Brown

NOTARY PUBLIC, MIDLAND COUNTY, TEXAS

FOR OFFICE USE ONLY	
Rec'd By: <u>AM</u>	Date: <u>7/26/12</u>
Assigned: _____	
For: _____	On: _____



****Application will not be considered for scheduling until reviewed by a planner.****



PROPERTY OWNER NOTIFICATION MAP

S - 12 - 011

Scale: 1" = 250'

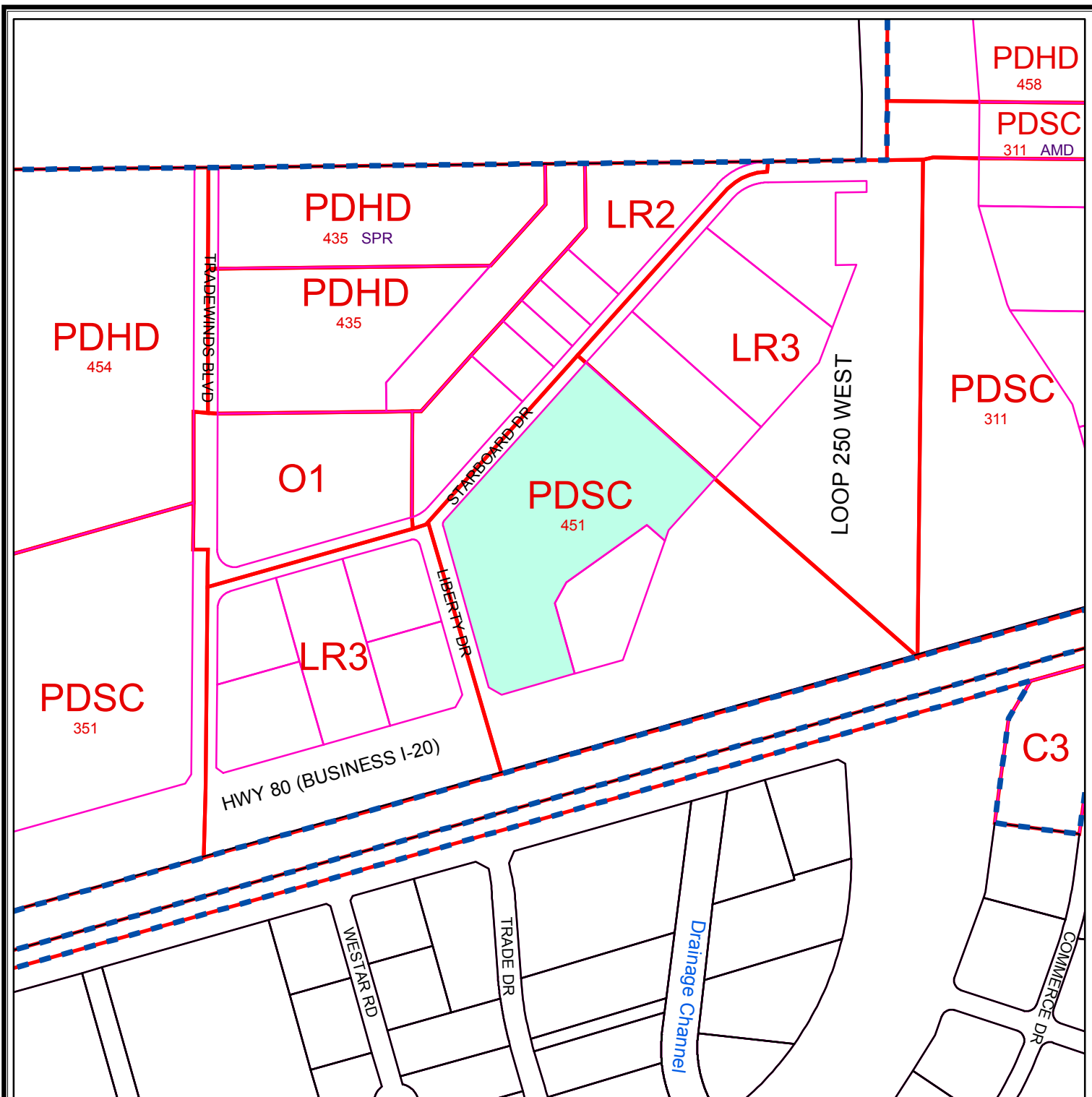
Consider a request for a Specific Use Permit with Term for the sale of all alcoholic beverages, for on-premises consumption, in a Theater/Amusement Center, on Lot 1A, Block 2, Gateway Plaza, City and County of Midland, Texas.

LEGEND

- CITY LIMITS
- 200 FT. LEGAL NOTICE LIMIT
- PARCEL
- PUBLIC BLDGS
- PRIVATE BLDGS



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ZONING MAP

S - 12 - 011

Scale: 1" = 400'

Consider a request for a Specific Use Permit with Term for the sale of all alcoholic beverages, for on-premises consumption, in a Theater/Amusement Center, on Lot 1A, Block 2, Gateway Plaza, City and County of Midland, Texas.

LEGEND

 ZONING	 CITY PARCELS	 COUNTY PARCELS
 CITY LIMITS	 SPECIFIC USE PERMITS	

ZONING DISTRICTS:

FD	FUTURE DEVELOPMENT	BP	BUSINESS PARK
PD	PLANNED DISTRICT	P	PARKING
AE	AGRICULTURE ESTATE	O1, O2	OFFICE
CE	COUNTRY ESTATE	NS	NEIGHBORHOOD SERVICE
1F1, 1F2, 1F3	ONE-FAMILY DWELLING	LR1, LR2, LR3	LOCAL RETAIL
MH	MOBILE HOME DWELLING	C1, C2, C3	COMMERCIAL
TH	TOWNHOUSE DWELLING	IP, IP1, IP2, IP3	INDUSTRIAL PARK
2F	TWO-FAMILY DWELLING	LI	LIGHT INDUSTRY
MF1, MF2	MULTIPLE FAMILY DWELLING	HI	HEAVY INDUSTRY

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City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: November 27, 2012

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, Planning Division Manager

SUBJECT: Consider an ordinance on second reading on a City-initiated proposal for a zone change from C-1, Central Area District to PD, Planned District for a Housing Development.

Purpose:

Consider an ordinance on second reading for a multi-family development in the Central Area

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

There is no cost to the City to process this application.

Discussion:

The City has been approached by a developer interested in constructing a high rise apartment building on Block 53 in the Central Area. The block is located east of the Midland Center. The proposal includes up to 150 dwelling units, each at least 600 square feet in area, potential retail development on the first floor, and a parking garage that will include sufficient parking for residents and for additional public parking. Following a favorable recommendation by the Planning and Zoning Commission, the City Council voted to approve the ordinance on first reading on November 13th, 2012. The ordinance is now ready for second reading consideration.

ORDINANCE NO.

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOTS 1-8, THE NORTH 8 FEET OF THE WEST 75 FEET OF LOT 9, THE EAST 65 FEET OF LOTS 9-12, AND LOTS 13-23, BLOCK 53, ORIGINAL TOWN, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED C-1, CENTRAL AREA DISTRICT, TO BE USED AS A PD, PLANNED DISTRICT FOR A HOUSING DEVELOPMENT (GENERALLY LOCATED NORTH OF WALL STREET, SOUTH OF TEXAS AVENUE, EAST OF MAIN STREET, AND WEST OF BAIRD STREET); PROVIDING FOR SUCH USE TO BE SUBJECT TO CERTAIN SPECIAL CONDITIONS AND RESTRICTIONS AS SET OUT HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

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 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 C-1, Central Area District, and it shall be used as a Planned District for a Housing Development, subject to the special conditions and restrictions hereinafter set out, said property being described as

follows:

Lots 1-8, the north 8 feet of the west 75 feet of Lot 9, the east 65 feet of Lots 9-12, and Lots 13-23, Block 53, Original Town, City and County of Midland, Texas.

SECTION TWO. That said property shall be subject to the following special conditions and restrictions:

1. That this property shall be subject to the regulations of the MF-2, Multiple-Family Dwelling District, except as otherwise stated below.
2. That the maximum building height shall not exceed eight standard stories or 80 feet, whichever is greater.
3. That the density shall not exceed 150 dwelling units.
4. That the minimum gross floor area of each dwelling unit shall be 600 square feet.
5. That there shall be no minimum front, side or rear yard building setback requirement; provided, however, that a minimum of five percent (5%) of the lot area shall be used as open space, including courtyards, buffer areas and other common areas.
6. That any portion of the building, or any other structures attached to the building that exceed 12 feet above the sidewalk grade may extend into the abutting right-of-way a maximum of five feet.
7. That accessory buildings or structures shall be limited to swimming pools, meeting rooms, party or social rooms in common areas, or a cabana or pavilion, or a parking garage and related infrastructure.
8. That a minimum of 1.4 parking spaces shall be provided for each dwelling unit. Said spaces may either be located on this lot or on an abutting lot, regardless of whether it is separated from this lot by a street or alley.
9. That business signs shall be limited to wall signs not to exceed eight feet in width and eight feet in height (maximum 64 square feet), with one sign allowed on each side of the building. Signs extending perpendicular to the building shall be allowed, subject to the conditions listed in this Condition and Condition No. 6 above.
10. That all exterior lighting shall conform to the conditions of the City of Midland's Outdoor Lighting Code.
11. That all HVAC equipment shall be screened with a wall or fence so as not to be visible by the general public.
12. That all outdoor solid waste containers and/or compactors shall be screened with a masonry screening wall.
13. That in addition to the uses allowed in the MF-2, Multiple-Family Dwelling

District, a minimum of 5,000 square feet of floor area may be used for retail uses as described in the LR-1, Local Retail District. The retail floor area shall not exceed 10,000 square feet.

14. That the requirement that apartment construction be preceded by site plan approval in the same manner as a zone change, as required by Section 11-1-6(A)(9) of the Midland City Code, is hereby waived; provided, however, that an administrative site plan review by the Development Services Department shall be required instead.

SECTION THREE. That the definitions given in the zoning regulations contained in the City Code of the City of Midland, Texas, shall be applicable to such of those terms as are used herein.

SECTION FOUR. The provisions of this ordinance are to be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent with or in conflict with any of the provisions of this ordinance are hereby expressly repealed to the extent of any such inconsistency or conflict.

SECTION FIVE. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this ordinance. The Council of the City of Midland hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

SECTION SIX. The penalty for violation of this ordinance shall be in accordance with the general penalty provisions contained in Section 1-3-1 of the City Code of Midland, Texas, which provides for a fine not exceeding two thousand dollars (\$2,000.00).

SECTION SEVEN. The City Secretary is hereby authorized and directed to publish the descriptive caption of this ordinance in the manner and for the length of time prescribed by the law as an alternative method of publication.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the _____ day of _____, A.D., 2012; and passed to second reading

on motion of Council member _____, seconded by Council member _____, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

The above and foregoing ordinance was read in full and finally adopted by the following vote upon motion of Council member _____, seconded by Council member _____, on the _____ day of _____, A.D., 2012, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2012.

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

James R. Nichols, Assistant City Manager

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

Case Number: Z-12-046

CITY OF MIDLAND
Planning Division

APPLICATION TO CHANGE ZONING CLASSIFICATION

City of Midland

Applicant Name

(Phone/e-mail)

Address

Zip Code

City of Midland

Property Owner Name

(Phone/e-mail)

Address

Zip Code

Representative Name

(Phone/e-mail)

Address

Zip Code

Street address and Legal Description of property (complete Lot, Block, and Subdivision Name or if unplatted, attach a Metes and Bounds description with surveyor's seal). Each district must be described separately.

PRESENT ZONE: C-1 Dist. REQUESTED ZONE: PDHD
(List by tracts if more than one district is requested)

Reason for Zone Change Request:

Present Use of Property: Vacant, parking

Proposed Use of Property: High rise apartments

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 additional district.
- Single PD, Planned District zone change: **\$550**. Multiple PD proposal: add **\$100** per district.
- If a Traffic Impact Analysis is required, a fee of up to \$500.00 will be assessed.

SITE PLAN SUBMITTALS *(if applicable):*

16 copies (FOLDED) of the PD site plan: _____

Site Plan in digital format .pdf and .jpg: _____

SIGNATURE *(by property owner only - authorized agent must sign affidavit below)*

Property Owner (signature): _____ Date: _____

If an Agent is authorized by the property owner to file and execute the application on behalf of the property owner, the Agent must complete the affidavit below.

STATE of TEXAS
COUNTY OF MIDLAND

Before me, the undersigned authority, on this day personally appeared

_____ who, being by me duly sworn, upon oath says: That (s)he is authorized by _____, the owner of the above described property, to fully represent him/her in this application and that (s)he had the legal right, power and authority to sign said owner's name hereto as his/her attorney in fact.

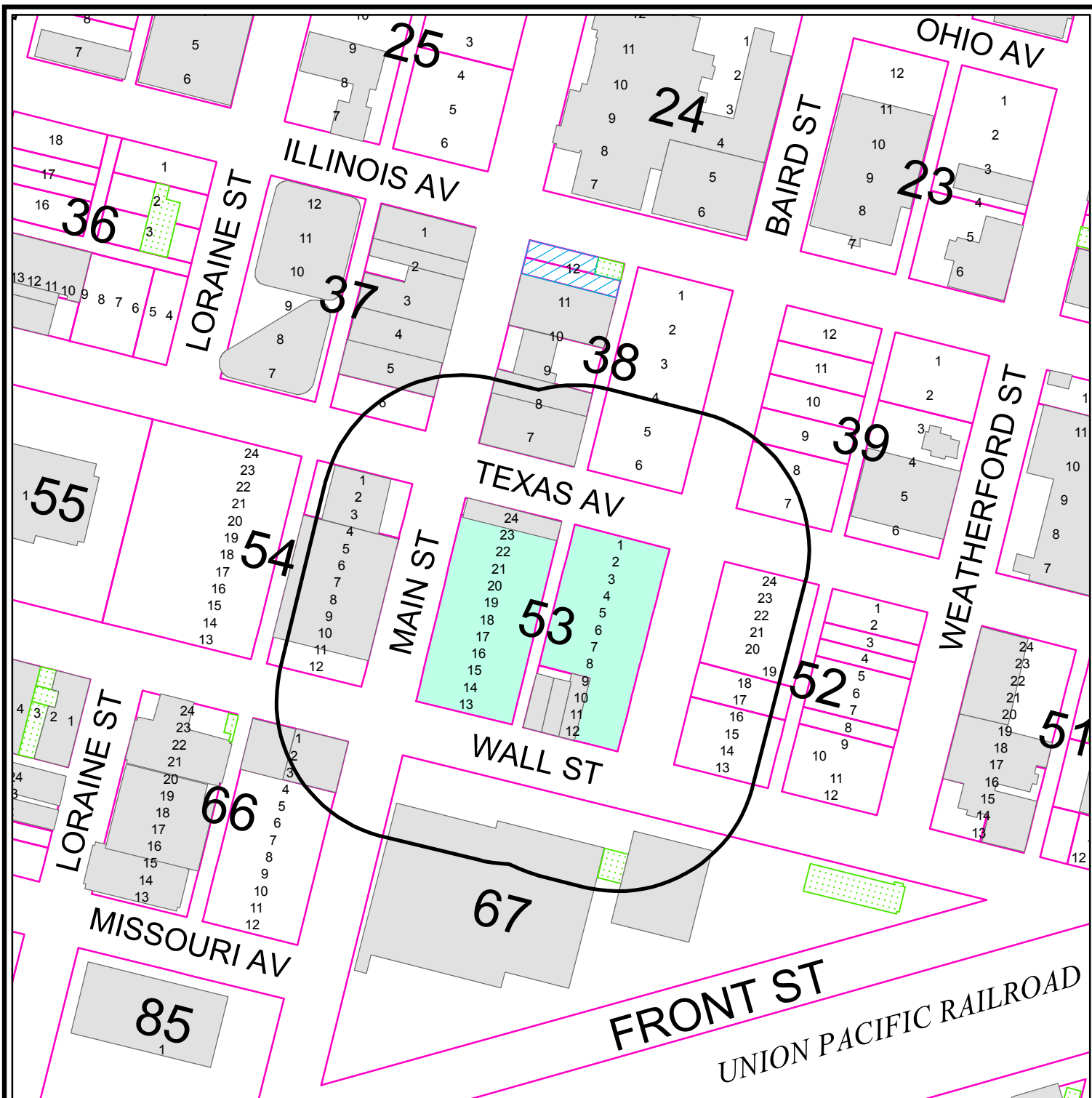
Authorized Agent (signature)

Subscribed and sworn to before me, this _____ day of _____, 20 ____, to certify which witness my hand and seal of office.

NOTARY PUBLIC, MIDLAND COUNTY, TEXAS

FOR OFFICE USE ONLY	
Rec'd By: <u>CW</u>	Date: <u>10-9-12</u>
Assigned: <u>IC</u>	
For: <u>PdZ</u>	On: <u>11-5-12</u>

****Application will not be considered for scheduling until reviewed by a planner.****



PROPERTY OWNER NOTIFICATION MAP

Z - 12 - 046

Scale: 1" = 200'

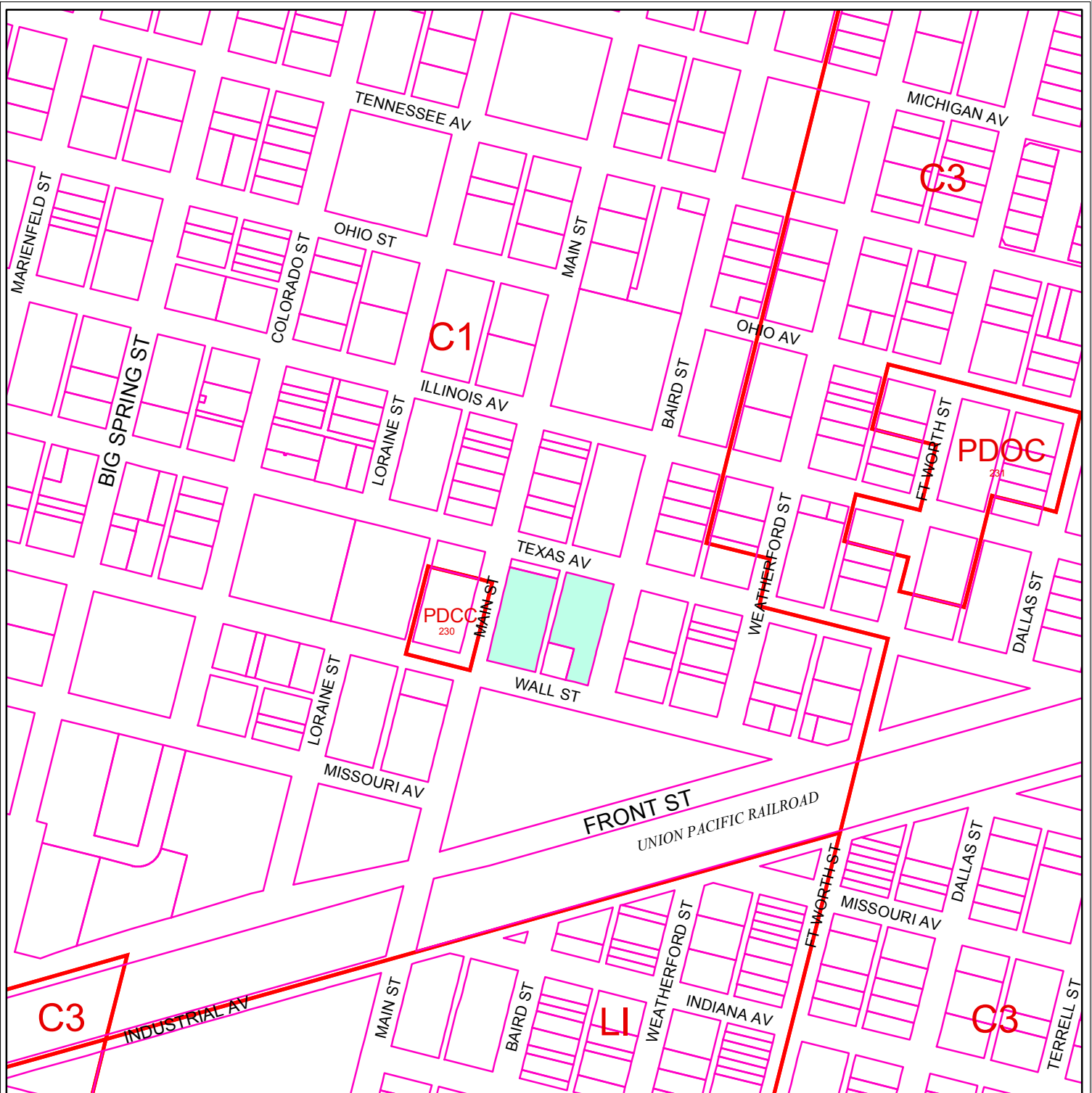
Consider a City Initiated proposal for a zone change from C-1, Central Area District, to PD, Planned District for an Housing Development on Lots 1 thru 8, the north 8 feet of the west 75 feet of Lot 9, the east 65 feet of Lots 9 thru 12, and Lots 13 thru 23, Block 53; Original Town, City and County of Midland, Texas.

LEGEND

- CITY LIMITS
- 200 FT. LEGAL NOTICE LIMIT
- PARCEL
- PUBLIC BLDGS
- PRIVATE BLDGS
- ACCESSORY BLDGS



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ZONING MAP

Z - 12 - 046

Scale: 1" = 400'

Consider a City Initiated proposal for a zone change from C-1, Central Area District, to PD, Planned District for an Housing Development on Lots 1 thru 8, the north 8 feet of the west 75 feet of Lot 9, the east 65 feet of Lots 9 thru 12, and Lots 13 thru 23, Block 53; Original Town, 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:
JNichols
City Manager's Office

MEETING DATE: November 27, 2012

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, Planning Division Manager

SUBJECT: Consider an ordinance on second reading on a request by Tim Ernst for a zone change from 1F-2, One-Family Dwelling District to PD, Planned District for an Office Center.

Purpose:

Consider an ordinance on second reading for a zone change from 1F-2 District to PD, Planned District for an Office Center.

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

There is no cost to the City to process this application.

Discussion:

Dinero Plaza wishes to construct an office building on the southwest corner of Whitaker and Cuthbert Avenue, across the alley from their campus. Since this parcel is on the edge of a residential area, a request for a Planned District with three site plans, Exhibits A, B and C was submitted, to better integrate this use into the neighborhood. The City Council deferred the initial proposal last April, and instructed the applicant to add more residential elements to the building. The City Council reviewed and approved the revised site plans on November 13th, 2012. This ordinance is now ready for second reading consideration.

ORDINANCE NO.

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOT 1A, BLOCK 5, S.W. ESTES ADDITION, SECTION 2, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED 1F-2, ONE-FAMILY DWELLING DISTRICT, TO BE USED AS A PD, PLANNED DISTRICT FOR AN OFFICE CENTER (GENERALLY LOCATED ON THE SOUTHWEST CORNER OF WEST CUTHBERT AVENUE AND WHITAKER STREET); PROVIDING FOR SUCH USE TO BE SUBJECT TO CERTAIN SPECIAL CONDITIONS AND RESTRICTIONS AS SET OUT HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

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 Planned District for an Office Center, 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 1F-2, One-Family Dwelling District, and it shall be used as a Planned District for an Office Center, subject to the special conditions and restrictions hereinafter set out, said property being described as follows:

Lot 1A, Block 5, S.W. Estes Addition, Section 2, City and County of Midland, Texas.

SECTION TWO. That said property shall be subject to the following special conditions and restrictions:

1. That the development of this property shall be subject to the regulations of the O-1, Office District, except as otherwise stated below.
2. That the development of this property for an office shall conform to the conditions contained in Exhibits "A", "B" and "C", which are attached hereto and incorporated herein.
3. That the maximum building height shall not exceed 20 feet, and the maximum floor area shall not exceed 8,400 square feet.
4. That this office shall not be a stand-alone office, but shall only be used in association with the Dinero Plaza office, located on Lot 1, Block 18, Elmwood, Section 3, City and County of Midland, Texas.
5. That no business signs shall be allowed on this property.
6. That driveway access shall be limited to a driveway from the alley located on the west side of the property. This alley shall be paved to City of Midland standards from Cuthbert Avenue to the south edge of this property prior to the issuance of a Certificate of Occupancy.
7. That no mechanical equipment shall be located on the roof of this building.

SECTION THREE. That the definitions given in the zoning regulations contained in the City Code of the City of Midland, Texas, shall be applicable to such of those terms as are used herein.

SECTION FOUR. The provisions of this ordinance are to be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent with or in conflict with any of the provisions of this ordinance are hereby expressly repealed to the extent of any such inconsistency or conflict.

SECTION FIVE. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this ordinance. The Council of the City of Midland hereby declares that it would have passed this ordinance and each section,

subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

SECTION SIX. The penalty for violation of this ordinance shall be in accordance with the general penalty provisions contained in Section 1-3-1 of the City Code of Midland, Texas, which provides for a fine not exceeding two thousand dollars (\$2,000.00).

SECTION SEVEN. The City Secretary is hereby authorized and directed to publish the descriptive caption of this ordinance in the manner and for the length of time prescribed by the law as an alternative method of publication.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the _____ day of _____, A.D., 2012; and passed to second reading on motion of Council member _____, seconded by Council member _____, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

The above and foregoing ordinance was read in full and finally adopted by the following vote upon motion of Council member _____, seconded by Council member _____, on the _____ day of _____, A.D., 2012, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2012.

W. Wesley Perry, Mayor

ATTEST:

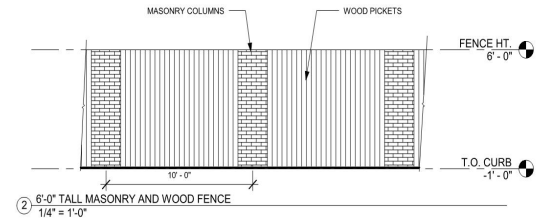
Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

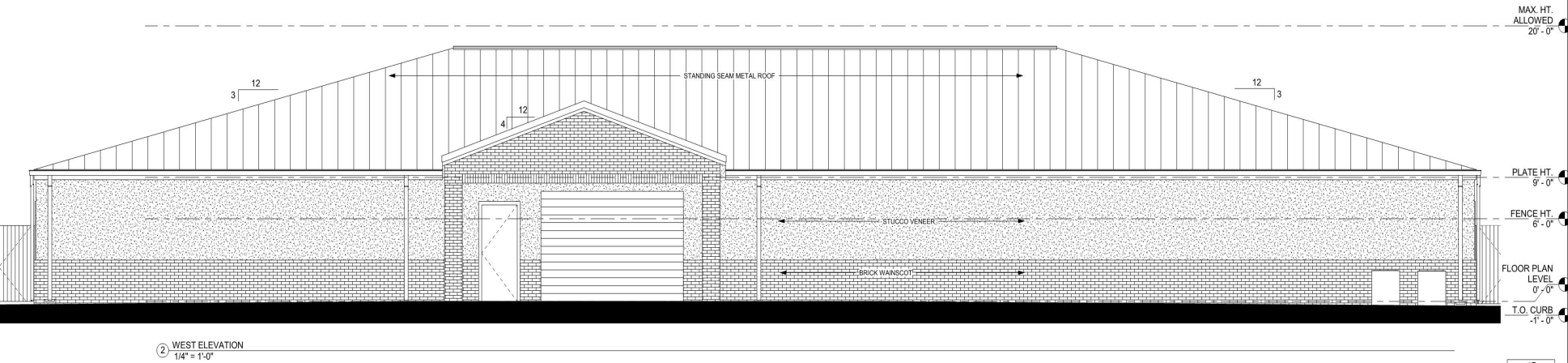
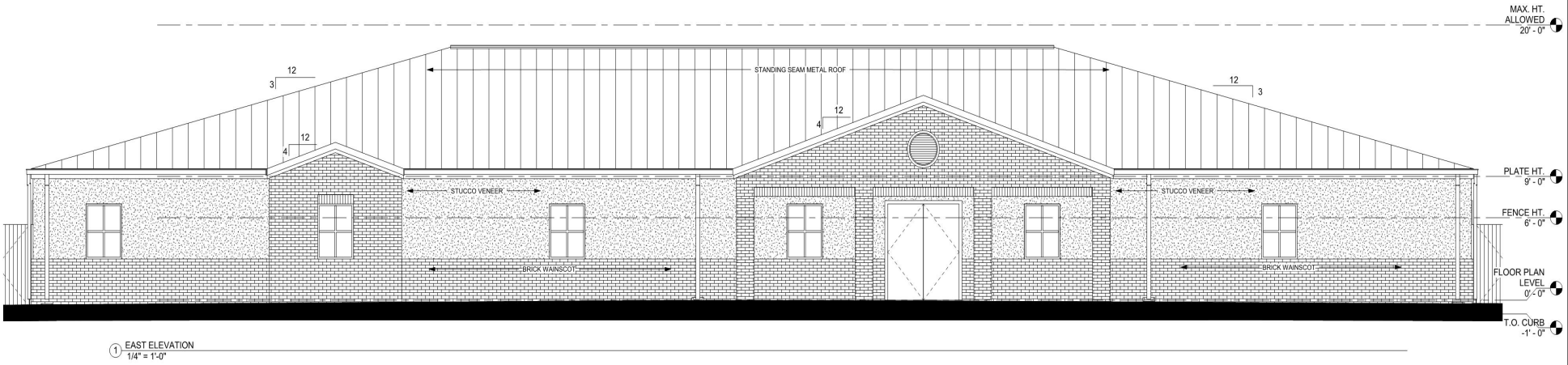
James R. Nichols, Assistant City Manager

APPROVED AS TO FORM:

Keith Stretcher, City Attorney



① SITE PLAN
1/8" = 1'-0"



**DINERO PLAZA
MIDLAND, TEXAS**

JOB NO. 0834

DRAWING TITLE

EXT. ELEVATIONS

REVISIONS

△
△
△
△

DATE 09/13/12

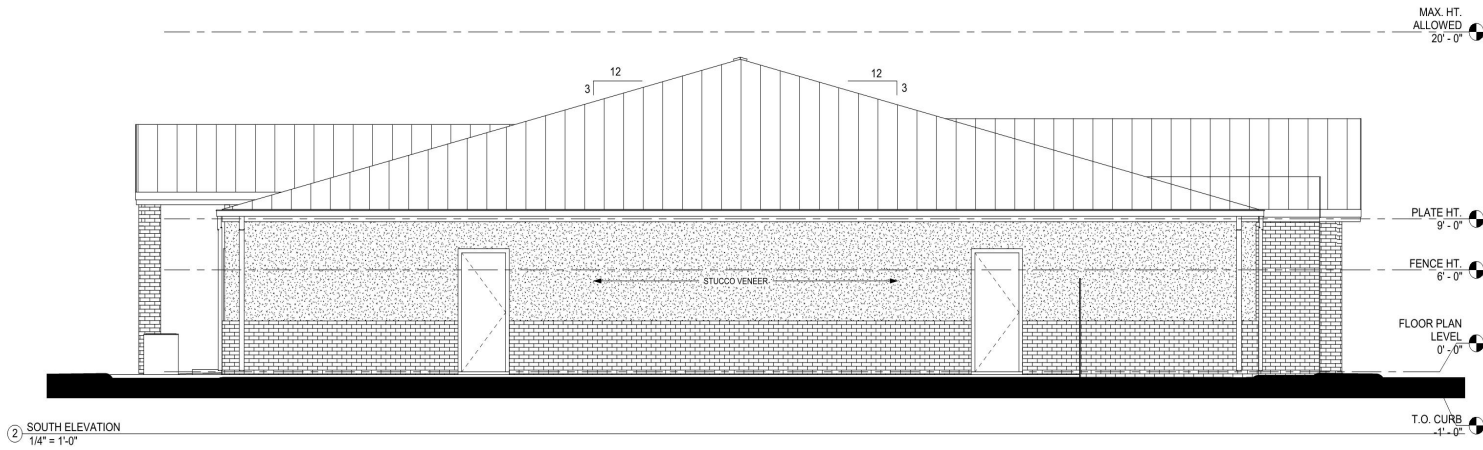
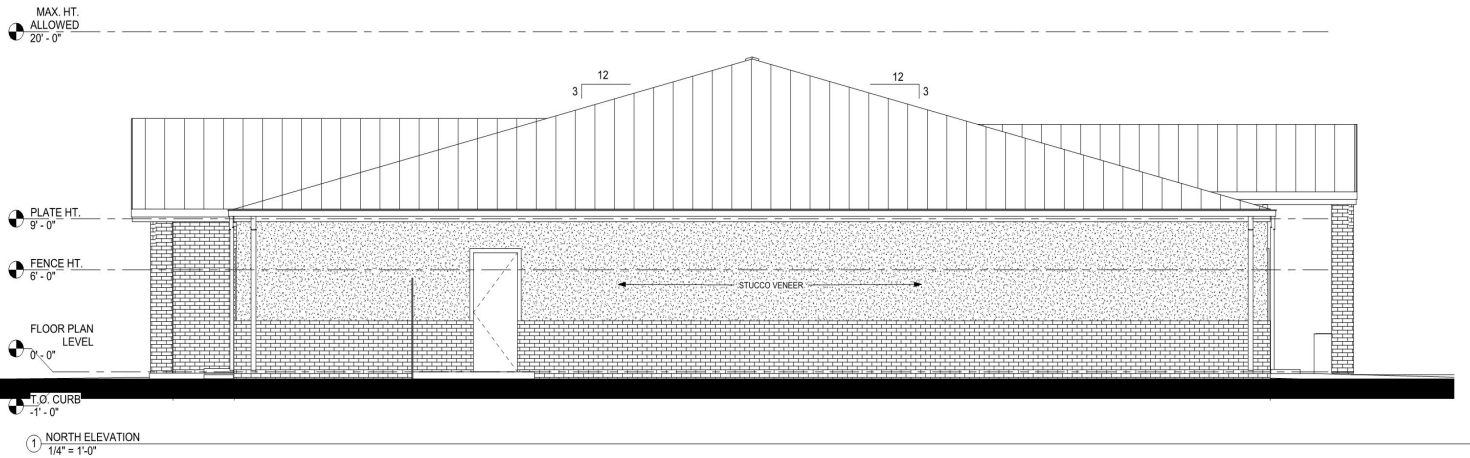
DRAWN BY CWW

CHECKED BY JRR

SHEET NO.

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DINERO PLAZA MIDLAND, TEXAS

JOB NO. 0834

DRAWING TITLE

EXT. ELEVATIONS

REVISIONS

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DATE 09/13/12

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SHEET NO.

A201

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rwa
rhodenberry
wallen
architects

Planning and Zoning Commission
Minutes
April 02, 2012

Z-12-007 - Hold a public hearing and consider a request by **Tim Ernst** for a *zone change* from 1F-2, One-Family Dwelling District to PD, Planned District for an Office Center on Lot 1A, Block 5, S. W. Estes Addition, Section 2, City and County of Midland, Texas. (Generally located near the southwest corner of the intersection of W. Cuthbert Avenue and Whitaker Street.)

With no applicant present, Senior Planner Jim Compton clarified that throughout the report the term warehouse space is used when in fact it is additional office space. Mr. Compton gave an overview of the request and stated all conditions exceed standard and staff recommended approval subject to conditions A through H.

Chairman Ferguson opened the public hearing.

There being no one wishing to speak in favor or in opposition to the item, Chairman Ferguson closed the public hearing.

