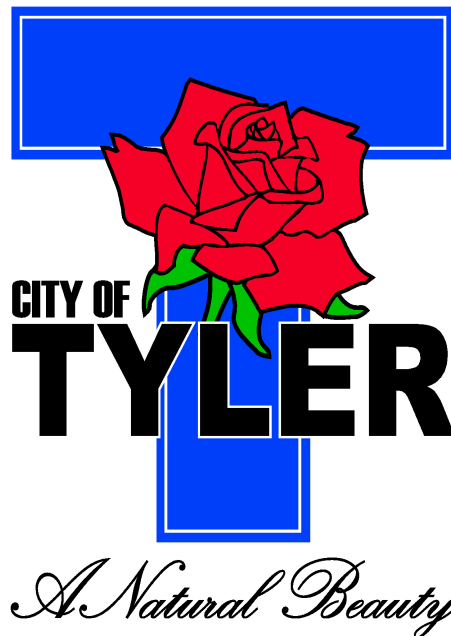


CITY COUNCIL - TELECONFERENCE MEETING AGENDA

**Wednesday, May 13, 2020
9:00 am**



CITY COUNCIL

**Martin Heines, Mayor
Linda Sellers, District 1
Broderick McGee, District 2
Dr. Shirley McKellar, District 3
Vacant, District 4
Bob Westbrook, District 5
Vacant, District 6
Edward Broussard, City Manager**



CITY COUNCIL - TELECONFERENCE MEETING MEETING AGENDA

CITY COUNCIL CHAMBERS - CITY HALL

212 North Bonner

Tyler, Texas 75702

Wednesday, May 13, 2020

9:00 am

Internet website <http://www.cityoftyler.org> and Cable Access Channel 3

Please call (903) 531-1250 if you need assistance with interpretation or translation for this City meeting.

Si usted necesita ayuda con la interpretación o traducción de cualquier material en este sitio o en una reunión pública de la Ciudad de Tyler por favor llame al (903) 531-1250.

AMERICANS WITH DISABILITIES ACT NOTICE

The City of Tyler wants to ensure that City Council Meetings are accessible to persons with disabilities. If any individual needs special assistance or accommodations in order to attend a City Council meeting, please contact the City Manager's Office at 903.531.1250, in advance so accommodations can be made.

COURTESY RULES

Thank you for your presence. The City Council appreciates your interest in Tyler City Government. To ensure fairness and orderly meetings, the Council has adopted rules of courtesy which apply to all members of the Council, Administrative Staff, News Media, Citizens and Visitors. If you wish to address the Council, obtain a speaker card from the receptionist's desk outside the Council Chambers, complete the information requested on the card, and deliver to the City Clerk before the meeting or as soon as you can. Speakers will be heard as the individual item(s) in which they have registered an interest come before the Council. Your remarks will be limited in duration depending on the number of people wanting to speak on a particular item. Comments to the City Council should only be made from the podium. This will ensure that the comments are picked up by the microphones and are made a part of the official record. Delay or interruption of the proceedings will not be tolerated.

INVOCATION

PLEDGE OF ALLEGIANCE

MINUTES

Request that the City Council consider approval of the minutes of the regular meeting of the City Council of the City of Tyler, Texas held on March 25, 2020.

RESOLUTION

- R-1** It is recommended that the City Council consider adopting a resolution finding that ONCOR Electric Company's requested increase to its distribution cost recovery factor and its distribution rates and charges within the City should be denied and finding that the City's reasonable rate case expenses shall be reimbursed by the Company.
- R-2** Request that the City Council consider adopting a Resolution supporting and approving the issuance of the 04/09/2020 Order of the Local Health Authority for Smith County, Texas, for the provision of non-congregate shelters to address the COVID-19 emergency; and consider ratifying and approving all actions taken by the Mayor of the City of Tyler, Texas, associated with the issuance of such Order by the Local Health Authority.
- R-3** Request that the City Council consider adopting a resolution to authorize the application for and acceptance of Federal Transit Administration (FTA) Coronavirus Aid Relief, and Economic Security Act (CARES) Grant Funds in the amount of \$5,337,067 for the purpose of providing public transportation for the City of Tyler, which does not require local match. This resolution also accepts any grant amendments.

ORDINANCE

- O-1** Request that the City Council consider adopting an ordinance amending Tyler City Code Chapter 1, Article IV., by updating, clarifying and amending the City Administrative Appeals Process.
- O-2** Request that the City Council consider adopting an Ordinance amending Tyler City Code Chapter 1 to update and clarify the City's Emergency Preparedness provisions to track the State law more closely and to reflect current practices.
- O-3** Request that the City Council consider adopting an ordinance amending the City of Tyler's Citizen Participation Plan for Community Development Block Grant (CDBG) Fund Allocations.

HEARING

- H-1** Request that the City Council conduct a public hearing for citizen participation and to consider approving a substantial amendment to the 2019 Annual Action Plan and programming of Community Development Block Grant Coronavirus (CDBG-CV) funds.
- H-2** Request that the City Council conduct a public hearing and consider adopting an Ordinance amending Tyler City Code Chapter 15 to adopt a proposed Electric Power Franchise Ordinance with Oncor Electric Delivery Company, LLC, on the first of three readings.

MISCELLANEOUS

- M-1** Request that the City Council review and consider accepting the City of Tyler's workers' compensation, property and casualty claim and lawsuit report for fiscal year 2017-2018, 2018-2019 and 2019-2020 through March 31, 2020 and ratify all claim payments and settlements during that time frame in the amount of \$1,349,412. This includes 18 claim payments of \$25,000 or more and 11 litigated claims.
- M-2** Request that the City Council consider authorizing the City Manager to execute a contract with Applied Research Associates, Inc. for engineering services to provide a pavement condition survey and other pavement management services for a total contract amount of \$207,300.00.
- M-3** Request that the City Council consider authorizing the City Manager to approve a reconciliation change order in the amount of \$91,675.04 and the release of the final payment including retainage in the amount of \$83,232.24 to Reynolds and Kay, LLC for the Courtney Miller Drainage Improvements project.
- M-4** Request that the City Council consider authorizing the City Manager to execute a construction contract with W.M. Miller Construction in the amount of \$435,475.00 from the Community Development Block Grant Fund for the construction of the Hidden Palace Subdivision project.
- M-5** Request that the City Council consider authorizing the City Manager to award Bid No. 20-027 for Emmett J Scott Park renovations to Garrett & Associates to furnish all necessary materials, equipment, superintendence, and labor for a total not to exceed \$562,120 from the Community Development Block Grant Fund.
- M-6** Request that the City Council consider authorizing the City Manager to purchase one new Gillig Low Floor Fixed Route Bus and three new Chevy Arboc Buses for a total purchase of \$870,265 utilizing grant funds and Transportation Development Credits.
- M-7** Request that the City Council consider authorizing the City Manager to award IBC Construction LLC as the successful bidder for Bid 20-023 to furnish all necessary material, equipment, superintendence, and labor to replace the underground fuel storage tanks, leak detection system, fuel, oil, and diesel exhaust fluid (DEF) dispensing system per Texas Commission of Environmental Quality (TCEQ) regulations in the amount of \$344,700.00. This does not include material

remediation if necessary as directed by TCEQ testing.

BOARD APPOINTMENTS

- B-1** Request that the City Council consider appointing members to the Airport Board and the Half Cent Sales Tax Board for the Central District.

CONSENT

(These items are considered to be routine or have been previously discussed, and can be approved in one motion, unless a Council Member asks for separate consideration of an item.)

- C-A-1** Request that the City Council consider adoption of an updated Resolution approving the continued participation in the Texas State Department of Information Resources (DIR) Program and General Services Commission Local Government Purchasing Program and authorizing the City Manager to renew several annual leases for technology equipment including computers, software, and telephones from approved vendors previously obtained through this program for FY 2019-2020.
- C-A-2** Request that the City Council consider authorizing the City Manager to award Eagle Fuel & Oil LP, Tyler Travel Center, and Triple J as successful bidders for bid 20-024 to provide external fueling for the City of Tyler fleet during the fuel storage tank replacement project at the City of Tyler Oakwood Complex.
- C-A-3** Request that the City Council consider adopting a Resolution authorizing the sale of certain tracts of land located at 345 and 351 Fairway within the City of Tyler city limits and owned by taxing entities including the City of Tyler.
- C-A-4** Request that the City Council consider adopting a Resolution agreeing to the sale of certain tracts of land located at 2600 North Confederate and 2527 and 2523 North Englewood within the City of Tyler city limits and owned by taxing entities including the City of Tyler.
- C-A-5** Request that the City Council consider adopting a Resolution agreeing to the sale of certain tracts of land located at 2114 Boswell within the City of Tyler city limits and owned by taxing entities including the City of Tyler.
- C-A-6** Request that the City Council consider adopting a Resolution agreeing to the sale of certain tracts of land located at 1600 East Earle within the City of Tyler city limits and owned by taxing entities including the City of Tyler.
- C-A-7** Request that the City Council consider adopting a Resolution agreeing to the sale of certain tracts of land located at 1512 North Palace within the City of Tyler city limits and owned by taxing entities including the City of Tyler.
- C-A-8** Request that the City Council consider adopting a Resolution agreeing to the sale of certain tracts of land located at 413 Parker within the City of Tyler city limits and owned by taxing entities including

the City of Tyler.

CITY MANAGER'S REPORT

ADJOURNMENT

**MINUTES OF THE TELECONFERENCE
REGULAR CALLED MEETING OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS
March 25, 2020**

A regular teleconference called meeting of the City Council of the City of Tyler, Texas, was held Wednesday, March 25, 2020 at 9:00 a.m. in the City Council Chambers, 2nd floor of City Hall, and by toll free number 903-363-0651, Tyler, Texas, with the following present:

Mayor:	Martin Heines
Mayor Pro Tem:	Bob Westbrook
Councilmembers:	Linda Sellers
	Vacant
	Broderick McGee
	Shirley McKellar
	Vacant
City Manager:	Edward Broussard
City Attorney:	Deborah G. Pullum
Chief Financial Officer:	Keidric Trimble
Community Development Block Grant Manager:	Dustin Wilson
Police Chief:	Jimmy Toler
Managing Director of Planning & Economic Development:	Heather Nick
City Engineer:	Lisa Crossman
City Clerk:	Cassandra Brager

INVOCATION

The Invocation was given by Councilmember Sellers.

MINUTES

Request that the City Council consider approval of the minutes of the regular meeting of the City Council of the City of Tyler, Texas held on January 22, 2020.

Motion by Mayor Pro Tem Westbrook; seconded by Councilmember Sellers; motion carried 5 - 0 & approved as presented.

PRESENTATION

P-1 Tyler 1st Comprehensive Plan Five-Year Update Request that the City Council receive a presentation of the final draft of the Tyler 1st Comprehensive Plan.

Heather Nick, Managing Director of Planning & Economic Development - Gave a brief presentation of the final draft of the Tyler 1st Comprehensive Plan.

March 25, 2020

P-2 Request that the City Council consider hearing a presentation and approving the Comprehensive Annual Financial Report for the fiscal year ending on September 30, 2019 as presented by Gollob Morgan Peddy PC.

Kevin Cashion, Gallob, Morgan and Peddy & Company – Gave a brief presentation on the Comprehensive Annual Financial Report for the fiscal year ending on September 30, 2019 as presented by Gollob Morgan Peddy PC.

Motion by Councilmember Sellers; seconded by Councilmember McKellar; motion carried 5 - 0 & approved as presented.

ZONING

Z-1 Z20-001 MGRDP LLC (307 EAST FORD STREET)
Request that the City Council consider approving a zone change from "R-2", Two-Family Residential District to "R-1D", Single-Family Attached and Detached District. (O-2020-28)

Motion by Mayor Pro Tem Westbrook; seconded by Councilmember McKellar; motion carried 5 - 0 & approved as presented.

Z-2 S20-001 VINE STREET LLC (1604 SOUTH VINE AVENUE)
Request that the City Council consider approving a Special Use Permit for an indefinite period of time to grant a variance to reduce the required 300 feet distance separation from the property lines of 1604, 1610, 1630 South Vine Avenue, 912, 914 West Glenwood Boulevard, 1607 Talley Avenue, 917 West 5th Street, and a public school to 160 feet in order to be eligible for a Texas Alcoholic Beverage Commission license to sell alcohol. (O-2020-29)

Steve Roosth,- Called in through the teleconference in support of this item.

Motion by Councilmember Sellers; seconded by Councilmember McGee; motion carried 5 - 0 & approved as presented.

Z-3 Z20-003 TEXAN ROOT HOMES (824 AND 826 FRANKLIN STREET, 1533 NORTH PALACE AVENUE, 809 HARMONY STREET, AND 1524 TEXAS COLLEGE ROAD)
Request that the City Council consider approving a zone change from "C-1", Light Commercial District to "R-1D", Single-Family Attached and Detached District. (O-2020-30)

Motion by Councilmember McGee; seconded by Councilmember McKellar; motion carried 5 - 0 & approved as presented.

Z-4 Z20-004 TIMOTHY JONES (1309 SOUTH LYONS AVENUE)

March 25, 2020

Request that the City Council consider approving a zone change from "R-2", Two-Family Residential District to "R-1D", Single-Family Attached and Detached District. (O-2020-31)

Motion by Councilmember McKellar; seconded by Councilmember McGee; motion carried 5 - 0 & approved as presented.

Z-5 PD20-004 CITY OF TYLER/WILLIAM HERSEY (512 AND 520 WEST ERWIN STREET)

Request that the City Council consider approving the zone change from "DBAC", Downtown Business, Arts, and Cultural District to "PMXD-2", Planned Mixed-Use District 2 with a final site plan. (O-2020-32)

Motion by Councilmember McGee; seconded by Councilmember Sellers; motion carried 5 - 0 & approved as presented.

MISCELLANEOUS

M-1 Request that the City Council consider authorizing the City Manager to approve a Reconciliation Change Order in the amount of \$45,315.68 and the release of final retainage to Jacobe Brothers Construction for the Fire Station No. 1 project, pending authorization of the Half Cent Sales Tax Board.

Motion by Councilmember McGee; seconded by Councilmember McKellar; motion carried 5 - 0 & approved as presented.

M-2 Request that the City Council consider authorizing the City Manager to approve a Reconciliation Change Order in the amount of \$24,880.37 and the release of final retainage to Garrett and Associates for the Fire Station No. 4 project, pending authorization of the Half Cent Sales Tax Board.

Motion by Councilmember Sellers; seconded by Mayor Pro Tem Westbrook; motion carried 5 - 0 & approved as presented.

M-3 Request that the City Council consider authorizing the City Manager to execute a construction contract with J2 Construction Services, LLC for the construction of the Cecil Drive Drainage Improvement project in the amount of \$141,159.00, pending authorization of the Half Cent Sales Tax Board.

Motion by Councilmember McGee; seconded by Mayor Pro Tem Westbrook; motion carried 5 - 0 & approved as presented.

M-4 Request that the City Council consider authorizing the City Manager to execute an engineering contract with Adams Engineering for the Academy Avenue Extension project in the amount of \$82,505, pending authorization of the Half Cent Sales Tax Board.

March 25, 2020

Motion by Councilmember McGee; seconded by Councilmember Sellers; motion carried 5 - 0 & approved as presented.

- M-5 Request that the City Council consider authorizing the City Manager to execute an engineering contract with Elledge Engineering Corporation for the Shiloh Road Channel Reconstruction project in the amount of \$51,250, pending authorization of the Half Cent Sales Tax Board.**

Motion by Mayor Pro Tem Westbrook; seconded by Councilmember McKellar; motion carried 5 - 0 & approved as presented.

- M-6 Request that the City Council consider authorizing the City Manager to execute a contract with L. S. Equipment Co., Inc., for the 2020 Seal Coat Program in the amount of \$931,060.05.**

Motion by Mayor Pro Tem Westbrook; seconded by Councilmember McKellar; motion carried 5 - 0 & approved as presented.

- M-7 Request that City Council consider authorizing the City Manager to execute a contract with D.E.A.A. Corporation and Cactus Abatement & Demolition for substandard structures demolition program through Community Development Block Grant Funds.**

Motion by Councilmember Sellers; seconded by Councilmember McGee; motion carried 5 - 0 & approved as presented.

- M-8 Request that the City Council consider authorizing the City Manager to enter into an agreement with Toole Design, to develop a Transit Route Study for the Area Tyler Metropolitan Planning Organization in the amount of \$119,500.**

Motion by Mayor Pro Tem Westbrook; seconded by Councilmember Sellers; motion carried 5 - 0 & approved as presented.

- M-9 Request that the City Council consider authorizing the City Manager to enter into an agreement with Walter P. Moore, to develop a Master Street Plan update for the Tyler Area Metropolitan Planning Organization in the amount of \$150,000.**

Motion by Councilmember McGee; seconded by Mayor Pro Tem Westbrook; motion carried 5 - 0 & approved as presented.

RESOLUTION

- R-1 Request the City Council consider adopting a Resolution authorizing the Tyler City Manager on behalf of the Police Department to apply for and accept if awarded the COPS Hiring Grant in the amount of \$250,000, which will fund two new officer positions at 75 percent of the approved entry-level salaries and fringe benefits of each newly and or rehired full time officer, up to \$125,000.00 per officer position, over the three year (36 month) grant period. (R-2020-13)**

March 25, 2020

Motion by Councilmember McKellar; seconded by Mayor Pro Tem Westbrook; motion carried 5 - 0 & approved as presented.

- R-2 Request that the City Council consider adoption of a Resolution postponing the May 2nd, 2020 election and moving said election to the next uniform election date on the 26th day of May / 3rd day of November, 2020. (R-2020-14)**

Nick Pesina sent in a public participation form urging City Council to postpone the municipal election and resolve to hold the elections no later than July 14, 2020.

Motion by Councilmember McKellar to petition the Governor to move the election to July 14, 2020; seconded by Councilmember Sellers; motion carried 5 - 0 & approved as amended.

- R-3 Request that the City Council consider adoption of a Resolution ratifying and approving the extension of the Mayor's Proclamation and Declaration of Disaster/Emergency Conditions for the City of Tyler as a result of COVID-19. (R-2020-15)**

Motion by Mayor Pro Tem Westbrook; seconded by Councilmember McGee; motion carried 5 - 0 & approved as presented.

ORDINANCE

- O-1 Request that the City Council consider adopting an ordinance amending Tyler City Code Chapter 18 by amending and clarifying junked vehicle provisions. (O-2020-33)**

Motion by Mayor Pro Tem Westbrook; seconded by Councilmember McKellar; motion carried 5 - 0 & approved as presented.

- O-2 Request that the City Council consider adoption of an Ordinance amending Tyler City Code Chapter 3, Civil Service Classification Plan by amending the Civil Service Classification Plan and number of authorized Civil Service positions for Fiscal Year 2019-2020, by establishing the promotional rank of Fire Senior Captain, with no other changes to the Civil Service Classifications at this time. (O-2020-34)**

Motion by Councilmember McKellar; seconded by Mayor Pro Tem Westbrook; motion carried 5 - 0 & approved as presented.

CONSENT

(These items are considered to be routine or have been previously discussed, and can be approved in one motion, unless a Council Member asks for separate consideration of an item.)

March 25, 2020

- C-A-1** Request that the City Council consider authorizing the Mayor to execute an updated Memorandum of Understanding with the American Red Cross to assist the City of Tyler in providing Shelter and Mass Care for members of the public affected by emergency situations.
- C-A-2** Request that the City Council consider adopting a Resolution to authorize the application for and acceptance of Federal Transit Administration 5339 Grant Funds passed to the State and awarded to City of Tyler (COT) in the amount of \$239,899 and \$59,975 in Transportation Development Credits (TDC). This Resolution also accepts any grant amendments and additional TDC funds to increase the grant funding levels and reduce the local match requirements. **(R-2020-16)**
- C-A-3** Request that the City Council consider adopting the updated Title VI policy for the Tyler Transit System.
- C-A-4** Request that the City Council consider ratifying staff action awarding the service contract for the 2020 Citywide heating, ventilation and air conditioning (HVAC) maintenance services for various City buildings to Aire-Serv of Smith County.
- C-A-5** Request that City Council consider authorizing the City Manager to renew the three-year Bid No. 19-020 to all bidders in accordance to the attached Bid Tabulation Sheet as Primary, Secondary and so forth, to furnish all necessary materials, equipment, superintendence, and labor for mowing and ground maintenance at various parks, facilities and median right-of-ways.
- C-A-6** Request that the City Council consider authorizing the City Manager to approve the agreement with IPS Group to implement the full conversion of the Downtown parking meters.
- C-A-7** Request that the City Council consider adopting a Resolution agreeing to the sale of certain tracts of land located at 720 S. Ross within the Tyler city limits and owned by taxing entities including the City of Tyler. **(R-2020-17)**
- C-A-8** Request that the City Council consider adopting a Resolution agreeing to the sale of certain tracts of land located at 2107 Moore within the Tyler city limits and owned by taxing entities including the City of Tyler. **(R-2020-18)**
- C-A-9** Request that the City Council consider adopting a Resolution agreeing to the sale of certain tracts of land located at 2105 Moore within the Tyler city limits and owned by taxing entities including the City of Tyler. **(R-2020-19)**
- C-A-10** Request that the City Council consider authorizing the City Manager to approve the release of final retainage in the amount of \$32,585.90 to AAA Sanitation, Inc. for the Broadway Avenue Drainage Improvements.

March 25, 2020

Motion by Mayor Pro Tem Westbrook; seconded by Councilmember McGee; motion carried 5 - 0 & approved as presented.

CITY MANAGER'S REPORT

On February 28th the City staff started preparing for the COVID-19 pandemic.

ADJOURNMENT

Motion by Mayor Pro Tem Westbrook to adjourn the meeting at 10:36 am; seconded by Councilmember McKellar; motion carried 5 - 0 & meeting adjourned.

**MARTIN HEINES, MAYOR OF
THE CITY OF TYLER, TEXAS**

A T T E S T:

CASSANDRA BRAGER, CITY CLERK



CITY OF TYLER CITY COUNCIL COMMUNICATION

Agenda Number: R-1

Date: May 13, 2020

Subject: It is recommended that the City Council consider adopting a resolution finding that ONCOR Electric Company's requested increase to its distribution cost recovery factor and its distribution rates and charges within the City should be denied and finding that the City's reasonable rate case expenses shall be reimbursed by the Company.

Page: Page 1 of

Item Reference: R-1 on City Council Agenda dated 05/05/19

The City is an electric utility customer of Oncor Electric Delivery Company LLC (Oncor or Company). The Oncor Cities Steering Committee (OCSC) is a coalition of similarly situated cities served by Oncor that have joined together to efficiently and cost effectively review and respond to electric issues affecting rates charged in Oncor's service area in matters before the Public Utility Commission (PUC or Commission) and the courts.

On April 3, 2020, Oncor filed an Application to Amend its Distribution Cost Recovery Factor (DCRF) with each of the cities retaining original jurisdiction and with the PUC in Docket No. 50734. In the filing, the Company sought to increase distribution rates by \$75.9 million annually (an approximately \$0.88 increase to the average residential customer's bill).

The resolution authorizes the City to join with OCSC to evaluate the filing, determine whether the filing complies with law, and if lawful, to determine what further strategy, including settlement, to pursue.

Purpose of the Resolution: the purpose of this Resolution is to deny the DCRF amendment proposed by Oncor.

Explanation of "Be It Ordained" Sections:

1. This section authorizes the City to participate with OCSC as a party in the Company's DCRF filing in PUC Docket No. 50734.
2. This section authorizes the hiring of Lloyd Gosselink and consultants to review the filing, negotiate with the Company, and make recommendations to the City regarding reasonable rates. It also authorizes OCSC to direct any necessary administrative proceedings or court litigation associated with an appeal of this application filed with the PUC.

3. This paragraph finds that the Company's application is unreasonable and should be denied.
4. This section states that the Company's current rates shall not be changed.
5. The Company will reimburse OCSC for its reasonable rate case expenses. Legal counsel and consultants approved by OCSC will submit monthly invoices that will be forwarded to Oncor for reimbursement.
6. This section merely recites that the resolution was passed at a meeting that was open to the public and that the consideration of the Resolution was properly noticed.
7. This section provides Oncor and counsel for OCSC will be notified of the City's action by sending a copy of the approved and signed resolution to counsel.

RECOMMENDATION:

It is recommended that the City Council adopt this Resolution finding that ONCOR Electric Company's requested increase to its distribution cost recovery factor, and its distribution rates and charges within the City should be denied and finding that the City's reasonable rate case expenses shall be reimbursed by the Company.