After further discussion a motion for approval of a request subject to conditions A through H was made by Commissioner Lanning; seconded by Commissioner York. The motion carried by the following vote: AYE: Ferguson, Gatten, Norris, Wilton, York, Watkins, and Lanning. NAY: None. ABSTAIN: Carrillo. ABSENT: Wolf and Woodruff

PLANNING AND ZONING COMMISSION

April 2, 2012

CASE: Z-12-007.

REQUEST: Hold a public hearing and consider a request for a zone change from 1F-2, One-Family Dwelling District to PD, Planned District for an Office District.

APPLICANT: Tim Ernst.

OWNER: Midland Dinero, LLC.

REPRESENTATIVE: James Dewey.

LEGAL DESCRIPTION: Lot 1A, Block 5, S. W. Estes Addition, Section 2, City and County of Midland, Texas.

LOCATION: Southwest corner of Cuthbert Avenue and Whitaker Street.

DETAILS OF REQUEST:

1. Dinero Plaza is located at the southeast corner of Big Spring Street and Cuthbert Avenue. In order to provide for additional warehouse space, they have purchased the subject property, which is located across the alley from the main campus. It is currently zoned 1F-2 District, while warehouses are allowed beginning in the C-2, Commercial District. Consequently, the applicant has applied for a zone change to a Planned District for an Office Center, subject to the regulations of the O-1 district, and to the attached site plans, Exhibits A, B and C.

SURROUNDING ZONING AND LAND USE:

2. The land to the north, east and south of this property is zoned 1F-2 District. While there are some homes on the north side of Cuthbert Avenue, the rest of the abutting 1F-2 District is sparsely developed, except that the two lots immediately to the south are developed with residences. To the west is a strip of land zoned O-1 District, which serves as a transition between the 1F-2 District and the O-2 District to the west, where a maximum building height of seven standard stories is allowed.

ANALYSIS:

3. The purpose of this proposed planned district is to integrate a warehouse use located along the edge of a residential neighborhood. Exhibit A is a plan view of this proposal. Access is planned only from the alley located between the Dinero Plaza campus and the subject property. While access to lots is typically from public streets, the staff has no objection to this plan. Limiting driveway access to the alley decreases the likelihood that this proposed warehouse would be used by anyone other than Dinero Plaza. City policy will require that this alley be paved by the applicant. The building would be 8,400 square feet in area, with a maximum height of 20 feet at the roof ridge. Building setbacks exceed those of the O-1 District. Landscaping would consist of nine trees located within a crushed granite ground cover. The lack of turf grass greatly limits irrigation requirements. Planter beds are indicated adjacent to the east side of the building, where they would soften the appearance of the warehouse. There are no parking spaces shown on this site. Again, staff has no objection since this condition limits the ability to use this warehouse as a stand-alone land use. The staff recommends that mechanical equipment on the roof of the building be avoided. While not labeled, Exhibit A illustrates a series of pilasters for a 6-foot solid wood fence along the north and south property lines. Again, this fence will provide a buffer between this proposal and the residential development to the south. No signs are indicated on the site plan. The staff recommends that this property be subject to the applicable Sign Code regulations. Solid waste collection can be accommodated with dumpsters located in the abutting alley.

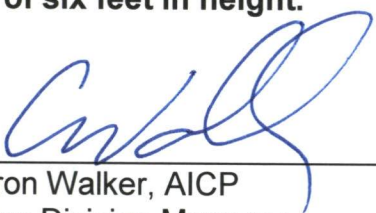
Exhibit B illustrates the north and south building elevations, while Exhibit C illustrates the east and west elevations. The entire side of the north and south elevations will be covered with stucco, except for three "man" doors. The east elevation, adjacent to Whitaker also exhibits a stucco exterior with a single door covered by a porch and a number of windows to break up the monotony of a solid building face. The rear is also covered with stucco, except for an overhead door and rain gutter downspouts. The roof is a gable design covered with a standing seam metal roof. The staff finds that this proposal meets all of the development requirements of the O-1 District, and that the conditions shown on the attached exhibits will integrate this proposed warehouse use into this location.

STAFF RECOMMENDATION:

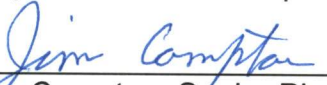
We recommend approval of this request for a zone change from 1F-2, One-Family Dwelling District to PD, Planned District for an Office District, subject to the following conditions:

- A. **The use and development of this property shall conform to the conditions of the O-1, Office District, except as otherwise stated below.**

- B. That the development of this warehouse shall conform to the conditions shown on the attached Exhibits A and B in all respects.
- C. This warehouse shall not be a stand-alone warehouse, but shall only be used in association with the property identified as Lot 1, Block 18, Elmwood, Section 3, City and County of Midland, Texas.
- D. This warehouse shall not exceed one story, with a maximum overall height of 20 feet. The maximum floor area shall not exceed 8,400 square feet.
- E. Driveway access shall be limited to a driveway from the alley on the east side of the property. This alley must be paved to City standards from Cuthbert Avenue to the south side of the driveway.
- F. No mechanical equipment shall be located on the warehouse roof.
- G. All signs shall conform to the regulations of the Midland Sign Code.
- H. The fences along the north and south property lines must be labeled and described on Exhibit A. The fence shall be a solid wood fence a minimum of six feet in height.



Cameron Walker, AICP
Planning Division Manager
Department of Development Services



Jim Compton, Senior Planner
Department of Development Services

Attachments:

Application
Maps
Exhibits A, B and C

Case Number: 2-12-007**CITY OF MIDLAND**
Planning Division**APPLICATION TO CHANGE ZONING CLASSIFICATION**

<u>Tim Ernst</u>	<u>ternst@terramarketinginc.com</u>
Applicant Name	(Phone/e-mail)
<u>1004 N. Big Spring St., Suite 500</u>	<u>79701</u>
Address	Zip Code
<u>Midland Dinero, LLC</u>	<u>(432) 684-4292</u>
Property Owner Name	(Phone/e-mail)
<u>SAME</u>	
Address	Zip Code
<u>James C. Dewey</u>	<u>(432) 684-5544</u> <u>jdewey@dineroinc.com</u>
Representative Name	(Phone/e-mail)
<u>SAME</u>	
Address	Zip Code

Street address and Legal Description of property (complete Lot, Block, and Subdivision Name or if unplatted, attach a Metes and Bounds description with surveyor's seal). Each district must be described separately.

Proposed Lot 1A, Block 5, S. W. Estes Addition, Sec. 2

PRESENT ZONE: 1F-2 REQUESTED ZONE: PDOC
(List by tracts if more than one district is requested)

Reason for Zone Change Request: Small office addition

Present Use of Property: Undeveloped

Proposed Use of Property: Additional Office Space

How will zone change affect the public health, safety and welfare? N/A

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 X No

APPLICATION FEES:

- Single, standard zone change: \$400. Multiple, standard zone change: add \$100 per additional district.
- Single PD, Planned District zone change: \$550. Multiple PD proposal: add \$100 per district.
- If a Traffic Impact Analysis is required, a fee of up to \$500.00 will be assessed.

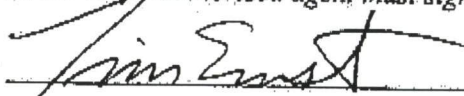
SITE PLAN SUBMITTALS (if applicable):

16 copies (FOLDED) of the PD site plan: _____

Site Plan in digital format .pdf and .jpg: _____

SIGNATURE (by property owner only; authorized agent must sign affidavit below)

Property Owner (signature):



Date: 10/18/11

If an Agent is authorized by the property owner to file and execute the application on behalf of the property owner, the Agent must complete the affidavit below.

STATE of TEXAS

COUNTY OF MIDLAND

Before me, the undersigned authority, on this day personally appeared

_____ who, being by me duly sworn, upon oath says: That (s)he is authorized by _____, the owner of the above described property, to fully represent him/her in this application and that (s)he had the legal right, power and authority to sign said owner's name hereto as his/her attorney in fact.

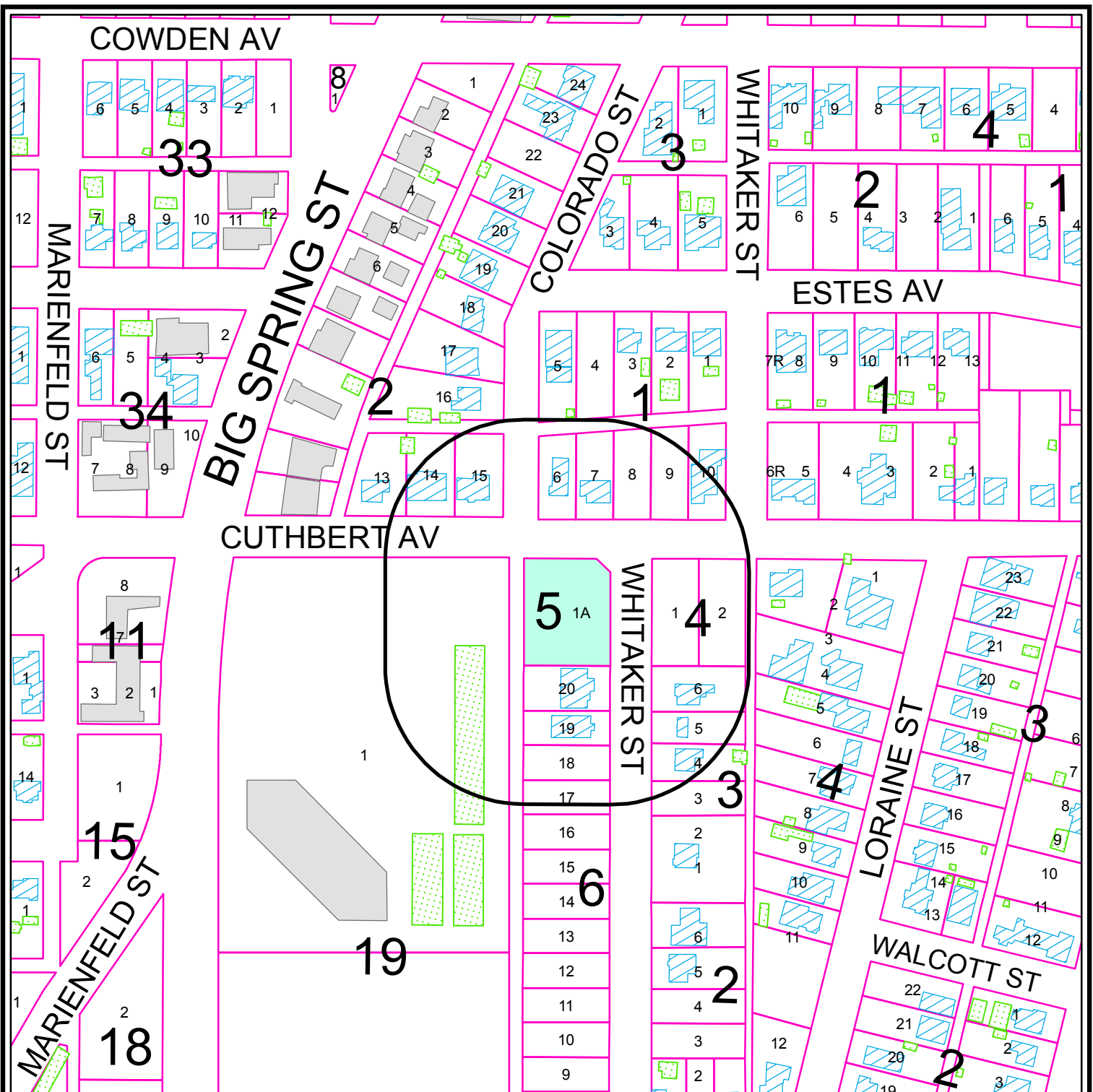
Authorized Agent (signature)

Subscribed and sworn to before me, this _____ day of _____, 20____, to certify which witness my hand and seal of office.

NOTARY PUBLIC, MIDLAND COUNTY, TEXAS

FOR OFFICE USE ONLY	
Rec'd By: _____	Date: _____
Assigned: <u>JC</u>	
For: <u>P+2</u>	On: _____

****Application will not be considered for scheduling until reviewed by a planner.****



PROPERTY OWNER NOTIFICATION MAP

Z - 12 - 007

Scale: 1" = 200'

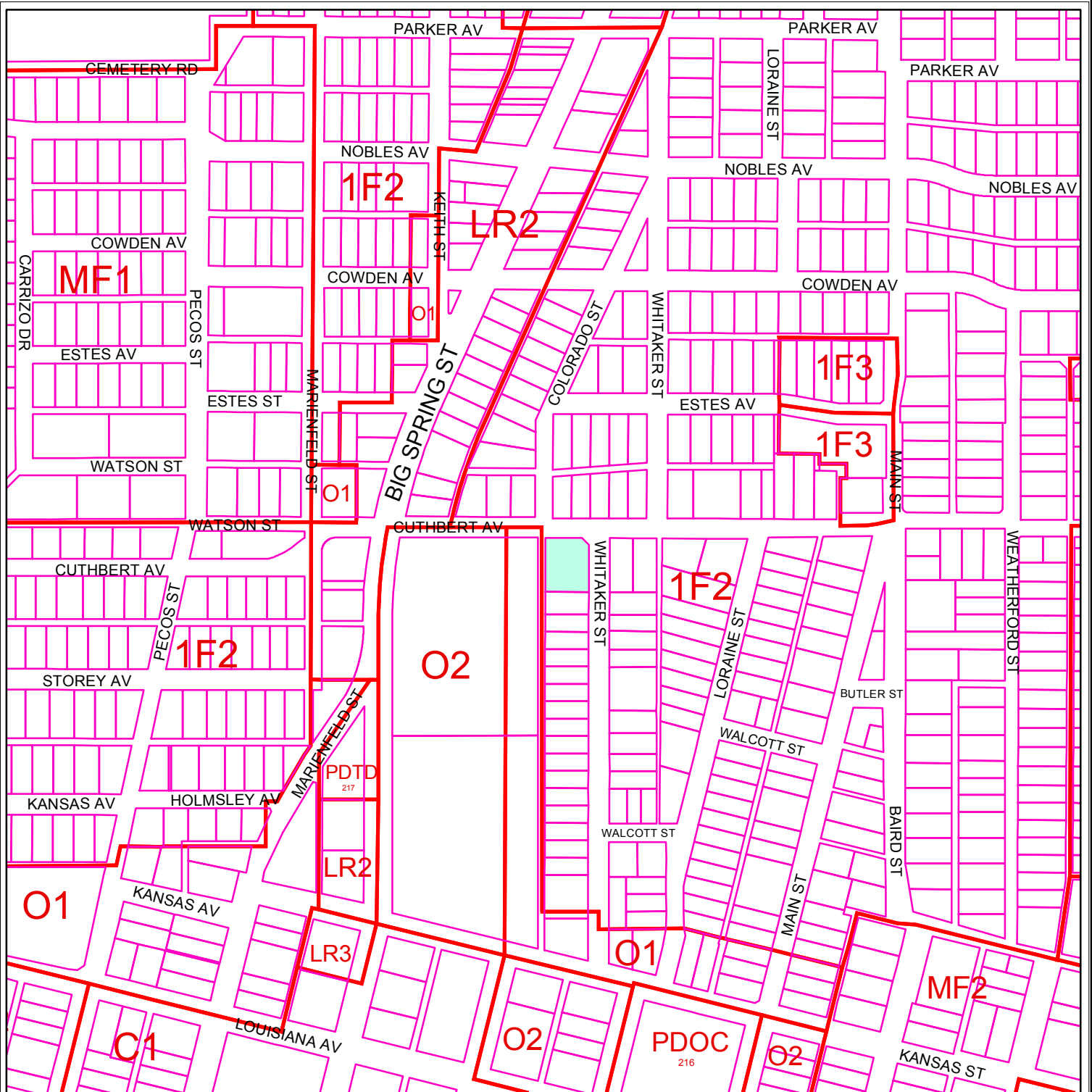
Consider a request for a zone change from 1F-2, One Family Dwelling District, to PD, Planned District for an Office Center on Lot 1A, Block 5, S. W. Estes Addition, Section 2, City and County of Midland, Texas.

LEGEND

- CITY LIMITS
- 200 FT. LEGAL NOTICE LIMIT
- PARCEL
- PUBLIC BLDGS
- PRIVATE BLDGS
- ACCESSORY BLDGS



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ZONING MAP

Z - 12 - 007

Scale: 1" = 400'

Consider a request for a zone change from 1F-2, One Family Dwelling District, to PD, Planned District for an Office Center on Lot 1A, Block 5, S. W. Estes Addition, Section 2, City and County of Midland, Texas.

LEGEND

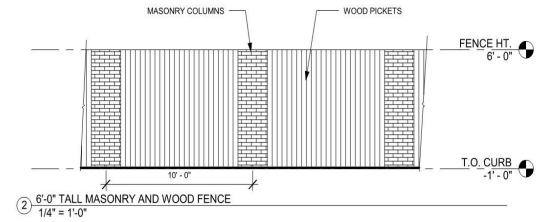
ZONING PARCELS

ZONING DISTRICTS:

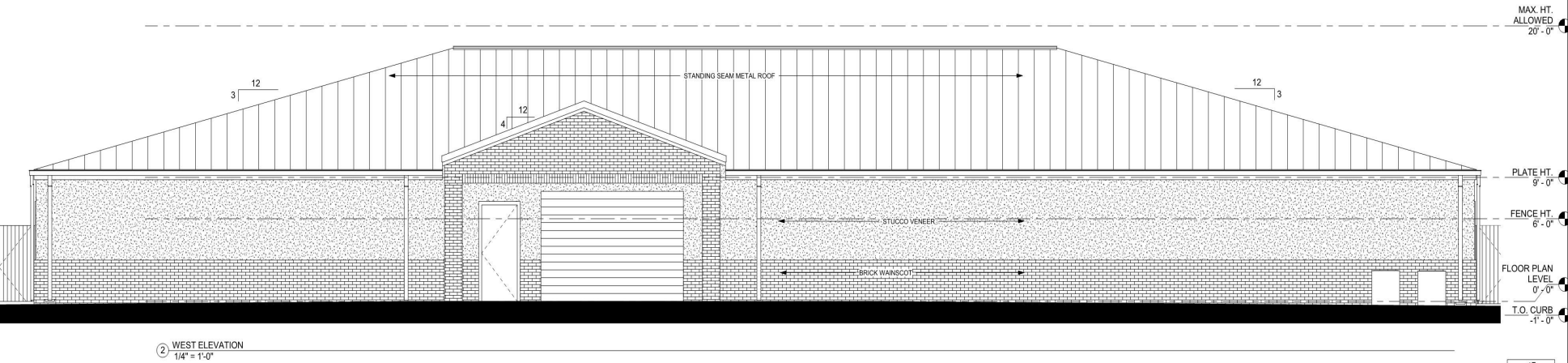
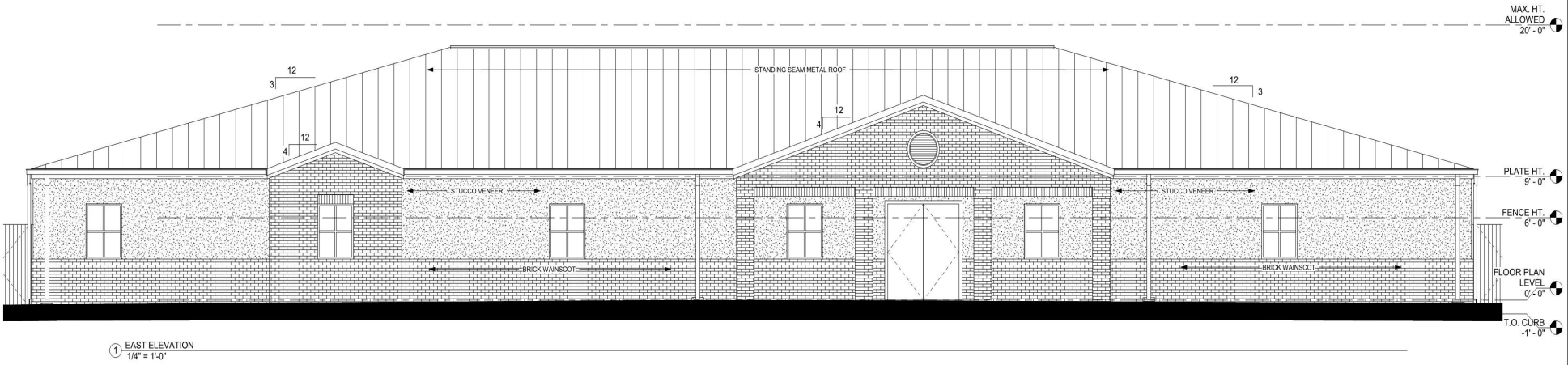
FD	FUTURE DEVELOPMENT	BP	BUSINESS PARK
PD	PLANNED DISTRICT	P	PARKING
AE	AGRICULTURE ESTATE	01, 02	OFFICE
CE	COUNTRY ESTATE	NS	NEIGHBORHOOD SERVICE
1F1, 1F2, 1F3	ONE-FAMILY DWELLING	LR1, LR2, LR3	LOCAL RETAIL
MH	MOBILE HOME DWELLING	C1, C2, C3	COMMERCIAL
TH	TOWNHOUSE DWELLING	IP, JP1, IP2, IP3	INDUSTRIAL PARK
2F	TWO-FAMILY DWELLING	LI	LIGHT INDUSTRY
MF1, MF2	MULTIPLE FAMILY DWELLING	HI	HEAVY INDUSTRY

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① SITE PLAN
1/8" = 1'-0"



**DINERO PLAZA
MIDLAND, TEXAS**

JOB NO. 0834

DRAWING TITLE

EXT. ELEVATIONS

REVISIONS

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DATE 09/13/12

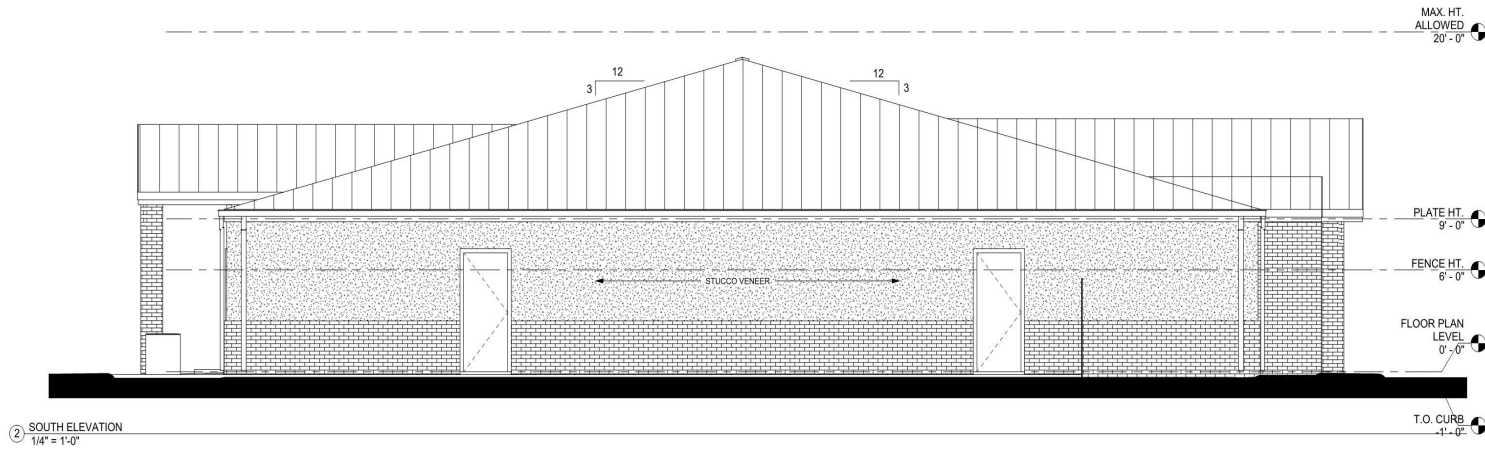
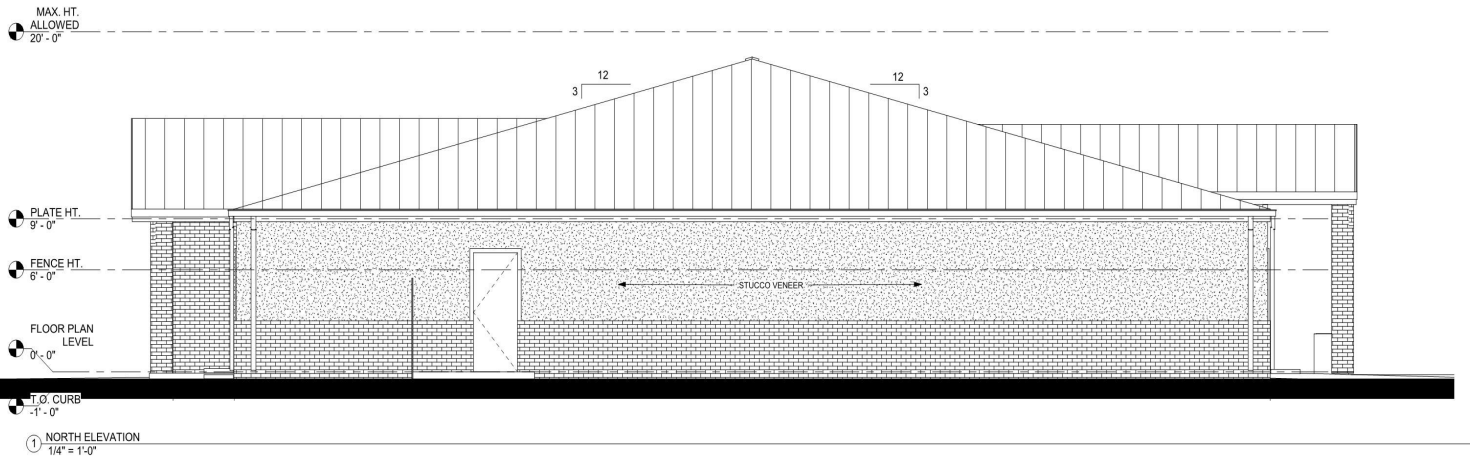
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DINERO PLAZA MIDLAND, TEXAS

JOB NO. 0834

DRAWING TITLE

EXT. ELEVATIONS

REVISIONS

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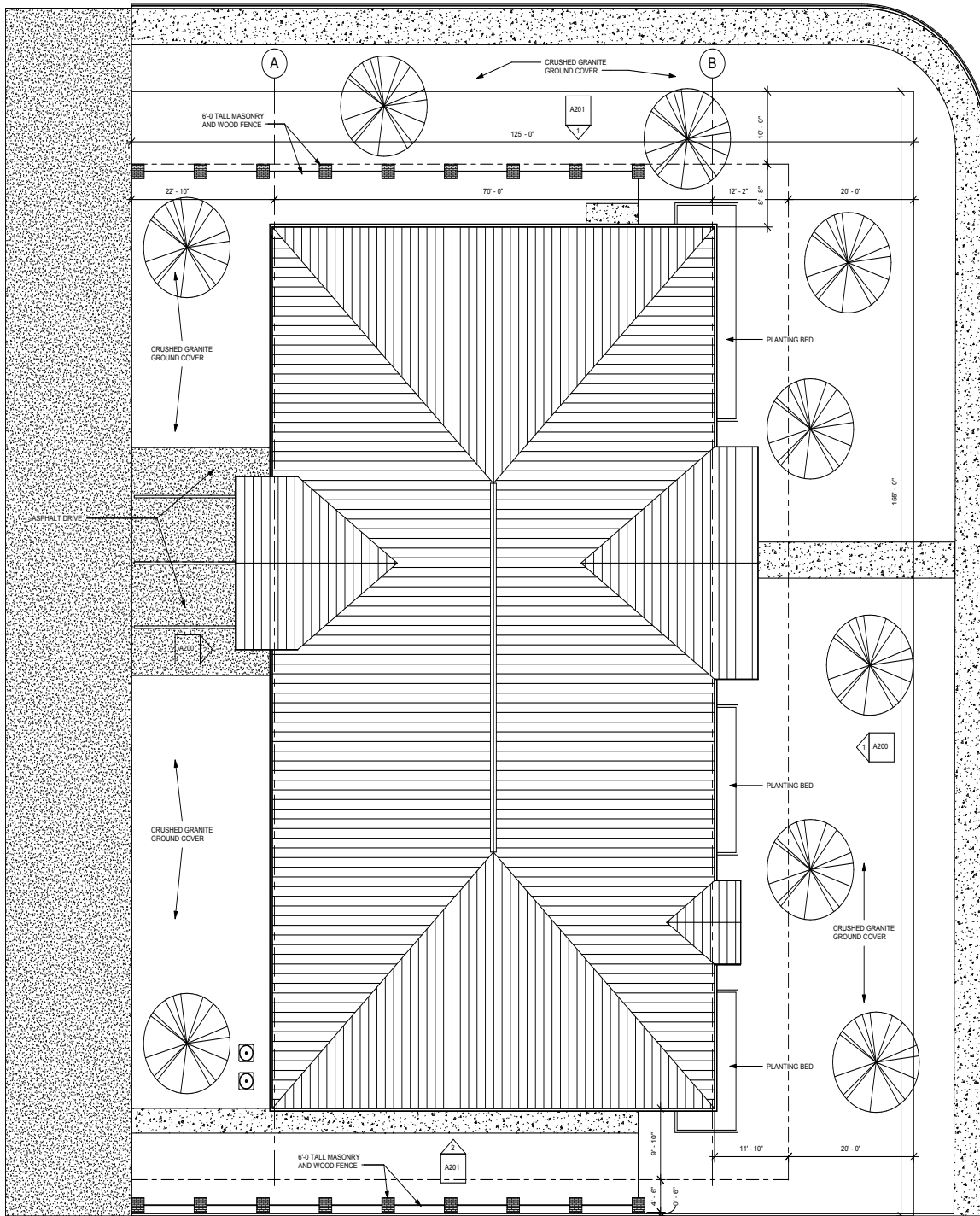
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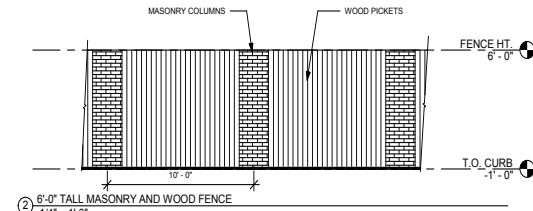
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rwa
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WHITAKER



DINERO PLAZA MIDLAND, TEXAS

JOB NO. 0834

DRAWING TITLE

NEW SITE PLAN

REVISIONS

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DATE 09/13/12

DRAWN BY CWW

CHECKED BY JRR

SHEET NO.

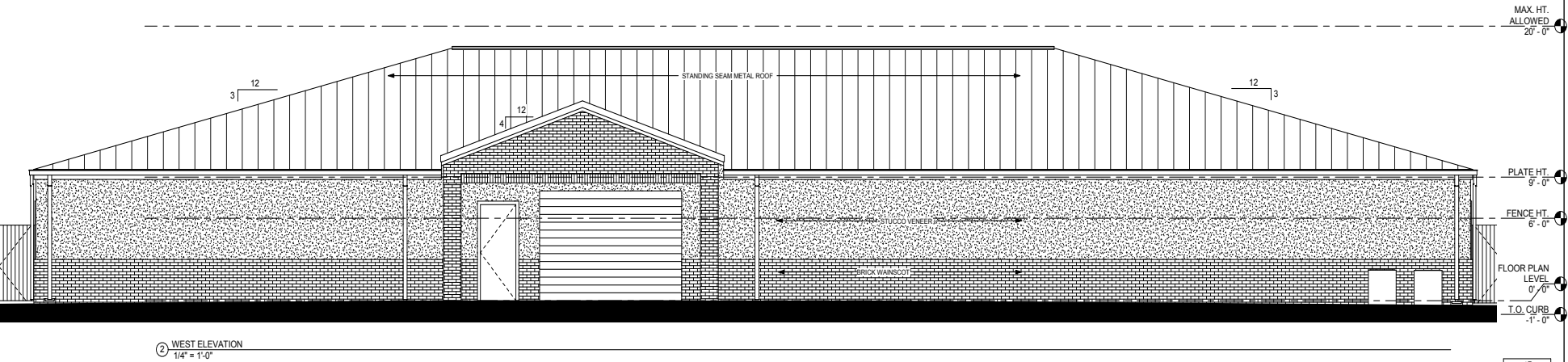
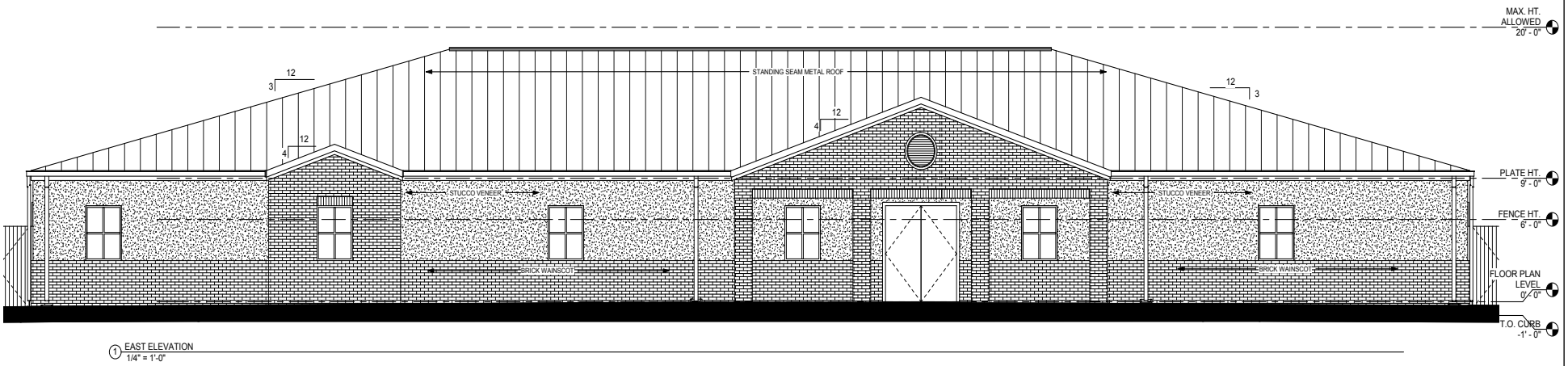
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**DINERO PLAZA
MIDLAND, TEXAS**

JOB NO. 0834
DRAWING TITLE
EXT. ELEVATIONS
REVISIONS

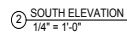
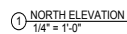
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DATE 09/13/12
DRAWN BY CWW
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SHEET NO.

A200

A201

OK CONSTRUCTION.





City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: November 27, 2012

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, AICP

SUBJECT: Consider an ordinance on second reading establishing the initial zoning of annexed property (Tract 1), being a 283.36-acre tract of land out of Sections 11 & 12, Block 40, T-2-S, T&P RR. Co. Survey, Midland County, Texas. (Generally located on the northeast corner of W. Interstate 20 and SCR 1250)

Purpose: Consider an ordinance on second reading establishing the initial zoning of annexed property (Tract 1), being a 283.36-acre tract of land out of Sections 11 & 12, Block 40, T-2-S, T&P RR. Co. Survey, Midland County, Texas. (Generally located on the northeast corner of W. Interstate 20 and SCR 1250)

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

There is no cost to the City to process the initial zoning of this property.

Discussion:

This land was recently annexed and it is now appropriate for the Council to consider an ordinance on second reading establishing the initial zoning. There are three owners; Schlumberger Corporation, the Midland Development Corporation and the City of Midland. Staff anticipates that the proposed BP, I-20 Business Park zoning will permit continued development by all affected owners. No letters of opposition have been received.

Attachments:

Map; Proposed Ordinance

ORDINANCE NO.