ATTACHMENTS:

[Resolution to Deny Oncor DCRF Rate Increase](#)

[Model Report on Denial of Oncor Rate Increase](#)

Drafted/Recommended By:
Department Leader

Deborah Pullum, City Attorney

Edited/Submitted By:
City Manager

RESOLUTION NO. R-2020-

A RESOLUTION OF THE CITY OF TYLER, TEXAS, FINDING THAT ONCOR ELECTRIC DELIVERY COMPANY LLC'S APPLICATION FOR APPROVAL TO AMEND ITS DISTRIBUTION COST RECOVERY FACTOR TO INCREASE DISTRIBUTION RATES WITHIN THE CITY SHOULD BE DENIED; AUTHORIZING PARTICIPATION WITH ONCOR CITIES STEERING COMMITTEE; AUTHORIZING THE HIRING OF LEGAL COUNSEL AND CONSULTING SERVICES; FINDING THAT THE CITY'S REASONABLE RATE CASE EXPENSES SHALL BE REIMBURSED BY THE COMPANY; FINDING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; REQUIRING NOTICE OF THIS RESOLUTION TO THE COMPANY AND LEGAL COUNSEL; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City of Tyler, Texas ("City") is an electric utility customer of Oncor Electric Delivery Company LLC ("Oncor" or "Company"), and a regulatory authority with an interest in the rates and charges of Oncor; and

WHEREAS, the Oncor Cities Steering Committee ("OCSC") is a coalition of similarly situated cities served by Oncor that have joined together to efficiently and cost effectively review and respond to electric issues affecting rates charged in Oncor's service area in matters before the Public Utility Commission ("Commission") and the courts; and

WHEREAS, on or about April 3, 2020, Oncor filed with the Commission an Application to Amend its Distribution Cost Recovery Factor ("DCRF"), Commission Docket No. 50734, seeking to increase distribution rates by \$75.9 million annually (an approximately \$0.88 increase to the average residential customer's bill); and

WHEREAS, the City will cooperate with OCSC in coordinating their review of Oncor's DCRF filing with designated attorneys and consultants, prepare a common response, negotiate with the Company, and direct any necessary litigation, to resolve issues in the Company's filing; and

WHEREAS, all electric utility customers residing in the City will be impacted by this ratemaking proceeding if it is granted; and

WHEREAS, working with the OCSC to review the rates charged by Oncor allows members to accomplish more collectively than each city could do acting alone; and

WHEREAS, OCSC's members and attorneys recommend that members deny Oncor's DCRF.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS:

PART 1: That the City is authorized to participate with OCSC in Commission Docket No. 50734.

PART 2: That subject to the right to terminate employment at any time, the City of Tyler hereby authorizes the hiring of the law firm of Lloyd Gosselink Rochelle & Townsend, P.C. and consultants to negotiate with the Company, make recommendations to the City regarding reasonable rates, and to direct any necessary administrative proceedings or court litigation associated with an appeal Oncor's DCRF application.

PART 3: That the rates proposed by Oncor to be recovered through its DCRF charged to customers located within the City limits, are hereby found to be unreasonable and shall be denied.

PART 4: That the Company shall continue to charge its existing rates to customers within the City.

PART 5: That the City's reasonable rate case expenses shall be reimbursed in full by Oncor within 30 days of the adoption of this Resolution.

PART 6: That it is hereby officially found and determined that the meeting at which this Resolution is passed is open to the public as required by law and the public notice of the time, place, and purpose of said meeting was given as required.

PART 7: That a copy of this Resolution shall be sent to Tab Urbantke, Attorney for Oncor, at Hunton Andrews Kurth LLP, 1445 Ross Avenue, Suite 3700, Dallas, Texas 75202, and to Thomas Brocato, General Counsel to OCSC, at Lloyd Gosselink Rochelle & Townsend, P.C., P.O. Box 1725, Austin, TX 78767-1725, or tbrocato@lglawfirm.com.

PART 8: That this Resolution shall become effective upon its passage and approval by the City Council.

PASSED AND APPROVED this _____th day of May, 2020.

MARTIN HEINES, MAYOR
OF THE CITY OF TYLER, TEXAS

A T E S T:

APPROVED:

CASSANDRA BRAGER, CITY CLERK

DEBORAH G. PULLUM,
CITY ATTORNEY

MODEL STAFF REPORT REGARDING ONCOR'S APPLICATION TO AMEND ITS DISTRIBUTION COST RECOVERY FACTOR

The City is an electric utility customer of Oncor Electric Delivery Company LLC (“Oncor” or “Company”). The Oncor Cities Steering Committee (“OCSC”) is a coalition of similarly situated cities served by Oncor that have joined together to efficiently and cost effectively review and respond to electric issues affecting rates charged in Oncor’s service area in matters before the Public Utility Commission (“PUC” or “Commission”) and the courts.

On April 3, 2020, Oncor filed an Application to Amend its Distribution Cost Recovery Factor (“DCRF”) with each of the cities retaining original jurisdiction and with the Commission in Docket No. 50734. In the filing, the Company sought to increase distribution rates by \$75.9 million annually (an approximately \$0.88 increase to the average residential customer’s bill).

The resolution authorizes the City to join with OCSC to evaluate the filing, determine whether the filing complies with law, and if lawful, to determine what further strategy, including settlement, to pursue.

Purpose of the Resolution:

The purpose of the Resolution is to deny the DCRF amendment proposed by Oncor.

Explanation of “Be It Ordained” Sections:

1. This section authorizes the city to participate with OCSC as a party in the Company’s DCRF filing in PUC Docket No. 50734.

2. This section authorizes the hiring of Lloyd Gosselink and consultants to review the filing, negotiate with the Company, and make recommendations to the City regarding reasonable rates. It also authorizes OCSC to direct any necessary administrative proceedings or court litigation associated with an appeal of this application filed with the Commission.

3. This paragraph finds that the Company’s application is unreasonable and should be denied.

4. This section states that the Company’s current rates shall not be changed.

5. The Company will reimburse OCSC for its reasonable rate case expenses. Legal counsel and consultants approved by OCSC will submit monthly invoices that will be forwarded to Oncor for reimbursement.

6. This section merely recites that the resolution was passed at a meeting that was open to the public and that the consideration of the Resolution was properly noticed.

7. This section provides Oncor and counsel for OCSC will be notified of the City’s action by sending a copy of the approved and signed resolution to counsel.



CITY OF TYLER CITY COUNCIL COMMUNICATION

Agenda Number: R-2

Date: May 13, 2020

Subject: Request that the City Council consider adopting a Resolution supporting and approving the issuance of the 04/09/2020 Order of the Local Health Authority for Smith County, Texas, for the provision of non-congregate shelters to address the COVID-19 emergency; and consider ratifying and approving all actions taken by the Mayor of the City of Tyler, Texas, associated with the issuance of such Order by the Local Health Authority.

Page: Page 1 of

Item Reference: Texas Government Code Chapters 481 and 791; Texas Health and Safety Code Chapter 121; Texas Administrative Code Title 37; Tyler City Charter Sections 1, 2, 6 and 89; Tyler City Code Chapter 1, Article V.; City of Tyler Emergency Management Plan

The City of Tyler, Texas, the County of Smith, Texas and the Northeast Texas Public Health District (NETHealth) have been engaged in cooperative efforts to address the COVID-19 public emergency. Mayor Martin Heines has taken and is taking extraordinary measures to protect the public health, safety and welfare during this emergency.

On April 9, 2020, the Local Health Authority for Smith County, Texas, Dr. Jeffrey Levin, under the direction of the Smith County Judge and the Mayor of the City of Tyler, Texas, declared the existence of a public health emergency within Smith County, Texas. This Order provided that any agency that may be responsible for providing shelter to any person in the City of Tyler and Smith County, Texas, should locate, secure, operate and make available non-congregate sheltering to any person needing to be isolated or quarantined in order to prevent the spread of COVID-19.

It is important for the Tyler City Council to:

1) Confirm its support for the 04/09/2020 Order issued by the Local Health Authority. This demonstrates the City Council's support for Dr. Levin's recent Order to address the COVID-19 public emergency, as well as ongoing cooperative efforts between the City, County and Health District. This action would also maintain the City's emergency preparedness, and would allow for the continued use of the facilities in the event that respite or quarantine measures are made operational again in the near future.

2) Ratify, approve and express its support of all actions taken by City of Tyler Mayor Martin Heines associated with the issuance of the Local Health Authority's 04/09/2020 Order. Official ratification of the

Mayor's lawful actions is consistent with procedures under State law, City Charter, City Code and the City's Emergency Management Plan.

RECOMMENDATION:

It is recommended that the City Council adopt a Resolution supporting and approving the issuance of the 04/09/2020 Order of the Local Health Authority for Smith County, Texas, for the provision of non-congregate shelters to address the COVID-19 emergency; and ratify and approve all actions taken by the Mayor of the City of Tyler, Texas, associated with the issuance of such Order by the Local Health Authority.

ATTACHMENTS:

[Resolution](#)

[Exhibit A; Copy of 04.09.2020 Order](#)

Drafted/Recommended By:
Department Leader

Steven M. Kean, Deputy City Attorney

Edited/Submitted By:
City Manager

RESOLUTION NO. R-2020-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS SUPPORTING AND APPROVING THE 4/9/20 ISSUANCE OF THE ORDER OF THE LOCAL HEALTH AUTHORITY FOR SMITH COUNTY, TEXAS, FOR THE PROVISION OF NON-CONGREGATE SHELTERS TO ADDRESS THE COVID-19 EMERGENCY; RATIFYING AND APPROVING ALL ACTIONS TAKEN BY THE MAYOR OF THE CITY OF TYLER, TEXAS, ASSOCIATED WITH SUCH ORDER OF THE LOCAL HEALTH AUTHORITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, it is the intent of the City Council to protect the public health, safety and welfare; and

WHEREAS, municipalities may, under their police powers, enact reasonable regulations to promote the health, safety and general welfare of citizens; and

WHEREAS, the City of Tyler is a home-rule municipality acting under its Charter adopted by the electorate pursuant to Article 11, Section 5 of the Texas Constitution and Chapter 9 of the Texas Local Government Code; and

WHEREAS, the Tyler City Council is acting pursuant to all appropriate statutory authority including Texas Government Code Chapter 481, Texas Government Code Chapter 791, Texas Health and Safety Code Chapter 121, Texas Administrative Code Title 37, Tyler City Charter Sections 1, 2, 6 and 89, Tyler City Code Chapter 1, Article V., and the City of Tyler's Emergency Management Plan; and

WHEREAS, on January 20, 2020, the World Health Organization designated the novel coronavirus disease 2019 ("COVID-19") outbreak as a Public Health Emergency of International Concern and on March 11, 2020 characterized the outbreak as a pandemic; and

WHEREAS, on January 21, 2020, the United States Secretary of Health and Human Services announced a nationwide public health emergency to respond to COVID-19; and

WHEREAS, on March 13, 2020, Texas Governor Greg Abbott issued a Proclamation certifying COVID-19 as an imminent threat of disaster and declared a disaster across the State of Texas; and

WHEREAS, on March 19, 2020, the Texas Department of State Health Services' Dr. John Hellerstadt, determined that COVID-19 represents a public health disaster within the meaning of Texas Health and Safety Code Chapter 81; and

WHEREAS, on March 19, 2020, Texas Governor Greg Abbott issued EO GA-08; and on March 24, 2020, the Texas Governor issued EO GA-09; and on March 31, 2020, the Texas Governor issued EO GA-14; all of which are related to managing the COVID-19 public health disaster in Texas; and

WHEREAS, on March 16, 2020, Smith County, Texas County Judge Nathaniel Moran made a Declaration of Local Disaster due Public Health Emergency; and on March 18, 2020, the Smith County Commissioners Court ratified and extended the County Judge's local disaster declaration; and on March 27, 2020, Smith County, Texas County Judge Nathaniel Moran issued

a two-week “Shelter at Home” Order from March 27 through April 10, 2020, which order was extended to April 30, 2020; and

WHEREAS, on March 20, 2020, City of Tyler, Texas Mayor Martin Heines issued a Proclamation issuing a Local State of Disaster and Emergency Conditions as a result of COVID-19; and on March 25, 2020, the Tyler City Council ratified and approved the extension of the Mayor’s Proclamation of Local State of Disaster and Emergency Conditions because of COVID-19; and

WHEREAS, on April 9, 2020, Local Health Authority for Smith County, Texas Dr. Jeffrey Levin, under the direction of the Smith County Judge and the Mayor of the City of Tyler, Texas, declared the existence of a public health emergency within Smith County, Texas, and providing that any agency that may be responsible for providing shelter to any person in the City of Tyler and Smith County, Texas, to locate, secure, operate and make available non-congregate sheltering to any person needing to be isolated or quarantined in order to prevent the spread of COVID-19; and

WHEREAS, it is important for the Tyler City Council express its support and approval of the Local Health Authority’s Declaration of the existence of a public health emergency within Smith County, Texas, and the Local Health Authority’s Order related to non-congregate sheltering to address COVID-19; and

WHEREAS, it is important for the Tyler City Council to ratify, approve and express its support of all actions taken by City of Tyler Mayor Martin Heines associated with the issuance of the Local Health Authority’s Declaration of the existence of a public health emergency within Smith County, Texas, and the Local Health Authority’s Order related to non-congregate sheltering to address COVID-19; and

WHEREAS, the Mayor of the City of Tyler, Texas has taken and is taking extraordinary measures to prevent the spread of COVID-19; and

WHEREAS, it is important for the City of Tyler to continue its ongoing cooperative efforts with Smith County, Texas and the Northeast Texas Public Health District to address the COVID-19 public emergency; and

WHEREAS, it is important for the City of Tyler to maintain its level of emergency preparedness in the wake of the COVID-19 pandemic;

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

PART 1: That the City of Tyler, acting through its governing body, hereby confirms that it supports and approves the issuance of the Order (copy attached hereto as Exhibit “A” and incorporated herein) issued on April 9, 2020, by Local Health Authority for Smith County, Texas Dr. Jeffrey Levin, under the direction of the Smith County Judge and the Mayor of the City of Tyler, Texas, declaring the existence of a public health emergency within Smith County, Texas, and providing that any agency that may be responsible for providing shelter to any person in the City of Tyler and Smith County, Texas, to locate, secure, operate and make available non-congregate sheltering to any person needing to be isolated or quarantined in order to prevent the spread of COVID-19.

PART 2: That the City Council hereby ratifies, approves and supports all actions taken by Mayor Martin Heines associated with the issuance of the Order issued by the Local Health Authority on April 9, 2020.

PART 3: That City Staff is hereby directed to continue all cooperative efforts between the City of Tyler, Texas, Smith County, Texas and the Northeast Texas Public Health District to address the COVID-19 public health emergency.

PART 4: That this Resolution shall take effect immediately upon adoption.

ADOPTED this 13th day of May, 2020.

MARTIN HEINES, MAYOR
OF THE CITY OF TYLER, TEXAS

A T T E S T:

APPROVED:

CASSANDRA BRAGER, CITY CLERK

DEBORAH G. PULLUM,
CITY ATTORNEY

EXHIBIT "A"; RESOLUTION; NON-CONGREGATE SHELTER:

ORDER OF THE LOCAL HEALTH AUTHORITY FOR SMITH COUNTY, TEXAS, FOR THE PROVISION OF NON-CONGREGATE SHELTERS

WHEREAS, on January 20th, the World Health Organization designated the novel coronavirus disease 2019 ("COVID-19") outbreak as a Public Health Emergency of International Concern and on March 11, 2020 characterized the outbreak as a pandemic; and

WHEREAS, on January 31st, 2020, the United States Secretary of Health and Human Services announced a nationwide public health emergency to respond to COVID-19; and

WHEREAS, on March 13th, 2020 Texas Governor Greg Abbott issued a Proclamation certifying COVID-19 as an imminent threat of disaster and declared a disaster across the state of Texas; and

WHEREAS, on March 19th, 2020, the Texas Department of State Health Services' Dr. John Hellerstadt, determined that COVID-19 represents a public health disaster within the meaning of Ch. 81 of the Texas Health and Safety Code; and

WHEREAS, on March 19th, 2020 Texas State Governor Greg Abbott issued EO GA-08; and on March 24th, 2020, the Texas Governor issued EO GA-09; and on March 31st, 2020, the Texas Governor issued EO GA-14, all of which are related to managing the COVID-19 public health disaster in Texas; and

WHEREAS, on March 16th, 2020 Smith County, Texas County Judge Nathaniel Moran made a Declaration of Local Disaster due to Public Health Emergency; and on March 18th, the Smith County Commissioners Court ratified and extended the Judge's local disaster declaration; and on March 27th, 2020; and Smith County, Texas County Judge Nathaniel Moran issued a two week "Shelter at Home" Order from March 27-April 10th, which order was extended to April 30, 2020; and

WHEREAS, on March 20th, 2020, City of Tyler, Smith County, Texas, Mayor Martin Heines issued a Proclamation issuing a Local State of Disaster and Emergency Conditions as a result of COVID-19; and on March 25th the City of Tyler City Council ratified and approved the extension of Mayor's Proclamation of a local disaster because of COVID-19; and

WHEREAS, local leaders are charged with taking all appropriate and necessary steps to preserve public safety and to render all required and available assistance to protect the security, well-being, and health of the residents of the City; and

WHEREAS, I find the ongoing transmission of COVID-19 internationally and locally to be a threat to the public health of the City of Tyler and Smith County, Texas; and

WHEREAS, pursuant to Sections 1 and 2 of the City Charter of the City of Tyler and the NET Health Cooperative Agreement, per Chapter 121 of the Texas Local Government Code, NET Health, the local public health district, is authorized to supervise the control of communicable diseases and conditions hazardous to life and health and take such actions as may be necessary to assure the maintenance of the protection of public health; and

WHEREAS, pursuant to Chapter 81 of the Texas Health and Safety Code and Chapter 125 of the Local Government Code, I am authorized to declare a public health emergency and issue orders and take actions that I deem necessary for the health and safety of the City and its residents when urgent public health action is necessary to protect the public health against an existing threat; and

WHEREAS, non-congregate sheltering is necessary to save lives, to protect property and public health, and to ensure public safety, as well as to lessen or avert the threat of a catastrophe; and

WHEREAS, there is an urgent health need for non-congregate shelters for individuals who may need to be isolated or quarantined for seven days after the onset of symptoms and up to 14 days, in order to protect the health and safety of all City residents; and

WHEREAS, sheltering such individuals in congregate settings will further the spread of this disease, endangering populations that are particularly susceptible to COVID-19 infection, including people over 60 years of age and people with certain underlying conditions, and a system of non-congregate shelters will save lives, protect public health and promote public safety; and

NOW, THEREFORE, BE IT RESOLVED THAT,

1. I, Jeffrey Levin, M.D., Local Health Authority for Smith County, Texas, under the direction of the Smith County Judge and the Mayor of the City of Tyler, Texas, hereby declare the existence of a public health emergency within Smith County, Texas, for which certain orders and actions are

necessary to protect the health and safety of Smith County, Texas and its residents, and for which exercising the power of the Local Health Authority to prevent, mitigate, control and abate the current emergency presented by COVID-19 is necessary. I find there to be sufficient proof to authorize a declaration of great and imminent peril to the public health.

2. WE HEREBY ORDER any agency that may be responsible for providing shelter to any person in the City of Tyler and County of Smith to locate, secure, operate, and make available non-congregate sheltering to any person needing to be isolated or quarantined in order to prevent the spread of COVID-19. The provision off non-congregate shelters required by this ORDER shall be limited to that which is reasonable and necessary to adequately protect the public from the threat presented by the COVID-19 pandemic, as determined by the Texas Department of State Health Services.

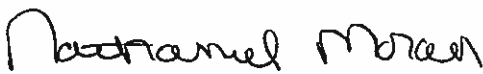
Such shelters may be located in hotels, convention centers, dormitories, and other non-traditional shelter facilities as deemed appropriate by the Texas Department of State Health Services in consultation with myself, local law enforcement and other stakeholders. Such shelters shall be under the control of the Joint City of Tyler and Smith County Emergency Operations Center.

3. This ORDER shall be effective immediately and remain in effect until the end of the public health emergency or such earlier time as we may indicate.

Dated: April 9, 2020



Dr. Jeffrey Levin
Local Health Authority
Smith County, Texas



Nathaniel Moran
County Judge
Smith County, Texas



Martin Heines
Mayor
City of Tyler, Texas



**CITY OF TYLER
CITY COUNCIL COMMUNICATION**



Agenda Number: R-3

Date: May 13, 2020

Subject: Request that the City Council consider adopting a resolution to authorize the application for and acceptance of Federal Transit Administration (FTA) Coronavirus Aid Relief, and Economic Security Act (CARES) Grant Funds in the amount of \$5,337,067 for the purpose of providing public transportation for the City of Tyler, which does not require local match. This resolution also accepts any grant amendments.

Page: Page 1 of

Item Reference:

Pursuant to the Coronavirus Aid, Relief, and Economic Security Act (CARES), Federal Transit Administration (FTA) allocated \$25 billion to recipients of urbanized area and rural area formula funds, which transit agencies should use to support operations with no local match required.

Tyler Transit has been awarded \$5,337,067 from this grant allocation. The terms for the FTA CARES Act grant number (TX-2020-045-00) are for full reimbursement of the operating, planning, and capital costs for both fixed route and Americans with Disabilities Act (ADA) paratransit services.

Anticipated grant funding is as follows:

Capital Expenses eligible for 100% reimbursement (bus replacement and maintenance) - \$1,798,375

Operating Expenses eligible for 100% reimbursement - \$3,185,919

Planning and Research Expenses eligible for 100% reimbursement - \$352,772

New bus purchases are also included in the capital expenses. Tyler Transit plans to purchase the following:

- Purchase of three medium-duty fixed route buses and related equipment.
- Purchase of one medium-duty paratransit bus and related equipment.

RECOMMENDATION:

It is recommended that the City Council consider adopting a resolution to authorize the application for and acceptance of Federal Transit Administration (FTA) Coronavirus Aid Relief, and Economic Security Act (CARES) Grant Funds in the amount of \$5,337,067 for the purpose of providing public transportation for the City of Tyler, which does not require local match. This resolution also accepts any grant amendments.

ATTACHMENTS:

[Resolution](#)

Drafted/Recommended By:

Department Leader

Robert Gil, Transit Manager

Edited/Submitted By:

City Manager

Agenda Number: C-A-

Page 3 of 4

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS, AUTHORIZING THE APPLICATION FOR FEDERAL TRANSIT ADMINISTRATION GRANT FUNDS FOR PUBLIC TRANSPORTATION SERVICE FOR TYLER TRANSIT; AUTHORIZING ACCEPTANCE OF FEDERAL TRANSIT ADMINISTRATION GRANT TX-2020-047-00 MAIN GRANT TOTALING \$5,337,067 ALONG WITH ANY GRANT AMENDMENTS TO INCREASE THE GRANT FUNDING LEVELS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on April 2, 2020, the City of Tyler was notified by the Federal Transit Administration (FTA) to make an application requesting \$5,337,067 for public transportation assistance for Tyler Transit; and

WHEREAS, the Federal Transit Administration has stated that a Grant offer totaling \$5,337,067 should be made; and

WHEREAS, it is necessary for the City Council to authorize submission of the application for FTA funds, as well as acceptance of FTA Grant TX-2020-047-00 Main Grant and any grant amendments to increase the grant funding levels along with; and

WHEREAS, this grant supplies reimbursement for a portion of Transit Department operating costs. Remaining funds come from the adopted budget, departmental revenue, and State grant funds. If the City of Tyler did not receive this grant, the City would be responsible for all operating expenses; and

WHEREAS, it is considered to be in the public interest to obtain and use grant funds for the above public purposes;

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

PART 1: That the Application for Federal Assistance for Project No. TX-2020-047-00 Main Grant requesting \$5,337,067 for public transportation assistance for Tyler Transit and including all understandings and assurances contained therein, is hereby authorized and approved.

PART 2: That the City Manager's filing of the grant application, and all actions taken in connection therewith, is hereby affirmed.

PART 3: That the City Council hereby resolves and affirms to the Federal Transit Administration that the City of Tyler has legal authority to apply for the grant and to finance and carry out the proposed project.

Agenda Number: C-A-

Page 4 of 4

PART 4: That the City Council hereby resolves and affirms to the Federal Transit Administration the City of Tyler's intent to comply with all of the assurances set forth in the grant agreement and all laws, regulations, and circulars incorporated by reference in the grant agreement.

PART 5: That the City Manager is hereby authorized and directed to accept the grant for Project No. TX-2020-047-00 Main Grant and any grant amendments to increase the funding levels.

PART 6: That the City Manager is hereby authorized and directed to take all actions necessary in order to accept and use the grant to fulfill the purposes described above.

PART 7: That the City Manager is hereby authorized and directed to provide such additional information as may be required by the Federal Transit Administration.

PART 8: That this Resolution shall take effect immediately upon its adoption.

PASSED AND APPROVED on this the 13th day of May, 2020.