AN ORDINANCE ESTABLISHING THE ZONING CLASSIFICATION OF THE AREA INDICATED AS BEING A 283.36-ACRE TRACT OF LAND OUT OF SECTIONS 11 AND 12, BLOCK 40, T-2-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION ONE HEREOF, AS A BP, I-20 BUSINESS PARK DISTRICT; SAID TRACT IS GENERALLY LOCATED ON THE NORTHEAST CORNER OF THE INTERSECTION OF WEST INTERSTATE 20 AND SOUTH COUNTY ROAD 1250; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

WHEREAS, notice has been given to all parties in interest and citizens by publication in the official newspaper and otherwise, of a hearing to be held before the City Council on November 13, 2012, to consider amendments to the zoning regulations and map establishing the zoning classification of the property described in Section One hereof as a BP, I-20 Business Park District as set out in Section 11-1-6 of the City Code of Midland, Texas; and

WHEREAS, such a public hearing was held in the Council Chambers beginning at 10:57 a.m. on said November 13, 2012, as advertised; and

WHEREAS, after a full hearing, at which all parties in interest and citizens were given an opportunity to be heard; and after considering among other things, the character of the property involved and the surrounding area and its peculiar suitability for particular uses; and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout such municipality, the Council finds it to be in the best interest of the health, safety, morals and general welfare of the City of Midland to amend the zoning regulations accordingly;

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

SECTION ONE. That the zoning classification of the area indicated as Tract 1 on Exhibit "A", attached hereto and incorporated herein by reference, is hereby established as

a BP, I-20 Business Park District.

SECTION TWO. The provisions of this ordinance are to be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent with or in conflict with any of the provisions of this ordinance are hereby expressly repealed to the extent of any such inconsistency or conflict.

SECTION THREE. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this ordinance. The Council of the City of Midland hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

SECTION FOUR. The penalty for violation of this ordinance shall be in accordance with the general penalty provisions contained in Section 1-3-1 of the City Code of Midland, Texas, which provides for a fine not exceeding two thousand dollars (\$2,000.00).

SECTION FIVE. The City Secretary is hereby authorized and directed to publish the descriptive caption of this ordinance in the manner and for the length of time prescribed by the law as an alternative method of publication.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the day of , A.D., 2012; and passed to second reading on motion of Council member , seconded by Council member , by the following vote:

Council members voting "AYE":

Council members voting "NAY":

The above and foregoing ordinance was read in full and finally adopted by the

following vote upon motion of Council member _____, seconded by Council member _____, on the _____ day of _____, A.D., 2012, at a regular meeting of the City Council:

Council members voting “AYE”:

Council members voting “NAY”:

PASSED AND APPROVED THIS _____ day of _____, A.D., 2012.

W. Wesley Perry, Mayor

ATTEST:

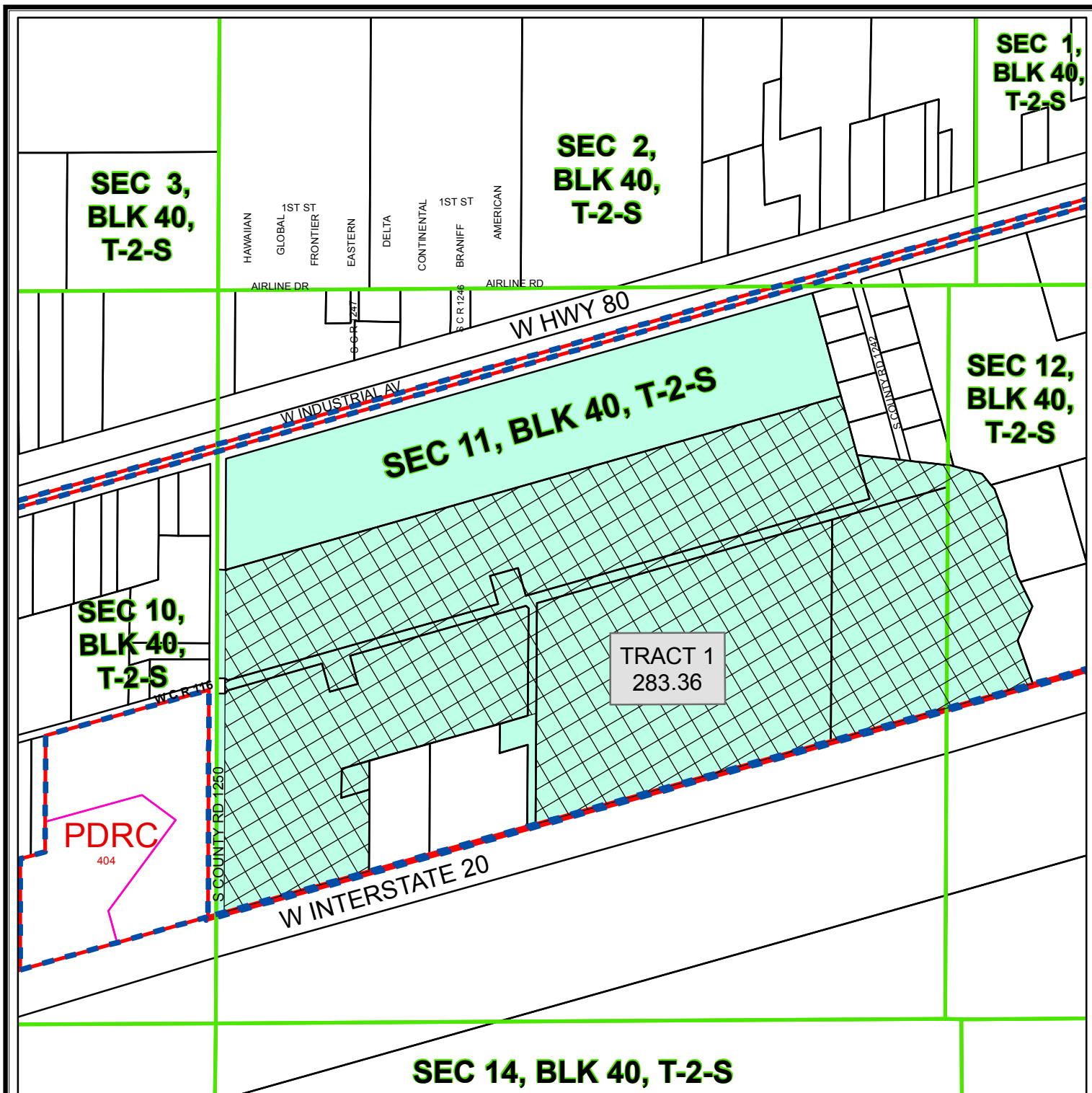
Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

James R. Nichols, Assistant City Manager

APPROVED AS TO FORM:

Keith Stretcher, City Attorney



LOCATION & ZONING MAP

Z - 12 - 042

Scale: 1" = 1000'

TRACT 1

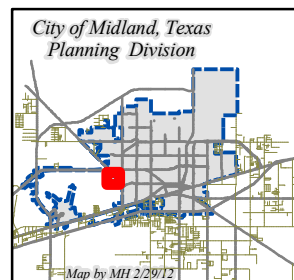
Consider the initial zoning of annexed land to BP, I-20 Business Park District on a 283.36-acre tract of land out of Sections 11 and 12, Block 40, T-2-S, T & P RR Co. Survey, Midland County, Texas.

LEGEND

- CITY LIMITS
- CITY PARCEL
- COUNTY PARCEL
- ZONING
- SURVEY SECTION

ZONING DISTRICTS:

PD - PLANNED DISTRICT



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City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: 11/27/2012

TO: City Council / City Manager

FROM: Cameron Walker, Planning Division Manager

SUBJECT: Consider an ordinance on second reading establishing the initial zoning of annexed land to PD, Planned District for an Office Center, on a 29.82-acre tract of land (Tract 2A) out of Sections 37 and 38, Block 40, T-1-S, T & P RR Co. Survey; to PD, Planned District for an Office Center on a 21.87-acre tract of land (Tract 2B); to PD, Planned District for a Housing Development on a 16.13-acre tract of land (Tract 2C); to LR-2, Local Retail District on a 11.71-acre tract of land (Tract 2D); and to LR-2, Local Retail District on a 2.29-acre tract of land (Tract 2E), all out of Section 37, Block 40, T-1-S, T & P RR Co. Survey, Midland County, Texas. (Generally located on the southwest corner of the intersection of Tradewinds Boulevard and Deauville Boulevard.)

Purpose:

Consider an ordinance on second reading establishing the initial zoning of annexed land to PD, Planned District for an Office Center, on a 29.82-acre tract of land (Tract 2A) out of Sections 37 and 38, Block 40, T-1-S, T & P RR Co. Survey; to PD, Planned District for an Office Center on a 21.87-acre tract of land (Tract 2B); to PD, Planned District for a Housing Development on a 16.13-acre tract of land (Tract 2C); to LR-2, Local Retail District on a 11.71-acre tract of land (Tract 2D); and to LR-2, Local Retail District on a 2.29-acre tract of land (Tract 2E), all out of Section 37, Block 40, T-1-S, T & P RR Co. Survey, Midland County, Texas.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Directional / Informational

Fiscal Impact:

There is no cost to the City associated with approving this request.

Discussion:

This land was recently annexed and it is now appropriate for the Council to consider an ordinance on second reading establishing the initial zoning of these five contiguous tracts that encompass approximately 76 acres. First reading was held on November 13th. This land is located in a significant growth area where both hotel and residential growth is occurring. The Scharbauer Sports Complex is located to the east. The property owner has requested that this land is zoned PD, Planned District for an Office Center, with a maximum height not to exceed 67 feet for both Tracts 2A & 2B, with each of the tracts generally being subject to O-2, Office District regulations. Each tract shall also be subject to administrative site plan review. Tract 2C is requested to be zoned PD, Planned District for a Housing Development, with a maximum density of 17 dwelling units per acre, with the tract being subject to MF-1, Multi-Family Dwelling District, regulations in all other respects. City Council approval of the site plan for any future apartment complex on Tract 2C will be required. Tracts 4D & 4E are both requested to be zoned LR-2, Local Retail District. One letter of opposition has been received.

Attachments:

Map
Proposed Ordinance

ORDINANCE NO.

AN ORDINANCE ESTABLISHING THE ZONING CLASSIFICATION OF THE AREA INDICATED AS BEING A 29.82-ACRE TRACT OF LAND OUT OF SECTIONS 37 AND 38, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS (“TRACT 2A”), AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION ONE HEREOF, AS A PD, PLANNED DISTRICT FOR AN OFFICE CENTER; ESTABLISHING THE ZONING CLASSIFICATION OF THE AREA INDICATED AS BEING A 21.87-ACRE TRACT OF LAND (“TRACT 2B”), AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION TWO HEREOF, AS A PD, PLANNED DISTRICT FOR AN OFFICE CENTER; ESTABLISHING THE ZONING CLASSIFICATION OF THE AREA INDICATED AS BEING A 16.13-ACRE TRACT OF LAND (“TRACT 2C”), AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION THREE HEREOF, AS A PD, PLANNED DISTRICT FOR A HOUSING DEVELOPMENT; ESTABLISHING THE ZONING CLASSIFICATION OF THE AREA INDICATED AS BEING A 11.71-ACRE TRACT OF LAND (“TRACT 2D”), AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION FOUR HEREOF, AS AN LR-2, LOCAL RETAIL DISTRICT; ESTABLISHING THE ZONING CLASSIFICATION OF THE AREA INDICATED AS BEING A 2.29-ACRE TRACT OF LAND (“TRACT 2E”), AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION FIVE HEREOF, AS AN LR-2, LOCAL RETAIL DISTRICT; TRACTS 2B-2E ARE ALL OUT OF SECTION 37, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS; SAID TRACTS ARE GENERALLY LOCATED ON THE SOUTHWEST CORNER OF THE INTERSECTION OF TRADEWINDS BOULEVARD AND DEAUVILLE BOULEVARD; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

WHEREAS, notice has been given to all parties in interest and citizens by publication in the official newspaper and otherwise, of a hearing to be held before the City Council on November 13, 2012, to consider amendments to the zoning regulations and map establishing the zoning classification of the property described in Section One hereof as a PD, Planned District for a Office Center as set out in Section 11-1-6 of the City Code of Midland, Texas;

and

WHEREAS, notice has been given to all parties in interest and citizens by publication in the official newspaper and otherwise, of a hearing to be held before the City Council on November 13, 2012, to consider amendments to the zoning regulations and map establishing the zoning classification of the property described in Section Two hereof as a PD, Planned District for an Office Center as set out in Section 11-1-6 of the City Code of Midland, Texas; and

WHEREAS, notice has been given to all parties in interest and citizens by publication in the official newspaper and otherwise, of a hearing to be held before the City Council on November 13, 2012, to consider amendments to the zoning regulations and map establishing the zoning classification of the property described in Section Three hereof as a PD, Planned District for a Housing Development as set out in Section 11-1-6 of the City Code of Midland, Texas; and

WHEREAS, notice has been given to all parties in interest and citizens by publication in the official newspaper and otherwise, of a hearing to be held before the City Council on November 13, 2012, to consider amendments to the zoning regulations and map establishing the zoning classification of the property described in Section Four hereof as an LR-2, Local Retail District as set out in Section 11-1-6 of the City Code of Midland, Texas; and

WHEREAS, notice has been given to all parties in interest and citizens by publication in the official newspaper and otherwise, of a hearing to be held before the City Council on November 13, 2012, to consider amendments to the zoning regulations and map establishing the zoning classification of the property described in Section Five hereof as a LR-2, Local Retail District as set out in Section 11-1-6 of the City Code of Midland, Texas; and

WHEREAS, such a public hearing was held in the Council Chambers beginning at 11:00 a.m. on said November 13, 2012, as advertised; and

WHEREAS, after a full hearing, at which all parties in interest and citizens were

given an opportunity to be heard; and after considering among other things, the character of the property involved and the surrounding area and its peculiar suitability for particular uses; and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout such municipality, the Council finds it to be in the best interest of the health, safety, morals and general welfare of the City of Midland to amend the zoning regulations accordingly;

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

SECTION ONE. That the zoning classification of the area indicated as Tract 2A on Exhibit “A”, attached hereto and incorporated herein by reference, is hereby established as a PD, Planned District for an Office Center.

Tract 2A shall be subject to the following special conditions and restrictions:

1. That this planned district for an office center, unless expressly stated otherwise, shall be governed by O-2, Office District, regulations.
2. That the maximum building height shall not exceed 68 feet.
3. That the south setback line shall be 50 feet for any structure that exceeds two standard stories.
4. That the development of this lot shall be subject to administrative review and any alterations required will be as a result of staff review.

SECTION TWO. That the zoning classification of the area indicated as Tract 2B on Exhibit “B”, attached hereto and incorporated herein by reference, is hereby established as a PD, Planned District for an Office Center.

Tract 2B shall be subject to the following special conditions and restrictions:

1. That this planned district for an office center, unless expressly stated otherwise, shall be governed by O-2, Office District, regulations.
2. That the maximum building height shall not exceed 68 feet.
3. That the south setback line shall be 50 feet for any structure that exceeds two standard stories, unless abutting a drainage basin, then the standard setback applies.
4. That the development of this lot shall be subject to administrative review and

any alterations required will be as a result of staff review.

SECTION THREE. That the zoning classification of the area indicated as Tract 2C on Exhibit “C”, attached hereto and incorporated herein by reference, is hereby established as a PD, Planned District for a Housing Development.

Tract 2C shall be subject to the following special conditions and restrictions:

1. That this planned district for a housing development, unless expressly stated otherwise, shall be governed by MF-1, Multi-Family District, regulations.
2. That the maximum density permitted shall be 17 dwelling units per acre.

SECTION FOUR. That the zoning classification of the area indicated as Tract 2D on Exhibit “D”, attached hereto and incorporated herein by reference, is hereby established as an LR-2, Local Retail District.

SECTION FIVE. That the zoning classification of the area indicated as Tract 2E on Exhibit “D”, attached hereto and incorporated herein by reference, is hereby established as an LR-2, Local Retail District.

SECTION SIX. 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 SEVEN. 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 EIGHT. 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 NINE. The City Secretary is hereby authorized and directed to publish the descriptive caption of this ordinance in the manner and for the length of time prescribed by the law as an alternative method of publication.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the day of , A.D., 2012; and passed to second reading on motion of Council member , seconded by Council member , by the following vote:

Council members voting "AYE":

Council members voting "NAY":

The above and foregoing ordinance was read in full and finally adopted by the following vote upon motion of Council member , seconded by Council member , on the day of , A.D., 2012, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS day of , A.D., 2012.

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

James R. Nichols, Assistant City Manager

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

**PD-OC ZONING TRACT
TRACT 2A
LEGAL DESCRIPTION FOR A 29.82 ACRE TRACT
LOCATED IN SECTIONS 37 AND 38, BLOCK 40,
T-1-S, T. & P. RR. CO. SURVEY, MIDLAND COUNTY, TEXAS**

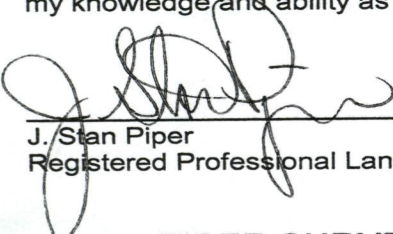
Boundary being further described by metes and bounds as follows:

BEGINNING at (N= 10,692,757.30' E= 1,727,490.00') a point in the West right-of-way line of proposed Avalon Drive at the Northwest corner of this tract, from whence the Northwest corner of said Section 37, and the Northeast corner of said Section 38 bears S75°15'55"W, a distance of 50.79 feet and N14°25'48"W a distance of 1007.53 feet;

1. THENCE N75°13'55"E with the centerline of Deauville Boulevard, a distance of 1220.12 feet to the Northwest corner of a 21.87 Acre PD-OC Zoning Tract described this day and the Northeast corner of this tract;
2. THENCE S14°25'48"E with the West line of said PD-OC Zoning Tract, a distance of 866.82 feet to a point of curvature of this tract;
3. THENCE with the West line of said PD-OC Zoning Tract along a curve to the right in an Southerly direction, with a radius of 275.00 feet, a delta angle of 39°34'30", an arc length of 189.95 feet, and a chord length of 186.19 feet, which bears S05°21'27"W, to the Southwest corner of said PD-OC Zoning Tract and the Southeast corner of this tract;
4. THENCE S76°13'03"W with the North boundary line of said 108.712 Acre Tract as described in Instrument 2009-19786 Official Public Records of Midland County and the South line of a 75.90 Acre Tract previously surveyed on July 2, 2012, a distance of 1207.94 feet to a ½" iron rod with a plastic cap marked "RPLS 4413" found in the common line of said Sections 37 and 38 at the Northwest corner of said 108.712 Acre Tract;
5. THENCE S75°34'12"W with said South line of a 75.90 Acre Tract, a distance of 60.00 feet to a ½" iron rod with a plastic cap marked "PLS 1974" set at the Southwest corner of said 75.90 Acre Tract and this tract;
6. THENCE with the proposed West ROW line of Avalon Drive, along a curve to the right in a Northerly direction with a radius of 1560.00 feet, a delta angle of 13°23'55", an arc length of 364.81 feet, a chord length of 363.98 feet which bears N07°43'51"W, to a ½" iron rod with a plastic cap marked "PLS 1974" set at a point of tangency of said ROW line and this tract;
7. THENCE N01°01'53"W with the said proposed West ROW line, at 75.69 feet pass the East line of said Section 38 and the West line of said Section 37, continuing for a total distance of 164.19 feet to a ½" iron rod with a plastic cap marked "PLS 1974" set at a point of curvature corner of this tract;
8. THENCE with the said proposed West ROW line, along a curve to the left in a Northerly direction, with a radius of 1440.00 feet, a delta angle of 17°39'48", an arc length of 443.93 feet, with a chord length of 442.17 feet, which bears N09°51'47"W to a ½" iron rod with a plastic cap marked "PLS 1974" set at a compound curve of this tract;
9. THENCE with a West line of said Westridge Park, Addition, Section 6 along a curve to the left in a Northerly direction with a radius of 4440.00 feet, a delta angle of 0°45'59", an arc length of 59.40 feet, and a chord length of 59.40 feet which bears N19°11'31"W, to the **PLACE OF BEGINNING**, having an area of 1,299,166 square feet or 29.82 Acres.

Bearings, distances, and coordinates are relative to the Texas State Plane Coordinate System, NAD 1983/86, Central Zone, with a combined grid factor of 0.9998958, and a theta angle equal to -0°54'48.39" at U.S.C. & G. station "MIDLAND" with published values of Y= 10,690,154.70 and X= 1,746,696.78 in U.S. Survey Feet.

I, J. Stan Piper, Registered Professional Land Surveyor, do hereby certify that this legal description is based on an actual survey made by me or under my supervision, and that the same is true and correct to the best of my knowledge and ability as surveyed on the ground July 2, 2012.


J. Stan Piper
Registered Professional Land Surveyor

Prepared for:
Parkhill, Smith, and Cooper, Inc.
1700 West Wall St. Suite 100
Midland, TX 79701

PIPER SURVEYING P.O. BOX 60432, MIDLAND, TX, 79711, 432-550-7810

**PD-OC ZONING TRACT
TRACT 2B
LEGAL DESCRIPTION FOR A 21.87 ACRE TRACT
LOCATED IN SECTION 37, BLOCK 40, T-1-S,
T. & P. RR. CO. SURVEY, MIDLAND COUNTY, TEXAS**

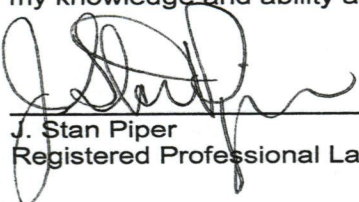
Boundary being further described by metes and bounds as follows:

BEGINNING at (N= 10,693,068.32' E= 1,728,669.81') a point on the centerline of Deauville Boulevard at the Northeast corner of a 29.82 Acre PD-OC Zoning Tract described this day and the Northwest corner of this tract, from whence the Northwest corner of said Section 37, and the Northeast corner of said Section 38 bears S75°13'55"W, a distance of 1270.91 feet and N14°25'48"W a distance of 1007.53 feet;

1. THENCE N75°13'55"E with the centerline of Deauville Boulevard, a distance of 310.22 feet to a point of curvature of this tract;
2. THENCE with a curve to the right in an Easterly direction with said centerline, along a radius of 2000.00 feet, a delta angle of 22°34'28", an arc length of 788.00 feet, and a chord length of 782.91 feet, which bears N86°31'10"E, to the Northwest corner of said PD-HD Zoning Tract, being a 16.14 Acre Tract described this day and the Northeast corner of this tract;
3. THENCE S7°06'53"W with the West line of said PD- HD Zoning Tract, a distance of 736.80 feet to a ½" iron rod with a plastic cap marked "PLS 1974" previously set at an exterior corner of said PD- HD Zoning Tract and an interior corner of this tract;
4. THENCE S82°53'07"E with a South line of said PD- HD Zoning Tract, a distance of 15.00 feet to a ½" iron rod with a plastic cap marked "PLS 1974" previously set at an interior corner of said PD- HD Zoning Tract and an exterior corner of this tract;
5. THENCE S7°06'53"W with the West line of said PD- HD Zoning Tract, a distance of 312.80 feet to a ½" iron rod with a plastic cap marked "PLS 1974" previously set at the Southwest corner of said PD- HD Zoning Tract and the Southeast corner of this tract;
6. THENCE N76°33'46"W with the North boundary line of a Storm Water Detention Basin for Legends Park, a distance of 19.96 feet to a corner of this tract and said Legends Park;
7. THENCE N86°55'08"W with the North boundary line of a Storm Water Detention Basin for Legends Park, a distance of 172.71 feet to a corner of this tract and said Legends Park;
8. THENCE S82°28'46"W with the North boundary line of a Storm Water Detention Basin for Legends Park, a distance of 171.39 feet to a corner of this tract and said Legends Park ;
9. THENCE S76°13'03"W with the North boundary line of said 108.712 Acre Tract as described in Instrument 2009-19786 Official Public Records of Midland County, a distance of 417.96 feet to the Southeast corner of said PD-OC Zoning Tract and the Southwest corner of this tract ;
10. THENCE with the East line of said PD-OC Zoning Tract, along a curve to the left in a Northerly direction, with a radius of 275.00 feet, a delta angle of 39°34'30", an arc length of 189.95 feet, with a chord length of 186.19 feet, which bears N05°21'27"E to a point of tangency;
11. THENCE N14°25'58"W with the East line of said PD-OC Zoning Tract, a distance of 866.82 feet to the **PLACE OF BEGINNING**, having an area of 952,561 square feet or 21.87 Acres.

Bearings, distances, and coordinates are relative to the Texas State Plane Coordinate System, NAD 1983/86, Central Zone, with a combined grid factor of 0.9998958, and a theta angle equal to -0°54'48.39" at U.S.C. & G. station "MIDLAND" with published values of Y= 10,690,154.70 and X= 1,746,696.78 in U.S. Survey Feet.

I, J. Stan Piper, Registered Professional Land Surveyor, do hereby certify that this legal description is based on an actual survey made by me or under my supervision, and that the same is true and correct to the best of my knowledge and ability as surveyed on the ground July 2, 2012.



J. Stan Piper
Registered Professional Land Surveyor

Prepared for:
Parkhill, Smith, and Cooper, Inc.
1700 West Wall St. Suite 100
Midland, TX 79701

PIPER SURVEYING P.O. BOX 60432, MIDLAND, TX, 79711, 432-550-7810

**PD-HD ZONING TRACT
TRACT 2C
LEGAL DESCRIPTION FOR A 16.13 ACRE TRACT
LOCATED IN SECTION 37, BLOCK 40, T-1-S,
T. & P. RR. CO. SURVEY, MIDLAND COUNTY, TEXAS**

Boundary being further described by metes and bounds as follows:

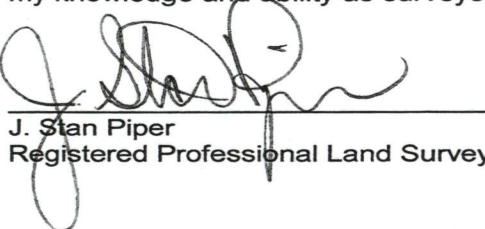
BEGINNING at (N= 10,693,194.93' E= 1,729,751.25') at a point on the centerline of Deauville Boulevard and the Northeast corner of a PD-OC Zoning Tract, being a 21.87 Acre Tract described this day from whence the Northwest corner of said Section 37, Block 40, T-1-S, bears N14°44'31"W, a distance of 1159.68 feet and S75°15'29"W, a distance of 2343.57 feet;

1. THENCE around a curve to the right in an Easterly direction, along the centerline of Deauville Boulevard, with a radius of 2000.00 feet, a delta angle of 6°56'07", an arc length of 242.08 feet, and a chord length of 241.94 feet which bears S78°43'33"E to a point of tangency;
2. THENCE S75°15'30"E the centerline of Deauville Boulevard, a distance of 330.96 feet to the most Northerly Northeast corner of this tract and the Northwest corner of LR-2 Zoning Tract, being a 11.79 acre tract described this day;
3. THENCE S14°44'30"W with the West line of said LR-2 Zoning Tract, a distance of 715.00 feet to 1/2" iron rod with a plastic cap marked "PLS 1974" set at the Southwest corner of said LR-2 Zoning Tract, and an interior corner of this tract;
4. THENCE S75°15'30"E with the South line of said LR-2 Zoning Tract a distance of 620.02 feet to an exterior corner of said LR-2 Zoning Tract and an interior corner of this tract;
5. THENCE N84°10'36"E with the South line of said LR-2 Zoning Tract a distance of 42.70 feet to an interior corner of said LR-2 Zoning Tract, being a 11.79 Acre Tract and an exterior corner of this tract;
6. THENCE S75°15'30"E with the South line of said LR-2 Zoning Tract a distance of 55.00 feet to the Southeast corner of said LR-2 Zoning Tract to the most Easterly Northeast corner of this tract;
7. THENCE S14°44'30"W with the centerline of Tradewinds Boulevard, a distance of 4.15 feet to a point of curvature;
8. THENCE around a curve to the left in a Southerly direction with the centerline of Tradewinds Boulevard, with a radius of 3000.00 feet, a delta angle of 1°25'22", an arc length of 74.49 feet, and a chord length of 74.49 feet which bears S14°01'49"W to the Northeast corner of a LR-2 Zoning Tract, being a 2.29 Acre Tract described this day and the most easterly Southeast corner of this tract;
9. THENCE N76°40'51"W with a North line of said LR-2 Zoning Tract, being a 2.29 Acre Tract, a distance of 55.00 feet to a point on the West right-of-way line of Tradewinds Boulevard at an interior corner of said LR-2 Zoning Tract, being a 2.29 Acre Tract and an exterior corner of this tract;
10. THENCE N54°52'03"W with a North line of said LR-2 Zoning Tract, being a 2.29 Acre Tract, a distance of 43.04 feet to an exterior corner of said LR-2 Zoning Tract, being a 2.29 Acre Tract and an interior corner of this tract;
11. THENCE N75°15'30"W with a North line of said LR-2 Zoning Tract, being a 2.29 Acre Tract, a distance of 155.40 feet to a 1/2" iron rod with a plastic cap marked "PLS 1974" set at the Northwest corner of said LR-2 Zoning Tract, being a 2.29 Acre Tract and an interior corner of this tract;

12. THENCE S14°44'32"W with the West line of said LR-2 Zoning Tract, being a 2.29 Acre Tract, a distance of 345.98 feet to a 1/2" iron rod with a plastic cap marked "PLS 1974" set at the Southwest corner of said 2.29 Acre Tract and the most Southerly Southeast corner of this tract;
13. THENCE N59°11'15"W with the North line of an alley and Legends Park, a distance of 183.49 feet to a 1/2" iron rod with a plastic cap marked "PLS 1974" previously set at an interior corner of this tract and an exterior corner of said Legends Park;
14. THENCE N73°58'32"W continuing with the North line of said alley and Legends Park, a distance of 516.83 feet to a 1/2" iron rod with a plastic cap marked "RPLS 4413" previously found at an interior corner of this tract and an exterior corner of said Legends Park;
15. THENCE N76°33'46"W continuing with the North line of said alley and Legends Park, a distance of 190.49 feet to a 1/2" iron rod with a plastic cap marked "PLS 1974" previously set at the Southeast corner of said 2.04 Acre Drainage Easement and the Southwest corner of this tract;
16. THENCE N07°06'53"E with an East line of said 2.04 Acre Drainage Easement, a distance of 312.80 feet to a 1/2" iron rod with a plastic cap marked "PLS 1974" previously set at an interior corner of this tract and an exterior corner of said Drainage Easement;
17. THENCE N82°53'07"W with a North line of said 2.04 Acre Drainage Easement, a distance of 15.00 feet to a 1/2" iron rod with a plastic cap marked "PLS 1974" previously set at an exterior corner of this tract;
18. THENCE N07°06'53"E with an East line of said 2.04 Acre Drainage Easement, a distance of 736.80 feet to the **PLACE OF BEGINNING**, having an area of 702,741 square feet or 16.13 Acres.

Bearings, distances, and coordinates are relative to the Texas State Plane Coordinate System, NAD 1983/86, Central Zone, with a combined grid factor of 0.9998958, and a theta angle equal to -0°54'48.39" at U.S.C. & G. station "MIDLAND" with published values of Y= 10,690,154.70 and X= 1,746,696.78 in U.S. Survey Feet.

I, J. Stan Piper, Registered Professional Land Surveyor, do hereby certify that this legal description is based on an actual survey made by me or under my supervision, and that the same is true and correct to the best of my knowledge and ability as surveyed on the ground July 2, 2012.


J. Stan Piper
Registered Professional Land Surveyor #1974

Prepared for:
Parkhill, Smith, and Cooper, Inc.
1700 West Wall St. Suite 100
Midland, TX 79701



PIPER SURVEYING P.O. BOX 60432, MIDLAND, TX, 79711, 432-550-7810

LR-2 ZONING TRACTS

LEGAL DESCRIPTION FOR A 2.29 AND A 11.71 ACRE TRACT LOCATED IN SECTION 37, BLOCK 40, T-1-S, T. & P. RR. CO. SURVEY, MIDLAND COUNTY, TEXAS

TRACT 2D

11.71 Acre LR-2 Zoning Tract boundary being further described by metes and bounds as follows:

BEGINNING at (N= 10,693,063.42' E= 1,730,308.58') at a point on the centerline of Deauville Boulevard and the Northeast corner of a 51.69 Acre PD-OC Zoning Tract, described this day, from whence the Northwest corner of said Section 37, Block 40, T-1-S, bears N14°44'31"W, a distance of 1428.68 feet and S75°15'29"W, a distance of 2849.09 feet;

1. THENCE S75°15'30"E with the centerline of Deauville Boulevard, a distance of 715.00 feet to the Northeast corner of this tract;
2. THENCE S14°44'30"W with the centerline of Tradewinds Boulevard, a distance of 700.00 feet to the most Easterly Northeast corner of a 16.13 Acre PD-HD Zoning Tract described this day and the Southeast corner of this tract;
3. THENCE N75°15'30"W with the North line of said PD-HD Zoning Tract, a distance of 55.00 feet to an exterior corner of said PD-HD Zoning Tract and an interior corner of this tract;
4. THENCE S84°10'36"W with the North line of said PD-HD Zoning Tract, a distance of 42.70 feet to an interior corner of said PD-HD Zoning Tract and an exterior corner of this tract;
5. THENCE N75°15'30"W with the North line of said PD-HD Zoning Tract, a distance of 620.02 feet to an interior corner of said PD-HD Zoning Tract and the Southwest corner of this tract;
6. THENCE N14°44'30"E an East line of said PD-HD Zoning Tract, a distance of 715.00 feet to the **PLACE OF BEGINNING**, having an area of 510,097 square feet or 11.71 Acres.

TRACT 2E

2.29 Acre LR-2 Zoning Tract boundary being further described by metes and bounds as follows:

BEGINNING at (N= 10,691,870.63' E= 1,730,475.76') at a ½" iron rod with plastic cap marked "PLS 1974 previously set at the most Southerly Southeast corner of a 16.13 Acre PD-HD Zoning Tract described this day, and the Southwest corner of this tract, from whence the Northwest corner of said Section 37, Block 40, T-1-S, bears S75°34'12"W, a distance of 2721.44 feet and N14°25'48"W, a distance of 2609.97 feet;

1. THENCE N14°44'32"E with the an East line of said 16.13 Acre PD-HD Zoning Tract, a distance of 345.98 feet to a ½" iron rod with plastic cap marked "PLS 1974 previously set at an interior corner of said 16.13 Acre PD-HD Zoning Tract and the Northwest corner of this tract;
2. THENCE S75°15'30"E with a South line of said PD-HD Zoning Tract, a distance of 155.40 feet to an interior corner of said PD-HD Zoning Tract and an exterior corner of this tract;
3. THENCE S54°52'03"E with a South line of said PD-HD Zoning Tract, a distance of 43.04 feet to an exterior corner of said PD-HD Zoning Tract and an interior corner of this tract;
4. THENCE S76°40'51"E with a South line of said PD-HD Zoning Tract, a distance of 55.00 feet to the most Easterly Southeast corner of said PD-HD Zoning Tract and the Northeast corner of this tract;
5. THENCE around a curve to the left in a Southerly direction with the centerline of Tradewinds Boulevard, with a radius of 3000.00 feet, a delta angle of 7°29'44", an arc length of 392.47 feet, and a chord length of 392.19 feet which bears S09°34'16"W to the Southeast corner of this tract;
6. THENCE N84°10'36"W, a distance of 55.00 feet to an exterior corner of this tract;
7. THENCE N59°11'15"W a distance of 241.17 feet to the **PLACE OF BEGINNING**, having an area of 99,957 square feet or 2.29 acres.

Bearings, distances, and coordinates are relative to the Texas State Plane Coordinate System, NAD 1983/86, Central Zone, with a combined grid factor of 0.9998958, and a theta angle equal to -0°54'48.39" at U.S.C. & G. station "MIDLAND" with published values of Y= 10,690,154.70 and X= 1,746,696.78 in U.S. Survey Feet.

I, J. Stan Piper, Registered Professional Land Surveyor, do hereby certify that this legal description is based on an actual survey made by me or under my supervision, and that the same is true and correct to the best of my knowledge and ability as surveyed on the ground July 2, 2012.


J. Stan Piper
Registered Professional Land Surveyor
Revised: August 29, 2012

Prepared for:
Parkhill, Smith, and Cooper, Inc.
1700 West Wall St. Suite 100
Midland, TX 79701

LR-2 ZONING TRACTS

LEGAL DESCRIPTION FOR A 2.29 AND A 11.71 ACRE TRACT LOCATED IN SECTION 37, BLOCK 40, T-1-S, T. & P. RR. CO. SURVEY, MIDLAND COUNTY, TEXAS

TRACT 2D

11.71 Acre LR-2 Zoning Tract boundary being further described by metes and bounds as follows:

BEGINNING at (N= 10,693,063.42' E= 1,730,308.58') at a point on the centerline of Deauville Boulevard and the Northeast corner of a 51.69 Acre PD-OC Zoning Tract, described this day, from whence the Northwest corner of said Section 37, Block 40, T-1-S, bears N14°44'31"W, a distance of 1428.68 feet and S75°15'29"W, a distance of 2849.09 feet;

1. THENCE S75°15'30"E with the centerline of Deauville Boulevard, a distance of 715.00 feet to the Northeast corner of this tract;
2. THENCE S14°44'30"W with the centerline of Tradewinds Boulevard, a distance of 700.00 feet to the most Easterly Northeast corner of a 16.13 Acre PD-HD Zoning Tract described this day and the Southeast corner of this tract;
3. THENCE N75°15'30"W with the North line of said PD-HD Zoning Tract, a distance of 55.00 feet to an exterior corner of said PD-HD Zoning Tract and an interior corner of this tract;
4. THENCE S84°10'36"W with the North line of said PD-HD Zoning Tract, a distance of 42.70 feet to an interior corner of said PD-HD Zoning Tract and an exterior corner of this tract;
5. THENCE N75°15'30"W with the North line of said PD-HD Zoning Tract, a distance of 620.02 feet to an interior corner of said PD-HD Zoning Tract and the Southwest corner of this tract;
6. THENCE N14°44'30"E an East line of said PD-HD Zoning Tract, a distance of 715.00 feet to the **PLACE OF BEGINNING**, having an area of 510,097 square feet or 11.71 Acres.

TRACT 2E

2.29 Acre LR-2 Zoning Tract boundary being further described by metes and bounds as follows:

BEGINNING at (N= 10,691,870.63' E= 1,730,475.76') at a ½" iron rod with plastic cap marked "PLS 1974 previously set at the most Southerly Southeast corner of a 16.13 Acre PD-HD Zoning Tract described this day, and the Southwest corner of this tract, from whence the Northwest corner of said Section 37, Block 40, T-1-S, bears S75°34'12"W, a distance of 2721.44 feet and N14°25'48"W, a distance of 2609.97 feet;

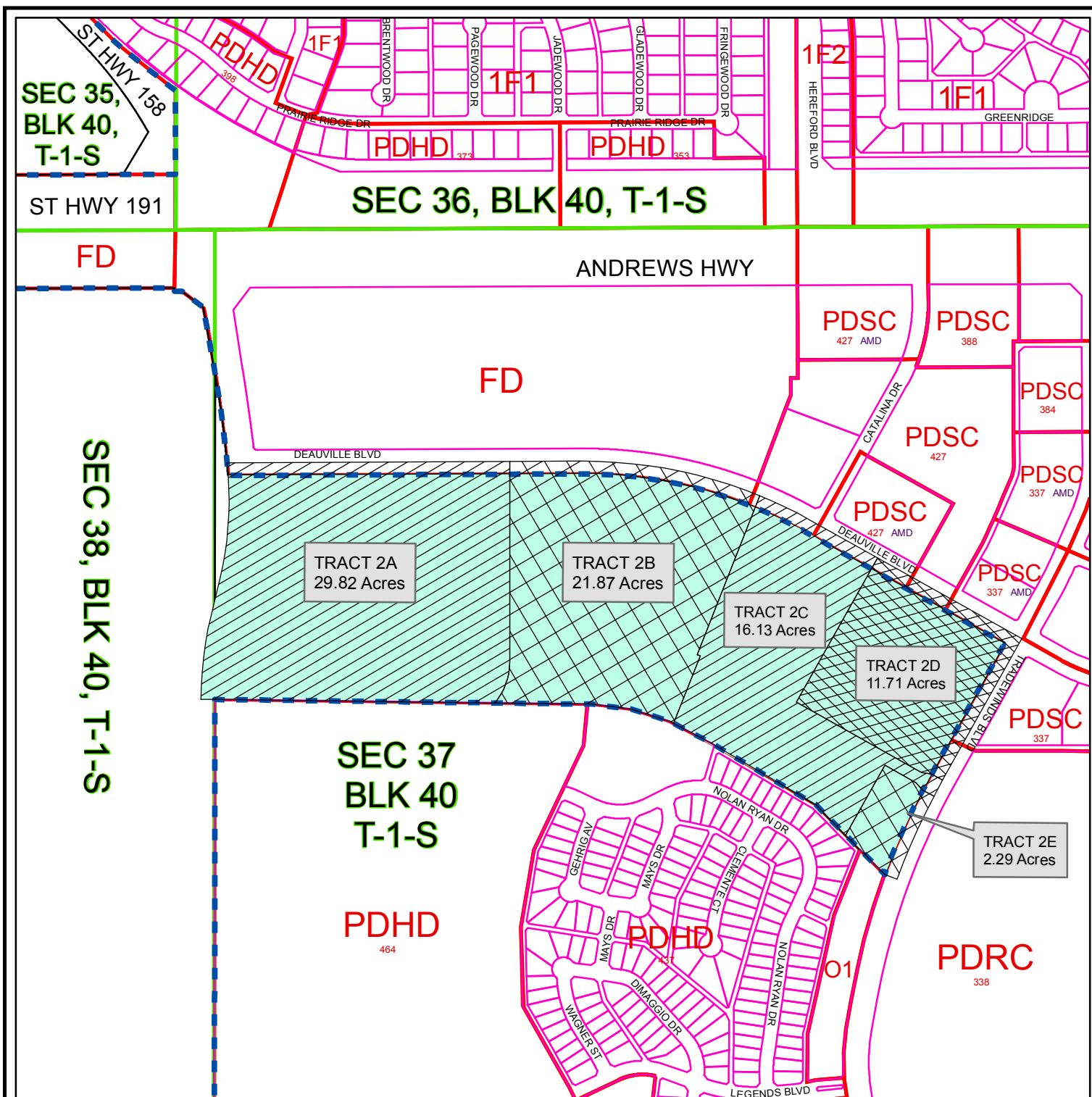
1. THENCE N14°44'32"E with the an East line of said 16.13 Acre PD-HD Zoning Tract, a distance of 345.98 feet to a ½" iron rod with plastic cap marked "PLS 1974 previously set at an interior corner of said 16.13 Acre PD-HD Zoning Tract and the Northwest corner of this tract;
2. THENCE S75°15'30"E with a South line of said PD-HD Zoning Tract, a distance of 155.40 feet to an interior corner of said PD-HD Zoning Tract and an exterior corner of this tract;
3. THENCE S54°52'03"E with a South line of said PD-HD Zoning Tract, a distance of 43.04 feet to an exterior corner of said PD-HD Zoning Tract and an interior corner of this tract;
4. THENCE S76°40'51"E with a South line of said PD-HD Zoning Tract, a distance of 55.00 feet to the most Easterly Southeast corner of said PD-HD Zoning Tract and the Northeast corner of this tract;
5. THENCE around a curve to the left in a Southerly direction with the centerline of Tradewinds Boulevard, with a radius of 3000.00 feet, a delta angle of 7°29'44", an arc length of 392.47 feet, and a chord length of 392.19 feet which bears S09°34'16"W to the Southeast corner of this tract;
6. THENCE N84°10'36"W, a distance of 55.00 feet to an exterior corner of this tract;
7. THENCE N59°11'15"W a distance of 241.17 feet to the **PLACE OF BEGINNING**, having an area of 99,957 square feet or 2.29 acres.

Bearings, distances, and coordinates are relative to the Texas State Plane Coordinate System, NAD 1983/86, Central Zone, with a combined grid factor of 0.9998958, and a theta angle equal to -0°54'48.39" at U.S.C. & G. station "MIDLAND" with published values of Y= 10,690,154.70 and X= 1,746,696.78 in U.S. Survey Feet.

I, J. Stan Piper, Registered Professional Land Surveyor, do hereby certify that this legal description is based on an actual survey made by me or under my supervision, and that the same is true and correct to the best of my knowledge and ability as surveyed on the ground July 2, 2012.


J. Stan Piper
Registered Professional Land Surveyor
Revised: August 29, 2012

Prepared for:
Parkhill, Smith, and Cooper, Inc.
1700 West Wall St. Suite 100
Midland, TX 79701



LOCATION & ZONING MAP

Z - 12 - 036

TRACT 2

Scale: 1" = 600'

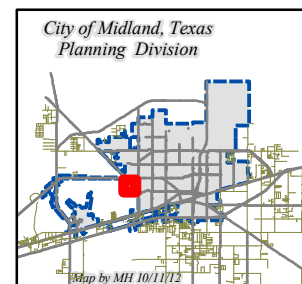
Consider the initial zoning of annexed land to PD, Planned District for an Office Center on a 29.82-acre tract of land (Tract 2A) out of Sections 37 and 38, Block 40, T-1-S, T & P RR Co. Survey; to PD, Planned District for an Office Center on a 21.87-acre tract of land (Tract 2B); to PD, Planned District for a Housing Development on a 16.13-acre tract of land (Tract 2C); to LR-2, Local Retail District on a 11.71-acre tract of land (Tract 2D); and to LR-2, Local Retail District on a 2.29-acre tract of land (Tract 2E), all out of Section 37, Block 40, T-1-S, T & P RR Co. Survey, Midland County, Texas.

LEGEND

- CITY LIMITS
- CITY PARCEL
- COUNTY PARCEL
- ZONING
- SURVEY SECTION

ZONING DISTRICTS:

- LR - LOCAL RETAIL
- O1 - OFFICE DISTRICT
- 1F - FAMILY DWELLING
- PD - PLANNED DISTRICT
- FD - FUTURE DEVELOPMENT



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City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: November 27, 2012

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, AICP
Consider an ordinance on second reading establishing the initial zoning of annexed property, being a 3.623-acre tract (Tract 3A) of land and a 27.347-acre tract (Tract 3B) all out of Section 35, Block 40, T-1-S, T&P RR. Co. Survey, Midland County, Texas. (Generally located on the east side of SH 158, approximately ½ mile northwest of SH 191)

Purpose:

Consider an ordinance on second reading establishing the initial zoning of annexed property, being a 3.623-acre tract (Tract 3A) of land and a 27.347-acre tract (Tract 3B) all out of Section 35, Block 40, T-1-S, T&P RR. Co. Survey, Midland County, Texas.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Direction/Informational

Fiscal Impact:

There is no cost to the City to process the initial zoning of this property.

Discussion:

First reading was held on November 13th. This land was recently annexed and it is now appropriate for the Council to consider an ordinance on second reading establishing the initial zoning. There is one property owner; SBC Corporation. This land will be developed as an extension of the Grassland Estates West neighborhood. Staff anticipates that the proposed zoning Districts – Tract 3A as a Planned District for a Housing Development and Tract 3B for a 1F-1, One-Family Dwelling District will permit continued residential development as the owner desires. No letters of opposition have been received.

Attachments: Map; Proposed Ordinance

ORDINANCE NO.

AN ORDINANCE ESTABLISHING THE ZONING CLASSIFICATION OF THE AREA INDICATED AS BEING A 3.623-ACRE TRACT OF LAND (“TRACT 3A”), AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION ONE HEREOF, AS A PD, PLANNED DISTRICT FOR A HOUSING DEVELOPMENT; ESTABLISHING THE ZONING CLASSIFICATION OF THE AREA INDICATED AS BEING A 27.347-ACRE TRACT OF LAND (“TRACT 3B”), AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION TWO HEREOF, AS A 1F-1, ONE-FAMILY DWELLING DISTRICT; SAID TRACTS ARE ALL OUT OF SECTION 35, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS; SAID TRACTS ARE GENERALLY LOCATED ON THE EAST SIDE OF STATE HIGHWAY 158, APPROXIMATELY ½ MILE NORTHWEST OF STATE HIGHWAY 191; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

WHEREAS, notice has been given to all parties in interest and citizens by publication in the official newspaper and otherwise, of a hearing to be held before the City Council on November 13, 2012, to consider amendments to the zoning regulations and map establishing the zoning classification of the property described in Section One hereof as a PD, Planned District for a Housing Development as set out in Section 11-1-6 of the City Code of Midland, Texas; and

WHEREAS, notice has been given to all parties in interest and citizens by publication in the official newspaper and otherwise, of a hearing to be held before the City Council on November 13, 2012, to consider amendments to the zoning regulations and map establishing the zoning classification of the property described in Section Two hereof as a 1F-1, One-Family Dwelling District as set out in Section 11-1-6 of the City Code of Midland, Texas; and

WHEREAS, such a public hearing was held in the Council Chambers beginning at 11:03 a.m. on said November 13, 2012, as advertised; and

WHEREAS, after a full hearing, at which all parties in interest and citizens were

given an opportunity to be heard; and after considering among other things, the character of the property involved and the surrounding area and its peculiar suitability for particular uses; and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout such municipality, the Council finds it to be in the best interest of the health, safety, morals and general welfare of the City of Midland to amend the zoning regulations accordingly;

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

SECTION ONE. That the zoning classification of the area indicated as Tract 3A on Exhibit “A”, attached hereto and incorporated herein by reference, is hereby established as a PD, Planned District for a Housing Development.

Tract 3A shall be subject to the following special conditions and restrictions:

1. That the development of this property shall be subject to the regulations of the 1F-1, One-Family Dwelling District, regulations except as stated below.
2. That prior to issuance of any Certificate of Occupancy for any land abutting State Highway 158, a solid six-foot tall wooden screening fence with brick pilasters spaced at regular intervals shall be constructed in a common area adjacent to State Highway 158.
3. That no building permits shall be issued for this property until it has been platted, and said plat includes a common area adjacent to State Highway 158 to accommodate the screening fence described in Condition No. 2 above.
4. That the minimum front yard setback for the lots in this planned district shall be 15 feet.

SECTION TWO. That the zoning classification of the area indicated as Tract 3B on Exhibit “B”, attached hereto and incorporated herein by reference, is hereby established as a 1F-1, One-Family Dwelling District.

SECTION THREE. The provisions of this ordinance are to be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent with or in conflict with any of the provisions of this ordinance are hereby

expressly repealed to the extent of any such inconsistency or conflict.

SECTION FOUR. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this ordinance. The Council of the City of Midland hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

SECTION FIVE. The penalty for violation of this ordinance shall be in accordance with the general penalty provisions contained in Section 1-3-1 of the City Code of Midland, Texas, which provides for a fine not exceeding two thousand dollars (\$2,000.00).

SECTION SIX. The City Secretary is hereby authorized and directed to publish the descriptive caption of this ordinance in the manner and for the length of time prescribed by the law as an alternative method of publication.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the day of , A.D., 2012; and passed to second reading on motion of Council member , seconded by Council member , by the following vote:

Council members voting “AYE”:

Council members voting “NAY”:

The above and foregoing ordinance was read in full and finally adopted by the following vote upon motion of Council member , seconded by Council member , on the day of , A.D., 2012, at a regular meeting of the City Council:

Council members voting “AYE”:

Council members voting “NAY”:

PASSED AND APPROVED THIS day of , A.D., 2012.

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

James R. Nichols, Assistant City Manager

APPROVED AS TO FORM:

Keith Stretcher, City Attorney



110 W. Louisiana Ave. Suite. 110
MIDLAND TEXAS 79701-3414
OFFICE (432) 687-0865 FAX (432) 687-0868
www.team-west.com

TRACT 3A

October 22, 2012

FIELD NOTES OF A 3.623 ACRE TRACT OF LAND OUT OF SECTION 35, BLOCK 40, T-1-S, T & P RR. COMPANY SURVEY, MIDLAND COUNTY, TEXAS:

NOTE: The following bearings, distances, coordinates, and area's shown hereon are based upon the Texas Plane Coordinate System, NAD 83, Texas Central Zone:

BEGINNING at (N:10,695,524.77, E:1,724,716.47) the South corner of the herein described tract a point in the Northerly right of way line of State Highway No. 158;

THENCE N 59°04'32" W with the northerly right of way line of said State Highway No. 158 a distance of 986.13 feet to a point for the West corner of the herein described tract;

THENCE N 30°55'48" E a distance of 160.00 feet to a point for the North corner of the herein described tract a point in the centerline of proposed Mosswood Drive;

THENCE S 59°04'48" E with the centerline of proposed Mosswood Drive a distance of 986.10' to a point in the City of Midland City Limits Line for the East corner of the herein described tract;

THENCE S 30°55'12" W with the City of Midland City Limits Line for a distance of 160.07 feet to the POINT OF BEGINNING.

Subject tract having an area of 3.623 acres.

GRASSLAND ESTATES WEST, SECTION 9

ANNEXED AREA PDHD – 1F1



CASE NO. 2-12-034

WEST COMPANY



110 W. Louisiana Ave. Suite. 110
MIDLAND TEXAS 79701-3414
OFFICE (432) 687-0865 FAX (432) 687-0868
www.team-west.com

TRACT 3B

October 22, 2012

FIELD NOTES OF A 27.347 ACRE TRACT OF LAND OUT OF SECTION 35, BLOCK 40, T-1-S, T & P RR.
COMPANY SURVEY, MIDLAND COUNTY, TEXAS:

NOTE: The following bearings, distances, coordinates, and area's shown hereon are based upon the
Texas Plane Coordinate System, NAD 83, Texas Central Zone:

BEGINNING at (N: 10,695,662.10, E:1,724,798.73) the South corner of the herein described tract a point
on the City of Midland City Limits line and the Intersection of proposed Mosswood Drive;

THENCE N 59°04'48" W with the centerline of proposed Mosswood Drive distance of 986.10 feet to an
angle point;

THENCE N 30°55'48" E a distance of 30.00 feet to an angle point;

THENCE N 21°12'11" E a distance of 121.75 feet to an angle point;

THENCE N 30°55'12" E a distance of 504.07 feet to an angle point;

THENCE N 14°04'48" W a distance of 14.14 feet to an angle point;

THENCE N 30°26'33" E a distance of 60.00 feet to an angle point;

THENCE S 59°04'48" E a distance of 210.50 feet to an angle point;

THENCE N 30°55'12" E a distance of 26.86 feet to an angle point;

THENCE N 14°32'44" E a distance of 259.82 feet to an angle point;

THENCE N 30°55'12" E a distance of 243.86 feet to an angle point;

THENCE S 59°04'48" E a distance of 180.00 feet to an angle point;

THENCE N 30°55'12" E a distance of 49.97 feet to an angle point;

THENCE S 59°04'48" E a distance of 60.00 feet to an angle point;

THENCE S 14°04'48" E a distance of 14.14 feet to an angle point;

THENCE S 59°04'48" E a distance of 310.00 feet to an angle point;
THENCE N 75°55'12" E a distance of 14.14 feet to an angle point ;
THENCE S 59°04'48" E a distance of 60.00 feet to an angle point ' ;
THENCE S 30°55'12" W a distance of 58.78 feet to an angle point;
THENCE S 59°04'48" E a distance of 249.89 feet to an angle point;
THENCE S 30°55'12" W a distance of 270.49 feet to an angle point;
THENCE S 30°55'12" W a distance of 964.77 feet to the point of beginning,
Subject tract having an area 27.347 acres.

GRASSLAND ESTATES WEST, SECTION 9

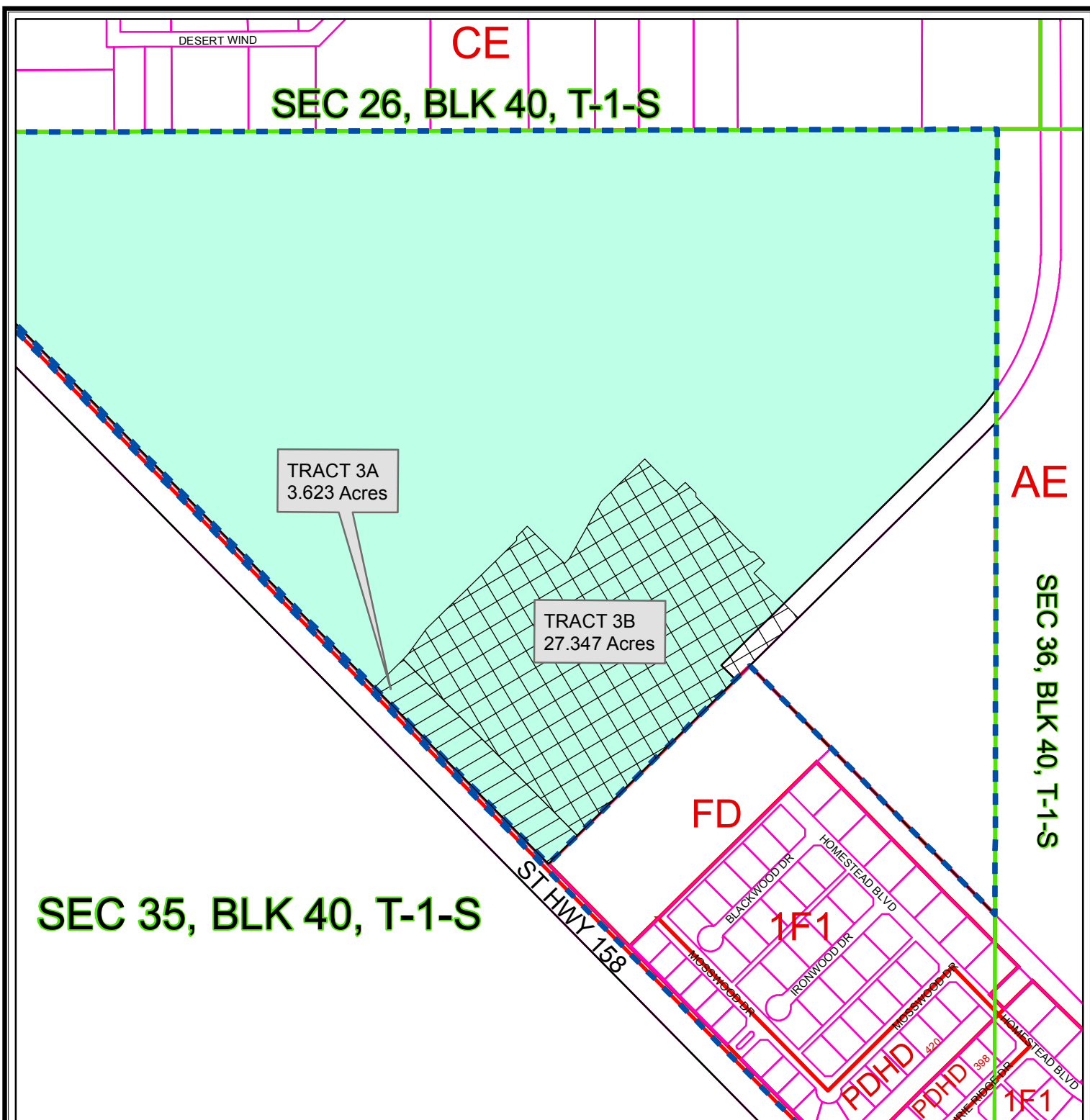
ZONING 1F1

ANNEX AREA


10/22/12



CASE NO. 2-12-034



LOCATION & ZONING MAP

Z - 12 - 034

Scale: 1" = 550'

TRACT 3

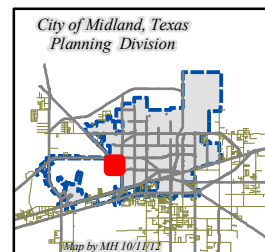
Consider the initial zoning of annexed land to PD, Planned District for a Housing Development on a 3.623-acre tract of land (Tract 3A) and to 1F-1 on a 27.347-acre tract of land (Tract 3B) all out of Section 35, Block 40, T-1-S, T & P RR Co. Survey, Midland County, Texas.

LEGEND

- CITY LIMITS
- CITY PARCEL
- COUNTY PARCEL
- ZONING
- SURVEY SECTION

ZONING DISTRICTS:

- CE - COUNTY ESTATE
- 1F - FAMILY DWELLING
- PD - PLANNED DISTRICT
- AE - AGRICULTURE ESTATE
- FD - FUTURE DEVELOPMENT



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City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: November 27, 2012

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, AICP

SUBJECT: Consider an ordinance on second reading establishing the initial zoning of annexed property, being a 193.29-acre tract (Tract 4) of land out of Sections 11 & 12, Block 40, T-2-S, T&P RR. Co. Survey, Midland County, Texas. (Generally located on the south side of Interstate Hwy 20, south of South Loop 250 West)

Purpose:

Consider an ordinance on second reading establishing the initial zoning of annexed property, being a 193.29-acre tract (Tract 4) of land out of Sections 11 & 12, Block 40, T-2-S, T&P RR. Co. Survey, Midland County, Texas.

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

There is no cost to the City to process the initial zoning of this property.

Discussion:

First reading was held on November 13th. This land was recently annexed and it is now appropriate for the Council to consider an ordinance on second reading establishing the initial zoning. There is one property owner; Darle Vuelta Cattle Company. Staff anticipates development of the property once utilities are made available from the north side of I-20. Staff met with representatives of the owner and until further development plans become available it was agreed that the most appropriate zoning district to utilize following property annexation is the FD, Future Development District. No letters of opposition have been received.

Attachments: Map; Proposed Ordinance

ORDINANCE NO.

AN ORDINANCE ESTABLISHING THE ZONING CLASSIFICATION OF THE AREA INDICATED AS BEING A 193.29-ACRE TRACT OF LAND OUT OF SECTIONS 11 AND 12, BLOCK 40, T-2-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION ONE HEREOF, AS AN FD, FUTURE DEVELOPMENT DISTRICT; SAID TRACT IS GENERALLY LOCATED ON THE SOUTH SIDE OF INTERSTATE 20, SOUTH OF SOUTH 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, notice has been given to all parties in interest and citizens by publication in the official newspaper and otherwise, of a hearing to be held before the City Council on November 13, 2012, to consider amendments to the zoning regulations and map establishing the zoning classification of the property described in Section One hereof as an FD, Future Development District as set out in Section 11-1-6 of the City Code of Midland, Texas; and

WHEREAS, such a public hearing was held in the Council Chambers beginning at 11:06 a.m. on said November 13, 2012, as advertised; and

WHEREAS, after a full hearing, at which all parties in interest and citizens were given an opportunity to be heard; and after considering among other things, the character of the property involved and the surrounding area and its peculiar suitability for particular uses; and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout such municipality, the Council finds it to be in the best interest of the health, safety, morals and general welfare of the City of Midland to amend the zoning regulations accordingly;

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

SECTION ONE. That the zoning classification of the area indicated as Tract 4 on Exhibit "A", attached hereto and incorporated herein by reference, is hereby established as

a FD, Future Development District.

SECTION TWO. The provisions of this ordinance are to be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent with or in conflict with any of the provisions of this ordinance are hereby expressly repealed to the extent of any such inconsistency or conflict.

SECTION THREE. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this ordinance. The Council of the City of Midland hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

SECTION FOUR. The penalty for violation of this ordinance shall be in accordance with the general penalty provisions contained in Section 1-3-1 of the City Code of Midland, Texas, which provides for a fine not exceeding two thousand dollars (\$2,000.00).

SECTION FIVE. The City Secretary is hereby authorized and directed to publish the descriptive caption of this ordinance in the manner and for the length of time prescribed by the law as an alternative method of publication.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the day of , A.D., 2012; and passed to second reading on motion of Council member , seconded by Council member , by the following vote:

Council members voting "AYE":

Council members voting "NAY":

The above and foregoing ordinance was read in full and finally adopted by the

following vote upon motion of Council member _____, seconded by Council member _____, on the _____ day of _____, A.D., 2012, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2012.

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

James R. Nichols, Assistant City Manager

APPROVED AS TO FORM:

Keith Stretcher, City Attorney



ENVIRONMENTAL • CIVIL ENGINEERING • LAND SURVEYING

FIRM # 001363

**521 NORTH TEXAS • ODESSA, TEXAS 79761
(432) 332-5058 or 580-8812 • FAX (432) 332-8812**

Legal Description

For a 193.29 Acre Tract of Land,
Located in Sections 11 & 12, Block 40, T-2-S,
T&P RR Company Survey,
Midland County, Texas

TRACT 4

Boundary Being More Fully Described By Metes and Bounds As Follows:

BEGINNING at a point in the east line of said Section 12, the south right-of-way line of Interstate 20 and the existing City of Midland city limits line for the northeast corner of this tract;

THENCE South $14^{\circ}17'45''$ East with the east line of said Section 12, a distance of 2628.47 feet to a point for the southeast corner of said Section 12 and the northeast corner of Section 13, said Block 40, being the southeast corner of this tract;

THENCE South $75^{\circ}08'38''$ West with the south line of said Section 12 and the north line of said Section 13, a distance of 5285.27 feet to a point for the northeast corner of said Section 14, being a point of deflection in the south line of this tract;

THENCE South $76^{\circ}14'20''$ West with the south line of said Section 12 and the north line of said Section 14, a distance of 194.33 feet to a point for the southwest corner of said Section 12 and the southeast corner of said Section 11, being a point of deflection in the south line of this tract;

THENCE South $75^{\circ}09'10''$ West with the south line of said Section 11 and the north line of said Section 14, a distance of 3235.10 feet to a point in the south line of Tract 20 recorded in Volume 3131, Page 210, Official Records, Midland County, Texas, being a point of deflection in the south line of this tract;

THENCE North $59^{\circ}43'34''$ East with the south line of said Tract 20, at a distance of 3365.73 feet pass the east line of said Section 11 and the west line of said Section 12, continuing for a total distance of 5311.20 feet to a point in the west line of a 100 acre tract recorded in Volume 2422, Page 247, Official Records, Midland County, Texas and in the said City of Midland city limits line, being a point of deflection in the north line of this tract;

THENCE South $30^{\circ}16'41''$ East with the west line of said 100 acre tract and said City of Midland city limits line, a distance of 1049.42 feet to a point for the southwest corner of said 100 acre tract, being a point of deflection in the north line of this tract;

THENCE North $59^{\circ}43'19''$ East with the south line of said 100 acre tract and said City of Midland city limits line, a distance of 2300.29 feet to a point for the southeast corner of said 100 acre tract, being a point of deflection in the north line of this tract;

THENCE North 30°16'41" West with the east line of said 100 acre tract and said City of Midland city limits line, a distance of 1257.69 feet to a point of deflection in the north line of this tract;

THENCE North 59°49'06" East with said City of Midland city limits line, a distance of 1511.98 feet to the Point of Beginning, containing 193.29 acres of land.

Bearings and distances are relative to the Texas Coordinate System, 1983 NAD, Central Zone, with a combined grid factor of 0.9998771. Acreage stated is average surface.

This document was prepared under 22 TAC 663.21, and is not to be used to convey or establish interest in real property except those rights and interest implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared.

LCA, Inc.



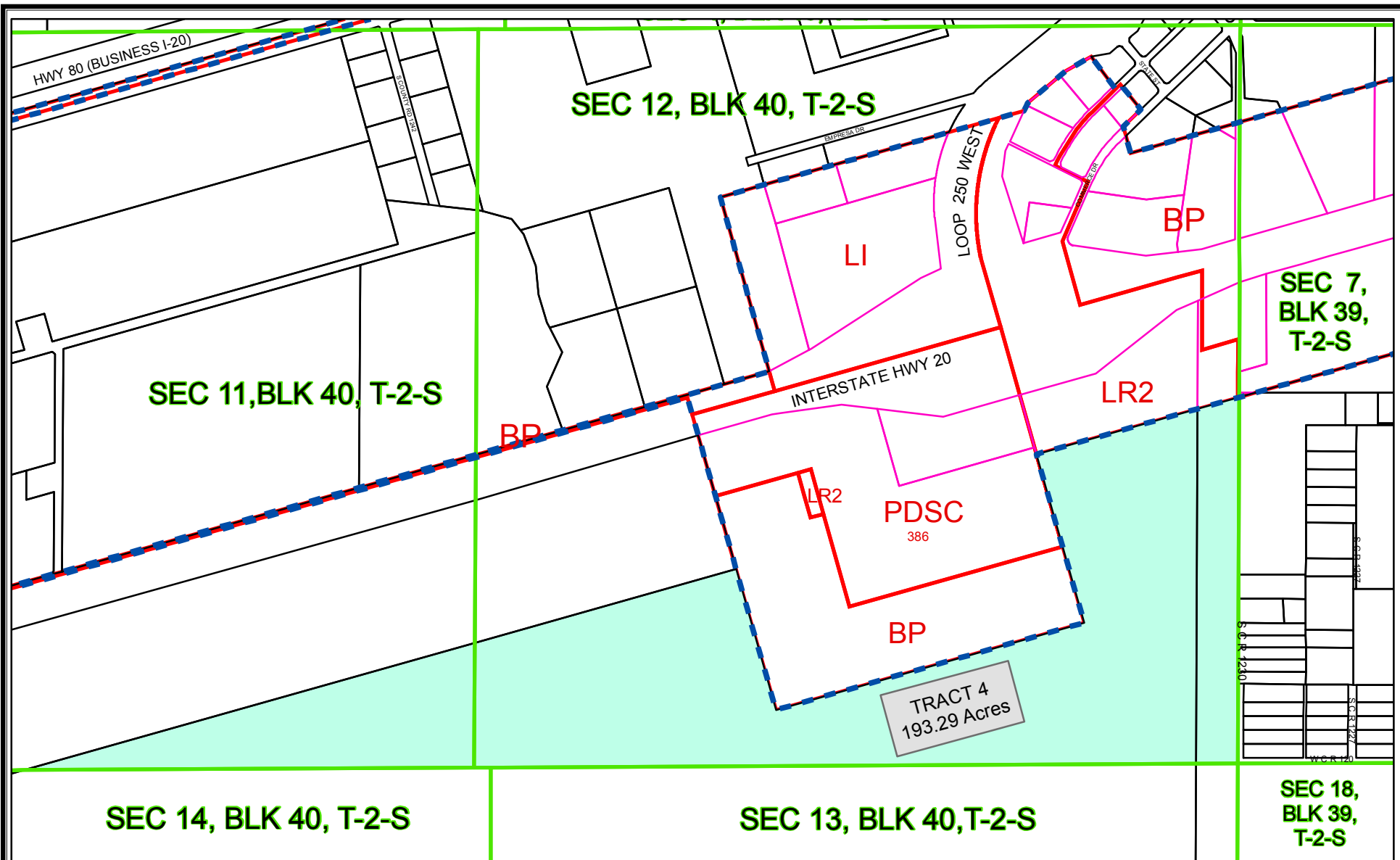
Aaron S. Burrell, R.P.L.S. 5689

22 August, 2012

LCA Project Number 2012-058



CASE NO. 2-12-041



Z - 12 - 041

Scale: 1" = 1000'

TRACT 4

Consider the initial zoning of annexed land to FD, Future Development on a 193.29-acre tract of land out of Sections 11 and 12, Block 40, T-2-S, T & P RR Co. Survey, Midland County, Texas.