MARTIN HEINES, MAYOR OF
THE CITY OF TYLER, TEXAS

ATTEST:

APPROVED:

CASSANDRA BRAGER, CITY CLERK

CITY ATTORNEY



CITY OF TYLER CITY COUNCIL COMMUNICATION

Agenda Number: O-1

Date: May 13, 2020

Subject: Request that the City Council consider adopting an ordinance amending Tyler City Code Chapter 1, Article IV., by updating, clarifying and amending the City Administrative Appeals Process.

Page: Page 1 of

Item Reference: Tyler City Code Chapter 1, Article IV.

In 1978, the City Council originally established a general Administrative Appeals Process. Such administrative procedures govern the granting or denial of a license, permit or privilege, or the administration of a City ordinance, State or Federal law or rule. The general administrative procedures do not relate to any appeals governed separately by other City codes, personnel matters, or criminal enforcement of an ordinance violation. The administrative procedures were last amended in 2016. Following a recent review, the changes below are currently recommended.

- If appeal is not made within 30 business days, the Department Leader or Designee decision becomes final, and no appeal may be made to the City Manager.
- Clarifies that appeal of Department Leader or Designee decision may be made to City Manager or City Manager's Designee.
- Further clarifies that City Manager's or Designee's decision is final, and may not be appealed to City Council.
- City Manager may currently seek City Board review. Code is amended to allow City Manager, if so desired, to appoint committee to review in addition to, or instead of, Board review.
- Any Person hearing appeal under Chap. 1 cannot be the same person whose decision is being appealed.
- All provisions are stayed during the Appeal Period(s).
- Deletes Duplicative Wording in Sec. 1-31.
- Other minor wording and numbering changes.

RECOMMENDATION:

It is recommended that the City Council adopt the attached ordinance amending Tyler City Code Chapter 1, Article IV., to update, clarify and amend the general Administrative Appeal Procedures.

ATTACHMENTS:

[Ordinance](#)

Drafted/Recommended By:
Department Leader

Steven M. Kean, Deputy City Attorney

Edited/Submitted By:
City Manager

ORDINANCE NO. O-2020-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS, AMENDING CHAPTER 1, “GENERAL PROVISIONS”, ARTICLE IV., “ADMINISTRATIVE PROCEDURES”, OF THE CODE OF ORDINANCES OF THE CITY OF TYLER, TEXAS, BY CLARIFYING UPDATING AND AMENDING THE GENERAL CITY ADMINISTRATIVE APPEALS PROCEDURES; PROVIDING A SEVERABILITY CLAUSE; ESTABLISHING A PENALTY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, it is the intent of the City Council to protect the public health, safety and welfare; and

WHEREAS, it is important to update and amend the general Administrative Appeals procedures in City Code Chapter 1, Article IV.;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS:

PART 1: That Tyler City Code Chapter 1, “General Provisions”, Article IV., “Administrative Procedures”, is hereby amended to read as follows:

ARTICLE IV. ADMINISTRATIVE PROCEDURES

Sec. 1-30. Administrative policies and procedures.

The City Manager shall create and adopt administrative policies and procedures to set out guidelines and steps to be followed in certain circumstances as may be necessary. (Ord. No. O-98-45, 5/27/98) (Ord. No. 0-2016-44; 5/11/16)

Sec. 1-31. Scope and standing for review.

The appeal provisions of this Article shall apply to a decision of a City employee concerning:

- a. The granting or denial of any license, permit, or privilege; or
- b. The administration of any City or Departmental policy as such policy may reasonably relate to:
 1. The administration of a City ordinance, a State or Federal law; or
 2. An administrative rule of a State Agency; or
 3. An administrative rule of a Federal Agency or Executive Order.

This Article shall not apply to employer/employee relationship questions, personnel matters, or to employee grievances. Employee grievances shall be resolved in accordance with civil service law, Civil Service Rules, or non-civil service administrative policies and procedures as may be applicable.

This Article shall not apply to any decision, which by separate ordinance, may be appealed to an administrative review board or to the City Council.

This Article shall not apply to any decision rendered pursuant to the criminal enforcement of any ordinance. (Ord. No. O-98-45, 5/27/98) (Ord. No. 0-2012-71; 9/26/12) (Ord. No. 0-2016-44; 5/11/16) (Ord. No. 0-2020-__ ; 5/13/20)

Sec. 1-32. ~~Standing of person asking for review.~~

~~The appeal procedures as set forth in this Article may be evoked only by those persons who:~~

~~a. Have applied for a license, permit or privilege, and~~

~~b. Have sustained, or may reasonably sustain, a direct injury or loss as a result of decision of a City employee. (Ord. No. O-98-45, 5/27/98)~~

Sec. 1-332. Procedure at Departmental level.

- a. Any person aggrieved by the decision of a City employee may appeal such decision to the appropriate Department Leader or designee.
- b. Such appeal shall be in writing and shall succinctly state the problem or objection of the aggrieved party and the aggrieved party's understanding of the City employee's decision. An appeal stays all proceedings in furtherance of the action that is appealed, until a final decision is reached.
- c. The Department Leader or designee shall not be the City employee whose decision is being appealed. The Department Leader or designee shall render a written decision within twenty (20) business days after receipt of the written appeal. However, if the Department Leader or designee determines that there is not sufficient data upon which to base a decision, further written information may be requested from the aggrieved party, in which case the twenty-business day limit shall run from the date on which the completed information is received. If the aggrieved party is not satisfied with the decision of the Department Leader or designee, the decision may be appealed to the City Manager or designee in accordance with Section 1-3433. (Ord. No. O-98-45, 5/27/98) (Ord. No. 0-2012-71; 9/26/12) (Ord. No. 0-2016-44; 5/11/16) (Ord. No. 0-2020-__ ; 5/13/20)

Sec. 1-343. Procedure before City Manager or designee.

- a. Any person aggrieved by the decision of a Department Leader or designee may appeal such decision to the City Manager or designee. Such appeal must be filed with the City Manager or designee within thirty (30) business days after the decision of the Department Leader or designee, otherwise the decision of the Department Leader or designee is final.

b. Such appeal shall be in writing and shall succinctly state the problem or objection of the aggrieved party and the aggrieved party's understanding of the decision of the Department Leader or designee. An appeal stays all proceedings in furtherance of the action that is appealed, until a final decision is reached.

c. The City Manager or designee shall not be the decision maker whose decision is being appealed. The City Manager (or acting City Manager in absence), or designee, shall render a written decision within ten (10) business days after receipt of the written appeal or the latest amended appeal. If, however, the City Manager or designee determines that there is not sufficient data upon which to base a decision, further written information may be requested from the aggrieved party, in which event the ten-business day time limit shall run from the date on which the completed information is received.

d. The City Manager or designee may refer the controversy to an appropriate advisory group or City board for recommendation, in which event the time limit of subpart c., above, shall not apply. For purposes of this section, the term "advisory group" shall mean a group of City employees appointed by the City Manager or designee to provide advice regarding a specific appeal. No employee serving on the advisory group shall be the decision maker whose decision is being appealed. "aAppropriate City board" shall mean one of the specific City Boards established by the City Council in Section 1-20, and having objectives or functions associated with the specific City Department to which the appeal was made. The advisory group or City board to which the matter is referred shall ~~conduct a public hearing on~~ consider the matter within sixty (60) business days after the matter is referred to it, and shall provide a recommendation to the City Manager or designee. All considerations under this Article by a City board shall be in a public hearing. The City Manager or designee shall render a decision within ten (10) business days after the appropriate advisory group or City board gives its recommendation. (Ord. No. O-98-45, 5/27/98) (Ord. No. 0-2012-71; 9/26/12) (Ord. No. 0-2016-44; 5/11/16)

e. At the conclusion of the review, the City Manager or designee shall either:

1. Sustain the decision of the Department Leader or designee, or
2. Render an appropriate decision.

f. The decision of the City Manager or designee regarding an appeal under this Article shall be final. (Ord. No. O-98-45, 5/27/98) (Ord. No. 0-2012-71; 9/26/12) (Ord. No. 0-2020-__ ; 5/13/20)

Secs. 1-3534--1-39. Reserved.

PART 2: That if any provision or any section of this ordinance shall be held to be void or unconstitutional, such holding shall in no way affect the validity of the remaining provisions or sections of this ordinance, which shall remain in full force and effect.

PART 3: That any person, firm, or corporation convicted of violating any of the provisions of this ordinance shall be punished by a fine as provided in Section 1-4 of the Tyler Code. Each day such violation shall continue, or be permitted to continue, shall be deemed a separate offense. Since this ordinance has a penalty for violation, it shall not become effective

until after its publication in the newspaper as provided by Section 85 of the Charter of the City of Tyler, Texas, which date is expected to be May 15, 2020.

PASSED AND APPROVED this 13th day of May A. D., 2020.

MARTIN HEINES, MAYOR
OF THE CITY OF TYLER, TEXAS

ATTEST:

APPROVED:

CASSANDRA BRAGER, CITY CLERK

DEBORAH G. PULLUM,
CITY ATTORNEY



CITY OF TYLER CITY COUNCIL COMMUNICATION

Agenda Number: O-2

Date: May 13, 2020

Subject: Request that the City Council consider adopting an Ordinance amending Tyler City Code Chapter 1 to update and clarify the City's Emergency Preparedness provisions to track the State law more closely and to reflect current practices.

Page: Page 1 of

Item Reference: Texas Government Code Chapters 481 and 791; Local Government Code Sections 51.001 and 51.072; Administrative Code Title 37; Tyler City Charter Sections 1, 2, 6 and 89; Tyler City Code Chapter 1, Article V.; City of Tyler Emergency Management Plan

Consistent with State Law, the City of Tyler has adopted specific Emergency Preparedness provisions in City Code Chapter 1, Article V. During the current COVID-19 public emergency, an extensive review was conducted of the City's emergency regulations. At this time, it is recommended that the current Emergency Preparedness provisions in City Code Chapter 1, Article V. be amended and clarified to make them more consistent with State law and to reflect current practices.

The attached Ordinance includes the following changes:

- Adds additional references to State law, City Charter, City Policies and the City's Emergency Management Plan.
- Clarifies that the provisions are designed to prepare for and address emergency situations.
- Clarifies that the City Council may meet in regular or special session to consider emergency regulations.
- Clarifies the penalty provisions.
- Makes other minor wording and organization changes.

RECOMMENDATION:

It is recommended that the City Council adopt the attached Ordinance amending Tyler Code Chapter 1 to update and clarify the City's Emergency Preparedness provisions to track the State law more closely and to reflect current practices.

ATTACHMENTS:

[Ordinance - Emergency Preparedness](#)

Drafted/Recommended By:
Department Leader

Steven Kean, Deputy City Attorney

Edited/Submitted By:
City Manager

ORDINANCE NO. O-2020-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS, AMENDING TYLER CITY CODE CHAPTER 1, “GENERAL PROVISIONS”, ARTICLE V., “EMERGENCY PREPAREDNESS”, BY UPDATING AND CLARIFYING THE EMERGENCY PREPAREDNESS PROVISIONS TO TRACK THE STATE LAW MORE CLOSELY AND TO REFLECT CURRENT PRACTICES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, it is the intent of the City Council to protect the public health, safety and welfare; and

WHEREAS, municipalities may, under their police powers, enact reasonable regulations to promote the health, safety and general welfare of citizens; and

WHEREAS, the City of Tyler is a home-rule municipality acting under its Charter adopted by the electorate pursuant to Article 11, Section 5 of the Texas Constitution and Chapter 9 of the Texas Local Government Code; and

WHEREAS, the Tyler City Council is acting pursuant to all appropriate authority including Texas Government Code Chapter 481, Texas Government Code Chapter 791, Texas Administrative Code Title 37, Texas Local Government Code Sections 51.001 and 51.072; Tyler City Charter Sections 1, 2, 6 and 89, Tyler City Code Chapter 1, Article V., as well as the City of Tyler’s Emergency Management Plan; and

WHEREAS, consistent with State law, the City Council has adopted certain Emergency Preparedness regulations in City Code Chapter 1, Article V.; and

WHEREAS, it is important to amend City Code Chapter 1 to update and clarify the current Emergency Preparedness provisions in City Code Chapter 1, Article V. to make them more consistent with State law and to reflect current practices;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS:

PART 1: That Tyler City Code Chapter 1, “General Provisions”, Article V., “Emergency Preparedness”, is hereby amended to read as follows:

ARTICLE V. EMERGENCY PREPAREDNESS

Sec. 1-40. Preparation of plan.

The City Manager or designee shall provide for planning in the area of emergency preparedness and disaster relief. As mandated by State law, An Emergency Management Plan setting out specific details for the handling of such situations in Tyler and Smith County shall be prepared for Council adoption and periodic review. Under this Article and City Code Section 1-30, the City Manager is also authorized to create and adopt administrative policies and

procedures necessary to govern emergency situations The City Manager or designee shall also provide for the preparation of such inter-local agreements as are necessary to adequately prepare adequately for, and/or to address, emergencies .(Ord. No. O-98-45, 5/27/98) (Ord. No. 0-2017-20; 2/22/17 (Ord. No. 0-2020-__ ; 5/13/20))

Sec. 1-41. Declaration of local disaster; Override of local ordinance during declared disaster.

a. State law sets forth the process for the Mayor to declare a local state of disaster for a public health emergency, and for the extension thereof. Upon the Mayor's declaration that a state of disaster exists within the City, the City Council may meet in regular or emergency session to issue such orders, rules, and regulations as are deemed necessary to protect the life or property of citizens and critical resources while the state of disaster is in effect. If time is of the essence and it is impossible or impractical for the City Council to meet, then the Mayor shall have the authority to issue emergency orders, rules and regulations. If it is impossible or impractical for the Mayor to so act, then the City Manager shall have the authority to issue such emergency orders, rules and regulations. The City Council, ~~at the next a meeting~~ following either the Mayor's or the City Manager's issuance of such measures, shall either ratify or reject the measures. Those orders, rules, and regulations that are ratified by the City Council shall remain in effect until the measures expire and those orders, rules, and regulations that are rejected by the City Council shall cease to be in effect.

b. At all times when the orders, rules, and regulations made and issued pursuant to State law, Section 89 and/or other provisions of the City Charter and/or this chapter shall be in effect, the same shall supersede all existing ordinances and regulations of the City insofar as the latter may be inconsistent therewith.

c. ~~The provisions of the preceding part, as well as t~~The effect of the orders, rules, and regulations issued pursuant to this Article subsection a. shall cease to apply following issuance action by the Mayor or City Council of a notice, declaration, or order action terminating the local state of disaster. (Ord. No. O-98-45, 5/27/98) (Ord. No. 0-2020-__ ; 5/13/20)

Sec. 1-42. No liability for emergency management operations.

a. All actions performed under the Emergency Management Plan and this ~~chapter~~ Article are hereby deemed an exercise of governmental functions by the City for the protection of the public health, safety, and welfare and neither the City, its officials, agents, employees, or representatives nor any individual, receiver, firm, partnership, corporation, or association or agent thereof in good faith carrying out, complying with, or attempting to comply with the provisions of the Emergency Management Plan, this ~~chapter~~ Article or any order, rule, or regulation issued under the authority hereof, shall be liable in any form or manner for damage sustained to persons or property as a result of said activity.

b. Any person and/or successors in interest who owns or controls any real property or other premises and who voluntarily and without compensation grants to the City the right, license, or privilege, or otherwise permits the City to inspect, designate, and use the whole or any part of such premises for the purpose of sheltering persons during any actual, impending

or practice enemy attack or natural or man-made disaster shall not be liable for death, injury or damage to the property of any such persons. (Ord. No. O-98-45, 5/27/98) (Ord. No. 0-2020- ; 5/13/20)

Sec. 1-43. Prohibited acts; penalty.

a. It shall be unlawful for any person to hinder, obstruct, or delay any member of the emergency management organization in the implementation of the Emergency Management Plan or the enforcement of any order, rule, or regulation issued pursuant to this Article chapter.

b. It shall be unlawful for any person to carry, display, exhibit, or wear any emblem, insignia, or other identification of emergency management personnel without due authorization.

c. It shall be unlawful for any person to operate a siren or other device so as to simulate a false signal warning of disaster or a false termination of warning or all clear signal without due authorization.

d. ~~Any person violating violation of this chapter Article, or any emergency orders, rules or regulations adopted pursuant to this chapter Article, is unlawful and shall be subject the violator to a penalty as set forth in State law and/or City Code Section 1-4 deemed guilty of a misdemeanor and, upon conviction, shall be punished by fine not to exceed one thousand dollars (\$1,000.00). Each day or fractional part thereof that any violation of this Article shall continue constitutes a separate offense. (Ord. No. 0-2020- ; 5/13/20)~~

PART 2: That if any provision or any section of this ordinance shall be held to be void or unconstitutional, such holding shall in no way affect the validity of the remaining provisions or sections of this ordinance, which shall remain in full force and effect.

PART 3: That any person, firm, or corporation violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine as provided in Section 1-4 of the Tyler Code. Each day such violation shall continue, or be permitted to continue, shall be deemed a separate offense. Since this ordinance has a penalty for violation, it shall not become effective until after its publication in the newspaper as provided by Section 85 of the Charter of the City of Tyler, Texas, which date is expected to be May 15, 2020.

PASSED AND APPROVED this the 13th day of May, A.D., 2020.

MARTIN HEINES, MAYOR
OF THE CITY OF TYLER, TEXAS

ATTEST:

APPROVED:

CASSANDRA BRAGER, CITY CLERK

DEBORAH G. PULLUM,
CITY ATTORNEY



CITY OF TYLER CITY COUNCIL COMMUNICATION

Agenda Number: O-3

Date: May 13, 2020

Subject: Request that the City Council consider adopting an ordinance amending the City of Tyler's Citizen Participation Plan for Community Development Block Grant (CDBG) Fund Allocations.

Page: Page 1 of

Item Reference:

The U.S. Department of Housing and Urban Development (HUD) and Community Development Block Grant (CDBG) regulations require the City to have a Citizen Participation Plan to encourage citizens to participate in identifying community needs and allocating CDBG funds. For substantial amendments to an Annual Action Plan, the Citizen Participation Plan and applicable regulations require a minimum of a 30 day public comment period.

The Coronavirus Aid, Relief, and Economic Security Act (CARES Act) was signed into law on March 27, 2020. The CARES Act authorizes grantees to amend their Citizen Participation Plan to allow for not less than a 5 day public comment period for substantial amendments. Additionally, the CARES Act allocated an additional \$514,341 in CDBG-CV funds to the City of Tyler.

Based on HUD's guidance, a substantial amendment to the 2019 Annual Action Plan is needed to properly allocate the additional \$514,341 in CDBG-CV funds. To more quickly be able to utilize the additional funding, the City should amend its Citizen Participation Plan to require a 5 day public comment period on substantial amendments. The attached ordinance allows for a 5 day public comment period for any amendment, substantial or minor, to an Annual Action Plan related to the programming of the CDBG-CV funds.

RECOMMENDATION:

Staff recommends adopting the proposed ordinance amending the City of Tyler's Citizen Participation Plan for CDBG Fund Allocations.

ATTACHMENTS:

[Ordinance Amending CCP](#)

Drafted/Recommended By:
Department Leader

Dustin S. Wilson, Community Development Manager

Edited/Submitted By:
City Manager

ORDINANCE NO. O-2020-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS, AMENDING THE CITY OF TYLER'S CITIZEN PARTICIPATION PLAN UNDER CERTAIN PROVISIONS OF THE CARES ACT

WHEREAS, for many years, the U.S. Department of Housing and Urban Development has allocated funds through grant applications to the City of Tyler for neighborhood improvement programs, along with administrative costs associated with such programs;

WHEREAS, it is intended that the City encourage and obtain comments from interested citizens regarding the proposed and actual use of the funds, Consolidated Plan, Annual Action Plan, and the Citizen Participation Plan;

WHEREAS, the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) was passed by Congress on March 27, 2020;

WHEREAS, the CARES act authorizes the City of Tyler to amend its Citizen Participation Plan to more quickly enact amendments; and,

WHEREAS, the City of Tyler is amending its Citizen Participation Plan,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS:

PART 1: That the Citizen Participation Plan is hereby amended to add the proposed paragraph (7) to Part II, Section C

(7) Citizens will be given a 5-day period to comment on any amendment related to CDBG-CV Funds to the Consolidated Plan/Annual Plan prior to the implementation of the amendment.

PART 2: That if any provision or any section of this ordinance shall be held to be void or unconstitutional, such holding shall in no way affect the validity of the remaining provisions or sections of this ordinance, which shall remain in full force and effect.

PART 3: That this ordinance shall take effect immediately upon adoption

PASSED AND APPROVED this 13th day of May A. D., 2020.

MARTIN HEINES, MAYOR
OF THE CITY OF TYLER, TEXAS

ATTEST:

APPROVED:

CASSANDRA BRAGER, CITY CLERK

DEBORAH G. PULLUM,
CITY ATTORNEY



CITY OF TYLER CITY COUNCIL COMMUNICATION

Agenda Number: H-1

Date: May 13, 2020

Subject: Request that the City Council conduct a public hearing for citizen participation and to consider approving a substantial amendment to the 2019 Annual Action Plan and programming of Community Development Block Grant Coronavirus (CDBG-CV) funds.

Page: Page 1 of

Item Reference:

In accordance with the City of Tyler's Citizen Participation Plan and requirements of the U.S. Department of Housing and Urban Development (HUD), a public hearing is required to provide the public the opportunity to comment on the 2019 Annual Action Plan Substantial Amendment and Community Develop Block Grant- Coronavirus (CDBG-CV) program funding allocation.

The City of Tyler is currently planning to use the CDBG-CV funds in a variety of ways: (1) provide public services; (2) acquire, lease, and/or rehabilitate facilities to isolate and/or quarantine individuals; (3) make interim improvements to private properties to enable an individual to remain quarantined temporarily; (4) gather data and develop a non-project specific emergency infectious disease response plan; and, (5) administrative costs.

Currently, the City of Tyler plans to allocate the funds as follows:

Public services: \$401,472.80

Gather data and develop non-project specific response plans: \$10,000

Administrative costs: \$92,868.20

Additionally, certain pre-award costs incurred on or after March 27, 2020 and paid for with non-federal funds may be repaid with CDBG-CV funds. These pre-award costs will not exceed \$128,585.25, or 25 percent of the grant amount.

RECOMMENDATION:

Staff recommends that the City Council conduct a public hearing and approve the substantial amendment to the 2019 Annual Action Plan to program the City's CDBG-CV allocation.

ATTACHMENTS:

Drafted/Recommended By:
Department Leader

Dustin S. Wilson, Community Development Manager

Edited/Submitted By:
City Manager



CITY OF TYLER CITY COUNCIL COMMUNICATION

Agenda Number: H-2

Date: May 13, 2020

Subject: Request that the City Council conduct a public hearing and consider adopting an Ordinance amending Tyler City Code Chapter 15 to adopt a proposed Electric Power Franchise Ordinance with Oncor Electric Delivery Company, LLC, on the first of three readings.

Page: Page 1 of

Item Reference: Tyler City Code Chapter 15, Article III., "Electric Franchise"; Tyler City Charter, Article V., Section 35

Tyler City Charter, Article V Section 35 requires any utility wishing to use public right-of-way for its facilities and infrastructure to obtain City permission in the form of a franchise. Traditionally, Texas cities have used a document called a Franchise to do, among other things, the following:

1. Grant an "easement" or right of use in the public rights-of-way
2. Describe the method of calculating the fee for the use of the public rights-of-way
3. Establish other regulatory items or procedures

On May 10, 1989, the City Council approved a Franchise Ordinance and Agreement with Texas Utilities (TXU) Electric Company. The aforementioned Franchise Agreement was amended in 1993 and again in 2002. Oncor Electric Delivery Company, LLC is the current successor in interest to TXU with a Franchise Ordinance and Agreement approved by the City Council on June 9, 2010. Although State law on electricity regulation has changed since that last franchise, cities still have the ability and authority to enter into franchise agreements with electric companies.

Today's review of the proposed Franchise Ordinance is the first of three readings and public hearings on the proposed Franchise that are required by the Tyler City Charter. Staff request that the City Council hold a public hearing and allow public comment, and vote on the proposed Franchise Ordinance to move to the second reading. It is possible to make changes to the franchise document through the third and final reading.

The City has been in negotiations with Oncor Electric Delivery Company, LLC over the past year, and the parties have agreed on the final draft being presented to the City Council today. Only one provision, i.e. the term of the Franchise Ordinance is still under negotiation. There are continued discussions between Oncor and staff concerning whether the Franchise will be granted for a 10-year term (the length of the current Franchise) or 20-year term (the longer term that Oncor prefers). Attached is a copy of the

proposed Oncor Franchise Ordinance for reference.

The expected time table for the three readings for this proposed Electric Delivery Ordinance is as follows:

May 13, 2020 First Reading and Public Hearing.
May 27, 2020 Second Reading and Public Hearing.
June 10, 2020 Third Reading and Public Hearing. Final City Council Vote on Ordinance.