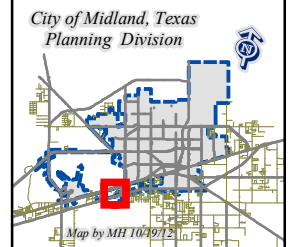
LOCATION & ZONING MAP

LEGEND

- CITY LIMITS
- ZONING
- CITY PARCEL
- COUNTY PARCEL
- SURVEY SECTION

ZONING DISTRICTS:

- LR - LOCAL RETAIL
- LI - LIGHT INDUSTRIAL
- BP - I-20 BUSINESS PARK
- PD - PLANNED DISTRICT



©THE CITY OF MIDLAND - 2012
THE CITY OF MIDLAND SHALL NOT BE RESPONSIBLE FOR ANY DECISIONS BASED UPON THE USE OF THIS DATA. WHILE THIS DATA IS MADE AVAILABLE TO THE PUBLIC, IT WAS CREATED FOR INTERNAL USE BY THE CITY OF MIDLAND WHICH MAKES NO CLAIMS OR WARRANTIES AS TO THE ACCURACY OF THIS DATA. THIS DATA IS NOT DESIGNED TO BE USED AS A PRIMARY TOOL IN PERMITTING, ZONING OR OTHER DECISIONS BASED SOLELY ON THE INFORMATION CONTAINED HEREIN.



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: November 27, 2012

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, Planning Division Manager

SUBJECT: Consider an ordinance on second request on a request by James Grose for a *zone change* from PD, Planned District for a Housing Development to Amended Planned District on Lot 1A, Block 4, Gateway Plaza, Section 4, City and County of Midland, Texas. (Generally located on the west side of Tradewinds Boulevard, approximately 800 feet north of W. Business I-20)

Purpose:

Consider an ordinance on second reading on a request by James Grose for a zone change from PD, Planned District for a Housing Development to Amended Planned District on Lot 1A, Block 4, Gateway Plaza, Section 4, City and County of Midland, Texas. (Generally located on the west side of Tradewinds Boulevard, approximately 800 feet north of W. Business I-20)

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

There is no cost to the City associated with approving this request.

Discussion:

This is a proposed development of 214 apartment units within the rapidly developing Gateway Plaza area at the northwest corner of the intersection of Business I-20 and Loop 250. The City Council approved a 14.67-acre PD, Planned District for a Housing Development on May 22, 2012, subject to future site plan approval. The site plan submitted is the 10.35-acre southern portion of the Planned District, which is being developed as

Phase I (Exhibit – A). The remaining 4 acres to the north will be developed as a continuation of this multifamily development at a future date with a subsequent site plan submitted for review. The density within the submitted plan is within the Planned District's permitted 21 dwelling units per acre. The three-story apartment buildings proposed are also in accordance with the underlying MF-1 zoning regulations that permit maximum building heights up to 50 feet. The apartment complex is fenced with brick columns and decorative metal fencing with a secure gate beyond the clubhouse (Exhibit – B). This design allows for incoming traffic to clear Tradewinds Boulevard rather than queuing in or near the road. The apartment buildings are constructed with a stone veneer, stucco, and fiber cement siding and the clubhouse providing a smoother surface with large stucco facades, stone veneer trim and a metal seamed roof. Other structures with complementary building facades include the central U.S Mail kiosk, a 12-car garage, and two 6-car garages. Staff concurs with the Planning & Zoning Commission in adopting the proposed site plan on 10.36 acres and amending the current Planned District for a Housing Development for the first phase of this multi-family development. No letters of opposition have been received; first reading was held November 13th.

Attachments: Application, Maps, Exhibits A – F

ORDINANCE NO.

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOT 1A, BLOCK 4, GATEWAY PLAZA, SECTION 4, 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 WEST SIDE OF TRADEWINDS BOULEVARD, APPROXIMATELY 800 FEET NORTH OF WEST BUSINESS INTERSTATE 20); 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 Housing Development, and it shall be used as an Amended Planned District, subject to the special conditions and restrictions hereinafter set out, said property being described as

follows:

Lot 1A, Block 4, Gateway Plaza, Section 4, City and County of Midland, Texas.

SECTION TWO. That said property shall be subject to the following special conditions and restrictions:

1. That the development shall be significantly consistent with the Site Plans (Exhibits “A” and “B”); that the apartments shall be typical in design and materials as those shown on the Building Elevations (Exhibits “C”, “E” and “F”) and the clubhouse (Exhibit “D”). Said exhibits are attached hereto and incorporated herein.
2. That a provision for a street light at the entrance to the complex shall be made at Tradewinds Boulevard.
3. That a blanket refuse easement covering this property is granted to the City of Midland.
4. That the air conditioners, dumpsters, and any ground-based utility equipment shall be appropriately screened.
5. That a color elevation of the proposed design of the screening wall and its materials for all sides must meet administrative approval.
6. That all sidewalks shall be paved to the required standards along the property line frontage.
7. That all signs on this property shall conform to the City of Midland Sign Code.
8. That the developer shall make provisions for fire department access.
9. That this apartment site plan governs only this 10.35-acre site. Said 10.35-acre site is more specifically described by metes and bounds in Exhibit “G”, which is attached hereto and incorporated herein. Subsequent apartment developments on this lot are subject to separate site plan review.
10. That the development of this planned district, except where expressly noted, shall comply with MF-1, Multiple-Family Dwelling District, zoning regulations.
11. That driveway cuts and dimensions shall comply with Midland City Code requirements.
12. That a replat shall be submitted and approved, in accordance with Midland City Code requirements, if any rezoning application is submitted for said Lot 1A, Block 4, Gateway Plaza, Section 4, or in the event of a proposed sale of any portion of said Lot 1A, Block 4, Gateway Plaza, Section 4.
13. That this ordinance hereby amends City of Midland Ordinance No. 9016.

SECTION THREE. That the definitions given in the zoning regulations contained

in the City Code of the City of Midland, Texas, shall be applicable to such of those terms as are used herein.

SECTION FOUR. The provisions of this ordinance are to be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent with or in conflict with any of the provisions of this ordinance are hereby expressly repealed to the extent of any such inconsistency or conflict.

SECTION FIVE. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this ordinance. The Council of the City of Midland hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

SECTION SIX. The penalty for violation of this ordinance shall be in accordance with the general penalty provisions contained in Section 1-3-1 of the City Code of Midland, Texas, which provides for a fine not exceeding two thousand dollars (\$2,000.00).

SECTION SEVEN. The City Secretary is hereby authorized and directed to publish the descriptive caption of this ordinance in the manner and for the length of time prescribed by the law as an alternative method of publication.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the ____ day of _____, A.D., 2012; and passed to second reading on motion of Council member _____, seconded by Council member _____, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

The above and foregoing ordinance was read in full and finally adopted by the following vote upon motion of Council member _____, seconded by Council member _____, on the ____ day of _____, A.D., 2012, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2012.

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

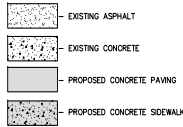
APPROVED AS TO CONTENT
AND COMPLETENESS:

James R. Nichols, Assistant City Manager

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

NOTES AND LEGEND:



TYPE	AREA	NO.	%	TOTAL AREA
A1	714	72	33.94%	51,408
A2	806	48	22.43%	38,088
B1	975	36	19.82%	35,100
B2	1,129	42	19.83%	47,418
B3	1,176	12	5.81%	14,112
C1	1,539	4	1.87%	6,156
TOTAL	214	100.00%		192,882

AVERAGE UNIT SIZE 901.32

TYPE	COUNT/UNIT TYPES	BLDG. AREA	TOT. AREA
A	1 10-A2-12-B2	21,608	21,608
B	1 10-A2-12-B3	22,172	22,172
C	1 12-A1-12-B1	20,268	20,268
D	1 2-A2-4-C1	7,768	7,768
E	3 12-A1-6-A2-6-B2	20,178	60,534
F	2 12-A1-4-A2-12-B1-6-B2	30,266	60,532
TOTAL	9		192,882

MISCELLANEOUS:
AVERAGE UNIT SIZE: 901.32 S.F.
LAND AREA: 10.83 ACRES
DENSITY: 28.67 UNITS/ACRE

NO. BLDGS	BUILDING TYPES						TOTAL
	A	B	C	D	E	F	
A1	1	1	1	1	3	9	72
A2	10	10	12	2	6	4	48
B1			12				12
B2	12				6	6	42
B3		12					12
C1				4			4

UNITS/BLDG	12	22	24	6	24	34	
TS/BLDG TYPE	12	22	24	6	72	68	214
GARAGE TABULATION							

GARAGE TABULATION								
DIRECT	4	0	0	6	0	0	10	TOTAL DIRECT
ASSIGNABLE	2	6	0	0	0	6	20	TOTAL ASSIGNABLE
GR/BLDG TYPE	6	6	0	6	0	6	30	TOTAL GARAGES

ALL DIMENSIONS ARE MEASURED TO BACK OF CURB UNLESS OTHERWISE NOTED. SETBACKS ARE MEASURED FROM PROPERTY LINE. REFER TO FINAL PLAT FOR COMPLETE PLAT DIMENSIONAL INFORMATION.

SEE ARCHITECTURAL PLANS FOR EXACT LOCATIONS AND DIMENSIONS OF PORCHES, RAMPS, VESTIBULE, SLOPED PAVING, TRUCK DOCKS, BUILDING UTILITY ENTRANCE LOCATIONS AND PRECISE BUILDING DIMENSIONS.

ALL CONSTRUCTION OF PUBLIC IMPROVEMENTS SHALL BE IN ACCORDANCE WITH LATEST STANDARD CITY OF MIDLAND ENGINEERING REQUIREMENTS AND SPECIFICATIONS.

PRIOR TO ANY CONSTRUCTION THE CONTRACTOR SHALL FAMILIARIZE HIMSELF WITH THE CONTRACT DOCUMENTS AND SPECIFICATIONS, THE PLAN INCLUDING ALL NOTES, AND ANY OTHER APPLICABLE STANDARDS AND SPECIFICATIONS RELEVANT TO THE PROPER COMPLETION OF THE WORK SPECIFIED. FAILURE ON THE PART OF THE CONTRACTOR TO FAMILIARIZE HIMSELF WITH ALL STANDARDS OR SPECIFICATIONS PERTAINING TO THIS WORK SHALL IN NO WAY RELIEVE THE CONTRACTOR OF RESPONSIBILITY FOR PERFORMING THE WORK IN ACCORDANCE WITH ALL SUCH APPLICABLE STANDARDS AND SPECIFICATIONS. THE CONTRACTOR IS SOLELY RESPONSIBLE FOR THE MEANS, METHODS, TECHNIQUES, SEQUENCES AND PROCEDURES OF CONSTRUCTION AND ANY SAFETY PRECAUTION PROGRAMS RELATING IN ANY WAY TO THE CONDITIONS OF THE PREMISES.

THE INFORMATION SHOWN ON THESE DRAWINGS CONCERNING TYPE, INFORMATION, AND THE LOCATION OF UNDERGROUND AND OTHER UTILITIES IS NOT GUARANTEED TO BE ACCURATE OR ALL-INCLUSIVE. THE CONTRACTOR IS RESPONSIBLE FOR MAKING HIS OWN DETERMINATIONS AS TO THE TYPE AND LOCATIONS OF ALL UNDERGROUND AND OTHER UTILITIES AS MAY BE NECESSARY TO AVOID DAMAGES. THE CONTRACTOR SHALL REPAIR ANY DAMAGES TO EXISTING UTILITIES IMMEDIATELY AND AT NO ADDITIONAL COST TO THE OWNER OR ENGINEER. PLANS SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR WITH NO ADDITIONAL COMPENSATION. THE CONTRACTOR SHALL BE RESPONSIBLE FOR NOTIFYING UTILITY COMPANIES HAVING PROPERTY IN THE AREA OF CONSTRUCTION A MINIMUM OF 48 HOURS PRIOR TO ANY EXCAVATION.

IT SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR TO PROTECT ALL PUBLIC UTILITIES IN THE CONSTRUCTION OF THIS PROJECT. ALL MANHOLES, CLEAN OUTS AND VALVE BOXES MUST BE ADJUSTED TO THE PROPER LINE AND GRADE BY THE CONTRACTOR PRIOR TO AND AFTER THE PLACING OF PERMANENT PAVING.

EXISTING IMPROVEMENTS, INCLUDING BUT NOT LIMITED TO: FENCES, GATES, GROUND SURFACES, UTILITY PRELINES AND DRAINAGE STRUCTURES WHICH ARE REMOVED OR ALTERED TO PERMIT INSTALLATION OF THE WORK, SHALL BE REPAIRED OR REPLACED BY THE CONTRACTOR AT THE CONTRACTOR'S EXPENSE, IN THE SAME LOCATION AND IN CONDITION EQUAL TO OR BETTER THAN FOUND.

AT ALL TIMES THAT WORK IS PROGRESSING, THE CONTRACTOR SHALL HAVE A DESIGNATED COMPETENT PERSON ON-SITE WHO SHALL BE RESPONSIBLE FOR SUPERVISING THE WORK AND WHOSE DUTY IT WILL BE TO PERFORM REQUIRED SAFETY INSPECTIONS AND TO DIRECT ALL REQUIRED CONSTRUCTION SAFETY ACTIVITIES.

APPLICANT:

MR. JAMES R. GROSE, P.E.
OAKWOOD DEVELOPMENT & CONSULTING, LLC
7309 WILLIAMSWOOD DRIVE
SUITE 100 E
DALLAS, TX 75252
OFFICE: 972-931-4800
MOBILE: 214-766-9140
jmgrose@oakwood-dc.net

PARKING CALCULATIONS

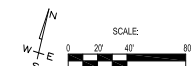
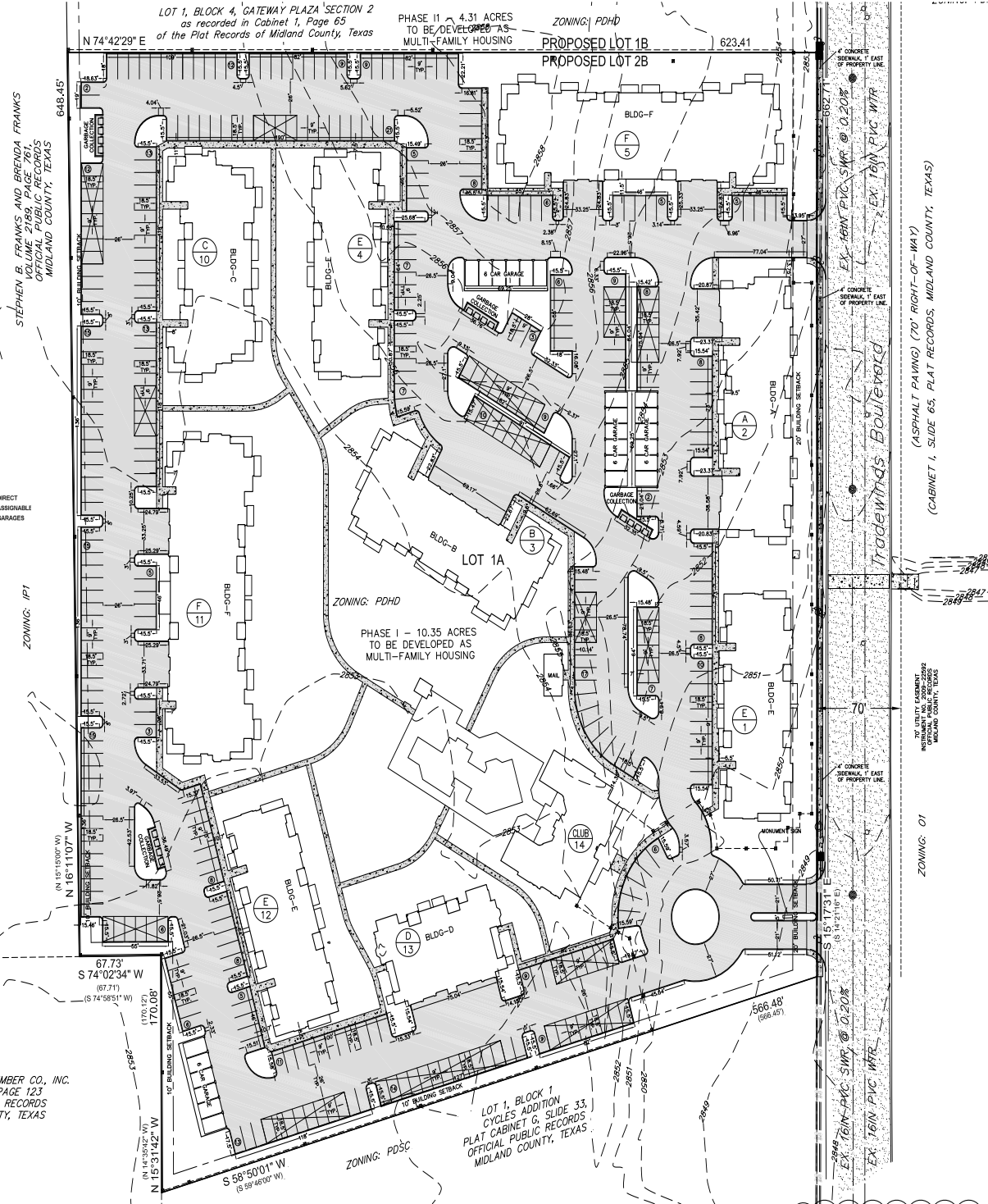
STANDARD PARKING 379 SPACES
ATTACHED GARAGE 30 SPACES
FREE GARAGE 24 SPACES

NAME: TRADEWINDS APARTMENTS
LOCATION: APPROXIMATELY 1,100' NORTH OF 1-20 ON THE WEST SIDE OF TRADEWINDS BOULEVARD

LEGAL DESCRIPTION:

LOT 1A, GATEWAY PLAZA, SECTION 4

FRAMING SQUARE LUMBER CO., INC.
VOLUME 1870, PAGE 123
OFFICIAL PUBLIC RECORDS
MIDLAND COUNTY, TEXAS



DIAL BEFORE YOU DIG!
UTILITIES ARE APPROXIMATE. CONTRACTOR SHALL CALL DIG TESS (1-800-DIG-TESS) 48 HOURS PRIOR TO CONSTRUCTION.

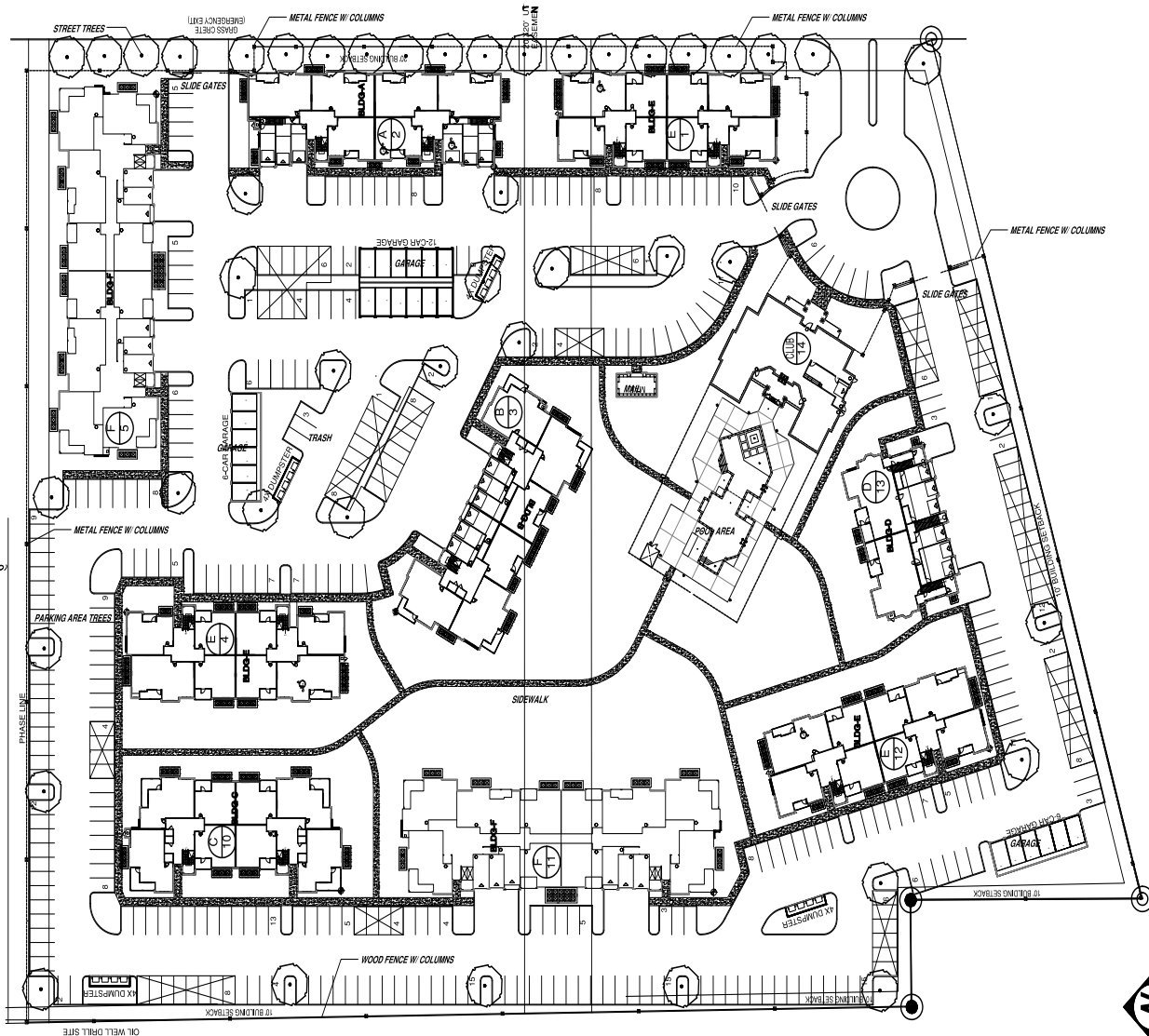
CIVIL ENGINEERING
LAND SURVEYING
AND ENGINEERING, LLC
2807 Fair Street, Suite 8
Lubbock, TX 79423
Phone: 806-771-6076
Fax: 806-771-7625
TEDE Reg. # F-18197
Accuracy - Efficiency - Integrity

TRADEWINDS APARTMENTS
PROPOSED ON FUTURE REPLAT TO BE SUBMITTED OF PROPOSED
LOT 2A, BLOCK 4, GATEWAY PLAZA SECTION 2
AN ADDITION LOCATED IN THE CITY OF MIDLAND,
MIDLAND COUNTY, TEXAS

THIS DOCUMENT IS
RELEASED FOR REVIEW
PURPOSES ONLY UNDER
THE AUTHORITY OF
BRANDON K. AUTREY,
P.E. No. 100971 ON
SEPTEMBER 27, 2017.
IT IS NOT TO BE USED
FOR CONSTRUCTION
PURPOSES.

NO.	DATE	REVISIONS

CSP-1.1



1 CITY SUBMITTAL PLAN

SCALE: 1"=50'-0"

0 50 100

GRAPHIC SCALE IN FEET

CLIENT:
PILLAR INCOME ASSET MGMT.
7309 WILLIAMS WOOD DRIVE
STE 100E
DALLAS, TX 75252

TRADEWINDS
APARTMENTS
MIDLAND, TEXAS

mdg
landscape
architects

Meeks Design Group
1100 centennial blvd. #270
richardson, tx 75081
ph 972) 690-7474
fx 972) 690-7878



CITY SUBMITTAL

RADEWINDS APARTMENTS

MIDLAND, TEXAS

DB NUMBER: BGO-1206

CITY SUBMITTAL
PLAN

LEAN

LP 0.01



TRADEWINDS APARTMENTS

214 UNITS IN MIDLAND, TEXAS FOR
OAKWOOD DEVELOPMENT

ISSUED FOR
SITE PLAN SUBMITTAL



PROJECT
12133

A-11
BLDG. 'F'

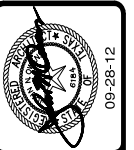




2 CLUBHOUSE REAR ELEVATION
SCALE 1/4"=1'-0"



1 CLUBHOUSE FRONT ELEVATION
SCALE 1/4"=1'-0"



REVISIONS

NO.	DATE	DESCRIPTION

TRADEWINDS APARTMENTS
214 UNITS IN MIDLAND, TEXAS FOR
OAKWOOD DEVELOPMENT

ISSUED FOR
SITE PLAN SUBMITTAL



4144 N. Central Expy.
Suite 855
Dallas, TX 75204
214.520.6878
bgoarchitects.com

DATE

09-28-12

PROJECT

12133

SHEET NUMBER

A-13

CLUB
ELEVATION

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TRADEWINDS MULTI FAMILY CONCEPTUAL ELEVATION
MIDLAND, TEXAS



STONE

BUILDING A REAR ELEVATION

TRADEWINDS MULTI FAMILY CONCEPTUAL ELEVATION

MIDLAND, TEXAS

SCALE 1/8" = 1'-0"



Davis Geomatics, LLC

Professional Geomatic Consultants

J.D. Davis, RPLS, LSLs, CFedS

Licensed State Land Surveyors

Colorado • Kansas • Oklahoma • Texas

Professional Land Surveyors

Certified Federal Surveyors

LEGAL DESCRIPTION

A 10.35 acre tract of land out of Lot 1A, Gateway Plaza, Section 4, being a replat of Lots 1 and 2, Block 4, Gateway Plaza, Section 2, an addition to the City of Midland, Midland County, Texas according to the recorded map or plat thereof, of record in Cabinet 1, No. 2012-7606 of the Plat Records of Midland County, Texas, said 10.35 acre tract of land being described by metes and bounds as follows:

BEGINNING at (N: 10,681,917.325, E: 1,732,851.657) a 1/2" x 24" rebar with a plastic cap stamped "DAVIS GEOMATICS" (such type rebar and plastic cap hereafter referred to as a DAVIS CAP) set on the West line of said Lot 1A whence the Northwest corner of said Lot 1A bears N 16°11'07" W, 295.96 feet;

THENCE N 74°42'29" E - bearings contained herein are relative to true North as determined from G.P.S. observations - 623.41 feet to a DAVIS CAP set on the East line of said Lot 1A and the West right-of-way line of Tradewinds Boulevard whence a 1/2" rebar with a cap marked "WEST CO. MIDLAND" found at the Northeast corner of said Lot 1A bears N 15°17'31" W, 304.62 feet;

THENCE S 15°17'31" E along the East line of said Lot 1A and the West right-of-way line of said Tradewinds Boulevard, 662.71 feet to a 1/2" rebar with a cap marked "WEST CO. MIDLAND" found at the Southeast corner of said Lot 1A;

THENCE S 58°50'01" W along the South line of said Lot 1A, 566.48 feet to a bent 1/2" rebar found for the most Southern Southwest corner of said Lot 1A;

THENCE N 15°31'42" W along a West line of said Lot 1A, 170.08 feet to a 1/2" rebar with a cap marked "WEST CO. MIDLAND" found for an interior corner of said Lot 1A;

THENCE S 74°02'34" W along a South line of said Lot 1A, 67.73 feet to a 1/2" rebar with a cap marked "WEST CO. MIDLAND" found at the most Westerly Southwest corner of said Lot 1A;

THENCE N 16°11'07" W along the West line of said Lot 1A, 648.45 feet to the POINT OF BEGINNING of this tract of land;

Said tract contains a computed area of 10.35 acres of land as described.

Page 1 of 2

DAVIS GEOMATICS, LLC

PROFESSIONAL GEOMATIC CONSULTANTS

616 N. Polk Street, Amarillo, Texas 79107 • P.O. Box 4061, Amarillo, Texas 79116

866-570-0169 • 806-374-4334 • Fax 806-359-0686 • www.geopro.us



J. D. Davis
Registered Professional Land Surveyor
Texas Registration Number 5626
Amarillo, Texas

PLANNING AND ZONING COMMISSION

November 5, 2012

CASE: Z-12-043, James Grose.

REQUEST: Hold a public hearing and consider a request by James Grose for a zone change from a PD, Planned District for a Housing Development to an Amended Planned District.

APPLICANT/OWNER: James Grose.

LEGAL DESCRIPTION: Lot 1A, Block 4, Gateway Plaza, Section 4, City and County of Midland, Texas.

LOCATION: Generally located on the west side of Tradewinds Boulevard, approximately 800 feet north of W. Business I-20.

CURRENT ZONING: PD, Planned District for a Housing Development.

DETAILS OF REQUEST:

1. The City Council approved a 14.67 acre PD, Planned District for a Housing Development on May 22, 2012, subject to site plan approval in the same manner as a zone change. The site plan submitted represents Phase I of this multi-family development. The 10.36 acre southern portion of the Planned District (Exhibit – A), provides for 214 apartment units among 9 multi-family buildings. The density is within the Planned District's permitted 21 dwelling units per acre and the three-story apartment buildings proposed are in accordance with the underlying MF-1 zoning regulations that permit maximum building heights up to 50 feet. The site plan also includes a clubhouse with a pool and parking within the development for 433 vehicles.

SURROUNDING ZONING AND LAND USE:

2. The proposed development is positioned within a rapidly developing area known as Gateway Plaza at the northwest corner of the intersection of Business I-20 and Loop 250. Neighboring land uses to the applicant's Tradewinds Apartments – Phase I development include another PD, Planned District Housing Development, with an existing 96-unit apartment complex just across Tradewinds Blvd. to the east and the Cinergy Cinema multiplex theater further south. Other zoning in this area will accommodate local retail and office use. Plans for Tradewinds Boulevard connection to the north will significantly enhance mobility of traffic generation brought about by this development.

ANALYSIS:

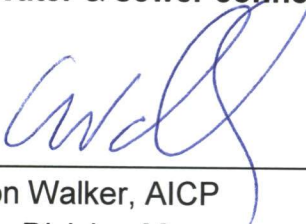
3. The submitted site plan provides a higher density development of 21 dwelling units per acre with adequate parking and access off of Tradewinds Boulevard. The apartment complex is fenced with brick columns and metal fencing with a secure gate beyond the clubhouse (Exhibit – B). This design allows for incoming traffic to clear Tradewinds Boulevard rather than queuing in or near the road. The northern drive has a similar gate system, but is designed to be exit only. A Knox-Box will have to be installed at the gates for emergency access. The screening fence on the west side of the property is proposed to be a solid wood fence spaced on brick columns. Given the industrial zoning to the west, staff is agreeable to a predominantly wood fence, but the base should be a minimum of 2 feet of masonry/brick material for longevity. Similarly, the tubular pickets and rail material on the metal fencing are easily bent and have a lasting impression. This rail fencing should either be wrought iron or have the minimum 2 feet of masonry/brick material at the base. All brick columns appear to be spaced nearly 100 feet apart, this distance should be closer to 30 feet spacing (with 60 feet allowable on the west facing fence). Staff requests a color elevation of the proposed wall for administrative review since this will be prominently visible to nearby future developments. Fire lane widths are sufficient, however for the buildings' heights in some instances, the Fire Marshall will require attic sprinkling to offset any potential code shortfall as to the reach of firefighting equipment. The site also includes an adequate provision for solid waste removal with sixteen trash dumpsters appropriately placed. They are described as being screened with brick which will have to match the look off the proposed apartment buildings. The sidewalk along Tradewinds Boulevard should be 5 feet in width rather than the indicated 4 feet. Landscaping coverage is more than sufficient for the site area with the tree requirement being 49 trees total, calculating for the street frontage and the parking lot. The apartment buildings are constructed with a stone veneer, stucco, and fiber cement siding and the clubhouse providing a smoother surface with large stucco faces, stone veneer trim and a metal seamed roof. Other structures with complementary building facades include the central U.S Mail kiosk, a 12-car garage, and two 6-car garages. Staff recommends adopting the proposed site plan on 10.36 acres and amending the current Planned District for a Housing Development for the first phase of this multi-family development.

STAFF RECOMMENDATION:

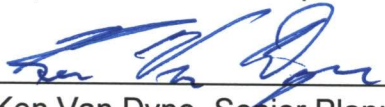
Staff recommends approval of this request for a zone change from a PD, Planned District for a Housing Development to an Amended Planned District, subject to the following conditions:

- A. That the development shall be significantly consistent with the submitted Site Plans (Exhibits A & B), the apartments are typical in design and materials of Building Elevations (Exhibits C, E &F) and the clubhouse (Exhibit D);**
- B. That a provision for a street light at the entrance to the complex is made at Tradewinds Boulevard;**
- C. That a blanket refuse easement to the property is granted to the City of Midland;**

- D. That the air conditioners, dumpsters, and any ground-based utility equipment shall be appropriately screened;
- E. That a color elevation of the proposed site plan's screening wall and it's materials for all sides of the site plan must meet administrative approval;
- F. That sidewalks are paved to the required standards along the property line frontage;
- G. All signage to meet the City Sign Code;
- H. The developer will have to make provisions for fire department access (turning radii, adequate fire lane width, hydrant coverage, Knox-Box, etc.);
- I. That this apartment site plan governs only this 10.36 acre site and not the entirety of the 14.67 Planned District for a Housing Development zoned Lot 1A, Block 4, Gateway Plaza, Section 4. Subsequent apartment developments on this lot are subject to a separate site plan review.
- J. The development of this planned district, except where expressly noted, shall comply with MF-1, Multi-Family Dwelling District zoning regulations;
- K. That the development is consistent with the Site Plan (Exhibit – A) and the Building Elevations (Exhibits B & C) & Building Rendering (Exhibit – D);
- L. Driveway cuts and dimensions are to be per city code;
- M. Water & sewer connections need to be approved with City Engineer.



Cameron Walker, AICP
Planning Division Manager
Department of Development Services



Ken Van Dyne, Senior Planner
Department of Development Services

Attachments:

Application
Site Plan – Exhibit A
Elevations – Exhibits B & C
Rendering – Exhibit D
Maps

Site Plan Submittal

Case Number: Z-12-043

CITY OF MIDLAND

Planning Division

FOR SITE PLAN

APPLICATION ~~TO CHANGE ZONING CLASSIFICATION~~

James (Jim) Grose, P.E.

Applicant Name

972-931-4800 / jimgrose@oakwood-dc. ^{US}

(Phone/e-mail)

7309 Williamswood Drive Suite 100E Dallas, TX 75252

Address

Zip Code

Pillar Income Asset Management

Project ~~Property~~ Owner Name

Same As Above

(Phone/e-mail)

Same As Above

Address

Zip Code

AMD Engineering

Brandon Autrey, P.E.

Representative Name

806-771-5976 / bautrey@amdeng.com

(Phone/e-mail)

2807 74th St. Ste. 8

Address

Lubbock, TX 79423

Zip Code

Street address and Legal Description of property (complete Lot, Block, and Subdivision Name or if unplatted, attach a Metes and Bounds description with surveyor's seal). Each district must be described separately. Lot 1 & 2, Block 4, Gateway Plaza

Section 2

PRESENT ZONE: PDHD

REQUESTED ZONE: No Change

(List by tracts if more than one district is requested)

Reason for Zone Change Request: Site Plan Submittal

Present Use of Property: Undeveloped

Proposed Use of Property: Apartments (Tradewinds Apartments)

How will zone change affect the public health, safety and welfare? NA

Describe how conditions affecting the property have changed since present zoning designation:

NA

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)

Project

Property Owner (signature): _____ Date: 09/28/2012

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.

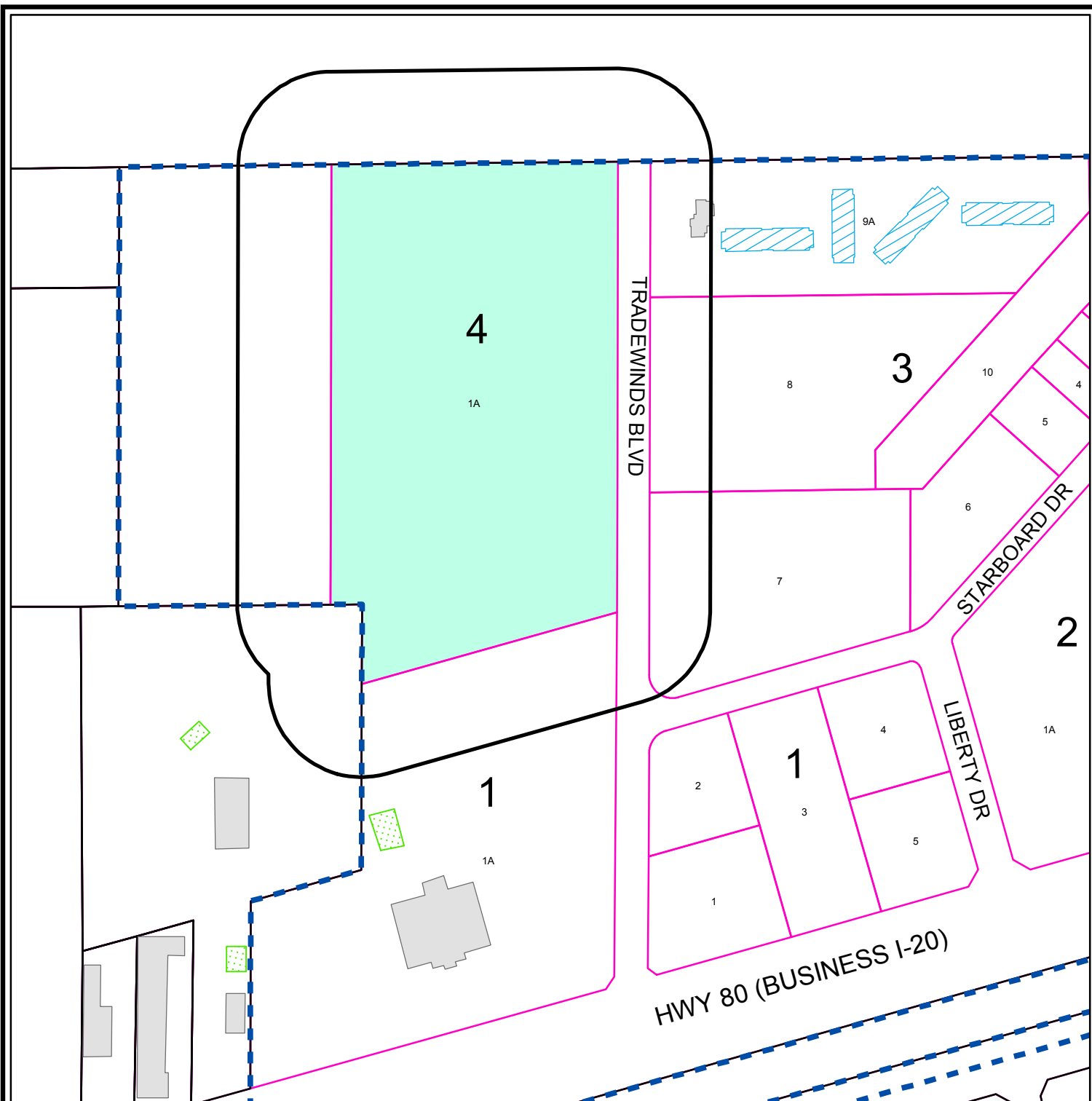
Authorized Agent (signature)

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>IC</u>	Date: <u>10-2-12</u>
Assigned: <u>KV</u>	
For: <u>P+Z</u>	On: _____

****Application will not be considered for scheduling until reviewed by a planner.****



OWNER NOTIFICATION WITHIN CITY LIMITS ONLY

Z - 12 - 043

Scale: 1" = 300'

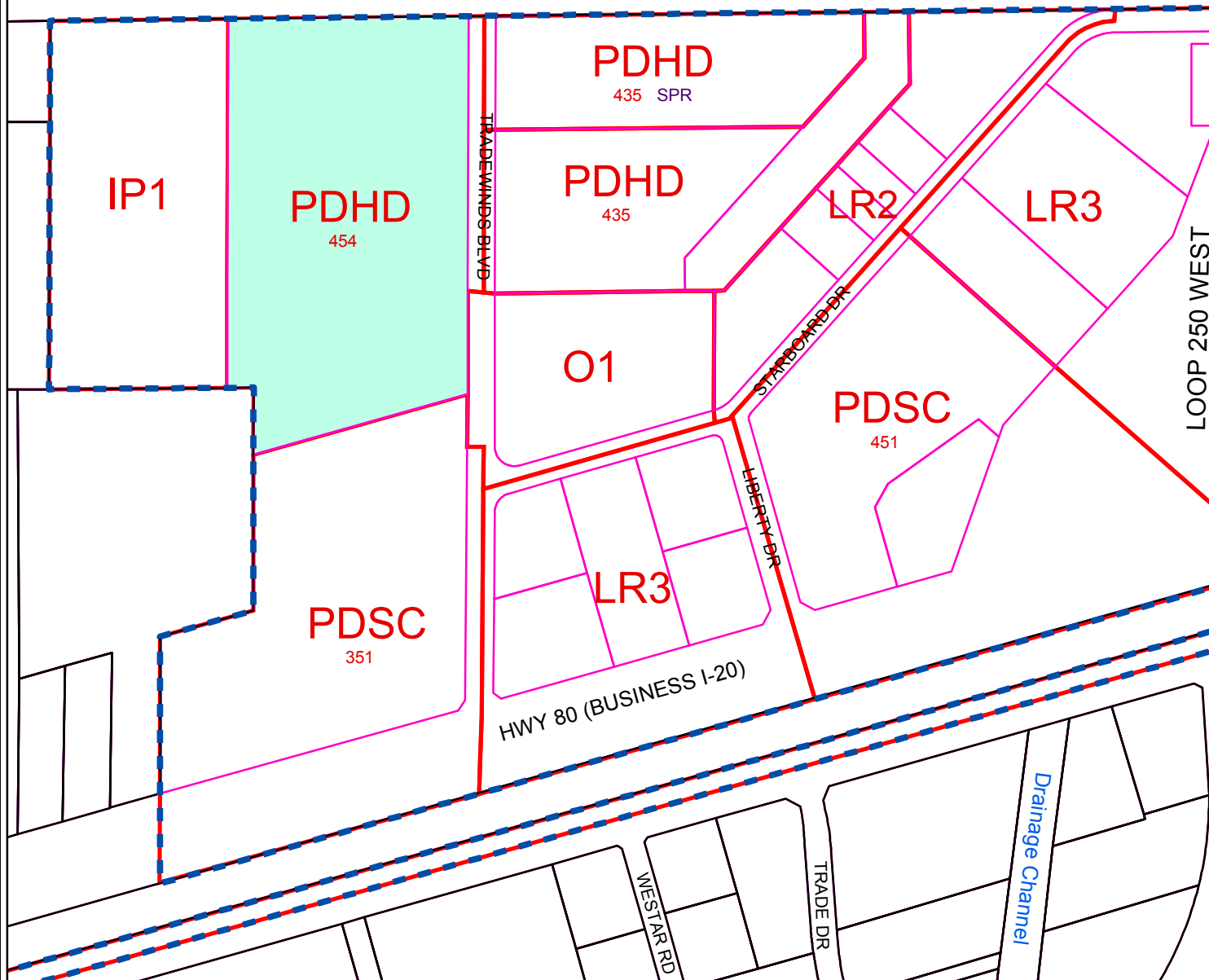
Consider a request for a zone change from PD, Planned District for a Housing Development, to an Amended Planned District on Lot 1A, Block 4, Gateway Plaza, Section 4, City and County of Midland, Texas.

LEGEND

- CITY LIMITS
- 200 FT. LEGAL NOTICE LIMIT
- CITY PARCEL
- COUNTY PARCEL
- PUBLIC BLDGS
- PRIVATE BLDGS
- ACCESSORY BLDGS



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ZONING MAP

P - 12 - 043

Scale: 1" = 400'

Consider a request for a zone change from PD, Planned District for a Housing Development, to an Amended Planned District on Lot 1A, Block 4, Gateway Plaza, Section 4, 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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City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: November 27, 2012

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, Planning Division Manager

SUBJECT: Consider an ordinance on second reading for a zone change from FD, Future Development District to 1F-1, One-Family Dwelling District and PD, Planned District for a Housing Development.

Purpose:

Consider an ordinance on second reading for a zone change to allow the continued expansion of the Grassland Estates West neighborhood.

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

There is no cost to the City to process this application.

Discussion:

Upon annexation in 2006, this property was zoned FD District. It is in the path for the continued expansion of the Grassland Estates West neighborhood adjacent to SH 158. The majority of the land is being requested to be zoned 1F-1 District. The portion adjacent to SH 158 is being requested to be rezoned Planned District for a Housing Development, subject to 1F-1 District regulations, except that a solid six-foot tall screening fence would be constructed along the SH 158 right-of-way to screen the neighborhood from the highway. The City Council approved the ordinance on first reading on November 13, 2012. The ordinance is now ready for consideration 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 10.215-ACRE TRACT OF LAND WHICH IS PRESENTLY ZONED FD, FUTURE DEVELOPMENT DISTRICT, TO BE USED AS A 1F-1, ONE-FAMILY DWELLING DISTRICT; BY PERMITTING A 1.695-ACRE TRACT OF LAND WHICH IS PRESENTLY ZONED FD, FUTURE DEVELOPMENT DISTRICT, TO BE USED AS A PD, PLANNED DISTRICT FOR A HOUSING DEVELOPMENT; SAID TRACTS BEING LOCATED IN SECTION 35, 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 MADE A PART HEREOF; SAID TRACTS ARE GENERALLY LOCATED ON THE NORTHEAST SIDE OF STATE HIGHWAY 158 AT THE WEST EXTENSION OF HOMESTEAD 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 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 1F-1, One-Family Dwelling District, and a PD, Planned District for a Housing Development, as set out hereinafter;

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

SECTION ONE. That Chapter 1, Title XI, of the City Code of Midland, Texas, and the official zoning map of the City of Midland, Texas, are hereby amended insofar as the

hereinafter described property is concerned, which is presently zoned FD, Future Development District, and it shall be used as a 1F-1, One-Family Dwelling District, subject to the special conditions and restrictions hereinafter set out, said property being described as follows:

A 10.215-acre tract of land out of Section 35, Block 40, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas, said tract being more specifically described by metes and bounds in Exhibit "A", which is attached hereto and incorporated herein.

SECTION TWO. That Chapter 1, Title XI, of the City Code of Midland, Texas, and the official zoning map of the City of Midland, Texas, are hereby amended insofar as the hereinafter described property is concerned, which is presently zoned FD, Future Development District, and it shall be used as 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 1.695-acre tract of land out of Section 35, Block 40, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas, said tract being more specifically described by metes and bounds in Exhibit "B", which is attached hereto and incorporated herein.

SECTION THREE. That said 1.695-acre tract shall be subject to the following special conditions and restrictions:

1. That the development of this tract shall be subject to the regulations of the 1F-1, One-Family Dwelling District, except as otherwise stated below.
2. That prior to the issuance of any Certificate of Occupancy for any land abutting State Highway 158, a solid six-foot tall wooden screening fence with brick pilasters spaced at regular intervals shall be constructed in a common area adjacent to State Highway 158.
3. That no building permits shall be issued for this property until it has been platted and said plat includes a common area adjacent to State Highway 158 to accommodate the screening fence described herein.
4. That the minimum front yard setback for the lots in this planned district shall be 15 feet.

SECTION FOUR. 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 FIVE. 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 SIX. 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 SEVEN. 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 EIGHT. The City Secretary is hereby authorized and directed to publish the descriptive caption of this ordinance in the manner and for the length of time prescribed by the law as an alternative method of publication.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the _____ day of _____, A.D., 2012; and passed to second reading on motion of Council member _____, seconded by Council member _____, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

The above and foregoing ordinance was read in full and finally adopted by the following vote upon motion of Council member _____, seconded by Council

member _____, on the _____ day of _____, A.D., 2012, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2012.

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

James R. Nichols, Assistant City Manager

APPROVED AS TO FORM:

Keith Stretcher, City Attorney



110 W. Louisiana Ave. Suite. 110
MIDLAND TEXAS 79701-3414
OFFICE (432) 687-0865 FAX (432) 687-0868
www.team-west.com

October 22, 2012

FIELD NOTES OF A 10.215 ACRE TRACT OF LAND OUT OF SECTION 35, BLOCK 40, T-1-S, T & P RR.
COMPANY SURVEY, MIDLAND COUNTY, TEXAS:

NOTE: The following bearings, distances, coordinates, and area's shown hereon are based upon the
Texas Plane Coordinate System, NAD 83, Texas Central Zone:

BEGINNING at (N:10,695,424.98, E:1,725,194.60) the South corner of the herein described tract a point
in the centerline of proposed Mosswood Drive and the Northwesterly line of Grassland Estates West,
Section 7;

THENCE N 59°04'48" W With the centerline of said Mosswood Drive a distance of 461.46 feet to a point
for the West line of the herein described tract a point in the City of Midland City Limits Line;

THENCE N 30°55'12" E with the City of Midland City Limits Line a distance of 964.77 feet to an angle
point for the North corner of the herein described tract;

THENCE S 58°56'44" E a distance of 461.46 feet to an angle point;

THENCE S 30°55'12" W a distance of 963.68 feet to the POINT OF BEGINNING.

Subject tract having an area of 10.215 acres.

GRASSLAND ESTATES WEST, SECTION 9

EXISTING CITY AREA 1F1



EXHIBIT B

CASE NO. 2-12-047 37.6



110 W. Louisiana Ave. Suite. 110
MIDLAND TEXAS 79701-3414
OFFICE (432) 687-0865 FAX (432) 687-0868
www.team-west.com

October 22, 2012

FIELD NOTES OF A 1.695 ACRE TRACT OF LAND OUT OF SECTION 35, BLOCK 40, T-1-S, T & P RR. COMPANY SURVEY, MIDLAND COUNTY, TEXAS:

NOTE: The following bearings, distances, coordinates, and area's shown hereon are based upon the Texas Plane Coordinate System, NAD 83, Texas Central Zone:

BEGINNING at (N:10,695,287.62, E:1,725,112.33) the South corner of the herein described tract a point in the Northeasterly right of way line of State Highway No. 158;

THENCE N 59°04'32" W with the Northerly right of way of State Highway No. 158 a distance of 461.46 feet to the West corner of the herein described tract a point in the City of Midland City Limits Line;

THENCE N 30°55'12" E with said City Limits Line a distance of 160.07 feet to a point in the centerline of proposed Mosswood Drive for the North corner of the herein described tract;

THENCE S 59°04'48" E with the centerline of said proposed Mosswood Drive a distance of 461.46 feet to a point in the Northwesterly line of said Grassland Estates West, Section 7;

THENCE S 30°55'12" W with the northwesterly line of said Grasslands Estates West, Section 7 a distance of 159.97 feet to the POINT OF BEGINNING.

Subject tract having an area of 1.695 acres.

GRASSLAND ESTATES WEST, SECTION 9

EXISTING CITY PDHD – 1F1



EXHIBIT C

CASE NO. 2-12-048

PLANNING AND ZONING COMMISSION

November 5, 2012

CASE: Z-12-048.

REQUEST: Hold a public hearing and consider a request for a zone change from FD, Future Development District to 1F-1, One-Family Development District and PD, Planned District for a Housing Development.

APPLICANT/OWNER: SBC Corporation.

REPRESENTATIVE: West Company of Midland.

LEGAL DESCRIPTION: An 11.91-acre tract out of Section 35, Block 40, T-1-S, T&P RR Company Survey, Midland County, Texas.

LOCATION: Northeast side of SH 158, at the west extension of Homestead Boulevard.

DETAILS OF REQUEST:

1. This property was annexed in 2006. Since no development plan was available at that time, it was zoned FD District. The owner now wishes to continue the expansion of the Grassland Estates West subdivision and develop residential lots. This requires approval of a zone change as well as a plat. The associated plat indicates a common area adjacent to SH 158 that will be developed with a screening fence identical to the one that already exists to the southwest

SURROUNDING ZONING AND LAND USE:

2. The land to the north and west is located outside the City limit, but a process to annex this land has begun. To the northeast is the Nueva Vista golf course. To the southeast is the latest phase of the Grassland Estates West neighborhood. The land to the south is outside the City limit and is vacant.

ANALYSIS:

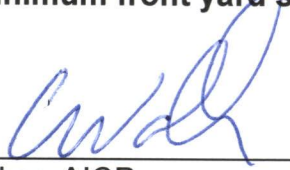
3. Two separate zoning districts are proposed. The 10.215-acre tract is proposed to be zoned 1F-1 District. This is the same zoning classification as the portion of Grassland Estates West that is located to the southeast. The smaller 1.695-acre portion is requested to be a Planned District for a Housing District, subject to 1F-

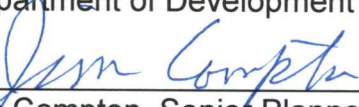
1 District regulations, except that the front yard setback is proposed to be reduced from 25 to 20 feet to match the existing development to the southeast. The purpose of the Planned District is to ensure the design of the screening fence planned along SH 158. This design is shown on Exhibit A, and is identical to the existing fence. The staff views this request as a logical extension of the Grassland Estates West subdivision that is already constructed, and we find this proposal to be reasonable.

STAFF RECOMMENDATION:

We recommend of approval of this request for a zone change from FD, Future Development District to 1F-1, One-Family Dwelling District for the land described on Exhibit B. We also recommend approval of a zone change from FD District to Planned District for a Housing Development on the land described on Exhibit C, subject to the following conditions:

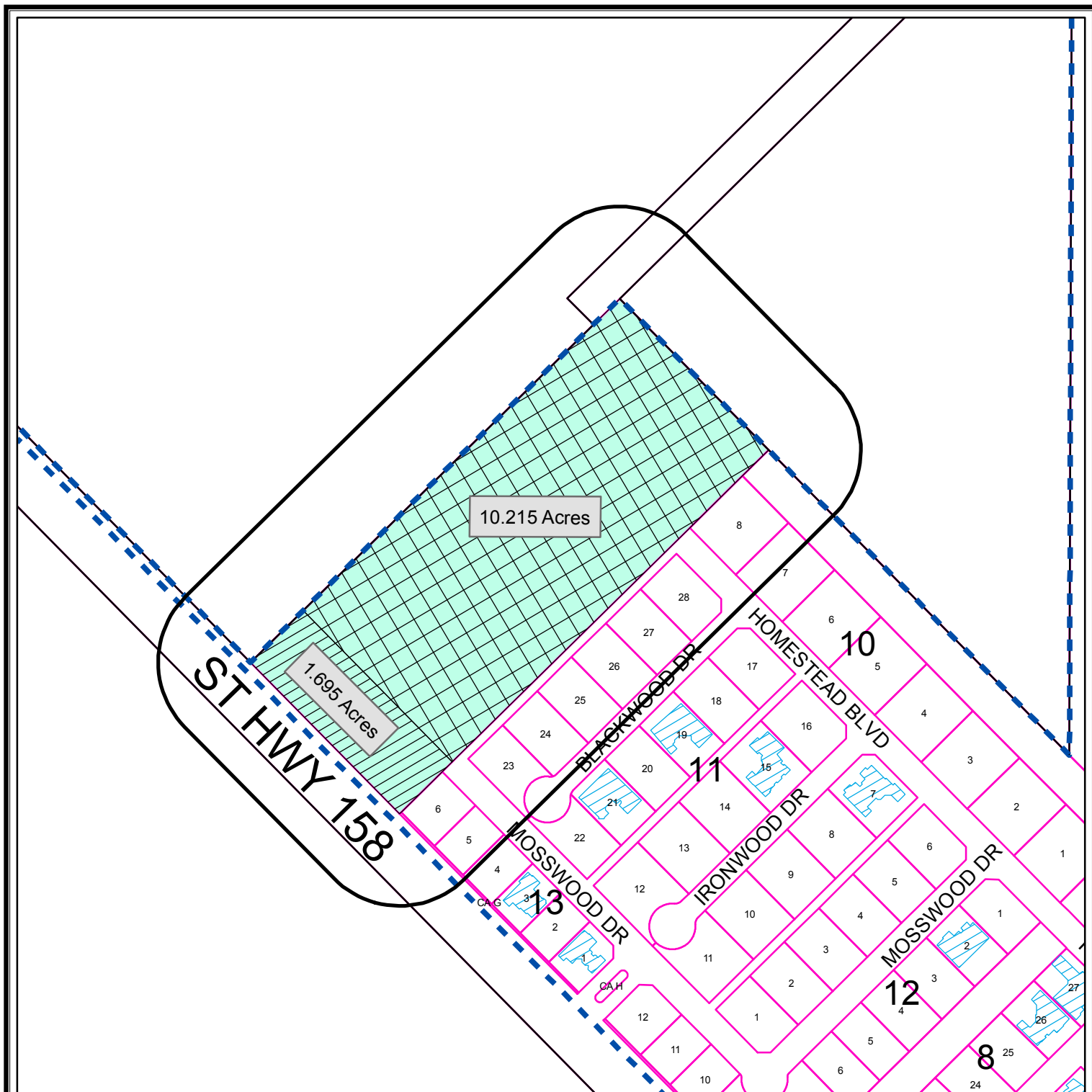
- A. That the use and development of this property shall be subject to the regulations of the 1F-1 District, except as otherwise stated below.
- B. That prior to the issuance of any Certificate of Occupancy for any lot adjacent to SH 158, a screening fence shall be constructed in a common area adjacent to SH 158. Said fence shall be a minimum of six feet in height, with brick pilasters spaced at regular intervals.
- C. Prior to the issuance of any building permits, this property shall be platted, and said plat shall include a common area adjacent to SH 158 that will contain the screening fence listed in Condition B above.
- D. The minimum front yard setback in this Planned District shall be 20 feet.


Cameron Walker, AICP
Planning Division Manager
Department of Development Services


Jim Compton, Senior Planner
Department of Development Services

Attachments:

Application
Maps



OWNER NOTIFICATION WITHIN CITY LIMITS ONLY

Z - 12 - 048

Scale: 1" = 300'

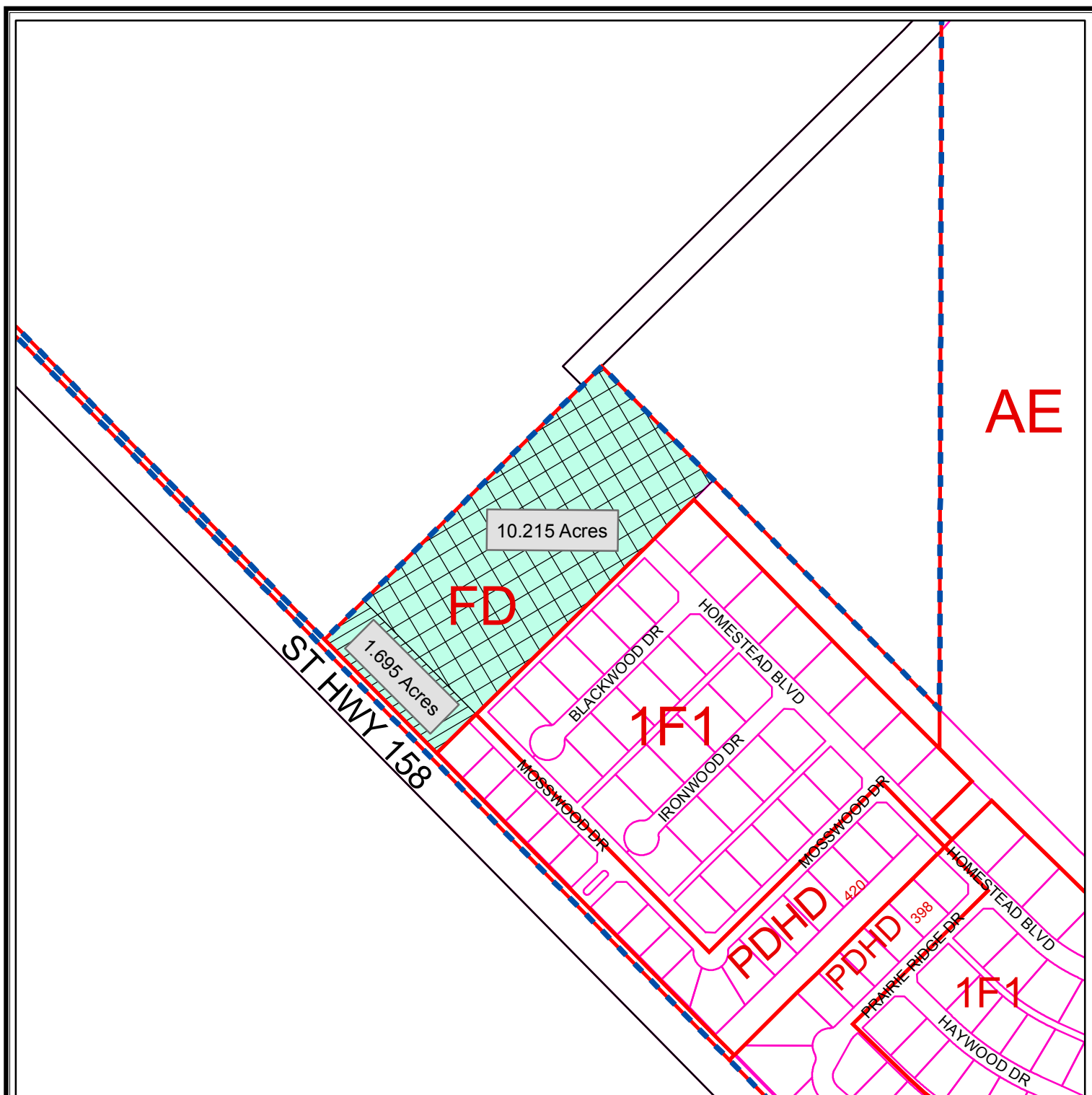
Consider a request for a zone change from FD, Future Development District to 1F-1, One Family Dwelling District on a 10.215-acre tract of land and to PD, Planned District for a Housing Development on a 1.695-acre tract of land all out of Section 35, Block 40, T-1-S, T & P RR Co. Survey, Midland County, Texas.

LEGEND

- CITY LIMITS
- 200 FT. LEGAL NOTICE LIMIT
- CITY PARCEL
- COUNTY PARCEL
- PRIVATE BLDGS
- ACCESSORY BLDGS



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ZONING MAP

Z - 12 - 048

Scale: 1" = 400'

Consider a request for a zone change from FD, Future Development District to 1F-1, One Family Dwelling District on a 10.215-acre tract of land and to PD, Planned District for a Housing Development on a 1.695-acre tract of land all out of Section 35, Block 40, T-1-S, T & P RR Co. Survey, Midland County, 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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City Council Agenda

Approved for Agenda:

JNichols

City Manager's Office

MEETING DATE: November 27, 2012

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, Planning Division Manager

SUBJECT: Hold a public hearing at approximately 10:30 a.m. regarding a proposed oil and gas permit to Bluestem Energy Holdings, LLC (Operator), *for a Permit to Drill an Oil & Gas Well within the City Limits*, (Evans E 1) located 2,073 feet from the north line and 1,009 feet from the west line located in Section 8, Block X, H. P. Hilliard Survey, City and County of Midland, Texas. (Generally located on the east side of the North Midland Drive, approximately 3/4 mile north of Mockingbird Lane.)

Purpose:

At approximately 10:30 a.m. hold a public hearing on a request from Bluestem Energy Holdings, LLC (Operator), *for a Permit to Drill an Oil & Gas Well within the City Limits*, (Evans E 1) located 2,073 feet from the north line and 1,009 feet from the west line located in Section 8, Block X, H. P. Hilliard Survey, City and County of Midland, Texas. This is an opportunity for the Council to receive public comment. Council may consider this permit following a 30-day public comment period and at a regularly scheduled meeting.

Recommended City Council Action

Approve Deny X Direction/Informational

Fiscal Impact:

There is no cost to the City to process this application.

Discussion:

The Oil and Gas Advisory Committee has reviewed this well site in detail and recommends the application except for a minor correction to a detail concerning the height of a proposed fence (typo – “feet” was expressed as “inches”) and clean copies of the hazardous materials management plan. The Oil and Gas Advisory Committee is recommending no two-year variance for the landscaping/irrigation requirement due to proximity of well.

Attachments: Application; Location map; Exhibit - Drill site map, Exhibit – Flow Line Location.

0-12-021



APPLICATION FOR OIL AND GAS PERMIT

(Pursuant to Midland City Ordinance No. 8769)

I. General Information		
Date 09/17/2012	Operator Name (must match W-1) Bluestem Energy Holdings, LLC	Operator Address 400 W. Illinois Ave, Ste. 900 Midland, Texas 79701
Representative Name Jim Mason	Representative Address (within Midland City Limits) 400 W. Illinois Ave, Ste. 900 Midland, Texas 79701	Rep. Tele. (432) 770-8322 Rep. Fax (817) 872-9888
Fee: \$4,000.00 Rec'd Yes ___ No ___	NOTE: All attachments need to bound and put in a binder before submitting.	Pages 1-4
Permit Compliance Contact (Choose 1): Option A: Jim Mason, No. 1 (432) 770-8322, No. 2 (432) 685-0134 24/7 Answering Services - No. 1 (Tele.): _____ No. 2 (Tele.): _____ Option B: Jim Mason, No. 1 (432) 770-8322, No. 2 (432) 685-0134 Company Compliance Representative (Name, Address, Local Telephone) (ATTACH STATEMENT AS EXHIBIT A): Emergency Contact Representative (Name, Address, 24-Hour Tele. No.): Same as above Other Permitted Wells in City (ATTACH EXHIBIT B [see § J(26)]):		
II. Mineral Ownership		
Name(s) and Address(es) of Mineral Estate Lessors (under applicable lease):		
1. Evans Resources, LP, P.O. Box 7962, Midland, TX 79708		
2. Joy D. Anguish Trust and David D. Anguish Trust, P.O. Box 2749, Longview, TX 75606		
3. Anguish Partnership, P.O. Box 63, Midland, TX 79702		
ATTACHED AS EXHIBIT C is (a Title Opinion by <u>Robert Rendall</u> , a licensed Texas Attorney/Title Commitment by Abstract Company/a Take-off from _____, a Certified Petroleum Landman/an opinion letter from _____, a licensed Texas Attorney) indicating that [Operator] has a legal right to develop the mineral estate that is the subject of this Application. [See § J(5)].		
III. Surface Ownership & Use		
General Description of Current Surface Use (within 860 feet of proposed surface location): Farming		
ATTACHED AS EXHIBIT D is (a Title Opinion by <u>Robert Rendall</u> , a licensed Texas Attorney/a Take-off from _____, a Certified Petroleum Landman/Current Tax Roll from Midland Central Appraisal District), which lists the name(s) and address(es) of all surface owners within 860 feet of the surface well location. [See § J(7)].		



ATTACHED AS EXHIBIT E is a (map/p lat/satellite/aerial photo) depicting all Residences, commercial structures, public buildings, all publicly dedicated Streets and alleys, Rights of Way, and permanent accessory structures surrounding the proposed Drill Site. The (map/p lat/satellite/aerial photo) includes two circles, as required by the Ordinance—one depicting a 500 foot radius and one depicting an 860 foot radius from the proposed well's surface location. [See § J(10)].

ATTACHED AS EXHIBIT F is a copy of the notification letter(s) sent to 100 percent of the surface owners, Certified Mail, Return Receipt Requested. [See § J(36)].

IV. Well & Operations Information

Proposed Well Name: Evans E 1

Proposed Hole Size, Casing Program and Cementing Program (attach Exhibit as Necessary)[See § J(11) and § L(4)]:

See attached Exhibit V

Legal Description of Proposed Well Site:

2073' FNL and 1009' FWL, Sec. 8, Blk. X, Hilliard Survey

ATTACHED AS EXHIBIT G is the Location Site Plan [See § J(9)].

ATTACHED AS EXHIBIT H is the Map with the proposed transportation route(s) and road(s) for equipment, chemicals, or refuse products used or produced in the proposed oil and gas operations. [See § J(12)].

ATTACHED AS EXHIBIT I is a copy of the approved Texas Railroad Commission permit to drill (Form W-1), together with all attachments (also file copy of W-1 with City Secretary before commencement of drilling operations). [See § J(16) and (20)].

ATTACHED AS EXHIBIT J is a copy of the required TCEQ report as to depth of usable quality ground water. [See § J(17)].

ATTACHED AS EXHIBIT K (if applicable) is the list of alternative locations developed in consultation with the Oil & Gas Advisory Committee. [See § J(27)].

ATTACHED AS EXHIBIT L is the Fencing and Irrigation Plan. [See § J(30)].

ATTACHED AS EXHIBIT M is the Road Repair Agreement and Letter of Credit/Certificate of Deposit/Surety Bond in the amount of at least \$25,000. Option (if applicable): Applicant would further state that no City-owned streets or alleys will be used by the Operator in connection with its oil and gas operations and as a result, requests a waiver from the Council of this requirement. Option B (if applicable): Because Applicant has three Road Repair Agreements in effect that have been approved by the Council, Applicant requests that the Council consolidate all agreements into one and is filing the necessary \$75,000 letter of credit/certificate of deposit/surety bond in conjunction with this request. [See § J(31)].

ATTACHED AS EXHIBIT N is the Concept Plan depicting the proposed Operations Site (which includes tanks, roads, power lines, and pipeline routes). [See § J(32)].

Description of Public Utilities required during (1) drilling and (2) operations:

(1) **Drilling:** None

(2) **Operations:** Oncor is the electricity transmission provider. The actual electricity provider will be a function of the best available rates and reliability of the provider.

Description of water source to be used during Drilling:

Evans water wells located in N/2 of Sec. 8, Blk. X, Hilliard Survey

Description of all electric lines to production facilities (reference exhibits as necessary) [See § L(10)]:

All electric lines will be overhead for the immediate future. Ultimately, electrical lines will be buried in the proposed corridors as shown on Exhibit N, in accordance with the Surface Agreement dated November 3, 2010 between Operator and the Surface Owner.

Plan detailing construction, location, and closure of pits used for Drilling and Completion operations (attach exhibit if necessary) [See § J(35)]:

See Exhibit O

V. Additional Required Exhibits

ATTACHED AS EXHIBIT P is the *Letter of Credit/Certificate of Deposit* in accordance with Subsection (K)(2). [See § J(18)].

ATTACHED AS EXHIBIT Q are Tax certificates from Midland Central Appraisal District to be submitted indicating that all taxes on personal and real property, including minerals, owned by Applicant are current. [See § J(29)].

ATTACHED AS EXHIBIT R is the required Insurance Certificate. [See § J(19) and § K(3)].