Highlights of the attached Ordinance include the following:

1. A term of 10 years.
2. The Franchise Payment will consist of two components:
 - a. Municipal Franchise Charge – a statutory per kWh charge based on each kilowatt hour of electricity delivered by Oncor to each retail customer whose consuming facility’s point of delivery is located within the City’s municipal boundaries (paid quarterly to the City); and
 - b. Discretionary Franchise Fee – consisting of a four percent fee on gross revenues received by Oncor from Discretionary Services Charges that are collected from end-use consumers based on the filed Oncor tariff. This is an annual payment to the City.
3. The City and Oncor agree that relocation of facilities is governed by State law.

RECOMMENDATION:

It is recommended that the City Council conduct the first of three public hearings to review the proposed Oncor Franchise Ordinance.

ATTACHMENTS:

[Ordinance](#)

Drafted/Recommended By:
Department Leader

Regina Y. Moss, Senior Assistant City Attorney

Edited/Submitted By:
City Manager

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS, GRANTING TO ONCOR ELECTRIC DELIVERY COMPANY LLC, ITS SUCCESSORS AND ASSIGNS, THE NON-EXCLUSIVE RIGHT TO USE AND OCCUPY RIGHTS-OF-WAY WITHIN THE CITY OF TYLER FOR THE CONSTRUCTION AND OPERATION OF AN ELECTRIC TRANSMISSION AND DISTRIBUTION SYSTEM; PRESCRIBING CONDITIONS GOVERNING THE USE OF THE PUBLIC RIGHTS-OF-WAY; PROVIDING FOR COMPENSATION THEREFOR; PROVIDING FOR AN EFFECTIVE DATE AND A TERM OF SAID FRANCHISE; PROVIDING FOR WRITTEN ACCEPTANCE OF THIS FRANCHISE; FINDING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC; AND PROVIDING FOR SEVERABILITY

WHEREAS, it is the intent of the City Council to protect the public health, safety and welfare; and

WHEREAS, municipalities may, under their police powers, enact reasonable regulations to promote the health, safety and general welfare of citizens; and

WHEREAS, the City of Tyler is a home-rule municipality acting under its Charter adopted by the electorate pursuant to Article 11, Section 5 of the Texas Constitution and Chapter 9 of the Texas Local Government Code; and

WHEREAS, Texas Local Government Code Section 51.072(a) states that a home-rule municipality has full power of self-government; and

WHEREAS, Texas Local Government Code Section 51.072(b) provides that the grant of powers to a municipality under the Texas Local Government Code does not prevent by implication or otherwise, the municipality from exercising the authority incident to self-government; and

WHEREAS, Texas Local Government Code Section 51.001(1) provides that the governing body of a municipality may adopt, publish, amend, or repeal an ordinance, rule or police regulation that is for good government, peace, or order of the municipality; and

WHEREAS, Texas Local Government Code Section 51.001(2) provides that the governing body of a municipality may adopt, publish, amend, or repeal an ordinance, rule or police regulation that is necessary or proper for carrying out a power granted by law to the municipality or to an office or department of the municipality; and

WHEREAS, Section 1 of the Tyler City Charter states that the City of Tyler may make any and all rules and regulations by ordinances and resolutions; and

WHEREAS, Section 1 of the Tyler City Charter states that the City of Tyler may make and enforce local police, sanitary, and other regulations, and may pass such ordinances as may be expedient for maintaining and promoting the peace, good government and welfare of the City, and for the performance of the functions thereof; and

WHEREAS, Section 6 of the Tyler City Charter states that pursuant to the provisions of and subject only to the limitations imposed by State law and the Charter, all powers of the City shall be vested in an elective Council, which shall, among other duties, enact legislation; and

WHEREAS, Texas Transportation Code Section 311.001(a) provides that a home-rule municipality has exclusive control over and under the public highways, streets, and alleys of the municipality; and

WHEREAS, it is important to renew the current Electric Franchise between the City of Tyler and Oncor Electric Delivery Company, LLC, with amendments; and

WHEREAS, it is important to continue the partnership between the City of Tyler and Oncor Electric Delivery Company, LLC and cooperative efforts to ensure effective and proper service to the citizens of Tyler; and

WHEREAS, the City of Tyler and Oncor Electric Delivery Company, LLC have rights and responsibilities under the Public Utility Regulatory Act, Texas Utilities Code Title 2 (or "PURA");

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS, THAT:

PART 1: That Tyler City Code Chapter 15, "Franchises", Article III. "Electric Franchise", is hereby amended as follows:

DIVISION 1. IN GENERAL

Sec. 15-80. Purpose and Scope.

~~The City Council has determined it is in the best interest of and consistent with the convenience and necessity of the City to grant franchises to companies desiring to provide cable communications, electric service, gas service, telephone service, and underground or aerial cable services within the confines of the City and in the terms and conditions hereinafter set forth and as may be further described in each franchise agreement. These regulations include both rights and obligations of a franchise.~~

- A. The provisions set forth in this ordinance represent the terms and conditions under which Company shall construct, operate, and maintain the System within the Public Rights-of-Way of the City. In granting this Franchise, the City does not in any manner surrender or waive its regulatory or other rights and powers under and by virtue of the Constitution and statutes of the State of Texas as the same may be amended, or any of its rights and powers under or by virtue of present or future

ordinances of the City, except as may be set out herein. Company also retains all of its lawful authority and rights under the Public Utility Regulatory Act ("PURA") and any other applicable laws, rules, and regulations. Not included in this Franchise are any facilities (including any equipment attached in any way to Company's facilities, whether owned by Company or not) that provide data delivery, cable service, telephone service, and/or any other service or product not required by Company for, or in support of, the transmittal and delivery of electricity.

- B. Company agrees to notify other persons, firms or corporations that desire to attach facilities to Company's System located within the City that such other persons, firms or corporations must obtain all legally required franchises, licenses, waivers, consents, easements, rights of way, and permits needed to construct and operate its equipment within the City. However, in no event is Company responsible or liable to City or any other person or entity if the persons, firms or corporations that desire to attach to Company's System fail to obtain anything required by City. City may request a list of persons, firms or corporations who have a contract to attach facilities to Company's System equipment within the City limits, and Company shall provide such information within a reasonable time after the City's request.
- C. Company acknowledges that, by this Franchise Agreement, it obtains no rights to, or further use of, the Public Rights-of-Way other than those expressly granted herein and also granted by state and federal laws, rules, and regulations, including any amendments thereto. Company further acknowledges and accepts at its own risk, provided that City has the legal authority for the use or uses in question, that City may make use in the future of the Public Rights-of-Way in which the System is located and, in that event, Company shall only be entitled to compensation, expenses or reimbursement from City as provided by Section 11 or any applicable state and federal laws, rules, and regulations including Tariffs and any amendments thereto. (Ord. No. 0-2010-52; 6/9/10; ___ / ___ /2020).

Sec. 15-81. DEFINITIONS.

For the purpose of this Article, the following terms, phrases, words and their derivations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number, and the use of any gender shall be applicable to all genders whenever the sense requires. The words "shall" and "will" are mandatory, and the word "may" is permissive. Words not defined shall be given their common and ordinary meanings.

Article shall mean this Franchise Agreement under Tyler City Code Chapter 15, "Franchises", Article III., "Electric Franchises".

City shall mean the City of Tyler, Texas, including present and future territorial limits.

Company shall mean Oncor Electric Delivery Company LLC, its successors and assigns, the party to which a franchise under this article is granted by the council.

Council shall mean the governing body of the City of Tyler.

Discretionary Franchise Fee shall mean a 4% fee on gross revenues received by Company from Discretionary Service Charges that are collected from end-use retail electric consumers, as identified as DD1 through DD24 in the Tariff for Retail Delivery Service, Section 6.1.2, collected on an annual calendar year basis (i.e. January through December) within the City's boundaries and paid at least once annually on or before April 30.

Facilities – See System definition.

Franchise shall mean this Ordinance and all rights and obligations established herein or as amended.

Public Rights-of-Way shall mean present and future streets, alleys, highways, public utility easements (other than private easements obtained by the Company), and public ways in the City.

PUC shall mean the Public Utility Commission of Texas or its successors.

PURA shall mean the Public Utility Regulatory Act, currently Texas Utilities Code, Title 2, or its successor, as the same may from time to time be amended.

Reserved sections are merely placeholders to be used as necessary in the event the City and Company agree in writing to modify this Franchise.

Statutory Franchise Fee shall mean the fee authorized by Section 33.008(b) of PURA, multiplied by each kilowatt hour of electricity delivered by Company to each retail customer whose point of delivery is within the City's municipal boundaries, or any amended fee calculation for which the Texas Legislature or Public Utility Commission may require.

System or Facilities shall mean all electric power lines with all necessary or desirable appurtenances (including underground conduits, poles, towers, wires, transmission lines and other structures, and telephone and communication lines for its own use) used for the purpose of supplying electricity to the City, the inhabitants thereof, and persons, firms and corporations beyond the corporate limits thereof. (Ord. No. 0-2010-52; 6/9/10).

Sec. 15-82. ~~Franchise/g~~ Grant of authority.

~~a. — Company is hereby granted a renewed franchise to use the Public Rights of Way of the City, to operate an electric distribution and transmission System pursuant to this individual franchise ordinance. This franchise shall become effective as set forth in Section 15-83.~~

~~b. — The area covered by this franchise is all area within the City limits of the City, both current and any future territorial limits.~~

~~c. — The franchise granted under this Article will be for the nonexclusive right, privilege and franchise to construct, extend, maintain and operate in, along, under and across the Public Rights of Way of the City and all extensions thereof and additions thereto of Company's System for the maintenance and operation in the City of the Company's System. The location of Company's Facilities in City Public Rights of Way, to the extent the Company is authorized to construct, maintain, and operate such Facilities on or in municipal property by Texas Utilities~~

~~Code, Sec.181.042, shall be subject to consent by the City Manager prior to construction or installation; provided however, said consent shall not be unreasonably withheld. The Company will use reasonable efforts to work with the City to avoid installing its facilities in park or City property other than streets, alleys, highways, or public utility easements. The rights set forth herein shall not be exclusive, and the City reserves the right to grant a similar right of use to any person or corporation at any time, but such rights granted to others cannot unreasonably interfere with Company's System.~~

~~d. The City hereby retains all of its lawful power and control for regulation of its Public Rights of Way granted or which may hereafter be granted to it under Federal, State, and local laws, rules, and regulations. City and Company also retain all of their lawful authority and rights under the PURA and any other applicable State statutes, laws, rules or regulations, and any other applicable laws. Nothing herein shall be deemed a waiver, release or relinquishment of either party's rights to contest, appeal, or file suit with respect to any action or decision of the other party that it believes is contrary to any federal, state or local laws, rules, or regulations.~~

~~e. The City and Company agree to abide by all lawful provisions of this Franchise and further agree not to at any future time claim that the provisions of this Franchise were unreasonable or arbitrary.~~

~~f. The City Council hereby finds that the meeting at which this Ordinance was adopted was open to the public and was in compliance with the Texas Opens Meetings law.~~

There is hereby granted to Oncor Electric Delivery Company LLC, its successors and assigns (herein called "Company"), the right, privilege and franchise ("Franchise") to construct, extend, maintain and operate in, along, under and across the present and future streets, alleys, highways, public places and public ways ("Public Rights-of-Way") of Tyler, Texas (herein called "City") an Electric Transmission and Distribution System ("System") consisting of electric power lines, with all necessary or desirable appurtenances (including underground conduits, poles, towers, wires, transmission lines and other structures, and telephone and communication lines for Company's own use), for the purpose of delivering electricity to the City, the inhabitants thereof, and persons, firms, and corporations beyond the corporate limits thereof, for the term set out in Section 12 of this Franchise. Upon a timely and reasonable request by City, Company shall provide information to the City Council, and attend City Council meetings to discuss Company's performance of its obligations and responsibilities under this Franchise. (Ord. No. 0-2010-52; 6/9/10; / /2020)

Sec. 15-83. Term of Franchise.

~~This Ordinance shall become effective upon Company's written acceptance hereof, said written acceptance to be filed by Company with the City within sixty (60) calendar days after final passage and approval hereof by the Tyler City Council. The term of this Franchise shall be for a period of ten (10) years, and the right, privilege and franchise granted hereby shall expire on June 30, 2020.~~

This ordinance shall become effective upon Company's written acceptance and execution hereof in accordance with Section 15-108 of this Franchise, said written acceptance to be filed by Company with the City within sixty (60) days after final passage and approval by the City. The right, privilege and franchise granted hereby shall expire June 30, 2030; provided that, unless written notice of cancelation is given by either party hereto

to the other not less than sixty (60) days before the expiration of this Franchise, it shall be automatically renewed for an additional period of six (6) months from such expiration date and shall be automatically renewed thereafter for like periods until canceled by written notice given not less than sixty (60) days before the expiration of any such renewal period. (Ord. No. 0-2010-52; 6/9/10; xx/xx/2020).

DIVISION 2. APPLICATION, GRANT, TRANSFER, TERMINATION

Sec. 15-84. Forfeiture Default, Remedies and Termination.

a. Events of Default. The occurrence, at any time during the term of this ~~f~~Franchise Agreement, of any one or more of the following events, shall constitute an Event of Default by Company under this Franchise:

1. The failure of Company to pay the franchise fee on or before the due dates specified herein.

2. Company's material breach or material violation of any terms, covenants^{22,2} representations or warranties contained herein ~~or Company's failure to perform any material obligation contained herein.~~

b. Uncured Events of Default.

1. Upon the occurrence of an Event of Default which can be cured by the immediate payment of money to City ~~or a third party~~, Company shall have thirty (30) calendar days from receipt of written notice from City of an occurrence of such Event of Default to cure same before City may exercise any of its rights or remedies provided for in Section 15-84.c.

2. Upon the occurrence of an Event of Default by Company which cannot be cured by the immediate payment of money to City ~~or a third party~~, Company shall have sixty (60) calendar days (or such additional time as may be agreed to by the City) from receipt of written notice from City of an occurrence of such Event of Default to cure same before City may exercise any of its rights or remedies provided for in Section 15-84.c.

3. If the Event of Default is not cured within the time period allowed for curing the Event of Default as provided for herein, such Event of Default shall, without additional notice, become an Uncured Event of Default, which shall entitle City to exercise the remedies provided for in Section 15-84.c.

c. Remedies. The City shall notify the Company in writing of an alleged Uncured Event of Default as described in Section 15-84.b. which notice shall specify the alleged failure with reasonable particularity. The Company shall, within thirty (30) ~~business calendar~~ business calendar days after receipt of such notice or such longer period of time as the City may specify in such notice, either cure such alleged failure or in a written response to the City either present facts and arguments in refuting or defending such alleged failure or state that such alleged failure will be cured and

set forth the method and time schedule for accomplishing such cure. In the event that such cure is not forthcoming, City shall be entitled to exercise any and all of the following cumulative remedies:

1. The commencement of an action against Company at law for monetary damages.

2. The commencement of an action in equity seeking injunctive relief or the specific performance of any of the provisions, that as a matter of equity, are specifically enforceable.

3. The termination of this Franchise.

4. The commencement of any other action which may be available to the City.

d. The rights and remedies of City and Company set forth in this Franchise Agreement shall be in addition to, and not in limitation of, any other rights and remedies provided by law or in equity. City and Company understand and intend that such remedies shall be cumulative to the maximum extent permitted by law; ~~and the exercise by City or Company of any one or more of such remedies shall not preclude the exercise by City or Company, at the same or different times, of any other such remedies for the same failure to cure. However, notwithstanding this Section or any other provision of this Franchise, City shall not recover both liquidated damages and actual damages for the same violation, breach, or noncompliance, either under this Section or under any other provision of this Franchise.~~

e. Termination. In accordance with the provisions of Section 15-84.c, this Franchise may be terminated upon thirty (30) business day's prior written notice to Company by City. City shall notify Company in writing at least fifteen (15) business days in advance of the City Council meeting at which the question of forfeiture or termination shall be considered^{22,2} and Company shall have the right to appear before the City Council in person or by counsel and raise any objections or defenses Company may have that are relevant to the proposed forfeiture or termination. The final decision of the City Council may be appealed to any court or regulatory authority having jurisdiction. Upon timely appeal by Company of the City Council's decision terminating the Franchise^{22,2} the effective date of such termination shall be either when such appeal is withdrawn or an ~~equi~~ order upholding the termination becomes final and unappealable. Until the termination becomes effective the provisions of this Franchise shall remain in effect for all purposes. The City recognizes Company's right and obligation to provide service in accordance with the Certificate of Convenience and Necessity authorized by the Public Utility Commission of Texas in accordance with the Texas Utilities Code and any other applicable law, rules or regulations.

f. The failure of either party ~~the City~~ to insist in any one or more instances upon the strict performance of any one or more of the terms or provisions of this

Franchise shall not be construed as a waiver or relinquishment for the future of any such term or provision, and the same shall continue in full force and effect. No waiver or relinquishment shall be deemed to have been made by either party ~~the City~~ unless said waiver or relinquishment is in writing and signed by that party ~~the City~~. (Ord. No. 0-2010-52; 6/9/10; xx/xx/2020)

Sec. 15-85. ~~Reserved.~~Right of Renegotiation.

A. Should either Company or the City have cause to believe that a change in circumstances relating to the terms of this Franchise may exist, it may request that the other party provide it with a reasonable amount of information to assist in determining whether a change in circumstances has taken place.

B. Should either party hereto determine that based on a change in circumstances, it is in the best interest to renegotiate all or some of the provisions of this Franchise, then the other party agrees to enter into good faith negotiations. Said negotiations shall involve reasonable, diligent, and timely discussions about the pertinent issues and a resolute attempt to settle those issues. The obligation to engage in such negotiations does not obligate either party to agree to an amendment of the Franchise as a result of such negotiations. A failure to agree does not show a lack of good faith. If, as a result of renegotiation, the City and Company agree to a change in a provision of the Franchise, the change shall become effective upon passage of an ordinance by the City in accordance with the City Charter and written acceptance of the amendment by Company.

Sec. 15-86. ~~Reserved.~~

Sec. 15-87. ~~Transfer and Assignments.~~

~~The rights granted by this Franchise inure to the benefit of Company and any parent, subsidiary, or affiliate now or hereafter existing. This Franchise shall not be assigned or transferred to any other person, firm or corporation without the consent of a majority of the entire City Council, which such consent shall not be unreasonably withheld. Upon assignment to such parent, subsidiary or affiliate, such parent, subsidiary or affiliate assumes all obligations of Company hereunder and is bound to the same extent as Company hereunder. Company shall give City written notice within ninety (90) calendar days of assignment to a parent, subsidiary or affiliate. In the event Company assigns this Franchise to someone other than a parent, subsidiary or affiliate (Assignee), Company shall give City notice concurrently with notice provided to the Public Utility Commission of the sale or transfer of assets. Any such assignment shall require that said Assignee assume all obligations of Company and be bound to the same extent as Company hereunder. If, within the first ninety (90) calendar days after assignment to someone other than a parent, subsidiary or affiliate, City shall identify a failure to comply with a material provision of this Franchise, City shall have the right to treat such failure to comply as an Unreured Event of Default and immediately implement the provisions of Section 15-84, including the right to terminate the Franchise.~~

The rights granted by this Franchise Agreement inure to the benefit of the Company and any parent, subsidiary, affiliate or successor entity now or hereafter existing. The rights shall not be

assignable without the express written consent, by Ordinance, of the City Council of the City, unless otherwise superseded by state laws, rules, or regulations or Public Utility Commission of Texas action, and such consent by City shall not be unreasonably withheld or delayed, except the Company may assign its rights under this Franchise Agreement to a parent, subsidiary, affiliate or successor entity without consent, so long as such parent, subsidiary, affiliate or successor entity assumes all obligations of Company hereunder, and is bound to the same extent as Company hereunder. The Company shall give the City written notice within ninety (90) days of any such assignment to a parent, subsidiary, affiliate or successor entity. (Ord. No. 0-2010-52; 6/9/10; xx/xx/2020)

DIVISION 3. COMPANY REQUIREMENTS

Sec. 15-88. ~~Payment of Franchise Fee~~ Compensation to the City.

~~In consideration of the grant of said right, privilege and franchise by the City and as full payment for the right, privilege and franchise of using and occupying the said Public Rights of Way, and in lieu of any and all occupation taxes, assessments, municipal charges, fees, easement taxes, franchise taxes, license, permit and inspection fees or charges, street taxes, bonds, street or alley rentals, and all other taxes, charges, levies, fees and rentals of whatsoever kind and character which the City may impose or hereafter be authorized or empowered to levy and collect to use said Public Rights of Way, excepting only the usual general or special ad valorem taxes which the City is authorized to levy and impose upon real and personal property, sales and use taxes, and special assessments for public improvements, Company shall pay to the City the following:~~

~~a. On a quarterly basis, a charge, as authorized by Section 33.008(b) of PURA, multiplied by each kilowatt hour of electricity delivered by Company to each retail customer whose consuming facility's point of '""'ActionID'6delivery' is located within the City's municipal boundaries.~~

~~1. Payment of the fee provided for in Section 15-88.a will be made on a quarterly schedule and shall be made on or before the due dates listed below for the rights and privileges granted hereunder for the said calendar quarter (Privilege Period) and shall be based upon the kWh delivered in said calendar quarter (Basis Period) as follows:~~

Payment Due	Basis and Privilege Period
Aug 1	Apr 1 — Jun. 30
Nov 1	Jul. 1 — Sept. 30
Feb 1	Oct. 1 — Dec. 31
May 1	Jan. 1 — Mar. 31

~~2. The first quarterly payment made in accordance with this Franchise will be due on or before August 1, 2010 and will be for the period of April 1 — June 30, 2010. The final payment under this Franchise will be made on or before August 1, 2020 for the period of April 1 — June 30, 2020 and~~

~~_____ b. _____ The Discretionary Franchise Fee which is a sum equal to four percent (4%) of gross revenues received by Company from services identified in its “Tariff for Retail Delivery Service”, Section 6.1.2 “Discretionary Service Charges,” that are for the account and benefit of an end use retail electric consumer.~~

~~1. _____ The franchise fee amounts based on “Discretionary Service Charges” shall be calculated on an annual calendar year basis, i.e. from January through December 31 of each calendar year.~~

~~_____ 2. _____ The franchise fee amounts that are due based on “Discretionary Service Charges” shall be paid at least once annually on or before April 30 each year based on the total “Discretionary Service Charges” received during the preceding calendar year. The initial Discretionary Service Charge franchise fee amount will be paid on or before April 30, 2011 and will be based on the calendar year January 1 through December 31, 2010. The final Discretionary Service Charge franchise fee amount will be paid on or before April 30, 2021 and will be based on the calendar months January 1 through June 30, 2020.~~

~~_____ 3. _____ Company may file a tariff or tariff amendment(s) to provide for the recovery of the franchise fee on Discretionary Service Charges.~~

~~_____ 4. _____ City agrees (i) to the extent the City acts as regulatory authority, to adopt and approve that portion of any tariff which provides for 100% recovery of the franchise fee on Discretionary Service Charges; (ii) in the event the City intervenes in any regulatory proceeding before a federal or state agency in which the recovery of the franchise fees on such Discretionary Service Charges is an issue, the City will take an affirmative position supporting the 100% recovery of such franchise fees by Company and; (iii) in the event of an appeal of any such regulatory proceeding in which the City has intervened, the City will take an affirmative position in any such appeals in support of the 100% recovery of such franchise fees by Company.~~

~~_____ 5. _____ City agrees that it will take no action, nor cause any other person or entity to take any action, to prohibit the recovery of such franchise fees by Company.~~

~~_____ 6. _____ In the event of a regulatory disallowance of the recovery of the Discretionary Service Charges, Company will not be required to continue payment.~~

~~_____ c. _____ This subsection c. applies only if, after the effective date of this Franchise Agreement, Company enters into a new municipal franchise agreement or renews an existing municipal franchise agreement with another municipality that provides for a different method of calculation of Franchise Fees for use of the Public Rights of Way than the calculation of the Statutory Franchise Fee under 33.008(b) of PURA, which, if applied to the City, would result in a greater amount of franchise fees owed the City than under this Franchise Agreement.~~

City shall have the option to:

~~1. _____ Have Company select, within 30 business days of the City’s request’,’ any or all portions of the franchise agreement with the other municipality or comparable provisions that’,’ at Company’s sole discretion’,’ m’us’t be considered in conjunction with the different method of the calculation of franchise fees included in that other franchise agreement; and~~

~~2. Modify this Franchise to include both the different method of calculation of franchise fee found in the franchise agreement with the other municipality and all of the other provisions identified by Company pursuant to Section 15-88.a. In no event shall City be able to modify the Franchise to include the different method of calculation of franchise fee found in the franchise agreement with the other municipality without this Franchise also being modified to include all of the other provisions in the Franchise Agreement with the other Municipality that is identified by Company pursuant to Section 15-88.a.~~

~~City may not exercise the option provided in Section 15-88.c. if any of the provisions that would be included in this Franchise are, in Company's sole opinion, inconsistent with or in any manner contrary to any then-current rule, regulation, ordinance, law, Code, or Charter of City. In the event that Company makes such a determination of inconsistency or contrariness, Company shall provide written notice of such action to City. If the City disagrees with the Company's determination, City shall be given an opportunity to present facts or arguments in defending its position that said provisions are not inconsistent with and are not contrary to any then-current rule, regulation, ordinance, law, Code, or Charter of City. After consideration of City's response, Company shall have discretion to make the final decision regarding the determination of inconsistency or contrariness. In the event of a regulatory disallowance of the increase in franchise fees paid pursuant to City's exercise of its option under this subsection c. then at any time after the regulatory authority's entry of an order disallowing recovery of the additional franchise fee expense in rates'', Company shall have the right to cancel the modification of the Franchise made pursuant to this Section'', and terms of the Franchise shall immediately revert to those in place prior to City's exercise of its option under this subsection c.~~

~~Notwithstanding any other provision of this Franchise, should the City exercise the option provided in Section 15-88.c. and then adopt any rule, regulation, ordinance, law, Code, or Charter of City that, in Company's sole opinion, is inconsistent with or in any manner contrary to the provisions included in this Franchise pursuant to Section 15-88.c., then Company shall have the right to cancel all of the modifications to this Franchise made pursuant to this Section. In the event that Company makes such a determination of inconsistency or contrariness, Company shall provide written notice of such action to City. If the City disagrees with the Company's determination, City shall be given an opportunity to present facts or arguments in defending its position that said rule, regulation, ordinance, law, Code or Charter provision is not inconsistent with and is not contrary to this Franchise. After consideration of City's response, Company shall have discretion to make the final decision regarding cancellation of the modifications pursuant to this subsection. If Company exercises its authority to cancel the modifications to this Franchise under this Section, then the terms of the Franchise shall revert to those in place prior to City's exercise of its option under this subsection c and be effective as of the date of the City's adoption of the inconsistent provision.~~

~~The provisions of this subsection c. apply only to the amount of the Franchise Fee to be paid and do not apply to other franchise fee payment provisions, such as the timing of such payments. The provisions of this subsection c. do not apply to differences in the franchise fee factor that result from the application of the methodology set out in Section 33.008(b) of PURA or any successor methodology.~~

~~d. Company shall keep accurate books of account at its principal office for the~~

~~purpose of determining the amount due to the City under this Franchise. Pursuant to Section 33.008(e) of the Texas Utilities Code, the City may conduct an audit or other inquiry in relation to a payment made by Company less than two (2) years before the commencement of such audit or inquiry. The City may, if it sees fit, and upon reasonable notice to the Company, have the books and records of the Company examined by a representative of the City to ascertain the correctness of the reports agreed to be filed herein. The Company shall make available to the auditor during the Company's regular business hours and upon reasonable notice, such personnel and records as the City may, in its reasonable discretion, request in order to complete such audit, and shall make no charge to the City therefore.~~

~~1. If as the result of any City audit, Company is refunded/credited for an overpayment, or pays the City for an underpayment, of the franchise fee, such refund/credit or payment shall be made pursuant to the terms established in Section 15-88.a. and b.~~

~~2. If as a result of a subsequent audit, initiated within two years of an audit which resulted in Company making a payment to the City due to an underpayment of the franchise fee of more than 5%, Company makes another payment to the City due to an underpayment of the franchise fee of more than 5%, the City may immediately treat this underpayment as an Uncured Event of Default and exercise the remedies provided for in Section 15-84.~~

~~3. The Company shall assist the City in its review by responding to requests for information no later than thirty (30) business days after receipt of a request.~~

~~4. The City agrees to maintain the confidentiality of any non public information obtained from Company to the extent allowed by law. City shall not be liable to Company for the release of any information the City is required by law to release. City shall provide notice to Company of any request for release of non public information prior to releasing the information so as to allow Company adequate time to pursue available remedies for protection. If the City receives a request under the Texas Public Information Act that includes Company's proprietary information, City will notify the Texas Attorney General of the proprietary nature of the document(s). The City also will provide Company with a copy of this notification, and thereafter Company is responsible for establishing that an exception under the Act allows the City to withhold the information.~~

~~e. Nothing herein shall be construed to inhibit or prohibit City's ability to join and participate with a consortium of other cities served by Company in connection with any rate proceeding before the PUC or other tribunal and appeals therefrom, excluding any participation or proceedings in relation to "Discretionary Service Charges" addressed in Section 15-88.b. of this Franchise Agreement.~~

In consideration of the grant of said right, privilege and franchise by the City and as full payment for the right, privilege and franchise of using and occupying the Public Rights-of-Way, and in lieu of any and all occupation taxes, assessments, municipal charges, fees, easement taxes, franchise taxes, license, permit and inspection fees or charges, street taxes, bonds, street or alley rentals, and all other taxes, charges, levies, fees and rentals of whatsoever kind and character which the City may impose or hereafter be authorized or empowered to levy and collect, excepting only the usual general or special ad valorem taxes

which the City is authorized to levy and impose upon real and personal property, sales and use taxes, and special assessments for public improvements, Company shall pay to the City the following:

1. A final quarterly payment will be made on or before August 1, 2030 for the basis and privilege period of April 1, 2030 through June 30, 2030 in accordance with the provisions in the previous franchise.
2. As authorized by Section 33.008(b) of PURA, the original franchise fee factor calculated for the City in 2002 was 0.002648 (the "Base Factor"), multiplied by each kilowatt hour of electricity delivered by Company to each retail customer whose consuming facility's point of delivery is located within the City's municipal boundaries for determining franchise payments going forward.

Due to a 2006 agreement between Company and the City the franchise fee factor was increased to a franchise fee factor of 0.002780 (the "Current Factor"), multiplied by each kilowatt hour of electricity delivered by Company to each retail customer whose consuming facility's point of delivery is located within the City's municipal boundaries on a quarterly basis.

However, consistent with the 2006 agreement, should the Public Utility Commission of Texas at any time disallow Company's recovery through rates of the higher franchise payments made under the Current Factor as compared to the Base Factor, then the franchise fee factor shall immediately revert to the Base Factor of 0.002648 and all future payments, irrespective of the time period that is covered by the payment, will be made using the Base Factor.

Payments to the City shall be made per the quarterly schedule as follows:

<u>Payment Due Date</u>	<u>Basis Period</u>	<u>Privilege Period</u>
<u>November 1</u>	<u>Jul. 1 - Sept. 30</u>	<u>Jul. 1 - Sept. 30</u>
<u>February 1</u>	<u>Oct. 1 - Dec. 31</u>	<u>Oct. 1 - Dec. 31</u>
<u>May 1</u>	<u>Jan. 1 - Mar. 31</u>	<u>Jan. 1 - Mar. 31</u>
<u>August 1</u>	<u>Apr. 1 - Jun. 30</u>	<u>Apr. 1 - Jun. 30</u>

- (a) The first quarterly payment hereunder shall be due and payable on or before November 1, 2020, and will cover the basis and privilege period of July 1, 2020 through September 30, 2020. If this Franchise is not effective prior to the first quarterly payment date, Company will pay any payments due within 30 days of the effective date of

this agreement. The final payment under this Franchise is due on or before August 1, 2030 and covers the basis and privilege period of April 1, 2030 through June 30, 2030; and

(b) After the final payment date of August 1, 2030, Company may continue to make additional quarterly payments in accordance with the above schedule. The City acknowledges that such continued payments will correspond to privilege periods that extend beyond the term of this Franchise and that such continued payments will be recognized in any subsequent franchise as full payment for the relevant quarterly periods.

3. A sum equal to four percent (4%) of gross revenues received by Company from services identified as DD1 through DD24 in Section 6.1.2, "Discretionary Service Charges," in Oncor's Tariff for Retail Delivery Service ("Tariff"), effective January 1, 2002, that are for the account and benefit of an end-use retail electric consumer. Company will, upon request by the City, provide a cross reference to Discretionary Service Charge numbering changes that are contained in Company's current approved Tariff.

(a) The franchise fee amounts based on "Discretionary Service Charges" shall be calculated on an annual calendar year basis, i.e. from January 1st through December 31st of each calendar year.

(b) The franchise fee amounts that are due based on "Discretionary Service Charges" shall be paid at least once annually on or before April 30 each year based on the total "Discretionary Service Charges," as set out in Section 7.3, received during the preceding calendar year. The initial Discretionary Service Charge franchise fee amount will be paid on or before April 30, 2021, and will be based on the calendar year January 1 through December 31, 2020. The final Discretionary Service Charge franchise fee amount will be paid on or before April 30, 2031 and will be based on the calendar year of January 1, 2030 through June 30, 2030.

(c) Company may file a tariff or tariff amendment(s) to provide for the recovery of the franchise fee on Discretionary Service Charges.

(d) The City agrees (i) to the extent the City acts as regulatory authority, to adopt and approve that portion of any tariff which provides for 100% recovery of the franchise fee on Discretionary Service Charges; (ii) in the event the City intervenes in any regulatory proceeding before a federal or state agency in which the recovery of the franchise fees on such Discretionary Service Charges is an issue, the City will take an affirmative position supporting the 100% recovery of such franchise fees by Company; and (iii) in the event of an appeal of any such regulatory proceeding in which the City has

intervened, the City will take an affirmative position in any such appeals in support of the 100% recovery of such franchise fees by Company.

(e) City agrees that it will take no action, nor cause any other person or entity to take any action, to prohibit the recovery of such franchise fees by Company.

(f) In the event of a regulatory disallowance of the recovery of the franchise fees on the Discretionary Service Charges, Company will not be required to continue payment of such franchise fees.

4. With each payment of compensation required by Section 7.2, Company shall furnish to the City a statement, executed by an authorized officer of Company or designee, providing the total kWh delivered by Company to each retail customer's point of delivery within the City and the amount of payment for the period covered by the payment.
5. With each payment of compensation required by Section 7.3, Company shall furnish to the City a statement, executed by an authorized officer of Company or designee, reflecting the total amount of gross revenues received by Company from services identified in its "Tariff for Retail Delivery Service," Section 6.1.2, "Discretionary Service Charges," Items DD1 through DD24.
6. If either party discovers that Company has failed to pay the entire or correct amount of compensation due, the correct amount shall be determined by mutual written agreement between the City and Company and the City shall be paid by Company within thirty (30) calendar days of such determination. Any overpayment to the City through error or otherwise will, at the sole option of the City, either be refunded to Company by the City within thirty (30) days of such determination or offset against the next payment due from Company. Acceptance by either party of any payment due under this Section shall not be deemed to be a waiver by either party of any claim of breach of this Franchise, nor shall the acceptance by either party of any such payments preclude either party from later establishing that a larger amount was actually due or from collecting any balance due. Nothing in this Section shall be deemed a waiver by either party of its rights under law or equity.
7. Interest on late payments shall be calculated in accordance with the interest rate for customer deposits established by the Public Utility Commission of Texas in accordance with the Texas Utilities Code, Section 183.003, as amended for the time period involved.
8. The franchise fee payable to the City pursuant to Section 7.2, except as

agreed to by Company and the City in Section 7.6, shall not be offset by any payment by Company to the City relating to ad valorem taxes. (Ord. No. 0-2010-52; 6/9/10; xx/xx/2020)

Sec. 15-89. ~~Installation and Maintenance~~ Non-Exclusive Franchise.

~~a. — The Company shall make all necessary connections with and extensions from lines to its customers, in accordance with the Company's Tariff, Company's certificate of public convenience and necessity issued by the PUC and state law, rules and regulations.~~

~~b. — The Company shall not be required to pay permit fees or bonds to install meters or to install, extend, relocate, remove or repair lines and related facilities, despite the City's enactment of any ordinance providing to the contrary. City and Company hereby agree that by Company entering into this Franchise, complying with its requirements, and paying the Franchise Fee set forth in Section 15-88, there is not a need for bonds pursuant to the City Right of Way Construction Ordinance, and said bonding requirements are hereby waived.~~

~~c. — Upon reasonable advance notice given by the City, the Company will cooperate with the City in order that reasonable repairs may be made to City streets if Company is responsible for damage to City streets.~~

A. This Franchise is not exclusive, and nothing herein contained shall be construed so as to prevent the City from granting other like or similar rights, privileges and franchises to any other person, firm, or corporation.

B. Company must share trench space for cables or ducts with another person, firm, or corporation for the placement of cables or wires underground; provided, however, Company has no obligation to comply if said person or corporation does not agree with Company's reasonable terms and requirements for sharing trench space including cost sharing of trench and including any required contract or agreement with Company. Company may require another person, firm, or corporation to furnish evidence of adequate insurance and provide indemnity covering Company and adequate bonds covering the performance of the person, firm or corporation sharing the trench space. Company's requirement for such insurance and indemnity must be reasonable. Ducts, cables or wires shall be placed in trenches in compliance with applicable National Electrical Safety Code (NESC) requirements and in a manner that does not interfere with Company's cables and wires. Each person, firm, or corporation that is permitted to share Company's trench space must acquire their own permits from the City and must have any necessary Franchise, license, or contract as required by the City; and Company's sole responsibility regarding this provision is the same responsibility as stated in Section 2(B) of this franchise. (Ord. No. 0-2010-52; 6/9/10; xx/xx/2020).

C.

Sec. 15-90. Accounting Matters. Reserved.

- A. Company shall keep accurate books of account at its principal office for the purpose of determining the amount due to the City under this Franchise.
- B. Pursuant to Section 33.008(e) of the Texas Utilities Code, the City may conduct an audit or other inquiry in relation to a payment made by Company less than two (2) years before the commencement of such audit or inquiry. The City may, if it sees fit, and upon reasonable notice to the Company, have the books and records of the Company examined by a representative of the City to ascertain the correctness of the reports agreed to be filed herein.
- C. The Company shall make available to the auditor during the Company's regular business hours and upon reasonable notice, such personnel and records as the City may, in its reasonable discretion, request in order to complete such audit, and shall make no charge to the City therefore.
 - 1. If as the result of any City audit, Company is refunded/credited for an overpayment or pays the City for an underpayment of the Franchise Fee, such refund/credit or payment shall be made pursuant to the terms established in Sections 15-88(6) and 15-88(7).
 - 2. If as a result of a subsequent audit, initiated within (2) years of an audit which resulted in Company making a payment to the City due to an underpayment of the franchise fee of more than 5%, Company makes another payment to the City due to an underpayment of the franchise fee of more than 5%, the City may immediately treat this underpayment as an Uncured Event of Default and exercise the remedies provided for in Section 15-84(C).
- D. The Company shall assist the City in its review by responding to all requests for information no later than thirty (30) days after receipt of a request.
- E. If the Company provides confidential or proprietary information to the City, the Company shall be solely responsible for identifying such information with markings calculated to bring the City's attention to the proprietary or confidential nature of the information. The City agrees to maintain the confidentiality of any non-public information obtained from Company to the extent allowed by law. City shall not be liable to Company for the release of any information the City is required by law to release. City shall provide notice to Company of any request for release of non-public information prior to releasing the information so as to allow Company adequate time to pursue available remedies for protection. If the City receives a request under the Texas Public Information Act that includes Company's proprietary information, the City will notify the Texas Attorney General of the proprietary nature of the document(s). The City also will provide Company with a copy of this notification, and thereafter Company is responsible for establishing that an exception under the Act allows the City to withhold the information.

Sec. 15-91. Use of Streets, Poles. Operation, Construction and Maintenance of Electric Transmission and Distribution System.

~~a. Construction codes. Except in case of an emergency, the Company shall obtain any required permission from the City before commencing significant construction involving the opening or disturbance of any street or public property, except in no instance shall Company be required to pay fees or bonds related to its use of the Public Rights of Way, despite the City's enactment of any ordinance providing the contrary. The City shall cooperate with Company and use its best efforts in granting any permission required. All Facilities erected by Company within the Public Rights of Way shall be so located as to cause minimum interference with the rights and reasonable convenience of property owners who adjoin any of the said streets and the public use of such streets. The location and route of all Facilities to be placed and constructed by the Company in the construction and maintenance of its System in the City shall comply with all pertinent requirements of the National Electrical Safety Code, and any City ordinance, including the City's Rights of Way Use and Construction ordinance, if said ordinance has been properly promulgated by the City and is consistent with this agreement or orders of the PUC and as may be authorized by state or federal law, rules and regulations, except in no instance shall Company be required to pay any additional fees or charges related to Company's use of City's Public Rights of Way, except as otherwise agreed to in Section 15-88 and subsection 15-91.b in this Franchise Agreement. The City may, at its option, require the Company, by prior written notice, to repair, remove or abate any Company structure, equipment or installation that is unnecessarily dangerous to life or property. After receipt of said written notice, Company shall either cure said dangerous condition within a reasonable time, or provide City with facts or arguments in refuting or defending its position that said condition is not a condition that is unnecessarily dangerous to life or property.~~

~~b. The City reserves the right for any reason whatsoever to use, to change the grade of, construct, install, repair, alter, maintain, relocate, modify, close, reduce, or widen (collectively "to change") any Public Rights of Way, within the present or future limits of the City. Upon request by City, Company shall relocate its facilities. Requirements and payment associated with said relocation of Company facilities shall be governed by State of Texas laws, rules and regulations. If these requirements impose a financial hardship upon Company, Company shall have the right to present alternative proposals for City's consideration. Company and City Engineer shall coordinate the timing and performance of such work to ensure that neither City nor Company shall incur unreasonable delay or expense. In the event that Company has not relocated its facilities as requested by City within a reasonable time as specified by City, or such additional time as agreed to by City and Company, City may notify Company in writing that the Company is in breach of this Contract. Company shall within thirty (30) calendar days after receipt of such notice or such longer period of time as the City may specify in such notice, either cure such alleged failure or in a written response to the City either present facts and arguments in refuting or defending such alleged failure or state that such alleged failure will be cured and set forth the method and time schedule for accomplishing such cure. In the event the dispute is not resolved, either party may exercise any and all cumulative remedies allowed by law.~~

~~c. If City abandons any Public Rights of Way in which Company has facilities, such abandonment shall be conditioned on Company's right to maintain its use of the former Public Rights of Way and on the obligation of the party to whom the Public Rights of Way is abandoned to reimburse Company for all removal or relocation expenses if Company agrees to the removal~~

~~or relocation of its facilities following abandonment of the Public Rights of Way. If the party to whom the Public Rights of Way is abandoned requests the Company to remove or relocate its facilities and Company agrees to such removal or relocation, such removal or relocation shall be done within a reasonable time at the expense of the party requesting the removal or relocation. If relocation cannot practically be made to another Public Rights of Way, the expense of any rights-of-way acquisition shall be considered a relocation expense to be reimbursed by the party requesting the relocation.~~

~~d. Company shall cooperate with the City in providing copies of maps showing the location of Company's System within the Public Rights of Way upon request. The maps shall be provided in electronic digital format, if available.~~

~~e. Temporary Removal of Wires. That Company on the request of any person shall remove or raise or lower its wires within the City temporarily to permit the moving of houses or other bulky structures. The expense of such temporary removal, raising or lowering of wires shall be paid by the benefited party or parties, and Company may require such payment in advance. Company shall be given not less than five (5) days advance notice to arrange for such temporary wire changes. The clearance of wires above ground or rails within the City and also underground work shall conform to the basic standards of the National Electrical Safety Code.~~

~~f. Tree trimming. The Company shall have the authority to trim trees upon and overhanging Public Rights of Way in the City so as to meet clearance and safety requirements and to prevent possible damage to lines and interruption of service. If practicable, trees should be trimmed in such a manner as not to destroy the health of trees not on the Public Rights of Way.~~

- A. Poles, towers, and other structures shall be so erected as not to unreasonably interfere with: 1) existing streets, alleys, highways, and sidewalks or with the existing vehicular and pedestrian traffic thereon; 2) existing gas, electric, or telephone fixtures; or 3) existing water hydrants or mains, drainage facilities or sanitary sewer facilities. All poles, towers and other structures must be reasonably required for electric distribution and transmission purposes and not primarily for providing facilities for third-parties or other uses.

- B. The location of Company's facilities in the Public Rights-of-Way shall be subject to approval by the City Manager of City (the "Manager") or the Manager's designated representative prior to construction; provided however, said approval shall not be unreasonably withheld. This approval will be obtained through the City's permitting process (if required by City Ordinance). In the event of a conflict between the location of the proposed facilities of Company and the locations of the facilities of City or other Public Rights-of-Way users which exist or have been authorized by the City, the Manager shall resolve the conflict and determine the location of the respective facilities within the City's Public Rights-of-Way, subject to Company's right to request review of the matter by any court or regulatory agency having jurisdiction. To avoid a facilities location conflict, the Manager will designate a reasonable alternate location within the City's Public Rights-of-Way for Company's facilities if a reasonable alternate location exists. The Company will use

reasonable efforts to work with the City to avoid installing its facilities in park or City property other than utility easements or street, alley, or highway Right-of-Way.

C. Company's operations and activities within the Public Rights-of-Way in the City shall be subject to all City ordinances of general applicability, unless otherwise in conflict with any federal or state laws, rules, or regulations or this Franchise.

1. Upon reasonable request by the City, Company and its agents shall provide details to City regarding its underground infrastructure within Public Rights-of-Way in the City.

2. Company must, except in cases of emergency conditions or work incidental in nature, obtain permits from the City for any temporary street or lane closure, and all operations or activities that require opening or disturbance of any Public Right-of-Way (if required by City Ordinance). Company will not be required to pay permitting fees or bonds, despite the City's enactment of any ordinance providing the contrary.

3. Company must, except in cases of emergency conditions or work incidental in nature, provide City with reasonable advance notice for all operations or activities that require opening or disturbance of any Public Right-of-Way.

D. Company's property and operations within the City Public Rights-of-Way shall be subject to such reasonable rules and regulations of the City as may be authorized by applicable law from time to time for the protection of the general public. The City shall endeavor to provide Company with reasonable notice and opportunity to review and comment upon any new or revised City laws, rules, or regulations that impact Company's use of the Public Rights-of-Way, but the failure to do so shall not affect the applicability of such laws, rules, or regulations to Company. This Franchise shall in no way affect or impair the rights, obligations, or remedies of the parties under PURA, or other state or federal laws, rules, or regulations. Nothing herein shall be deemed a waiver, release or relinquishment of either party's right to contest, appeal, or file suit with respect to any action or decision of the other party, including ordinances adopted by the City that Company may believe are contrary to any federal, state, or local laws, rules, or regulations.

E. Company shall construct its facilities in conformance with the applicable provisions of the National Electrical Safety Code as applicable.

F. Company may not use any portion of its System in the City's Public Rights-of-way for any purpose other than the delivery of electric service (or in the support of Company's System), without first entering into a separate agreement for Company's ancillary service; however, Company is hereby expressly permitted

as required by Federal law to allow Telecommunication Companies (e.g. telephone, and cable) to attach to Company's Facilities so long as Federal laws and Company's requirements are met, which include the allowed attachment fees.

- G. Company may permit the wires of the City to be attached to the poles or use of spare conduit in duct systems owned and maintained by Company, under separate agreement, upon securing a Company "Pole Attachment/Duct Use" agreement which specifies the requirements and compensation for said use. Company does not warrant or guarantee there will be space made available on Company's poles or spare conduits in Company's duct systems for the City's use. Company may require the City to furnish evidence of adequate insurance, provide indemnity covering Company, and provide adequate bonds covering the performance of the City or City's contractor prior to attaching wires to Company's poles and prior to City's use of conduit in Company's duct systems.
- H. Company will cooperate with City, regarding the selection of the location of poles, towers and other structures, provided, however, that the City and Company recognize that Company must meet all legally imposed requirements and may avail itself of legally permitted procedures for determining the location of such facilities. Further, the parties recognize that Company may rely upon reasonable safety requirements in determining the appropriate location of such facilities.
- I. Company shall cooperate with the City by providing complete reasonable information regarding the location of current and future overhead and underground wires and poles within the Public Rights-of-Way of the City. Reproducible copies of available maps showing the location of all overhead and underground wires and poles within the Public Rights-of-Way shall be furnished to the City Engineer upon request. The maps shall be provided in electronic digital format, if available.
- J. City shall have the ability at any reasonable time to require Company to repair, remove or abate any distribution pole, wire, cable, or other distribution structure in City's Public Rights-of-Way that is determined to be unnecessarily dangerous to life or property. After receipt of notice, Company shall either cure said dangerous condition within a reasonable time, or provide City with facts defending its position that said condition is not a condition that is unnecessarily dangerous to life or property. In the event City finds that Company has not sufficiently addressed said dangerous condition by either of the aforementioned methods, City shall be entitled to immediately exercise the remedies in Section 13. Company is also entitled to invoke any of its rights and remedies under any applicable laws, rules or regulations, including without limitation Company rights and remedies under this Franchise.
- K. Company shall have in place a Vegetation Management Program, and shall provide City with a current copy of same, upon request. If the City requests a

current copy of Company's Vegetation Management Guidelines, release of said guidelines shall be pursuant to Company's confidential protection process. Company will endeavor to conduct its tree trimming activities in accordance with its Vegetation Management Guidelines and will address concerns or complaints by City with regard to its tree trimming activities upon request. Except in emergency situations or in response to outages, Company shall notify property owners and the City prior to beginning planned Distribution tree trimming activities. (Ord. No. 0-2010-52; 6/9/10; xx/xx/2020)

Sec. 15-92. Favored Nations Reserved.