ATTACHED AS EXHIBIT S (if applicable) is the Drainage Plan approved by the City Engineer relating to Applicant's proposed operations. [See § J(21)].

ATTACHED AS EXHIBIT T is Applicant's Emergency Action Response Plan. [See § J(22)].

ATTACHED AS EXHIBIT U is Applicant's Hazardous Materials Management Plan, a copy of which has been submitted and is on file with the Midland Fire Department. [See § J(23)].

Bluestem Energy Holdings, LLC

[NAME OF COMPANY]

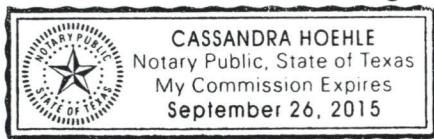
By Jim Mason

Its District Production Manager

State of Texas

County of Midland

Jim Mason, personally appeared before me, and being first duly sworn declared he/she signed the application in the capacity designated, if any, and further states that he/she has read the above application and attached exhibits and the statements therein are true and correct to the best of their knowledge.



Cassandra Hoehle
Notary Public, State of Texas

[SEAL]

RECEIVED

NOV 14 2012

CITY OF MIDLAND
PLANNING DIVISION OFFICE

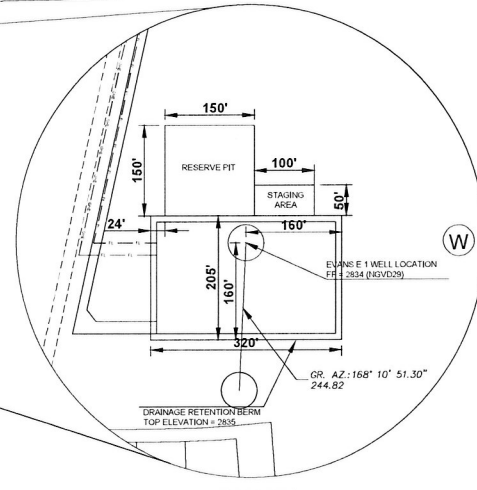
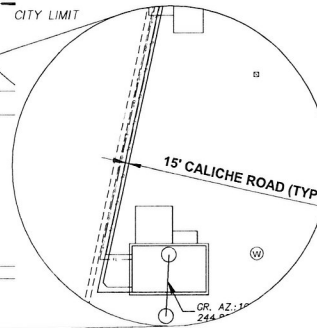
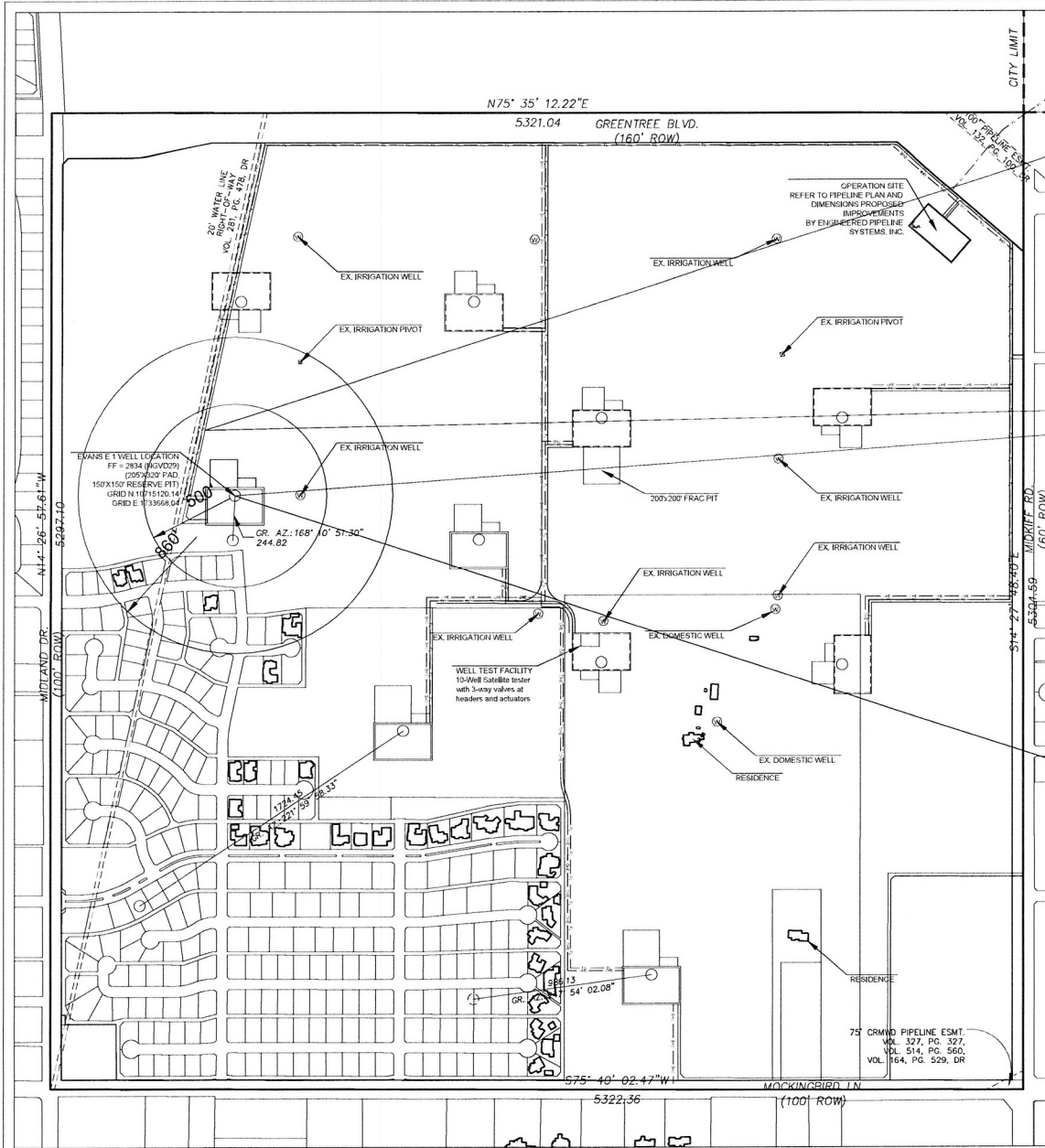
SCALE: 1" = 600'

SITE PLAN

PROJECT: 727470JD
JOB NO: 72,747-F

BLUESTEM ENERGY HOLDINGS, LLC
WELL NO. EVANS E 1
EVANS LEASE SHL
2073 FEET FROM THE NORTH AND
1009 FEET FROM THE WEST LINE
SECTION 8, ABSTRACT 17, BLOCK X,
H.P. HILLIARD SURVEY, MIDLAND
COUNTY, TEXAS

NEWTON ENGINEERING, P.C.
F-13856
4008 N. Midland Rd.
Midland, Texas 79705
(432) 770-0489



NOTE:
COURSES, DISTANCES AND COORDINATES SHOWN HEREON ARE LAMBERT GRID AND CONFORM TO THE "TEXAS COORDINATE SYSTEM", TEXAS CENTRAL ZONE, NORTH AMERICAN DATUM OF 1983. ALL DISTANCES AND COORDINATES ARE SHOWN IN GRID FEET.

THE UNDERSIGNED DOES HEREBY CERTIFY THAT THIS LOCATION WAS THIS DAY MADE ON THE GROUND BY ME OR UNDER MY SUPERVISION AND THAT THIS PLAT IS A CORRECT REPRESENTATION THEREOF.

DATED THIS 3rd DAY OF OCTOBER, 2012

Charles P. Rutherford
Charles P. Rutherford, R.P.L.S. No. 1977



DRILL SITE MAP

0-12-021

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NOV 14 2012

CITY OF MIDLAND
PLANNING DIVISION OFFICE

SCALE: 1" = 600'

SITE PLAN

JOB NO: 11-ME0007

BLUESTEM ENERGY HOLDINGS, LLC

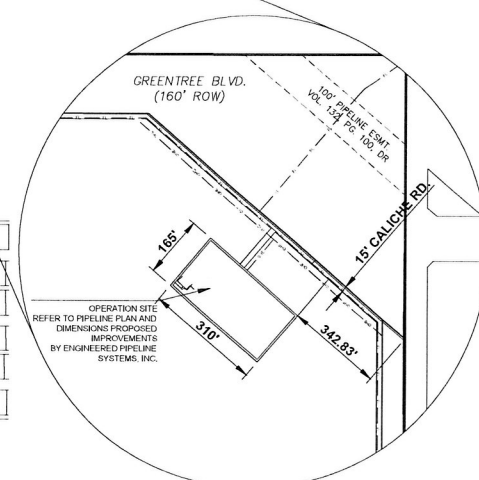
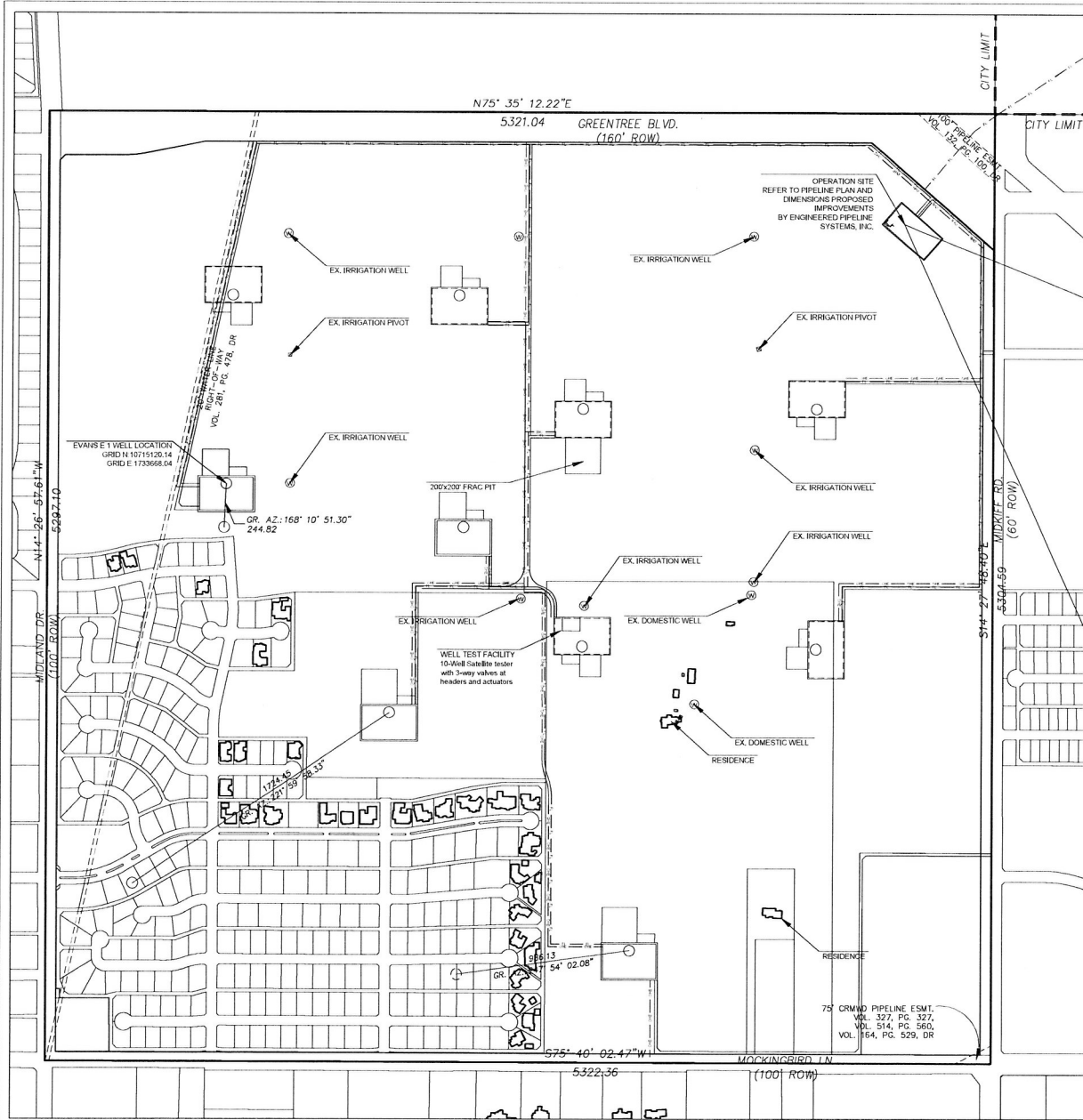
OPERATION SITE

EVANS LEASE
SECTION 8, ABSTRACT 17, BLOCK X, H.P.
HILLIARD SURVEY, MIDLAND COUNTY, TEXAS

NEWTON ENGINEERING, PC

F-13835

4008 N. Midland Rd.
Midland, TX 79705
(432) 776-0469



NOTE:
COURSES, DISTANCES AND COORDINATES SHOWN HEREON ARE LAMBERT GRID AND CONFORM TO THE "TEXAS COORDINATE SYSTEM", TEXAS NORTH CENTRAL ZONE, NORTH AMERICAN DATUM OF 1983. ALL DISTANCES AND COORDINATES ARE SHOWN IN GRID FEET.

THE UNDERSIGNED DOES HEREBY CERTIFY THAT THIS LOCATION WAS THIS DAY MADE ON THE GROUND BY ME OR UNDER MY SUPERVISION AND THAT THIS PLAT IS A CORRECT REPRESENTATION THEREOF.

DATED THIS 3RD DAY OF OCTOBER, 2012

Charles P. Rutherford
Charles P. Rutherford, R.P.L.S. No. 1977



FLOW LINE LOCATION

0-12-021



City Council Agenda

Approved for Agenda:

JNichols

City Manager's Office

MEETING DATE: November 27, 2012

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, Planning Division Manager

SUBJECT: Hold a public hearing at approximately 10:33 a.m. regarding a proposed oil and gas permit to Callon Petroleum Operating Company (Operator), *for a Permit to Drill an Oil & Gas Well within the City Limits*, (Pecan Acres 23 #11) located 947 feet from the west line and 660 feet from the south line located in Section 23, Block 40, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas. (Generally located on the north side of Briarwood Avenue, approximately one half mile west of Golden Gate Drive.)

Purpose:

At approximately 10:33 a.m. hold a public hearing on a request from Callon Petroleum Operating Company (Operator), to Drill an Oil and Gas Well within the City Limits (Pecan Acres 23 #11) located 947 feet from the west line and 660 feet from the south line located in Section 23, Block 40, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas. This is an opportunity for the Council to receive public comment. Council may consider this permit following a 30-day public comment period and at a regularly scheduled meeting.

Recommended City Council Action

Approve Deny X Direction/Informational

Fiscal Impact:

There is no cost to the City to process this application.

Discussion:

The Oil and Gas Advisory Committee has reviewed this application in detail and recommends it without the operator's request for a variance from the landscaping requirement, due to the proposed well location. In addition, the Committee requested the wording "tank battery" to be replaced with "well site" on Exhibit L; this has been addressed.

Attachments: Application; Location map; Exhibit - Drill site map, Exhibit – Flow Line Location.

RECEIVED

OCT 8 2012

CITY OF MIDLAND
PLANNING DIVISION OFFICE

APPLICATION FOR OIL AND GAS PERMIT

(Pursuant to Midland City Ordinance No. 8769)

I. General Information

Date 10/08/2012	Operator Name (must match W-1) Callon Petroleum Operating Company	Operator Address P.O. Box 1287 Natchez, MS 39121
Representative Name Jimmy Baggett	Representative Address (within Midland City Limits) 4305 N. Garfield, Suite 235 Midland, TX 79705	Rep. Tele. (432) 686-1828
Fee: \$4,000.00 Rec'd Yes ___ No ___		Rep. Fax (432) 686-2764

Permit Compliance Contact (Choose 1):

Option A:

24/7 Answering Services - No. 1 (tele)

No. 2 (Tele.):

Option B: **Jimmy Baggett 4305 N. Garfield, Suite 235 Midland, TX 79705**

Company Compliance Representative (Name, Address, Local Telephone) (ATTACH STATEMENT AS EXHIBIT A):

Emergency Contact Representative (Name, Address, 24-Hour Tele. No.):

Vince Borrello (432) 553-9522**4305 N. Garfield, Suite 235 Midland, TX 79705**Other Permitted Wells in City (ATTACH EXHIBIT B [see § J(26)]). **Two: Annie #3,8; Pecan Acres 23A #1, 2, 3; Pecan Acres 23 #3,6**

II. Mineral Ownership

Name(s) and Address(es) of Mineral Estate Lessors (under applicable lease): **See Attached List**

1.

2.

3.

ATTACHED AS EXHIBIT C is (a Title Opinion by **Mike Canon**, a licensed Texas Attorney/Title Commitment by Abstract

Company/a Take-off from _____, a Certified Petroleum Landman/an opinion letter from

_____, a licensed Texas Attorney) indicating that |Operator| has a legal right to develop the mineral estate that is the subject of

this Application. [See § J(5)]. **Attached**

III. Surface Ownership & Use

General Description of Current Surface Use (within 860 feet of proposed surface location):

Agricultural pasture with some development

ATTACHED AS EXHIBIT D is (a Title Opinion by _____, A licensed Texas Attorney/a Take-off from

_____, a Certified Petroleum Landman/ **Current Tax Roll from Midland Central Appraisal District**), which liststhe name(s) and address(es) of all surface owners within 860 feet of the surface well location. [See § J(7)]. **Attached**ATTACHED AS EXHIBIT E is a (map/p lat/satellite/aerial photo) depicting all Residences, commercial structures, public buildings, all publicly dedicated Streets and alleys, Rights of Way, and permanent accessory structures surrounding the proposed Drill Site. The (map/p lat/satellite/aerial photo) includes two circles, as required by the Ordinance - one depicting a 500 foot radius and one depicting an 860 foot radius from the proposed well's surface location. [See § J(10)]. **Attached**ATTACHED AS EXHIBIT F is a copy of the notification letter(s) sent to 100 percent of the surface owners, Certified Mail, Return Receipt Requested. [See § J(36)]. **Attached**

IV. Well & Operations Information

Proposed Well Name: **Pecan Acres 23 #11**

Proposed Hole Size, Casing Program and Cementing Program (attach Exhibit as Necessary) [See § J(11) and § L(4)]:

Attached

Legal Description of Proposed Well Site: **947' FWL, 660' FSL of Section 23, Block 40, T1S, T&P RR Co. Survey, Midland County, Texas (Abstract 252)**

ATTACHED AS EXHIBIT G is the Location Site Plan [See § J(9)]. **Attached**

ATTACHED AS EXHIBIT H is the Map with the proposed transportation route(s) and road(s) for equipment, chemicals, or refuse products used or produced in the proposed oil and gas operations. [See § J(12)]. **Attached**

ATTACHED AS EXHIBIT I is a copy of the approved Texas Railroad Commission permit to drill (Form W-1), together with all attachments (also file copy of W-1 with City Secretary before commencement of drilling operations). [See § J(16) and (20)]. **Attached**

ATTACHED AS EXHIBIT J is a copy of the required TCEQ report as to depth of usable quality ground water. [See § J(1) **Attached**

ATTACHED AS EXHIBIT K (if applicable) is the list of alternative locations developed in consultation with the Oil & Gas Advisory Committee. [See § J(27)]. **Attached**

ATTACHED AS EXHIBIT L is the Fencing and Irrigation Plan. [See § J(30)]. **Attached variance request**

ATTACHED AS EXHIBIT M is the Road Repair Agreement and Letter of Credit/Certificate of Deposit/Surety Bond in the amount of at least \$25,000. Option (if applicable): Applicant would further state that no City-owned streets or alleys will be used by the Operator in connection with its oil and gas operations and as a result, requests a waiver from the Council of this requirement. Option B (if applicable): Beause Applicant has three Road Repair Agreements in effect that have been approved by the Council, Applicant requests that the Council consolidate all agreements into one and is filing the necessary \$75,000 letter of credit/certificate of deposit/surety bond in conjunciton with this request. [See § J(31)]. **Attached**

ATTACHED AS EXHIBIT N is the Concept Plan depicting the proposed Operations Site (which includes tanks, roads, power lines, and pipeline routes). [See § J(32)]. **Attached**

Description of Public Utilities required during (1) drilling and (2) operations:

(1) Drilling: **No public utilities will be needed during drilling operations.**

(2) Operations: **See Exhibit N and N-3**

Deescription of water source to be used during Drilling: **Water will be pulled from water wells existing on adjacent property and hauled if necessary.**

Description of all electric lines to production facilities (reference exhibits as necessary) [See § L(10)]: **See Exhibits G & N attached.**

Plan detailing construction, location, and closure of pits used for Drilling and Completion operations (attach exhibit if necessary) [See § J(35)]: **See Exhibit O - Pits will be deep buried in accordance with City of Midland requirements.**

V. Additional Required Exhibits

ATTACHED AS EXHIBIT P is the Letter of Credit/Certificate of Deposit in accordance with Subsection (K)(2). [See § J(18)]. **Attached**

ATTACHED AS EXHIBIT Q are Tax certificates from Midland Central Appraisal District to be submitted indicating that all taxes on personal and real property, including minerals, owned by Applicant are current. [See § J(29)]. **Attached**

ATTACHED AS EXHIBIT R is the required Insurance Certificate. [See § J(19) and § K(3)]. **Attached**

ATTACHED AS EXHIBIT S (if applicable) is the Drainage Plan approved by the City Engineer relating to Applicant's proposed operations. [See § J(21)]. **Attached**

ATTACHED AS EXHIBIT T is Applicant's Emergency Action Response Plan. [See § J(22)]. **See Exhibit T and Attachment T-1**

ATTACHED AS EXHIBIT U is Applicant's Hazardous Materials Management Plan, a copy of which has been submitted and is on file with the Midland Fire Department. [See § J(23)]. **Attached**

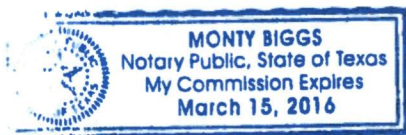
Callon Petroleum Operating Company

By: 
Jimmy Baggett
Operations Manager

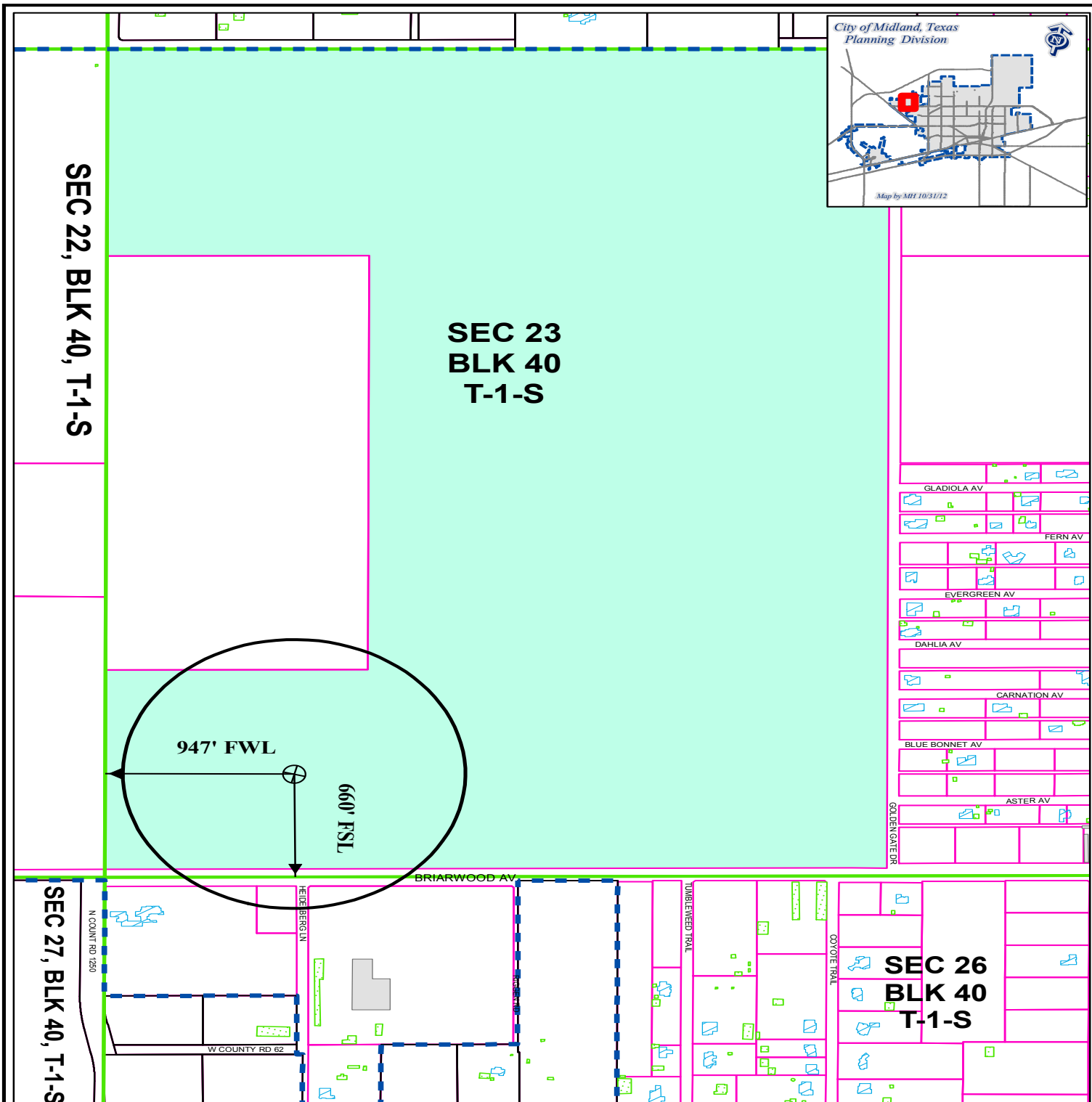
STATE OF TEXAS

COUNTY OF MIDLAND

This instrument was acknowledged before me on the 8th day of October, 2012 by Jimmy Baggett, Operations Manager of Callon Petroleum Operating Company, who personally appeared before me, and states that he has read the above application and attached exhibits and the statements therein are true and correct to the best of his knowledge.




Notary Public – State of Texas



LOCATION AND ZONING MAP

O - 12 - 023

Scale: 1" = 700'

Consider a request for a Permit to drill an Oil and Gas Well within the City Limits located 947' FWL and 660' FSL, Section 23, Block 40, T-1-S, T & P RR Co. Survey, Midland County, Texas.

Pecan Acres 23 #11

© THE CITY OF MIDLAND 2012. THE CITY OF MIDLAND SHALL NOT BE RESPONSIBLE FOR ANY DECISIONS BASED UPON THE USE OF THIS DATA. WHILE THIS DATA IS MADE AVAILABLE TO THE PUBLIC, IT WAS CREATED FOR INTERNAL USE BY THE CITY OF MIDLAND WHICH MAKES NO CLAIM AS TO ITS ACCURACY OR COMPLETENESS. THIS DATA IS NOT PRESENTED TO BE USED AS A PRIMARY TOOL IN PERMITTING, CITING, OR OTHER DECISIONS BASED SOLELY ON THE INFORMATION CONTAINED HEREIN.

LEGEND

	CITY PARCELS		PUBLIC BLDGS		CITY LIMITS
	COUNTY PARCELS		PRIVATE BLDGS		860 FT. BUFFER
	ZONING		ACCESSORY BLDGS		SURVEY SEC.

ZONING DISTRICTS:

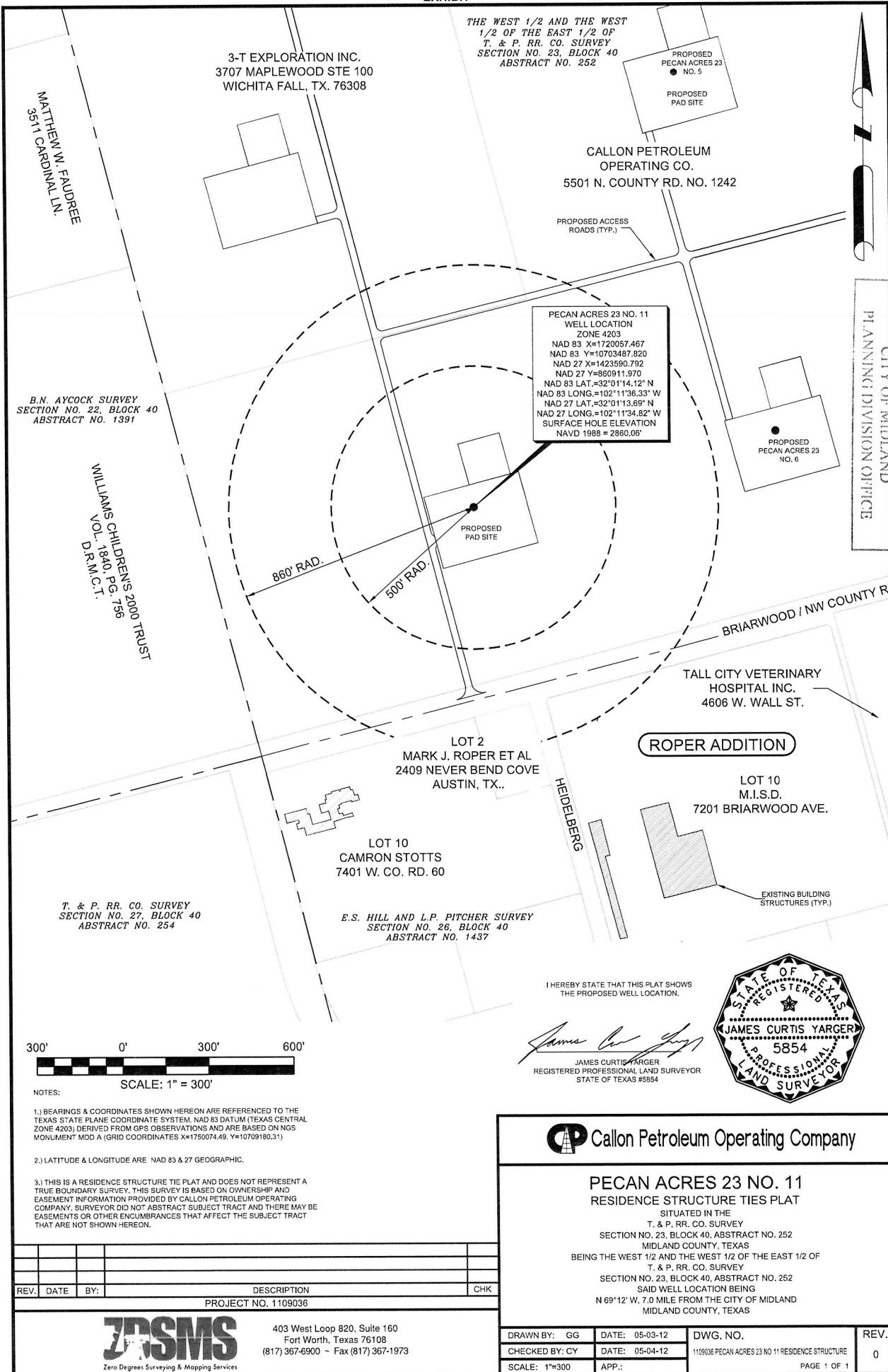
FD
PD
AE
1F1, 1F2, 1F3
MH
TH
2F
MF1, MF2

FUTURE DEVELOPMENT
PLANNED DISTRICT
AGRICULTURE ESTATE
ONE-FAMILY DWELLING
MOBILE HOME DWELLING
TOWNHOUSE DWELLING
TWO-FAMILY DWELLING
MULTIPLE FAMILY DWELLING

BP
P
01, 02
NS
LR1, LR2, LR3
C1, C2, C3
IP, JP1, IP2, IP3
LI
HI

BUSINESS PARK
PARKING
OFFICE
NEIGHBORHOOD SERVICE
LOCAL RETAIL
COMMERCIAL
INDUSTRIAL PARK
LIGHT INDUSTRY
HEAVY INDUSTRY

EXHIBIT



CITY OF MIDLAND
PLANNING DIVISION OFFICE

NOV 14 2012

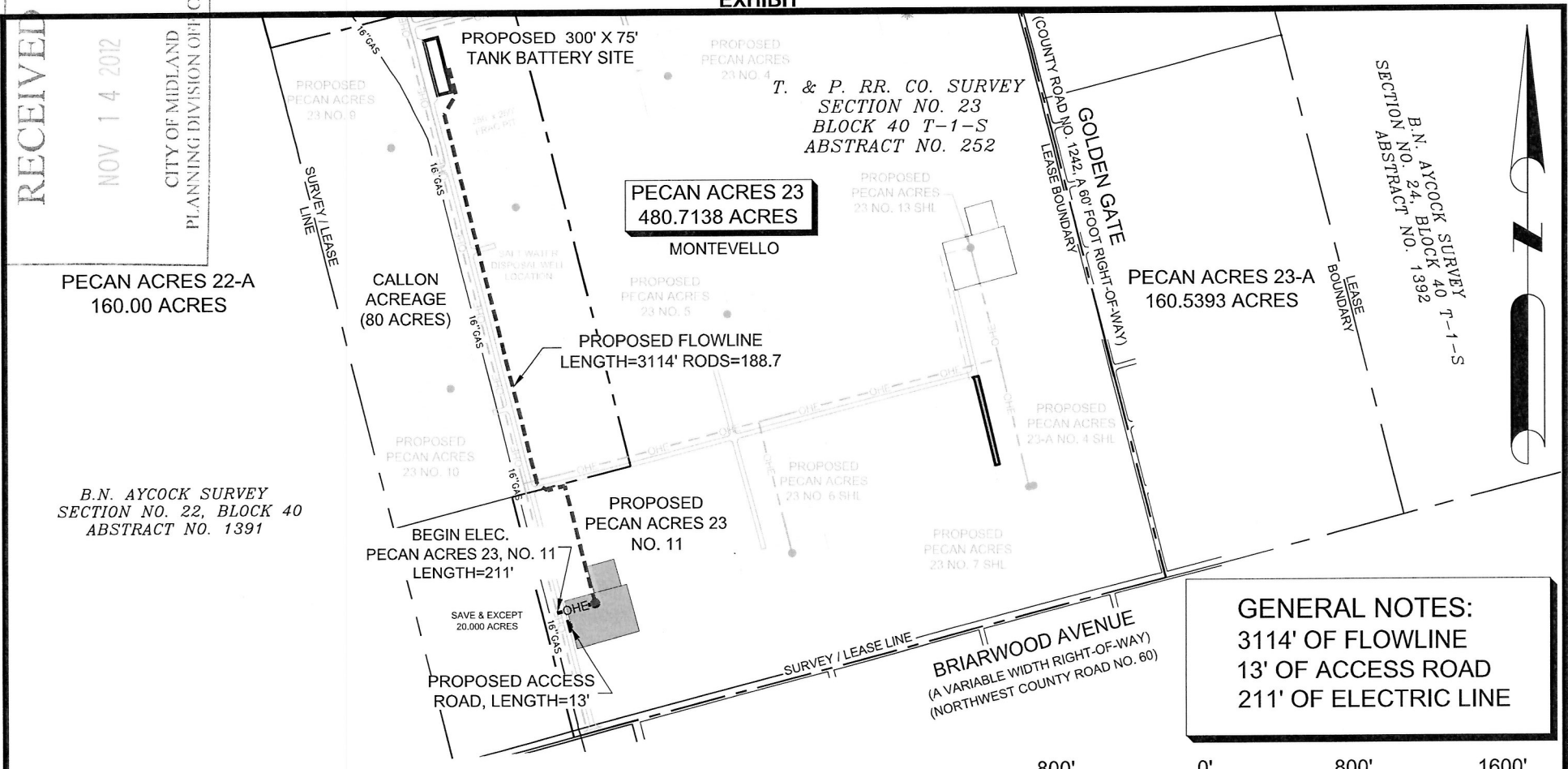
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RECEIVED

NOV 14 2012

CITY OF MIDLAND
PLANNING DIVISION OFFICE

EXHIBIT



PECAN ACRES 22-A
160.00 ACRES

B.N. AYCOCK SURVEY
SECTION NO. 22, BLOCK 40
ABSTRACT NO. 1391

CALLON
ACREAGE
(80 ACRES)

BEGIN ELEC.
PECAN ACRES 23, NO. 11
LENGTH=211'

SAVE & EXCEPT
20.00 ACRES

PROPOSED ACCESS
ROAD, LENGTH=13'

PECAN ACRES 23
480.7138 ACRES

MONTEVELLO

PROPOSED FLOWLINE
LENGTH=3114' RODS=188.7

PROPOSED
PECAN ACRES 23
NO. 11

PECAN ACRES 23-A
160.5393 ACRES

GENERAL NOTES:
3114' OF FLOWLINE
13' OF ACCESS ROAD
211' OF ELECTRIC LINE

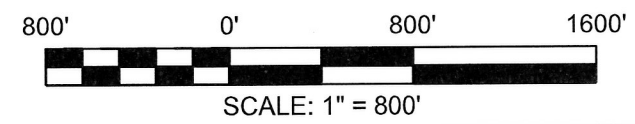
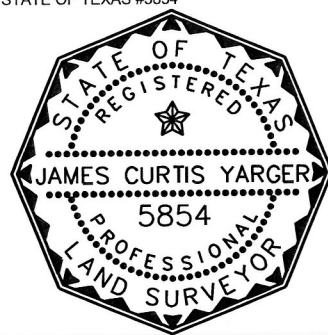
LEGEND

- OHE— = PROPOSED ADDITIONAL OVERHEAD ELECTRIC LINES
- = PROPOSED FLOWLINES
- ===== = PROPOSED ADDITIONAL ACCESS ROADS
- = PROPOSED WELL LOCATION

I HEREBY STATE THAT THIS PLAT SHOWS
THE PROPOSED LOCATIONS AS SHOWN.