This Section applies only if, after the effective date of this Franchise Agreement, Company enters into a new municipal franchise agreement or renews an existing municipal franchise agreement with another municipality that provides for a different method of calculation of franchise fees for use of the public rights-of-way than the calculation under 33.008(b) of PURA, which, if applied to the City, would result in a greater amount of franchise fees owed the City than under this Franchise Agreement.

A. City shall have the option to:

(1) Have Company select, within 30 days of the City's request, any or all portions of the franchise agreement with the other municipality or comparable provisions that, at Company's sole discretion, must be considered in conjunction with the different method of the calculation of franchise fees included in that other franchise agreement; and

(2) Modify this franchise to include both the different method of calculation of franchise fee found in the franchise agreement with the other municipality and all of the other provisions identified by Company pursuant to Section 10.A(1). In no event shall City be able to modify the franchise to include the different method of calculation of franchise fee found in the franchise agreement with the other municipality without this franchise also being modified to include all of the other provisions identified by Company pursuant to Section 10.A(1).

B. City may not exercise the option provided in Section 10.A if any of the provisions that would be included in this franchise are, in Company's sole opinion, inconsistent with or in any manner contrary to any then-current rule, regulation, ordinance, law, Code, or City Charter.

C. In the event of a regulatory disallowance of the increase in franchise fees paid pursuant to City's exercise of its option under this Section, then at any time after the regulatory authority's entry of an order disallowing recovery of the additional franchise fee expense in rates, Company shall have the right to cancel the modification of the franchise made pursuant to this Section, and terms of the franchise shall immediately revert to those in place prior to City's exercise of its option under this Section.

- D. Notwithstanding any other provision of this franchise, should the City exercise the option provided in Section 10.A, and then adopt any rule, regulation, ordinance, law, Code, or Charter of City that, in Company's sole opinion, is inconsistent with or in any manner contrary to the provisions included in this franchise pursuant to Section 10.A, then Company shall have the right to cancel all of the modifications to this franchise made pursuant to this Section and, effective as of the date of the City's adoption of the inconsistent provision, the terms of the franchise shall revert to those in place prior to City's exercise of its option under this Section.
- E. The provisions of this Section apply only to the amount of the franchise fee to be paid and do not apply to other franchise fee payment provisions, such as the timing of such payments. The provisions of this Section do not apply to differences in the franchise fee factor that result from the application of the methodology set out in Section 33.008(b) of PURA or any successor methodology. (Ord. No. x-2020-xx; xx/xx/2020).

Sec. 15-93. Relocation and Abandonment of Facilities Reserved.

- A. The City reserves the right to lay, and permit to be laid, storm, sewer, gas, water, wastewater and other pipe lines, cables, and conduits, or other improvements and to do and permit to be done any underground or overhead work that may be necessary or proper in, across, along, over, or under Public Rights-of-Way occupied by Company. The City also reserves the right to change in any manner any curb, sidewalk, highway, alley, public way, street, utility lines, storm sewers, drainage basins, drainage ditches, and the like. City shall provide Company with at least thirty (30) days' notice when requesting Company to relocate facilities and shall specify a new location for such facilities along the Public Rights-of-Way. Company shall, except in cases of emergency conditions or work incidental in nature, obtain a permit, if required by City ordinance, prior to performing work in the Public Rights-of-Way, except in no instance shall Company be required to pay fees or bonds related to its use of the Public Rights-of-Way, despite the City's enactment of any ordinance providing the contrary. Upon reasonable request by the City, Company shall provide information to the City regarding the status of a relocation request.
- B. City-requested relocations of Company facilities in the Public Rights-of-Way shall be at the Company's expense; provided however, if the City is the end use Retail Customer (customer who purchases electric power or energy and ultimately consumes it) requesting the removal or relocation of Company Facilities for its own benefit, or the project requiring the relocation is solely aesthetic/beautification in nature, it will be at the total expense of the City.
- C. Provided further, if the relocation request includes, or is for, the Company to relocate above-ground facilities to an underground location, City shall be fully responsible for the additional cost of placing the facilities underground.
- D. If any other corporation or person (other than City) requests Company to

relocate Company facilities located in City Rights-of-Ways, the Company shall not be bound to make such changes until such other corporation or person shall have undertaken, with good and sufficient bond, to reimburse the Company for any costs, loss, or expense which will be caused by, or arises out of such change, alteration, or relocation of Company's Facilities. City may not request the Company to pay for any relocation which has already been requested, and paid for, by any entity other than City.

- E. If City abandons any Public Rights-of-Way in which Company has facilities, such abandonment shall be conditioned on Company's right to maintain its use of the former Public Rights-of-Way and on the obligation of the party to whom the Public Rights-of-Way is abandoned to reimburse Company for all removal or relocation expenses if Company agrees to the removal or relocation of its facilities following abandonment of the Public Rights-of-Way. If the party to whom the Public Rights-of-Way is abandoned requests the Company to remove or relocate its facilities and Company agrees to such removal or relocation, such removal or relocation shall be done within a reasonable time at the expense of the party requesting the removal or relocation. If relocation cannot practically be made to another Public Rights-of-Way, the expense of any right-of-way acquisition shall be considered a relocation expense to be reimbursed by the party requesting the relocation. (Ord. No. x-2020-xx; xx/xx/2020).

Sec. 15-94. Reserved.

Sec. 15-95. Indemnity ~~Indemnification~~.

~~Company shall hold the City harmless from all expense or liability for any act or neglect of Company hereunder.~~

a. In consideration of the granting of this Franchise, Company shall, at its sole cost and expense, indemnify and hold the City, and its past and present officers, agents and employees ~~(the "Indemnitees")~~ harmless against any and all liability arising from suits, actions or claims regarding ~~of~~ injury or death to any person or persons, or damages to any property arising out of, or occasioned by the intentional and/or negligent acts or omissions of Company or any of its officers, agents, or employees in connection with Company's construction, maintenance and operation of Company's System in the City Public Rights-of-Way, including any court costs, reasonable expenses and reasonable defenses thereof, ~~when such liability, suit, actions, injury, loss or damage shall have been ca'us'ed by the negligent act or omissions, or misconduct, of Company or any of its officers, agents or employees.~~

b. This indemnity shall only apply to the extent that the ~~liability, suit, actions, injury,~~ loss, ~~or~~ damage or injury is attributable to the negligence or wrongful act or omission of the Company, or its officers, agents, or employees, and does not apply to the extent such ~~liability, suit, actions, injury,~~ loss, ~~or~~ damage or injury is attributable to the negligence or wrongful act or omission of the City, or the City's officer's, agents, ~~representatives or~~ employees or any other person or entity. This provision is not intended to create a ca²²us²e of action or liability for the benefit of third parties but is solely for the benefit of the Company and the City.

c. In the event of joint and concurrent negligence or fault of both the Company and the City, responsibility and indemnity, if any, shall be apportioned comparatively between the City and Company in accordance with the laws of the State of Texas without, however, waiving any governmental immunity available to the City under Texas law and without waiving any of the defenses of the parties under Texas law. Further, in the event of joint and concurrent negligence or fault of both the Company and the City, responsibility for all costs of defense shall be apportioned between the City and Company based upon the comparative fault of each.

d. In fulfilling its obligation to defend and indemnify City, Company shall have the right to select defense counsel, subject to City's approval, which will not be unreasonably withheld. Company shall retain defense counsel within seven (7) business days of City's written notice to ~~Company~~ that City is invoking its right to indemnification under this Franchise Contract. If Company fails to retain Counsel within such time period, City shall have the right to retain defense counsel on its own behalf, and Company shall be liable for all reasonable defense costs incurred by City, except as otherwise provided by Sections 15-95(b) and 15-95(c) ~~to the extent that Subsections 15-95.b. and c. are not applicable.~~ (Ord. No. 0-2010-52; 6/9/10; xx/xx/2020)

Sec. 15-96. Liability Insurance.

Company shall, at its sole cost and expense, obtain, maintain or cause to be maintained, and provide, throughout the term of this Franchise, insurance in the amounts, types and coverages in accordance with the following requirements. Such insurance may be in the form of self-insurance to the extent permitted by applicable law or by obtaining insurance, as follows:

- A Commercial general or excess liability on an occurrence or claims made form with minimum limits of five million dollars (\$5,000,000) per occurrence and ten million dollars (\$10,000,000) aggregate. This coverage shall include the following:
 - (1) Products/completed operations to be maintained for the warranty period.
 - (2) Personal and advertising injury.
 - (3) Contractual liability.
 - (4) Explosion, collapse, or underground (XCU) hazards.
- B Automobile liability coverage with a minimum policy limit of one million dollars (\$1,000,000) combined single limit each accident. This coverage shall include all owned, hired, and non-owned automobiles.
- C. Workers compensation and employers liability coverage. Statutory coverage limits for Coverage A and five hundred thousand dollars (\$500,000) bodily injury each accident, five hundred thousand dollars (\$500,000) each employee bodily injury by disease, and five hundred

thousand dollars (\$500,000) policy limit bodily injury by disease Coverage B employers' liability are required. Company must provide the City with a waiver of subrogation for workers compensation claims.

- D. Company must name the City, which includes all authorities, commissions, divisions, and departments, as well as elected and appointed officials, agents, and volunteers, as an additional insureds under the coverage required herein, except workers compensations coverage. The certificate of insurance must state that the City is an additional insured.
- E. Company will require its contractors and subcontractors to maintain, at their sole cost and expense, a minimum of three million dollars (\$3,000,000) each occurrence or each accident general liability and automobile liability insurance throughout the course of work performed. Also, contractors and subcontractors will be required to maintain statutory workers' compensation benefits in accordance with the regulations of the "State of Texas" or state of jurisdiction as applicable. The minimum limits for employers' liability insurance will be five hundred thousand dollars (\$500,000) bodily injury each accident, five hundred thousand dollars (\$500,000) each employee bodily injury by disease, five hundred thousand dollars (\$500,000) policy limit bodily injury by disease.
- (1) The Company's contractors or subcontractors shall provide proof of the Insurance required under this Agreement whenever requested by City.
 - (2) In the event a claim exceeds the contractor's or subcontractor's insurance coverage, Company shall be responsible for covering any deficiencies in contractors' or subcontractors' insurance coverages.
- F. ~~The Company will provide proof of its insurance in accordance with this Franchise within (30) days of the effective date of the Franchise and annually thereafter. Company will not be required to furnish separate proof when applying for permits. City reserves the right to review insurance requirements of the Company and to request an adjustment in insurance coverage and limits when it is determined to be necessary. City and Company agree that a request from the City to adjust Company insurance coverage is contingent upon Company's acceptance of said adjustment. In the event that City and Company cannot agree on the adjustment in insurance coverage and/or limits, then either party may terminate this Agreement. Company agrees to provide 30 days notice to City in the event of cancellation or non renewal of Company's insurance coverage. Company and City agree to notify the other as soon as is reasonably possible when they become aware of actual or potential litigation that may develop regarding actions taken under this Franchise. (Ord. No. 0-2010-52; 6/9/10; xx/xx/2020)~~

Sec. 15-97. Public Purpose Reserved.

All of the provisions contained in this ordinance are hereby declared to be for a public purpose, and are in the interests of the health, safety, and welfare of the general public. Company agrees to respond in no more than 30 days to a request for inspection by the City for items related to health and safety that are not considered by the City to be an emergency, including poles belonging to Company. The City may enter into a separate agreement with Company for street light pole painting performed by Company's contractor or to allow City to paint street light poles themselves. Requirements and payment for these services by the City will be provided by Company under a separate agreement.

Sec. 15-98. Good Faith Effort.

City and Company agree to faithfully adhere to all applicable federal or state rules and regulations pertaining to non-discrimination, equal employment and affirmative action. City and Company also agree to continue in its commitment to maintain fairness and equality in the workplace and in its purchases of goods, equipment, and other services. (Ord. No. 0-2010-52; 6/9/10)

Sec. 15-99. Rulemaking by City.

In the further exercise of its police powers granted to it as a home rule City, the City Council may, from time to time, after reasonable notice and hearing, establish such reasonable rules and regulations by ordinance as may be in the public interest regarding the furnishing of service, or other matters pertaining to the administration of this Franchise, provided such rules and regulations are not inconsistent with the rights of the Company hereunder in this Franchise or any applicable federal, state or local law, rules or regulations and subject to the Company's rights of appeal under PURA. Nothing herein shall be deemed a waiver, release or relinquishment of either party's right to contest'', ' appeal'', ' or file suit with respect to any action or decision of the other party'', ' including'', ' without limitation'', ' ordinances adopted by the City'', ' that it believes is contrary to this Franchise or any applicable federal, state or local laws, rules, or regulations. To the extent practicable, City will use best efforts in providing Company with reasonable notice and opportunity to review and comment upon any new or revised City rules, requirements, or ordinances that substantially impact Company's ''us'e of the Public Rights-of-Way. (Ord. No. 0-2010-52; 6/9/10)

Sec. 15-100. Reserved.

Sec. 15-101. Reserved.

DIVISION 4. MISCELLANEOUS PROVISIONS

Sec. 15-102. Headings for Convenience Only Reserved.

The division of this Franchise Ordinance into sections and subsections is for convenience of reference only and shall not affect the interpretation or construction of this Franchise Ordinance.

Sec. 15-103. Notices.

~~Whenever any notice between the City and the Company is required, such notice shall be hand-delivered, electronic, or enclosed in an envelope with sufficient postage attached to ensure delivery and deposited in the United States mail, addressed to:~~

- ~~———— Notice to:~~
- ~~———— City Manager~~
- ~~———— City of Tyler~~
- ~~———— P.O. Box 2039~~
- ~~———— Tyler, TX 75710~~

~~and notices, to the Company addressed to:~~

- ~~———— Director, Regulatory Affairs~~
- ~~———— Oncor Electric Delivery Company LLC~~
- ~~———— 1601 Bryan St., 23rd floor~~
- ~~———— Dallas, Texas 75201~~

~~or to such other addresses as the parties may designate to each other in writing.~~

- A. Any notices required or desired to be given from one party to the other party to this ordinance shall be in writing and shall be given and shall be deemed to have been served and received if: (i) delivered in person to the address set forth below; (ii) deposited in an official depository under the regular care and custody of the United States Postal Service located within the confines of the United States of America and sent by certified mail, return receipt requested, and addressed to such party at the address hereinafter specified; or (iii) delivered to such party by courier receipted delivery. Either party may designate another address within the confines of the continental United States of America for notice, but until written notice of such change is actually received by the other party, the last address of such party designated for notice shall remain such party's address for notice.

CITY

City Manager
City of Tyler
PO BOX 2039
Tyler, TX 75710

COMPANY

Regulatory Affairs
Oncor Electric Delivery
Company LLC
1616 Woodall Rodgers Fwy,
6th floor
Dallas, TX 75202-1234

- B. Upon request, Company shall provide the City with current contact information for the City's use in forwarding customer inquiries and complaints to Company. (Ord. No. 0-2010-52; 6/9/10; xx/xx/2020)

Sec. 15-104. Future Amendments/Interpretation.

~~The City shall have the right to amend this Article, and any amendment made pursuant to this right shall be fully incorporated into any Franchise agreement granted under this Article only~~

~~upon the Company's approval and written acceptance of such amendment. The City and the Company hereby acknowledge that all of the provisions hereof are the result of negotiations between the City and the Company. The provisions of this Article shall be construed fairly and reasonably and not more strictly against the party drafting such provisions than against the non-drafting party.~~

This ordinance may be amended only by the mutual written agreement of the City and Company. (Ord. No. 0-2010-52; 6/9/10; xx/xx/2020)

Sec. 15-105. ~~Texas law and venue~~ Governing Law, Venue and Repeal.

~~This Franchise Ordinance Article shall supersede any and all other franchises granted by the City to Company, its predecessors and assigns. This Franchise Ordinance Article shall be construed and governed by the laws, rules and regulations of the State of Texas. City and Company agree that any lawsuit between the City and the Company concerning this Franchise Ordinance Article will be filed in Texas. Nothing in this Franchise Ordinance Article shall prohibit the City from filing an action related to this Article in Smith County, Texas. (Ord. No. 0-2010-52; 6/9/10; xx/xx/2020)~~

Sec. 15-106. Severability and Savings clause.

- A. The sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable. If any portion of this Ordinance is declared illegal or unconstitutional by the valid final non-appealable judgment or decree of any court of competent jurisdiction, such illegality or unconstitutionality shall not affect the legality and enforceability of any of the remaining portions of this Ordinance.
- B. The repeal of any Ordinance or part of Ordinances effectuated by the enactment of this Ordinance shall not be construed as abandoning any action, claims or penalties under any such prior Ordinance by either party, subject to applicable statute of limitations.

~~If any section, sentence, clause or phrase of this Article is held unconstitutional or otherwise invalid, such infirmity shall not affect the validity of the remaining portions of the Article, and any portions in conflict are hereby repealed; provided, however, that, in the event that state or federal laws or regulations render any section invalid, then such section or sections may be renegotiated by the City and the Company. (Ord. No. 0-2010-52; 6/9/10; xx/xx/2020)~~

Sec. 15-107. Reservation of rights/police power.

The City and Company hereby reserve to themselves all rights, privileges and interests which they have or may hereafter acquire, and nothing in this Article shall be construed otherwise unless it is specifically set forth in this Article. The City specifically reserves the right to adopt such additional regulations by ordinance as it shall find necessary in the exercise of its police power and which are not inconsistent with the rights of Company hereunder in this Franchise or any federal or state law, rules or regulations. (Ord. No. 0-2010-52; 6/9/10)

Sec. 15-108. Acceptance ~~and effective date.~~

a. ~~— This Franchise shall not become effective until the Company accepts it as described below. In the event Company does not agree to this document, the Franchise will become null and void.~~

b. In order to accept this Franchise, Company must file with the City Clerk its written acceptance of this Franchise ordinance within sixty (60) calendar days after its final passage and approval by City. (Ord. No. 0-2010-52; 6/9/10; xx/xx/2020)

Sec. 15-109. Adoption of ~~2009~~ 2020 Franchise/Passed at Public Meeting.

~~PASSED, on the first reading the 13th day of March, A.D. 2009.~~

~~— PASSED, on the second reading the 8th day of April, A.D. 2009.~~

~~— PASSED, on the third and final reading and approved this 9TH day of June A.D. 2010.~~

It is hereby officially found that the meeting at which this ordinance is passed is open to the public and that due notice of this meeting was posted by City, all as required by law.

FIRST PUBLIC READING PASSED AND APPROVED at a regular meeting of the City Council of the City of Tyler, Texas, on this the _____ day of _____, 2020.

SECOND PUBLIC READING PASSED AND APPROVED at a regular meeting of the City Council of the City of Tyler, Texas, on this the _____ day of _____, 2020.

FINAL PUBLIC READING PASSED AND APPROVED at a regular meeting of the City Council of the City of Tyler, Texas, on this the _____ day of _____, 2020. (Ord. No. 0-2010-52; 6/9/10; xx/xx/2020)

PART 2: That if any provision or any section of this ordinance shall be held to be void or unconstitutional, such holding shall in no way affect the validity of the remaining provisions or sections of this ordinance, which shall remain in full force and effect.

APPROVED:

Martin Heines, Mayor

ATTEST:

Cassandra Brager, City Secretary

REVIEWED:

Deborah G. Pullum, City Attorney



CITY OF TYLER CITY COUNCIL COMMUNICATION

Agenda Number: M-1

Date: May 13, 2020

Subject: Request that the City Council review and consider accepting the City of Tyler's workers' compensation, property and casualty claim and lawsuit report for fiscal year 2017-2018, 2018-2019 and 2019-2020 through March 31, 2020 and ratify all claim payments and settlements during that time frame in the amount of \$1,349,412. This includes 18 claim payments of \$25,000 or more and 11 litigated claims.

Page: Page 1 of

Item Reference:

Workers Compensation Claims

The City of Tyler has a Third Party Administration contract with Claims Administrative Services (CAS) to administer the City's self-insured workers' compensation program. During FY 2017-2018, 2018-2019 and 2019-2020 through March 31, 2020, 208 workers compensation claims were reported with \$794,464 paid on those claims.

Property and Casualty Claims

The City of Tyler has a Third Party Administration contract with Innovative Risk Management (IRM) to administer the City's self insured retention (deductible) liability insurance program. During FY 2017-2018, 2018-2019 and 2019-2020 through March 31, 2020, 119 property and casualty claims were reported with \$554,948 paid on those claims.

Property and Casualty and Workers' Compensation Claims Greater than \$25,000 Paid

During FY 2017-2018, 2018-2019 and 2019-2020 through March 31, 2020, six (6) property and casualty claims had greater than \$25,000 paid and 12 workers compensation claims had greater than \$25,000 paid. Any detailed or specific discussion regarding any claim would need to occur in executive session.

Property and Casualty and Workers' Compensation Number of Litigated Claims

During FY 2017-2018, 2018-2019 and 2019-2020 through March 31, 2020, 11 property and casualty claims involved litigation while 0 workers compensation claims involved litigation. Any detailed or specific discussion regarding any claim in litigation would need to occur in executive session.

A brief summary of this claim information broken down by year can be found in the attached spreadsheet.

RECOMMENDATION:

It is recommended that the City Council review and accept the City of Tyler's workers' compensation, property and casualty claim and lawsuit report for 2017-2018, 2018-2019 and 2019-2020 through March 31, 2020 and ratify all claim payments and settlements during that time frame in the amount of \$1,349,412. This includes 18 claim payments of \$25,000 or more and 11 litigated claims.

ATTACHMENTS:

[City of Tyler Claim Details](#)

Drafted/Recommended By:
Department Leader

Sara McCracken, Risk Manager

Edited/Submitted By:
City Manager

Workers' Compensation Claim Count

	2017/2018	2018/2019	2019/2020*
Workers' Comp Information Only	3	0	0
Workers' Comp Medical Only	46	72	27
Workers' Comp Lost Time	30	21	9
TOTAL	79	93	36

* Incomplete policy year. Information through 3/31/2020 (6 months remaining in policy year)

Workers' Compensation Claim Dollars/Paid Reserves

	2017/2018	2018/2019	2019/2020*
Workers' Comp Paid	\$ 332,897	\$ 397,580	\$ 63,987
Workers' Comp Reseves (Expect to pay)	\$ 21,754	\$ 479,010	\$ 145,895
TOTAL	\$ 354,651	\$ 876,590	\$ 209,882

* Incomplete policy year. Information through 3/31/2020 (6 months remaining in policy year)

Property and Casualty Claim Count

	2017/2018	2018/2019	2019/2020*
Auto	26	29	13
General Liability	20	24	7
Property	0	0	0
TOTAL	46	53	20

* Incomplete policy year. Information through 3/31/2020 (6 months remaining in policy year)

Property and Casualty Claim Dollars Paid/Reserves

	2017/2018	2018/2019	2019/2020*
Prop/Casualty Paid	\$ 399,190	\$ 118,021	\$ 37,737
Prop/Casualty Reserves (expect to pay)	\$ 29,644	\$ 18,510	\$ 41,619
TOTAL	\$ 428,834	\$ 136,531	\$ 79,356

* Incomplete policy year. Information through 3/31/2020 (6 months remaining in policy year)

Property and Casualty and Workers' Comp Claim Greater Than \$25,000 Paid

	2017/2018	2018/2019	2019/2020*
Prop/Casualty Claims	5	0	1
Workers' Comp Claims	5	4	3
TOTAL	10	4	4

* Incomplete policy year. Information through 3/31/2020 (6 months remaining in policy year)

Property and Casualty and Workers' Comp Claim Number of Litigated Claims

	2017/2018	2018/2019	2019/2020*
Prop/Casualty Claims Litigated	9	2	0
Workers' Comp Claims Litigated	0	0	0
TOTAL	9	2	0

* Incomplete policy year. Information through 3/31/2020 (6 months remaining in policy year)



**CITY OF TYLER
CITY COUNCIL COMMUNICATION**



Agenda Number: M-2

Date: May 13, 2020

Subject: Request that the City Council consider authorizing the City Manager to execute a contract with Applied Research Associates, Inc. for engineering services to provide a pavement condition survey and other pavement management services for a total contract amount of \$207,300.00.