James Curtis Yarger

JAMES CURTIS YARGER
REGISTERED PROFESSIONAL LAND SURVEYOR
STATE OF TEXAS #5854



SCALE: 1" = 800'

Callon Petroleum Operating Company

FOR PERMITTING PURPOSES ONLY

EXHIBIT SHOWING
PROPOSED
PECAN ACRES 23 NO. 11
PROPOSED FLOWLINE, ACCESS ROAD AND ELECTRIC LINE
LOCATIONS
CITY OF MIDLAND, MIDLAND COUNTY, TEXAS

DRAWN BY: GG	DATE: 05-03-12	DWG. NO.	REV.
CHECKED BY: CY	DATE: 05-04-12	1109036 PECAN ACRES 23 NO 11 EXHIBIT	0
SCALE: 1"=800'	APP.:	PAGE 1 OF 1	

REV.	DATE	BY:	DESCRIPTION	CHK
PROJECT NO. 1109036				

ZASMS
Zero Degrees Surveying & Mapping Services

403 West Loop 820, Suite 160
Fort Worth, Texas 76108
(817) 367-6900 ~ Fax (817) 367-1973

39.7



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: November 27, 2012

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, Planning Division Manager

SUBJECT: Hold a public hearing at approximately 10:36 a.m. and consider an ordinance on a request by Cliff Chalmers to vacate a portion of public right-of-way.

Purpose:

Consider an ordinance to vacate a portion of surplus public right-of-way.

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

There is no cost to the City to process this application.

Discussion:

Mr. Chalmers owns Lots 1 and 2, Block 18, 349 Ranch Estates, Section 3. These two lots are adjacent to SH 349, south of Arapahoe Road. Generally, SH 349 is 120 feet wide in this area. However, there is an extra 45-foot strip of right-of-way between his property and the State's right-of-way that was paved decades ago. Mr. Chalmers is requesting that the City vacate this strip. We confirmed with the Texas Department of Transportation that it does not own this extra right-of-way. Further, the City has no use for it. None of the franchised utilities have indicted a need to use this right-of-way. A similar request to vacate a 45-foot strip north of Arapahoe was approved by the City Council in 2007. The Midland Central Appraisal District has determined the value of this land to be \$9,675. We recommend that approval be conditioned upon receipt of this amount from the applicant.

Attachments:

Maps

Letter from MCAD

Proposed Ordinance

ORDINANCE NO.

AN ORDINANCE VACATING AND ABANDONING A 45-FOOT BY 215-FOOT PORTION OF RIGHT-OF-WAY LOCATED ADJACENT TO LOTS 1 AND 2, BLOCK 18, 349 RANCH ESTATES ADDITION, SECTION 3, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTHEAST CORNER OF STATE HIGHWAY 349 AND ARAPAHOE ROAD); ADOPTING THE APPRAISAL BY THE CITY MANAGER OF \$9,675.00; AND ORDERING RECORDATION BY THE CITY SECRETARY

WHEREAS, it has been determined by the Midland City Council that a 45-foot by 215-foot portion of right-of-way adjacent to Lots 1 and 2, Block 18, 349 Ranch Estates Addition, Section 3, 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 \$9,675.00, as shown in Exhibit "B" attached hereto and incorporated herein by reference; and

WHEREAS, the Council finds it to be in the public interest to abandon and vacate the right-of-way described herein;

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

SECTION ONE. That the 45-foot by 215-foot portion of right-of-way adjacent to Lots 1 and 2, Block 18, 349 Ranch Estates Addition, Section 3, 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.

The City is hereby abandoning the public interest in said property but it is expressly provided, however, that this ordinance in no way affects the property interest(s) of any other abutting property owner(s), including but not limited to the Texas Department of Transportation, which may have an interest in said property.

SECTION TWO. That this Ordinance shall not be effective until the City of Midland has received from the property owner(s) the sum of \$9,675.00.

SECTION THREE. That upon the City's receipt of the sum set forth in Section Two hereof, the City Secretary is hereby authorized and directed to file a certified copy of this Ordinance with the County Clerk of Midland County, Texas, for purposes of recording in the Official Records of Midland County, Texas.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the _____ day of _____, A.D., 2012; and passed to second reading on motion of Council member _____, seconded by Council member _____, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

The above and foregoing ordinance was read in full and finally adopted by the following vote upon motion of Council member _____, seconded by Council member _____, on the _____ day of _____, A.D., 2012, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2012.

W. Wesley Perry, Mayor

ATTEST:

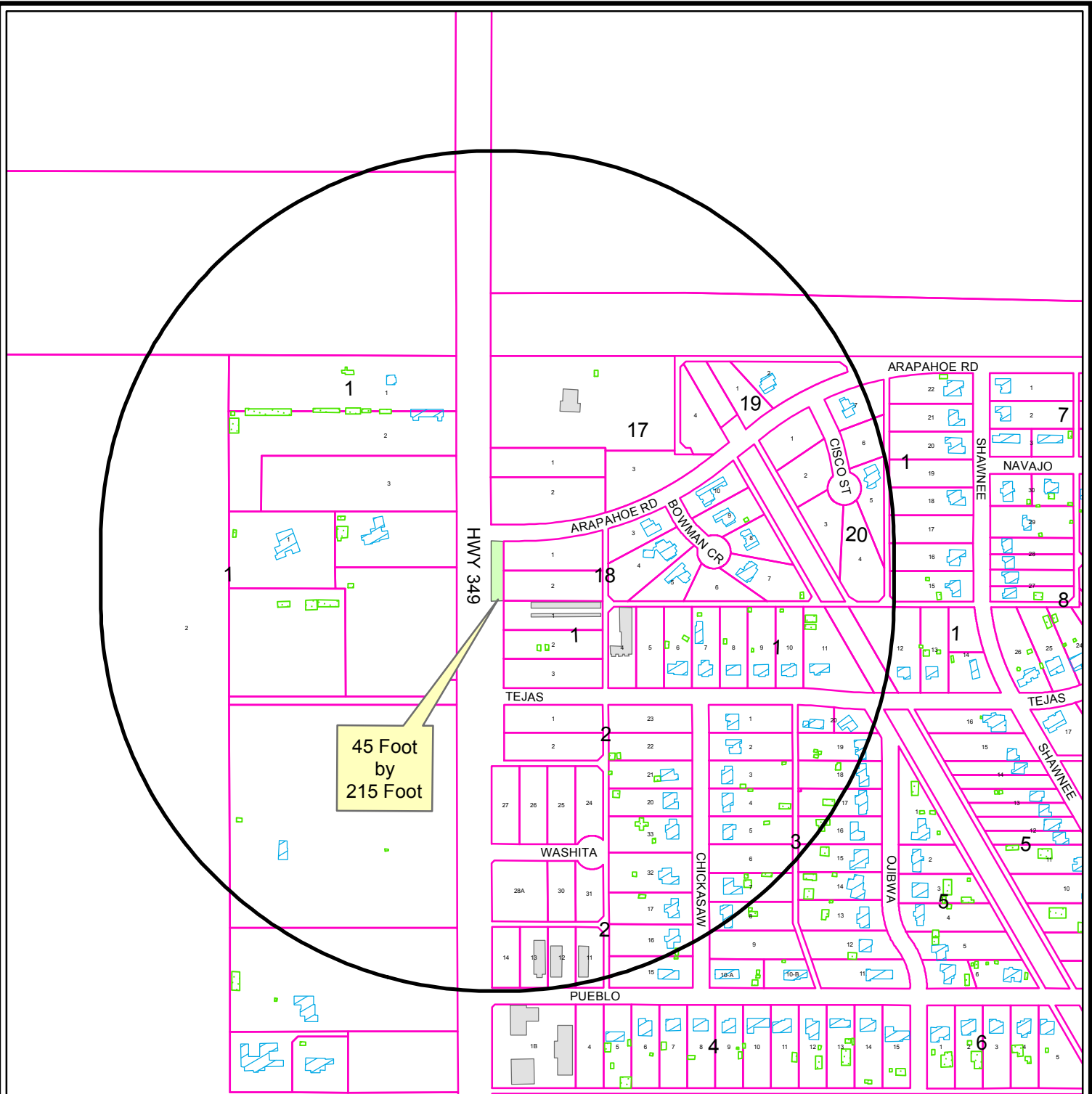
Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

James R. Nichols, Assistant City Manager

APPROVED AS TO FORM:

Keith Stretcher, City Attorney



PROPERTY OWNER NOTIFICATION MAP

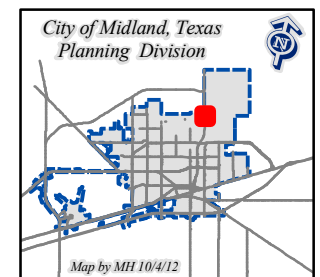
V - 12 - 008

Scale: 1" = 500'

Consider a request for the vacation of a 45 foot by 215 foot portion of the right-of-way of N. State Hwy 349 adjacent to Lots 1 and 2, Block 18, 349 Ranch Estates, Section 3, City and County of Midland, Texas.

LEGEND

- CITY LIMITS
- 1000 FT. LEGAL NOTICE LIMIT
- PARCEL
- PUBLIC BLDGS
- PRIVATE BLDGS
- ACCESSORY BLDGS



©THE CITY OF MIDLAND - 2012
 THE CITY OF MIDLAND SHALL NOT BE RESPONSIBLE FOR ANY DECISIONS BASED UPON THE USE OF THIS DATA WHILE THIS DATA IS MADE AVAILABLE TO THE PUBLIC. IT WAS CREATED FOR INTERNAL USE BY THE CITY OF MIDLAND WHICH MAKES NO CLAIM AS TO ITS ACCURACY OR COMPLETENESS. THIS DATA IS NOT DESIGNED TO BE USED AS A PRIMARY TOOL IN PERMITTING, SITING, OR OTHER DECISIONS BASED SOLELY ON THE INFORMATION CONTAINED HEREIN.



MIDLAND CENTRAL APPRAISAL DISTRICT
4631 ANDREWS HWY.
P. O. BOX 908002 MIDLAND, TEXAS 79708-0002
(432) 699-4991 FAX (432) 689-7185

DENNIS RAMBO
RPA
Assistant Chief Appraiser

October 16, 2012

Re: Proposed street or alley right-of-way vacation

Attn: Jim Compton
City of Midland
Department of Development Services
PO Box 1152
Midland TX 79702-1152

Dear Mr. Compton:

The estimated value on Case No. V-12-008 is as follows:

<u>General Location</u>	<u>Area</u>	<u>Current Zoning</u>
East side of Big Spring Street, south of Araphoe	9,675 acres	LR-2 District

9,675 X \$1.00 = \$9,675

Sincerely,

Dennis Rambo, RTA/RPA
Chief Appraiser

DR/dh

Case Number: V-12-008

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:

A 45' STRIP of old pavement in Right-of-way
Adjacent to two Retail lots - lots 1 & 2 Block 18 349 Ranch Estates
Sec. 3

II. Reason for Request: Expansion of land area for development

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:

A Larger lot Area Allows wider Range of
Development uses and Results in higher Property Valuation

IV. REQUIRED ITEMS:

1. Applicant(s) Information: (Attach extra sheets as necessary.)

Name: CLIA CHALMERS 528-2201

Address: 2401 5100 Ashdown Phone: 432-528-2201

MIDLAND TX 79705
City State Zip Code

2. Metes and bounds description of property to be vacated including total square feet of vacation.

3. Map showing:

Property to be vacated and its relationship to the applicant's property

Lot and block numbers of all adjacent tracts

Current zoning of all adjacent tracts

4. Letter(s) of Concurrence signed by adjacent property owner(s). (See attached)

5. Application Fee: **\$300.00**

Required items attached? Date Received: 1. ____ 2. ____ 3. ____ 4. ____ 5. ____

The City of Midland will take no action on this request, until items 1-5 are received.

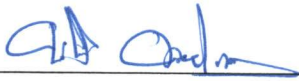
V. Clearance is needed from the following utility companies: City of Midland / Atmos Energy

Caprock Energy / Oncor Electric / AT&T / Suddenlink Cable TV Co. / Grande Communications

The City will route the request to these companies, but it is the applicant's responsibility to ensure clearance has been obtained and to work out any issues that may arise.

VI. Policies:

1. If the vacation request involves only a portion of a section right-of-way, such that approval would not affect the public's ability to travel along said right-of-way, then the request will be scheduled for consideration by the City Council. No public hearing will be needed.
2. If the vacation request involves an entire section of right-of-way, such that approval would cause the public to lose all rights to use it, then the following procedures apply:
 - a. Nearby land owners who have a reasonable expectation to use said right-of-way, as determined by the Transportation Division, must first agree to the proposed vacation. It is the applicant's responsibility to obtain a letter of concurrence signed by the affected landowners.
 - b. If all letters are received indicating that the affected landowners agree to the request, then a public hearing before the City Council will be scheduled. The Transportation Division will mail public notice of the hearing to landowners within 400 feet of the affected right-of-way.
 - c. If a request is approved, the right-of-way shall be divided into two equal parts, with each half becoming the property of the respective abutting owner. If the applicant desires to own the entire width, he or she must negotiate with the opposite landowner.

Signature of applicant:  Date: 6-12-12

****Application will not be considered for scheduling until all required items are reviewed by City Staff.****

FOR OFFICE USE ONLY	
Rec'd. By: <u>TS</u>	Date: <u>6/18/12</u>
Assigned: <u>JC</u>	
For: _____	On: _____

City of Midland
City Secretary's Office
Interoffice Memorandum

Date: November 21, 2012
To: The Honorable Mayor Perry and Council
From: Amy M. Turner, City Secretary
Subject: Membership - Boards and Commissions

Attached is an updated membership listing for the City's Boards and Commissions effective November 27, 2012. Remaining expirations and vacancies are listed below:

AIRPORT PLANNING AND DEVELOPMENT BOARD – Two terms expired on September 30, 2012.

CITY DEVELOPMENT ADVISORY COMMITTEE – One vacancy expiring on September 30, 2013 and two terms expired on September 30, 2012.

CONSTRUCTION BOARD OF ADJUSTMENTS AND APPEALS – Two vacancies for Alternate terms expired on September 30, 2007.

HOUSING AUTHORITY COMMISSION – One vacancy as Alternate term expiring in October 2015

MIDLAND FOOTBALL-SOCCER AND BASEBALL COMPLEX DEVELOPMENT CORPORATION – Two terms expired in November 2011.

MIDLAND HIGHER EDUCATION FACILITIES CORPORATION – Three vacancies expired on January 1, 2007, one term expired on January 1, 2009, and two terms expired on January 1, 2010.

MIDLAND HOUSING FINANCE CORPORATION – One vacancy expired on September 30, 2010, two terms expired on September 30, 2011 and one term expired on September 30, 2012.

MIDLAND MUNICIPAL MANAGEMENT DISTRICT BOARD – One vacancy.

MIDLAND-ODESSA URBAN TRANSIT DISTRICT BOARD – Two terms expired on September 30, 2012.

PERMIAN BASIN AIRPORT BOARD – Two terms expired on September 30, 2010 (Carlsbad and Hobbs New Mexico), two terms expired on September 30, 2011 and two terms expired on September 30, 2012.

TAX INCREMENT REINVESTMENT ZONE BOARD – One term expired on March 20, 2009 (one College representative), five terms expired on March 20, 2010, one term expired March 20, 2011 and one terms expired on March 20, 2012. (Four City representatives, two Hospital representatives, two County representatives and one College representative.)

ZONING BOARD OF ADJUSTMENT AND AIRPORT ZONING BOARD OF ADJUSTMENT- One term expired on September 30, 2011, one term expired on September 30, 2012 and one vacancy for Alternate term expired on September 30, 2006 and one vacancy for Alternate term expired September 30, 2009.

BOARDS AND COMMISSIONS OF THE CITY OF MIDLAND

November 27, 2012

AIRPORT PLANNING AND DEVELOPMENT BOARD

(Advisory)

(Membership-10; Terms - 3 Years expiring 3-3-4.)

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
Ronald Schwisow	09/06	Sept 30 2012	Sept 30 2012
Herbert Blankinship	09/06	Sept 30 2012	Sept 30 2012
Jerry Walton	11/09	Sept 30 2015	Sept 30 2015
Mike Owen	10/07	Sept 30 2013	Sept 30 2013
Gregory F. Baiano	09/10	Sept 30 2013	Sept 30 2016
John T. Echols	09/10	Sept 30 2013	Sept 30 2016
Dallas L. Smith	09/10	Sept 30 2013	Sept 30 2016
Earl Erdmann, Chairman	09/08	Sept 30 2014	Sept 30 2014
J. Ross Lacy	09/12*	Sept 30 2014	Sept 30 2020
Don "Woody" Woodward	11/11	Sept 30 2014	Sept 30 2017

Ex-Officio members are Harry Spannaus, the City Manager and the City Attorney. The Secretary is the Director of Aviation.

ANIMAL SERVICES ADVISORY COMMISSION

(Advisory)

(Membership - 6; Terms - 4 Years)

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
Dr. Tom Green (Veterinarian)	10/07*	Sept 30 2013	Sept 30 2017
Kelly Spencer	09/09	Sept 30 2013	Sept 30 2017
Laura Hollifield	09/08*	Sept 30 2013	Sept 30 2017
Justin Petty	04/07*	Sept 30 2013	Sept 30 2017
Tony Carrillo	09/09	Sept 30 2013	Sept 30 2017
Paul O'Neill	09/09	Sept 30 2013	Sept 30 2017

BUILDING CODES REVIEW COMMITTEE

(Membership – 9; Terms – 2 Years)

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
James Rigger	12/09	Dec 31 2013	Dec 31 2013
Chris Repman	12/09	Dec 31 2013	Dec 31 2013
John Cooper	12/09	Dec 31 2013	Dec 31 2013
Bill Routh	12/09	Dec 31 2013	Dec 31 2013
Tom Woodruff	12/09	Dec 31 2013	Dec 31 2013
Ron Ainsworth	12/09	Dec 31 2013	Dec 31 2013
Walter Pate	12/09	Dec 31 2013	Dec 31 2013
Robert Harrington	12/09	Dec 31 2013	Dec 31 2013

* Indicates appointment to an unexpired term.

Jerry Morales

12/09

Dec 31 2013

Dec 31 2013

CITY DEVELOPMENT ADVISORY COMMITTEE

(Advisory)

(Membership - 5; Terms - 2 Years expiring 2 even & 3 odd)

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
(Vacancy)-Lena Margita	10/09	Sept 30 2013	Sept 30 2013
Vicky Hailey	09/10	Sept 30 2012	Sept 30 2014
Reggie Lawrence	09/10	Sept 30 2012	Sept 30 2014
Alonda Massey	11/11	Sept 30 2013	Sept 30 2015
Tim Bryson	11/11	Sept 30 2013	Sept 30 2015

CONSTRUCTION BOARD OF ADJUSTMENTS AND APPEALS

(Decision Making)

(Membership - 7; Terms - 4 Years expiring 2-2-2-1)

Position to include: 1. Registered Architectural or Builder Superintendent, 2. Registered Structural Engineer, 3. Registered Mechanical and Plumbing, 4. Registered Electrical Engineer, 5. Registered Fire Protection Engineer

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>	<u>Position</u>
Don Woodward (At Large)	11/11*	Sept 30 2016	Sept 30 2020	5
Richard D. Dunham	10/05	Sept 30 2013	Sept 30 2013	1
Greg Turner	03/11*	Sept 30 2013	Sept 30 2021	4
Chris Repman	10/07*	Sept 30 2014	Sept 30 2018	3
Jay K. Bradford	09/10	Sept 30 2014	Sept 30 2018	2

ALTERNATES:

Vacancy	Sept 30 2007	Any
Vacancy	Sept 30 2007	Any

HOTEL/MOTEL TAX ADVISORY BOARD

(Advisory)

(Membership - 7; Terms - 2 Years Staggered)

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
Karmen Hendrix Bryant	02/12*	Sept 30 2013	Sept 30 2017
David Baur	09/10	Sept 30 2013	Sept 30 2014
Lisa Grissom	09/09	Sept 30 2013	Sept 30 2013
Steve Jones	02/09*	Sept 30 2013	Sept 30 2013
Annabell Ramirez	09/12	Sept 30 2014	Sept 30 2016
Brian Smith	09/12	Sept 30 2014	Sept 30 2016
Alex Singh-Hotel/Motel Assn. Rep.	09/09	Dec 31 2013	Assn. Appt.

* Indicates appointment to an unexpired term.

Vicky Hailey (Liaison Officer)

HOUSING AUTHORITY COMMISSION

(Membership - 5; Terms - 2 Years expiring 2 even & 3 odd.)

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
Gregory Maes	11/11	Oct 2013	Oct 2015
Carla Repman, Vice Chairman	09/09	Oct 2013	Oct 2013
James A. Blischke	01/10	Oct 2013	Oct 2015
Dennis Bade	09/12	Oct 2014	Oct 2016
Norma Duran	11/08*	Oct 2014	Oct 2014

ALTERNATES:

<u>Vacancy</u>	<u>Oct 2013</u>	<u>Oct 2015</u>
-----------------------	------------------------	------------------------

JOINT ECONOMIC DEVELOPMENT TASK FORCE

(Ad Hoc)

	<u>Appt. Date</u>
(Midland)	
Wes Perry	01/08
LuAnn Morgan	12/00
Keith Stretcher	12/00
Tommy Hudson	08/07
John Breier	01/04
(Odessa)	
Larry Melton	08/01
Jim Morris	11/00
Richard Morton	11/02
Joel Roberts	11/00
Neil McDonald	11/00

MANAGED COMPETITION COMMITTEE

(Ad Hoc)

	<u>Appt. Date</u>
Jon Morgan	01/02
Wes Perry	01/02
Roy Nelson	01/02
Hugh "Andy" Shaffer	12/03
Scott Dufford	01/02
Ted Tipton	04/04
Kevin Sparks	11/07
Scott Lovett	04/10
P. Lourcey Sams	04/10

Ex-Officio members are the Mayor and the City Manager.

* Indicates appointment to an unexpired term.

MIDLAND CENTER ADVISORY BOARD

(Advisory & Decision Making)

(Membership - 9; Terms - 3 Years expiring 3-2-2.)

		<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
Brent Blackburn	(City)	09/09*	Sept 30 2013	Sept 30 2016
Charles Spence	(CC)	11/07	Sept 30 2013	N/A
Lorri Lyon West	(City)	09/10	Sept 30 2013	Sept 30 2016
Patricia S. Blackwell	(City)	10/07*	Sept 30 2014	Sept 30 2014
Paula Mitchell	(City)	09/08	Sept 30 2014	Sept 30 2014
Greg Turner	(CC)	12/11	Sept 30 2014	N/A
Tracy Bacon	(CC)	12/11	Sept 30 2014	N/A
Jerry Morales (Liaison Officer)				

Ex-Officio members are the City Manager and Executive Director of the Chamber of Commerce.

MIDLAND CENTRAL APPRAISAL DISTRICT BOARD OF DIRECTORS

Five Directors, Elected by Local Taxing Entities.

City Nominates/Cast Vote for one Director

(Terms - 2 Years)

	<u>Appt Date</u>	<u>Term Expires</u>
Chad Clark	3/12*	Dec 31 2013

MIDLAND DEVELOPMENT CORPORATION

(Membership - 5; Terms -3 Years - Staggered)

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
Michael Trost	02/11*	Jan 14 2013	Jan 14 2019
Cary J. Love	12/09	Jan 14 2013	Jan 14 2016
Gary Douglas	11/11*	Jan 14 2013	Jan 14 2019
Laura Roman	01/08	Jan 14 2014	Jan 14 2014
Robert Rendall, Chairman	01/09*	Jan 14 2014	Jan 14 2017

MIDLAND FRESH WATER SUPPLY DISTRICT #1

(Ad Hoc)

(3 Non Voting Members)

Appt Date

Wes Perry
 Gary Harris
 Wayne Merritt

05/12
 05/12
 05/12

**MIDLAND FOOTBALL-SOCCER AND BASEBALL COMPLEX
 DEVELOPMENT CORPORATION**

(Decision Making)

Membership - 7; Terms - 2 Years)

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
Ken Marks, Vice President	10/07	Nov 2011	Nov 2011
James G. Smith	12/07	Nov 2011	Nov 2011
Mike Thompson	11/11	Nov 2013	Nov 2015
Tim Bryson	11/11	Nov 2013	Nov 2015
Wesley D. Bownds	02/09*	Nov 2013	Nov 2013
John James	08/08*	Nov 2013	Nov 2013
Rick Davis (MISD Resp.)	10/10*	Nov 2013	Nov 2015

MIDLAND HIGHER EDUCATION FACILITIES CORPORATION

(Membership - 7; Terms - 2 Years Staggered)

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
Vacancy		Jan 1 2007	
Vacancy		Jan 1 2007	
Vacancy		Jan 1 2007	
Vacancy		Jan 1 2009	
Cathy Oestmann	11/05*	Jan 1 2010	Jan 1 2010
Steve Jones	09/08*	Jan 1 2010	Jan 1 2012
Curt Kamradt	11/05*	Jan 1 2014	Jan 1 2014

* Indicates appointment to an unexpired term.

MIDLAND HOUSING FINANCE CORPORATION

(Decision Making)

(Membership - 5; Terms - 2 Years - Staggered)

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
Vacancy - (Damon L. Blakeley)	07/07*	Sept 30 2010	
Adrienne Valencia	10/07	Sept 30 2011	Sept 30 2011
Melissa Wicker	10/07	Sept 30 2011	Sept 30 2011
Jerry Morales (Liaison Officer)	10/08	Sept 30 2012	Sept 30 2012
Nathan Miller	11/11*	Sept 30 2012	Sept 30 2016

MIDLAND MUNICIPAL MANAGEMENT DISTRICT BOARD

(Ad Hoc)

	<u>Appt. Date</u>
Vacancy	
Richard Hatchett	11/08
W. L. "Scooter" Brown	09/04
Ken Burgess	09/04
Jim Hightower	11/08
Ted H. Jones	09/04
Mitch Malouf	11/08
Christi Newton	09/04
Dan Rush	09/04

MIDLAND-ODESSA URBAN TRANSIT DISTRICT BOARD

(Decision Making)

(Membership - 6; Terms - 2 Years Staggered)

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
Willie Barber	09/08	Sept 30 2012	Sept 30 2012
Michael Trost	09/08	Sept 30 2012	Sept 30 2012
John H. James	09/09	Sept 30 2013	Sept 30 2013
Karen York	06/09*	Sept 30 2013	Sept 30 2013
Guy McKenize	03/11*	Sept 30 2013	Sept 30 2015
Rebecca Bell	09/12	Sept 30 2014	Sept 30 2016

* Indicates appointment to an unexpired term.

OIL AND GAS ADVISORY COMMITTEE

(Advisory)

(Membership – 5; Terms – 3 Years expiring 2-2-1)

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
Russell Richards (Petroleum Eng.)	09/12	Sept 30 2015	Sept 30 2018
Perry Dan Taylor (Real Estate)	09/12	Sept 30 2015	Sept 30 2018
Lance Friday (Real Estate)	09/12*	Sept 30 2013	Sept 30 2019
Paul Brown (Petroleum Eng.)	11/11	Sept 30 2014	Sept 30 2017
David Rosen (Petroleum Eng.)	11/11	Sept 30 2014	Sept 30 2017

PARKS AND RECREATION COMMISSION

(Advisory)

(Membership - 9; Terms - 3 Years expiring 3-3-3.)

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
Charles A. Spence	01/10*	Sept 30 2013	Sept 30 2016
Susan Nichols	02/06*	Sept 30 2013	Sept 30 2013
Eric L. West	10/07	Sept 30 2013	Sept 30 2013
Kenny Harper	03/12*	Sept 30 2013	Sept 30 2019
P. Lourcey Sams	09/08	Sept 30 2014	Sept 30 2014
Tina Corbett	09/08	Sept 30 2014	Sept 30 2014
Katey Howard	09/12*	Sept 30 2014	Sept 30 2020
Amanda McCann	11/11*	Sept 30 2015	Sept 30 2018
Edward Mayberry	09/12	Sept 30 2015	Sept 30 2021

PERMIAN BASIN AIRPORT BOARD

(Advisory)

(Membership - 30; Terms - 1 year.)

	<u>Appt. Date</u>	<u>Term Expires</u>
10 Members of the Airport Planning and Development Board		
Bob Forrest (Carlsbad, NM)	10/04	Sept 30 2010
Larry Shed (Hobbs, NM)	10/01	Sept 30 2010
Larry Gill (Abilene)	10/10	Sept 30 2011
Isabelle Blanchard (Pecos)	10/10	Sept 30 2011
David Hardwick (Ft. Stockton)	10/07	Sept 30 2012
Lex Hinds (Seminole)	10/08	Sept 30 2012

PERMIAN BASIN AIRPORT BOARD CON'T

	<u>Appt. Date</u>	<u>Term Expires</u>
Elvin Brownlee III (Andrews)	12/10*	Sept 30 2013
Jim Little (Big Spring)	09/03	Sept 30 2013
Frankie Rolfe (Kermit)	09/12	Sept 30 2013
Don Bethel (Lamesa)	02/91	Sept 30 2013
Willie Taylor (Odessa)	02/00	Sept 30 2013
Gloria Pena (Odessa)	03/03*	Sept 30 2013
Barbara Graff (Odessa)	06/10*	Sept 30 2013
Henry Cutbirth (Monahans)	09/05	Sept 30 2013
Luis E. Elguezabal (San Angelo)	10/07	Sept 30 2013
Glenn Wortham (Sweetwater)	10/07	Sept 30 2013
John Rogotzke (Snyder)	01/12	Sept 30 2013
Lance Goodrich (Artesia, NM)	09/09	Sept 30 2013
Larry Fry (Roswell, NM)	09/00	Sept 30 2013

Ex-Officio members are the City Manager and the City Attorney. The Secretary is the Director of Aviation.

**PERMIAN BASIN COMMUNITY CENTER FOR MENTAL HEALTH
AND MENTAL RETARDATION**

(Decision Making)
(Membership - 2 (City); Terms - 2 Years)

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
Janet R. Pritchett (City)	05/09*	June 2014	June 2014
Larry Edgerton	07/10*	June 2013	June 2015

PERSONNEL BOARD OF APPEALS

(Decision Making)
(Membership - 3; No designated terms.)

	<u>Appt. Date</u>
John James	03/08
Hugh A. "Andy" Shaffer	09/05
Michael Trost	01/10

* Indicates appointment to an unexpired term.

PLANNING AND ZONING COMMISSION

(Advisory & Decision Making)
(Membership - 9; Terms - 3 Years)

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
Jane Wolf	03/09*	Sept 30 2013	Sept 30 2016
Cindy Lanning	09/10	Sept 30 2013	Sept 30 2016
Jay Norris	11/11	Sept 30 2014	Sept 30 2017
Galen Gatten, Vice Chairman	09/08	Sept 30 2014	Sept 30 2014
Kevin Wilton	09/08*	Sept 30 2015	Sept 30 2017
Royce Watkins	02/08*	Sept 30 2015	Sept 30 2017
Karen York	10/10*	Sept 30 2015	Sept 30 2018
Sharla Hotchkiss	10/12	Sept 30 2015	Sept 30 2018
Warren Lvey	10/12*	Sept 30 2014	Sept 30 2020
<u>ALTERNATES:</u>			
Tony Carrillo	11/11	Sept 30 2014	Sept 30 2017

TAX INCREMENT REINVESTMENT ZONE BOARD

(Decision Making)
(Membership - 12; Terms - 2 Years, or 3 Years if appointed after 3/1/07)

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
Neil Florer (College)	07/01	Mar 20 2009	Mar 20 2009
Mark T. Wellen (City), Chairman	07/01	Mar 20 2010	Mar 20 2010
Jay Reynolds (Hospital)	03/02	Mar 20 2010	Mar 20 2010
Ralph Way (College)	07/01	Mar 20 2010	Mar 20 2010
Randy Prude (County)	03/07	Mar 20 2010	Mar 20 2013
Judge Mike Bradford (County)	01/07*	Mar 20 2010	Mar 20 2014
Bob Lanier (City), Secretary	04/03	Mar 20 2011	Mar 20 2011
Brent Kennedy (City)	06/09	Mar 20 2012	Mar 20 2015
Pete Hulder (Hospital)	03/10	Mar 20 2016	Mar 20 2016
Michael Blonkvist	09/12*	Mar 20 2014	Mar 20 2020
John L. Kennedy (City)	10/09*	Mar 20 2015	Mar 20 2018
Ken Burgess (City)	10/12*	Mar 20 2013	Mar 20 2018

Ex-Officio member is President, Board of Trustees, Midland Independent School District

ZONING BOARD OF ADJUSTMENT
AND
AIRPORT ZONING BOARD OF ADJUSTMENT

(Decision Making)

(Membership - 5; Terms - 2 Years expiring 3 odd & 2 even.)

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
Manny Ribera	10/07	Sept 30 2011	Sept 30 2011
Ken Morgan	01/10*	Sept 30 2012	Sept 30 2014
Carla Repman	01/10*	Sept 30 2013	Sept 30 2015
Scott Young	0912*	Sept 30 2013	Sept 30 2017
Todd Byars	02/08*	Sept 30 2014	Sept 30 2014

ALTERNATES: (not applicable to Airport Zoning)

Vacancy		Sept 30 2006	
Vacancy		Sept 30 2009	
Annabel Holguin	11/11	Sept 30 2013	Sept 30 2015
Greg Turner	11/11	Sept 30 2013	Sept 30 2015