Page: Page 1 of

Item Reference:

The City of Tyler Engineering Department has received a proposal from Applied Research Associates, Inc. to provide a pavement condition survey and other pavement management services. All streets maintained by the City will be driven, the pavement scanned, and digital images taken. Distress and ride quality will be determined and uploaded into our pavement management system, MicroPAVER.

The last pavement condition survey performed for the City of Tyler pavement system was in 2016. It is recommended to provide condition surveys every three years to maintain and update data, update newly constructed or annexed streets, monitor progress of maintenance, and provide a more accurate pavement degradation curve for the City's pavements. Services to be provided include:

- Project management
- Inventory review and route optimization
- Pavement condition survey
- Five-year maintenance recommendations
- Final report
- Staff training
- Map-based viewer
- Annual updates for 4 years

The consultants' proposal has been reviewed by staff and it has been determined that the compensation is appropriate for the services to be performed. Staff worked with the project manager from Applied Research Associates on the previous survey and are familiar with their capabilities.

FUNDING: Half Cent Sales Tax Fund

RECOMMENDATION:

It is recommended that the City Council authorize the City Manager to execute a contract with Applied Research Associates, Inc. for engineering services to provide a pavement condition survey and other pavement management services for a total contract amount of \$207,300.00.

ATTACHMENTS:

[ARA Pavement Management Proposal](#)

Drafted/Recommended By:
Department Leader

Lisa Crossman, P.E., City Engineer

Edited/Submitted By:
City Manager



Revision 3: April 14, 2020

Mr. Charles "Chuck" Samson, P.E.
Project Engineer
City of Tyler
511 W. Locust St
Tyler, Texas 75702
C: 903-279-7822
csamson@tylertexas.com

Subject: **Proposal for Pavement Management and Services for the City of Tyler, Texas**

Dear Mr. Samson:

Applied Research Associates (ARA), Inc. appreciates the opportunity to submit to the City of Tyler this proposal to perform a pavement condition assessment and maintenance recommendations for approximately 540 centerline miles (620 test miles) of city-maintained roadways. This project consists of a semi-automated pavement condition assessment, PAVER software deployment, and production of five-year maintenance recommendations for city maintained roadways. This project will be managed out of our Austin, Texas office location, primarily utilizing Texas-based staff.

If you have any questions or need additional information, please do not hesitate to contact us.

Sincerely,

Applied Research Associates, Inc.
TBPE Firm Registration No. F-4631

A handwritten signature in blue ink that reads "Robt R Williams".

Robert R. Williams, P.E., APMP
Principal Civil Engineer I

A handwritten signature in blue ink that reads "William R Vavrik".

William R. Vavrik, Ph.D., P.E.
Vice-President

1 PROJECT UNDERSTANDING

The City of Tyler, Texas currently utilizes the PAVER software developed by the United States Army Corps of Engineers as their pavement management system to track network condition, maintenance, and develop budget plans as part of managing their roadway network. This project consists of a semi-automated pavement condition assessment, PAVER software deployment, production of five-year maintenance recommendations for city-maintained roadways, and training on the PAVER software.

The City's road network consists of approximately 540 centerline miles, which correlates to approximately 620 test miles. Test miles are estimated by assuming that all driving lanes on arterial and collector roadways will be collected and a single lane on local roadways.

2 SCOPE OF SERVICES

2.1 TASK 1: PROJECT MANAGEMENT

The objective of this task is to ensure the scope of work, data collection protocol, quality control/quality assurance, project schedule, traffic control plan, jurisdictional contacts, reporting requirements, and other project-specific requirements are adhered to throughout the project. In addition to the kick-off meeting and regular e-mail and telephone communications, up to five (5) additional meetings will occur throughout the project at completion of major tasks and to review budget and maintenance recommendations.

2.2 TASK 2: INVENTORY REVIEW & ROUTING

An important step of this project that will take place prior to the data collection is an evaluation of the City's current roadway and pavement management inventory datasets to efficiently plan data collection. The City will need to provide the following information to facilitate the analyses to be performed by ARA:

- Any reports that were delivered as part of the previous projects
- Pavement management database
- Shape files of road centerlines
- Support to resolve inventory differences between PAVER and shape file inventories

ARA has developed route-optimization programs that minimize data collection times in the field. For the City of Tyler, we will develop routing plans that provide the most efficient route for data collection purposes. Based on our preliminary review of the City's roadway inventory, we estimate approximately 620 test miles representing 540 centerline miles of roadway.

2.3 TASK 3: PAVEMENT DISTRESS SURVEY

ARA proposes to provide automated data collection using the ARA Multi-Functional Vehicle (MFV) equipped with a 3D Laser Crack Measurement System (LCMS). During data collection, this vehicle is driven at posted speed limits (up to 60 mph.) We do not anticipate any traffic control requirements. Our MFV is equipped with appropriate flashing lights and sign markings for additional safety. Additionally, all vans used for collection are marked with the company name.

The MFV is equipped with the latest sensors and hardware required for accurate, high-quality pavement data collection, including:

- Pavemetrics' Laser Crack Measurement System: The imaging systems provides very high-resolution pavement images. The system is configured to capture 4m (approximately 13 ft.) pavement width with 2mm resolution and can operate at speeds up to 60 mph.
- Dynatest Model RSP-5051 Mark III High-Speed Laser Profiler: The Road Surface Profiler (RSP) is equipped with 7 lasers and 2 accelerometers and is a Class I (highest standard) profiler. In addition to pavement profile measurements, the RSP is capable of calculating IRI and rutting in real time.
- High-definition Right of Way (ROW) cameras: The system includes two UniBrain cameras capable of capturing color images in 1920x1080 format or higher. Images are acquired and stored every 20 ft. and all images are geotagged.
- Inertial Measurement Unit (IMU) and GPS: The MFV is equipped with an Applanix POS LV V5 inertial navigation system for recording sub-meter accuracy GPS coordinates. In addition, our system also captures pavement geometry including cross slope, radius of curvature and longitudinal grade.

The LCMS allows automated detection of pavement distresses including various types of cracks, raveling, edge drop-offs, potholes, macrotexture, and rutting. The system also automatically determines the presence of paint stripes which help in identifying the pavement lane.



Data acquired with the Laser Imaging system allows the automated detection/identification of various types of distresses including all types of cracking, rutting, raveling, potholes, edge drop-off, sealed cracks, lane markings, and macrotexture. However, it should be noted that for PCI calculation purposes, the ASTM D 6433 standard includes 20 distress types for both asphalt and concrete surface types. Due to the complexity of separating all distresses into the 20 distress types, we believe it is prudent to follow a two-step approach for distress rating, where a combination of fully automated computer-based crack type determination and a semi-automated rating process performed by an experienced pavement inspector. ARA will determine the most suitable approach to ensure quality results for the City.

For brick roadways, a condition score will be developed using the PASER rating procedure, which is a zero (0) to four (4) scale. This scale will then be translated to a 0 to 100 scale, so that all roadways in the City can be compared on the same scale. Engineering judgment will be used on

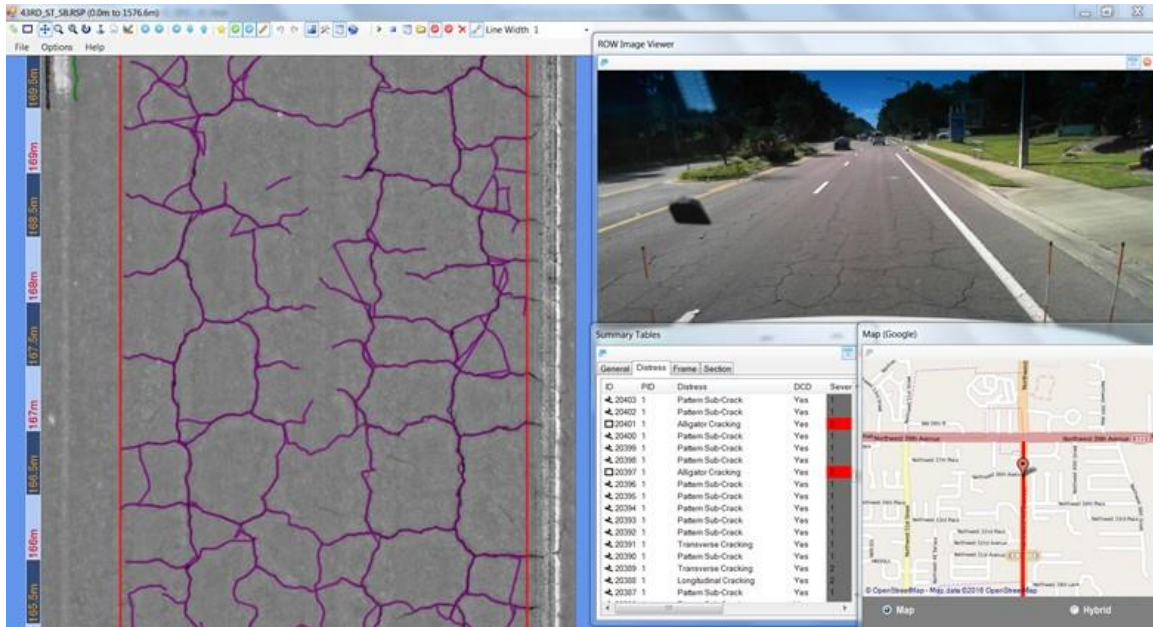
how to best adapt the PASER scoring scale based on the pavement imagery and ride quality data collected.

Quality control and quality assurance are an integral part of our methodology. We incorporate QC/QA measures in all aspects of data collection, verification, analyses and reporting. During data collection, all data streams are verified on a daily basis as part of a comprehensive QC/QA program to ensure that all required data elements are being collected. It also serves to ensure that no segment is left untested, unless for a reason beyond ARA control at the time of data collection (ex. road closures or construction activity). The following section describes our proposed analysis approach.

For the first step of the analysis process, all acquired data will be analyzed through data processing software, Dynatest Explorer/Dynatest Rating Module (DE/DRM). The DE/DRM software automatically classifies detected distresses, categorizes them by severity, and quantifies the results including location and extent. Distresses which can be automatically identified and classified are:

- | | |
|---------------------|------------------------|
| Alligator cracking | Potholes |
| Block cracking | Curbs or edge drop-off |
| Longitudinal cracks | Rutting |
| Transverse cracks | Raveling |
| Sealed cracks | Concrete joints |
| Edge cracks | |

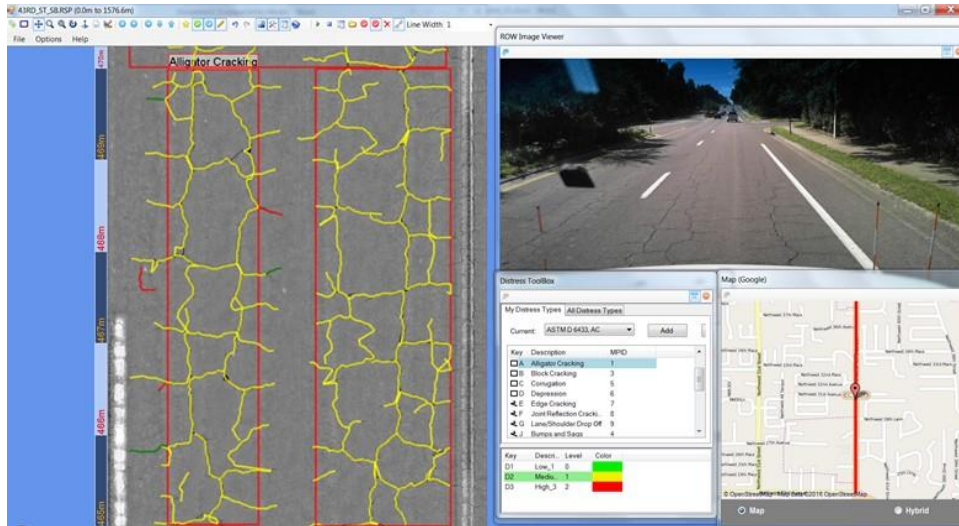
An example of the automated distress identification and classification process is shown in the figure below. This figure shows alligator cracking classified by our software.



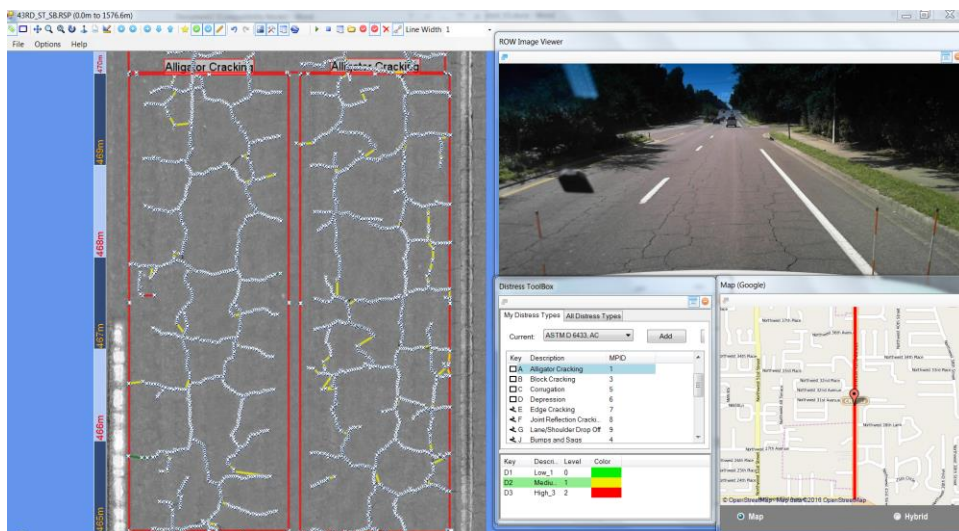
Automated Distress Analysis Process in Dynatest Explorer/Dynatest Rating Module.

All collected data will be analyzed through our software using automated analysis tools to identify the locations of the above-mentioned distress types.

In the second step for the analysis process, experienced pavement inspectors will review the results of the fully automated process and make changes or edits to the analyzed data. An example of this process is shown in the figure below; (a) the results of the automated analysis; (b) manual revisions to the auto-classified alligator cracking area made by ARA staff. In this case, the area of alligator cracking was increased slightly to capture the full extent of the cracking.



(a) Alligator Cracking Identified by Automated Process.



(b) Alligator Cracking Area Modified by ARA Pavement Inspectors. Example of Manual Review of Distresses.

2.4 TASK 4: FIVE-YEAR MAINTENANCE RECOMMENDATIONS DEVELOPMENT

Once all the condition data has been reviewed and accepted by the City, ARA will configure PAVER for the City and perform a series of analyses for the City. These tasks will include the following:

- Update work-history since previous PCI survey
- Update Decision Trees
- Evaluate Maintenance and Rehabilitation Strategies
- Update Unit Costs
- Update Pavement Performance Models based on results of condition survey
- Provide 5-year maintenance treatment recommendations
- Identify and list potential candidate roadways for Reconstruction and Major Rehabilitation
- Target PCI Analyses – determine target funding levels to reach target PCI.
- To perform these tasks, the project team requests as much of the following information as possible from the City before proceeding with the analysis:
 - City of Tyler rehabilitation and/or repair standards
 - Unit pricing for work performed by City roadway crews and bid by contractors
 - Materials used in the past and their outcome
 - Traffic control for field visits, if necessary

Specifically, the following budget analyses to be performed within PAVER are included in the scope of work:

- Network-Level 5-year Budget Analysis
- 5-year Unlimited Budget Analysis
- 5-year Do Nothing Analysis
- 5-year Deferred Maintenance Analysis
- Target PCI Analysis (one target PCI)
- Alternative High-Level Network Budget Scenarios (up to 5 alternate budgets)

It is crucial to have the City's involvement in this task. The goal of this phase is to produce a tool that allows the City to make more informed maintenance and rehabilitation decisions. Including information from the City is essential to implementing the pavement management program effectively. To develop maintenance recommendation that will help the City to get the most out of this project, it is anticipated that three review iterations will be required, each with an on-site meeting.

2.5 TASK 5: FINAL PAVEMENT MANAGEMENT REPORT

This involves preparing a final report that will document all fieldwork, ride statistics, distress information, and the maintenance and rehabilitation recommendations. This report will include the following:

- Summary of fieldwork
- Summary of network condition
 - Will include summary based on City's master thoroughfare network
- Summary of network-level repair recommendations for full network
- GIS maps summarizing roadway condition scores
 - GIS layer for average PCI
 - GIS layer for weighted condition index
 - GIS layer of 5-year maintenance recommendations
- Spreadsheet and/or database summaries of network condition and recommended maintenance/repair activities

A draft of the report will be prepared and provided to the City for review. Upon inclusion of City comments and acceptance of the report by the City, ARA will finalize the report. The purpose of this report will be to serve as initial strategies in support of the City's 5-year maintenance and rehabilitation plan. Should more detailed project level plans need to be created, additional fees may be applicable and will be addressed with the City at that time. It should also be noted, that due to future circumstances, the recommendations presented to the City in this report is subject to change at the City's discretion. Additional revisions of the recommendations provided or report may entail additional fees.

2.6 TASK 6: TRAINING

This task involves training the City personnel on the PAVER software and pavement management concepts. It is anticipated that two days of on-site training will be required. A specific training agenda will be developed throughout the project. A full-training will be provided on-site over two days. In general, PAVER training will consist of the following:

- Creating, modifying, and copying PAVER Database
- Generating city streets inventory/condition reports and export them to excel
- Importing rehabilitation work history
- Calculating pavement condition scores
- Reviewing pavement inspections
- Adding new pavement treatment types
- Running budget analysis
- Exporting results from PAVER
- Best practices for utilizing PAVER as part of a pavement management program

2.7 TASK 7: VIEWING SOLUTION

ARA will train-on and provide the City a Google Earth-based viewing tool that will allow for reviewing video and condition scores of the roadways. No special software installation is required to utilize this tool, only server space to save the images collected with the data collection vehicle. A description of this tool is described in another section of this proposal. ARA will work with the City to define which elements to include and the graphical layout of the tool to be provided. The Google Earth based solution is extremely intuitive to use and requires minimal training and resources on the City’s end to use.



2.8 TASK 8: ANNUAL UPDATE OF PAVEMENT MANAGEMENT DATABASE (4 YEARS)

ARA will update the City's pavement management database with the completed work and maintenance activities on an annual basis for four years after the full-scale inspection and update. As a part of this task, the following steps will be taken:

- Update PAVER database with work history performed each calendar year
- Identify added, modified, or deleted road segments from the City's GIS file and update PAVER and GIS linkage accordingly. Please note that providing condition scores may not be possible for segments added between PCI surveys.
- Recalculate PCI scores
- Produce PCI map based on work history update
- Perform budget analysis for maintenance planning purposes (optional, additional fee)

3 PROJECT SCHEDULE

Completion of the project will take approximately 6 months from mobilization for field data collection, assuming timely feedback from the City on deliverables requiring the City’s approval / input. Training will occur over two days and require at least two weeks’ notice from the City to allow for preparation of training materials and travel arrangements to be made.

4 DELIVERABLES

ARA will provide the following deliverables:

Deliverable	Due Date
Pavement Condition Index (PCI) for each roadway	4 months from mobilization
Update of PAVER database with current conditions	4 months from mobilization
Five-year Maintenance Recommendations	6 months from mobilization
Viewing Solution	5 months from mobilization
Training	6 months from mobilization
Annual PAVER Update	Annually from mobilization

5 PROJECT PRICE

ARA will provide the services noted in this proposal on a firm fixed price basis. The initial contract value shall be **\$207,300.00** (including contingency).

Task	Fee
Task 1 - Project Management	\$35,050.00
Task 2 - GIS & Inventory Review & Routing	\$6,050.00
Task 3 - Pavement Condition Surveys	\$118,400.00
Task 4 - Five-Year Maintenance Recommendations Development	\$10,400.00
Task 5 - Final Report	\$5,900.00
Task 6 - Training	\$3,200.00
Task 7 - Viewing Software	\$5,500.00
Task 8 - Annual PMS Database Update (4-years)	\$12,800.00
Contingency	\$10,000.00
Total (including contingency)	\$207,300.00

ARA will invoice monthly on a percent complete basis for payment to be made within 30 days of receipt of invoice (Net 30).

6 GROUND RULES AND ASSUMPTIONS

ARA's offering is based on the following ground rules and assumptions. Should any of these be adjusted during negotiations, the proposed offer, including pricing may be subject to change.

1. ARA anticipates a fixed price contract for all tasks.
2. Pricing is based on up to 650 test miles (small overage included should estimate of 620 test miles be low). Significant increase in actual test miles may result in increase in fee.
3. The assumed period of performance is May 2020 through November 2020 for the condition survey and analysis. Database updates to occur annually and will take about 1 month per update.
4. ARA will submit invoices on a monthly basis on a percent complete basis with payment terms of net 30.
5. ARA requires the following support from the City for the effective completion of this project:
 - a. Kick-off meeting with all City stakeholders to clearly define project goals, objectives, schedule, expectations, deliverables, communication plan, and invoicing plan, as well as information required from the City.
 - b. Provision of Street Inventory GIS file in ESRI compatible format.
 - c. Provision of maintenance records that can easily be associated to the Street Inventory GIS file.
 - d. Provision of current maintenance activities and costs.
 - e. Review and comment on preliminary drafts of maintenance recommendations and final report.



Standard Rate Sheet for Consulting Services and Pavement Testing Equipment

Effective January 1, 2020

CONSULTING SERVICES LABOR

The following labor categories and rates are the published standard time and materials rate for transportation consulting services.

Category	Hourly Rate
Engineering Director	\$282.00
Principal SME	\$285.00
SME	\$216.00
Principal Programmer	\$195.00
Senior Programmer	\$150.00
Staff Programmer	\$96.00
Principal Engineer 2	\$275.00
Principal Engineer 1	\$215.00
Senior Engineer 2	\$162.00
Senior Engineer 1	\$140.00
Staff Engineer 2	\$115.00
Staff Engineer 1	\$96.00
Lead Technician	\$130.00
Senior Technician	\$86.00
Staff Technician	\$65.00
Office Technician	\$45.00
Instructional Designer	\$102.00
Editor / Technical Writer	\$108.00
Principal Marketing & Communications	\$165.00
Senior Marketing & Communications	\$120.00
Staff Marketing & Communications	\$81.00
Senior Administrator	\$102.00
Administrative Assistant	\$58.00
Aide	\$65.00

TRAVEL

Travel costs are direct project expenses for meals, incidentals, motels, airfare, mileage, rental car, parking, and other travel costs. While ARA employees attempt to travel under US government guidelines, travel and per diem expense rates for non-government projects are not regularly available. Travel and per diem expenses are not limited to government per diem.

PAVEMENT TESTING EQUIPMENT

ARA owns and operates pavement testing equipment as provided in the below schedule of prices, additional items are available upon request. These rates do not include engineering time, operator time, travel, or per diem costs during mobilization or field testing.

Equipment Item	Commercial Rate	Units
Falling Weight Deflectometer	\$1,580.00	Day
Heavy Weight Deflectometer	\$1,580.00	Day
Pavement Friction Tester	\$2,100.00	Day
Runway Friction Tester	\$2,500.00	Day
Pavement Core Truck	\$660.00	Day
Pavement Marking Retroreflector	\$660.00	Day
Pavement Survey Vehicle with LCMS	\$1,910.00	Day
Pavement Survey Vehicle	\$1,320.00	Day
High Speed Profiler	\$1,320.00	Day
Ground Penetrating Radar (Air/Ground Coupled Single Antenna)	\$655.50	Day
Ground Penetrating Radar (3D Radar 6' wide)	\$3,280.00	Day
Pavement Sound (Onboard Sound Intensity)	\$1,580.00	Day
MIT SCAN	\$660.00	Day
Rolling Inclinometer	\$660.00	Day
LCMS Analysis Workstation	\$6.60	Hour
Geolocation and Survey Workstation	\$270.00	Day
PaVision Hardware Usage	\$1,311.00	Day
PaVision Data Processing	\$40.00	Mile
Computer (Standard Use)	\$4.00	Hour
Computer (Development & Analysis Surcharge)	\$3.30	Hour
Pavement Testing Work Vehicle	\$1.40	Mile
Company Vehicle (@ GSA Mileage Rate)	\$0.575	Mile

PURCHASES AND SUBCONTRACTS

Charges for purchases, subconsultants, and subcontractors will be at invoice plus 15 percent.



**CITY OF TYLER
CITY COUNCIL COMMUNICATION**



Agenda Number: M-3

Date: May 13, 2020

Subject: Request that the City Council consider authorizing the City Manager to approve a reconciliation change order in the amount of \$91,675.04 and the release of the final payment including retainage in the amount of \$83,232.24 to Reynolds and Kay, LLC for the Courtney Miller Drainage Improvements project.

Page: Page 1 of

Item Reference: Council Agenda Item M-3; 6/13/2018

On June 13, 2018, the City Council authorized the award of the Courtney Miller Drainage Improvements project to Reynolds and Kay, LLC in the amount of \$2,035,021.00. The construction has been successfully completed and the total cost of the project is \$2,133,796.04 resulting in an increase of \$91,675.04 over the contract amount. The increase in cost is primarily due to additional trees that needed to be removed and for lowering an existing 16-inch waterline.

It is also recommended that the project be accepted and that the final payment in the amount of \$83,232.24 be released to the contractor.

FUNDING: Half Cent Sales Tax Fund

RECOMMENDATION:

It is recommended that the City Council authorize the City Manager to approve a reconciliation change order in the amount of \$91,675.04 and the release of the final payment including retainage in the amount of \$83,232.24 to Reynolds and Kay, LLC for the Courtney Miller Drainage Improvements project.

ATTACHMENTS:

[RCO Courtney-Miller](#)

[Courtney Miller Location Map](#)

Drafted/Recommended By:
Department Leader

Lisa Crossman, P.E., City Engineer

Edited/Submitted By:
City Manager

**RECONCILIATION CHANGE ORDER
FINAL ADJUSTMENT OF QUANTITIES**

PROJECT NAME:

Courtney-Miller Drainage Improvements

DATE: April 23, 2020

CONTRACTOR:
ADDRESS:

Reynolds & Kay, LTD
PO Box 88, Tyler TX 75710

BID NUMBER: CIP Project Bid # 18-023

PHONE NO.:

903-592-0835

ITEM NO.	ITEM DESCRIPTION	UNIT OF MEASURE	CONTRACT QUANTITY	UNIT PRICE	QTY. COMPLETE TO DATE	QTY. OVERRUN/ (UNDERRUN)	COST INCREASE/ (DECREASE)
1	MOBILIZATION	LS	1.000	\$200,000.00	1.00	0.00	\$0.00
2	SURVEYING, LAYOUT, STAKING	LS	1.000	\$60,000.00	1.00	0.00	\$0.00
3	REMOVE CHAINLINK FENCE	LF	729.000	\$11.00	729.00	0.00	\$0.00
4-A	6" - 10" DIA. TREE REMOVAL	EA	14.000	\$800.00	14.00	0.00	\$0.00
4-B	10" - 14" DIA. TREE REMOVAL	EA	7.000	\$900.00	8.00	1.00	\$900.00
4-C	14" - 20" DIA. TREE REMOVAL	EA	9.000	\$1,000.00	12.00	3.00	\$3,000.00
4-D	20" - 26" DIA. TREE REMOVAL	EA	4.000	\$1,100.00	4.00	0.00	\$0.00
4-E	>26" DIA. TREE REMOVAL	EA	1.000	\$1,250.00	4.00	3.00	\$3,750.00
5	SAWCUT & REMOVE CURB & GUTTER	LF	185.000	\$10.00	314.00	129.00	\$1,290.00
6	REMOVE CONCRETE VALLEY GUTTER	SY	49.000	\$23.00	49.00	0.00	\$0.00
7-A	REMOVE CURB INLET <10'	EA	3.000	\$1,500.00	3.00	0.00	\$0.00
7-B	REMOVE CURB INLET >10'	EA	3.000	\$1,500.00	3.00	0.00	\$0.00
8	SAWCUT & REMOVE ASPHALT PAVEMENT	SY	536.000	\$11.00	674.00	138.00	\$1,518.00
9	REMOVE 30" RCP	LF	30.000	\$30.00	30.00	0.00	\$0.00
10	REMOVE 60" RCP	LF	115.000	\$67.00	147.00	32.00	\$2,144.00
11	REMOVE DOUBLE 4'X3' BOX CULVERT	LF	60.000	\$120.00	60.00	0.00	\$0.00
12	REMOVE 60" RCP HEADWALL	EA	2.000	\$2,750.00	2.00	0.00	\$0.00
13	SAWCUT & REMOVE CONC CHANNEL LINING	SY	293.000	\$17.00	293.00	0.00	\$0.00
14	SAWCUT & REMOVE CONCRETE SIDEWALK	SF	8.600	\$10.00	8.60	0.00	\$0.00
15	SAWCUT & REMOVE RETAINING WALL	LF	943.000	\$14.00	943.00	0.00	\$0.00
16	REMOVE CROSS-TIE RETAINING WALL	LF	145.000	\$10.00	145.00	0.00	\$0.00
17-A	REMOVE CONCRETE FOOT BRIDGE	SY	11.500	\$34.00	11.50	0.00	\$0.00
17-B	REM., SLVG., & REPL. WOOD FOOT BRIDGE	SF	39.000	\$50.00	39.00	0.00	\$0.00
18-A	REMOVE 8" SANITARY SEWER	LF	85.000	\$23.00	125.00	40.00	\$920.00
18-B	REMOVE 6" VCP SANITARY SEWER	LF	32.000	\$24.00	32.00	0.00	\$0.00
19	REMOVE SANITARY SEWER MANHOLE	EA	1.000	\$500.00	1.00	0.00	\$0.00
20	REMOVE 6" WATER LINE	LF	91.000	\$21.00	91.00	0.00	\$0.00
21	SITE CLEARING	AC	1.050	\$30,000.00	1.05	0.00	\$0.00
22	TOPSOIL	CY	604.000	\$25.00	604.00	0.00	\$0.00
23	BARRICADES, SIGNS & TRAFFIC CONTROL	LS	1.000	\$35,000.00	1.00	0.00	\$0.00
24	SWP3	LS	1.000	\$30,000.00	1.00	0.00	\$0.00
25-A	EXCAVATION	CY	200.000	\$20.00	200.00	0.00	\$0.00
25-B	STRUCTURAL EXCAVATION	CY	4,715.000	\$25.00	4192.00	(523.00)	(\$13,075.00)
25-C	ROCK BEDDING FOR STRUCTURES	CY	325.000	\$59.00	578.00	253.00	\$14,927.00
26	EMBANKMENT (FILL)	CY	2,400.000	\$25.00	1959.00	(441.00)	(\$11,025.00)
27	SAN AUGUSTINE SOD	SY	1,073.000	\$5.00	2575.00	1502.00	\$7,510.00
28	HYDROMULCH	AC	0.880	\$3,000.00	1.00	0.12	\$360.00
29	RELOCATE PRIVATE UTILITY POLE	EA	1.000	\$1,600.00	0.00	(1.00)	(\$1,600.00)
30-A	TEMP RELOCATE/REPLACE SHED	ALW	1.000	\$5,000.00	1.24	0.24	\$1,200.00
30-B	TEMP RELOCATE & REINSTALL A/C	ALW	1.000	\$8,000.00	0.53	(0.47)	(\$3,742.00)
31-A	8" D.I. SANITARY SEWER	LF	73.000	\$200.00	113.00	40.00	\$8,000.00
31-B	16" STEEL ENCASEMENT	LF	38.000	\$170.00	42.00	4.00	\$680.00
32	6" VCP SANITARY SEWER	LF	32.000	\$65.00	32.00	0.00	\$0.00
33	SANITARY SEWER MANHOLE	EA	3.000	\$1,700.00	2.00	(1.00)	(\$1,700.00)
34	TRENCH SAFETY	LF	1,476.000	\$1.00	1612.00	136.00	\$136.00
35	6" C900 PVC WATER LINE	LF	95.000	\$78.00	140.00	45.00	\$3,510.00
36	6" 45 DEG. WATER LINE BEND	EA	8.000	\$200.00	6.00	(2.00)	(\$400.00)
37	CONNECT TO EXISTING WATER MAIN	EA	4.000	\$750.00	3.00	(1.00)	(\$750.00)
38	24" RCP	LF	117.000	\$80.00	117.00	0.00	\$0.00
39	30" RCP	LF	8.000	\$93.00	8.00	0.00	\$0.00
40	6'X3' BOX CULVERT	LF	405.000	\$345.00	405.00	0.00	\$0.00
41-A	8'X3' BOX CULVERT	LF	284.000	\$420.00	284.00	0.00	\$0.00
41-B	12'X5' BOX CULVERT	LF	42.000	\$775.00	42.00	0.00	\$0.00
42	12'X3' BOX CULVERT	LF	171.000	\$780.00	171.00	0.00	\$0.00
43	DOUBLE 8'X3' BOX CULVERT	LF	227.000	\$815.00	227.00	0.00	\$0.00
44	DOUBLE 9'X3' BOX CULVERT	LF	130.000	\$890.00	130.00	0.00	\$0.00
45	6'X3' BEND	EA	2.000	\$4,500.00	3.00	1.00	\$4,500.00
46	8'X3' BEND	EA	2.000	\$5,000.00	2.00	0.00	\$0.00
47-A	8'X3' TO 12'X5' TRANSITION	EA	1.000	\$13,000.00	1.00	0.00	\$0.00
47-B	12'X3' TO 12'X5' TRANSITION	EA	1.000	\$15,000.00	1.00	0.00	\$0.00
48	12'X3' BEND	EA	2.000	\$14,000.00	2.00	0.00	\$0.00
49	12'X3' TO DBL. 8'X3' TRANSITION	EA	1.000	\$15,000.00	1.00	0.00	\$0.00
50	DOUBLE 8'X3' BEND	EA	1.000	\$15,500.00	1.00	0.00	\$0.00

**RECONCILIATION CHANGE ORDER
FINAL ADJUSTMENT OF QUANTITIES**

PROJECT NAME:

Courtney-Miller Drainage Improvements

DATE: April 23, 2020

CONTRACTOR:

Reynolds & Kay, LTD

BID NUMBER: CIP Project Bid # 18-023

ADDRESS:

PO Box 88, Tyler TX 75710

PHONE NO.:

903-592-0835

ITEM NO.	ITEM DESCRIPTION	UNIT OF MEASURE	CONTRACT QUANTITY	UNIT PRICE	QTY. COMPLETE TO DATE	QTY. OVERRUN/ (UNDERRUN)	COST INCREASE/ (DECREASE)
51	DBL. 8'X3' TO DBL. 9'X3'	EA	1.000	\$14,000.00	1.00	0.00	\$0.00
52	DOUBLE 9'X3' BEND	EA	1.000	\$16,500.00	1.00	0.00	\$0.00
53	20' MOD. CURB INLET (#1 & #2)	EA	2.000	\$18,500.00	2.00	0.00	\$0.00
54	TYPE "Y" INLET	EA	1.000	\$7,100.00	1.00	0.00	\$0.00
55	20' MODIFIED CURB INLET (#3)	EA	1.000	\$14,000.00	1.00	0.00	\$0.00
56	16' MODIFIED CURB INLET (#4)	EA	1.000	\$11,000.00	1.00	0.00	\$0.00
57	25' MODIFIED CURB INLET (#5)	EA	1.000	\$13,000.00	1.00	0.00	\$0.00
58	10' MODIFIED CURB INLET (#6)	EA	1.000	\$9,000.00	1.00	0.00	\$0.00
59	JUNCTION BOX (5'X5'X6.83' DEPTH)	EA	1.000	\$10,000.00	1.00	0.00	\$0.00
60	3:1 HEADWALL ON 24" RCP	EA	1.000	\$5,500.00	1.00	0.00	\$0.00
61	PARALLEL WING HEADWALL	EA	1.000	\$25,000.00	1.00	0.00	\$0.00
62	CONCRETE CURB & GUTTER	LF	255.000	\$35.00	284.00	29.00	\$1,015.00
63	ROCK RIPRAP OVER GEOTEXTILE FABRIC	CY	79.000	\$160.00	89.00	10.00	\$1,600.00
64	HMAC, TYPE D	TON	165.000	\$181.00	350.92	185.92	\$33,651.52
65	CONCRETE VALLEY GUTTER	SY	51.000	\$100.00	51.00	0.00	\$0.00
66	CHAINLINK FENCE	LF	729.000	\$25.00	841.00	112.00	\$2,800.00
67	CONCRETE SIDEWALK	SY	12.000	\$75.00	0.00	(12.00)	(\$900.00)
68	INSPECTION & MAINTENANCE OF BMP'S	LS	1.000	\$5,000.00	1.00	0.00	\$0.00
69	REMOVE BMP'S	LS	1.000	\$2,500.00	1.00	0.00	\$0.00
70	FINAL CLEANUP & PLAINING MAINTENANCE	LS	1.000	\$25,000.00	1.00	0.00	\$0.00
71	EX. LOT IRRIGATION REMOVAL & REPAIR	ALW	1.000	\$10,000.00	0.1139	(0.89)	(\$8,861.00)
72	CONSTRUCTION ALLOWANCE	ALW	1.000	\$170,000.00	0.00	(1.00)	(\$170,000.00)
A-1	TYPE "Y" INLET OVER RCP OR RCB	EA	1.000	\$7,100.00	0.00	(1.00)	(\$7,100.00)
SPL	ADDITIONAL TREE REMOVAL	LS	0.000	\$35,945.00	1.00	1.00	\$35,945.00
SPL	REHANDLE BOXES(MOVE OUT OF GOLDEN)	LS	0.000	\$1,470.00	1.00	1.00	\$1,470.00
SPL	CUT IN 6" GATE VALVE ON MILLER	EA	0.000	\$2,020.00	2.00	2.00	\$4,040.00
SPL	6" WATERLINE (DEBBY & DELMAR)	LS	0.000	\$1.00	79595.60	79595.60	\$79,595.60
SPL	REPAIR CLAMPS FOR 16" WATER LINE	LS	0.000	\$1,820.00	1.00	1.00	\$1,820.00
SPL	DETOUR BARRICADES/SET UP	LS	0.000	\$2,074.00	1.00	1.00	\$2,074.00
SPL	FIRE HYDRANT(NEELEY & GOLDEN)	LS	0.000	\$3,000.00	1.00	1.00	\$3,000.00
SPL	16" GATE VALVES	EA	0.000	\$10,255.00	2.00	2.00	\$20,510.00
SPL	EXTRA FITTING, PIPE (16" VALVES)	LS	0.000	\$10,949.38	1.00	1.00	\$10,949.38
SPL	6" FIRE HYDRANT PIPE	LF	0.000	\$32.20	20.00	20.00	\$644.00
SPL	6" GATE VALVE & BOX(FH)	EA	0.000	\$1,300.00	2.00	2.00	\$2,600.00
SPL	16" X 6" ANCHOR TEE(FH)	EA	0.000	\$550.00	1.00	1.00	\$550.00
SPL	FIRE HYDRANT (GOLDEN ROAD)	EA	0.000	\$3,000.00	1.00	1.00	\$3,000.00
SPL	2' FIRE HYDRANT EXTENSION	EA	0.000	\$915.00	1.00	1.00	\$915.00
SPL	LOWER 16" WATER LINE	LS	0.000	\$17,435.00	1.00	1.00	\$17,435.00
SPL	BARRICADES/FAULKNER(OCT)	LS	0.000	\$639.22	1.00	1.00	\$639.22
SPL	MODIFY 9' X 3' RC BOXES	LS	0.000	\$5,825.00	1.00	1.00	\$5,825.00
SPL	SELECT FILL TO BACKFILL GOLDEN ROAD	CY	0.000	\$25.00	232.00	232.00	\$5,800.00
SPL	6" ANCHOR TEE(FH)(LATERAL)	EA	0.000	\$500.00	2.00	2.00	\$1,000.00
SPL	CONCRETE DRIVEWAY	SY	0.000	\$100.00	23.84	23.84	\$2,384.00
SPL	REMOVE CONCRETE DRIVEWAY	SY	0.000	\$23.00	23.84	23.84	\$548.32
SPL	FIRE HYDRANT(COURTNEY & MILLER)	EA	0.000	\$3,000.00	1.00	1.00	\$3,000.00
SPL	REMOVE TREES/STUMPS (PRIVATE PROPERTY)	LS	0.000	\$2,800.00	1.00	1.00	\$2,800.00
SPL	6' WOOD PRIVACY FENCE	LF	0.000	\$31.00	192.00	192.00	\$5,952.00
SPL	6' WOOD PRIVACY GATE	EA	0.000	\$400.00	2.00	2.00	\$800.00
SPL	5' CHAINLINK GATE	EA	0.000	\$500.00	4.00	4.00	\$2,000.00
SPL	MODIFY 20' CURB INLET(C1-1)	LS	0.000	\$350.00	1.00	1.00	\$350.00
SPL	ROCK FILTER DAMS	LF	0.000	\$39.00	30.00	30.00	\$1,170.00
SPL	REMOVE ROCK FILTER DAMS	LF	0.000	\$20.00	30.00	30.00	\$600.00
TOTAL CONTRACT INCREASE / (DECREASE)							\$91,675.04

Original Contract Total	\$2,042,121.00
Total Amount of Previous Change Orders	\$0.00
Total Amount of this Change Order - Increase / (Decrease)	\$91,675.04
FINAL CONTRACT TOTAL	\$2,133,796.04

This Document will become a supplement to the contract and all provisions will apply hereto.

**RECONCILIATION CHANGE ORDER
FINAL ADJUSTMENT OF QUANTITIES**

PROJECT NAME: Courtney-Miller Drainage Improvements DATE: April 23, 2020
 CONTRACTOR: Reynolds & Kay, LTD BID NUMBER: CIP Project Bid # 18-023
 ADDRESS: PO Box 88, Tyler TX 75710
 PHONE NO.: 903-592-0835

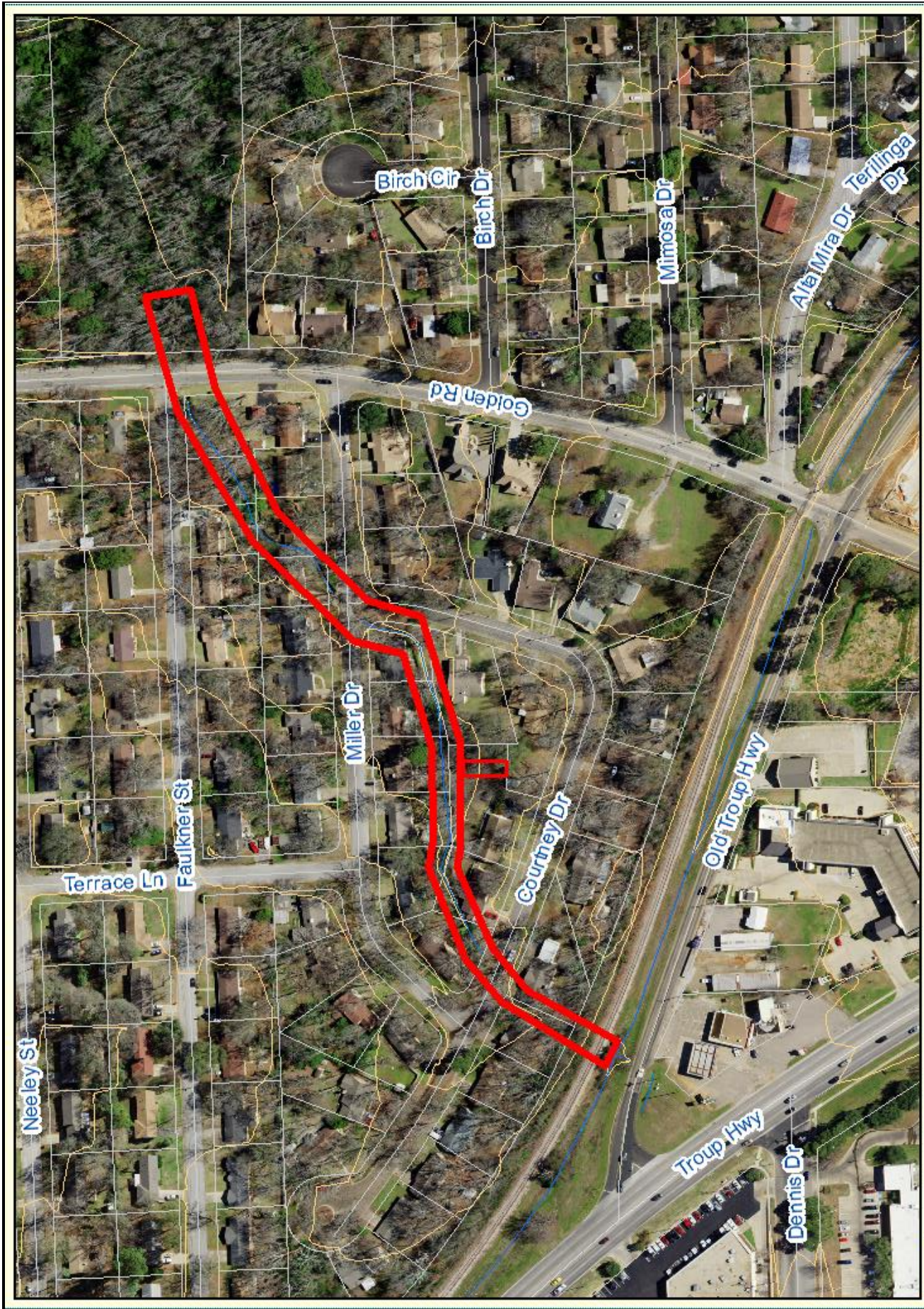
ITEM NO.	ITEM DESCRIPTION	UNIT OF MEASURE	CONTRACT QUANTITY	UNIT PRICE	QTY. COMPLETE TO DATE	QTY. OVERRUN/ (UNDERRUN)	COST INCREASE/ (DECREASE)
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RECOMMENDED FOR APPROVAL: C. D. H. Carter Delleney, PE, MPA 4-24-2020
 Engineer Date

ACCEPTED: Kabini S. Reddy 04/24/2020
 Contractor Date

REVIEWED: _____
 City Attorney's Office Date

APPROVED: _____
 City Manager Date



**LOCATION MAP
COURTNEY MILLER DRAINAGE PROJECT**



City of Tyler
 This product is for informational purposes only
 and may be changed without notice.





**CITY OF TYLER
CITY COUNCIL COMMUNICATION**



Agenda Number: M-4

Date: May 13, 2020

Subject: Request that the City Council consider authorizing the City Manager to execute a construction contract with W.M. Miller Construction in the amount of \$435,475.00 from the Community Development Block Grant Fund for the construction of the Hidden Palace Subdivision project.

Page: Page 1 of

Item Reference: City Council Agenda M-3, 09/11/19

On September 11, 2019, City Council awarded an engineering contract to Aqueous Engineering for the design of the utilities, sidewalk, street, curb and gutter, and drainage facilities for the Hidden Palace Subdivision project. This will provide the infrastructure needed to support an eleven (11) lot residential subdivision located near the intersection of North Palace Avenue and West Queen Street.

The design is complete and included six different alternatives for concrete and asphalt street designs. The project was advertised and nine (9) were received and publicly opened on April 28, 2020.

The following is a summary of the low bids that were received for each alternative street design:

- * Alternative 1 = 6" Concrete street with lime-flyash treated subgrade - W.M. Miller Construction - \$453,073.00
- * Alternative 2 = 6" Concrete street with lime treated subgrade - W.M. Miller Construction - \$450,133.00
- * Alternative 3 = 3" Asphalt street with lime-flyash treated subgrade - Baker & Company - \$435,809.10
- * Alternative 4 = 2.5" Asphalt street with lime-flyash treated subgrade - W.M. Miller Construction - \$503,410.00
- * Alternative 5 = 3" Asphalt street with lime treated subgrade - W.M. Miller Construction - \$435,475.00
- * Alternative 6 = 2.5" Asphalt street with lime treated subgrade - W.M. Miller Construction - \$500,575.00

A full bid tabulation is included for review. The engineer and staff have reviewed the bids and recommends the award of a contract with Alternative #5, which includes an asphalt street with a three-inch asphalt surface, seven-inch aggregate base and eight-inch lime treated subgrade, in the amount of \$435,475.00, to the low bidder W.M. Miller Construction.

FUNDING: Community Development Block Grant Funds

RECOMMENDATION:

It is recommended that the City Council authorize the City Manager to execute a construction contract with W.M. Miller Construction in the amount of \$435,475.00 from the Community Development Block Grant Fund for the construction of the Hidden Palace Subdivision project.

ATTACHMENTS:

[Location Map](#)

[Bid Tabulation - Hidden Palace](#)

Drafted/Recommended By:
Department Leader

Lisa Crossman, P.E., City Engineer

Edited/Submitted By:
City Manager



Bid Item	Item Description and Written Unit Price	Unit	Quantity	Fritcher Construction		Leland Bradley Construction		WR Welborn & Son		Capco Construction		Baker & Company		CE Marler & Associates		WM Miller Construction		AT Construction		Reynolds & Kay	
				Unit Price	Amount	Unit Price	Amount	Unit Price	Amount	Unit Price	Amount	Unit Price	Amount	Unit Price	Amount	Unit Price	Amount	Unit Price	Amount	Unit Price	Amount
1	Provide a 100% Performance, Maintenance and Payment Bond, in	LS	1	\$10,500.00	\$10,500.00	\$5,500.00	\$5,500.00	\$8,652.00	\$8,652.00	\$17,150.00	\$17,150.00	\$14,400.00	\$14,400.00	\$10,000.00	\$10,000.00	\$8,641.24	\$8,641.24	\$5,000.00	\$5,000.00	\$7,000.00	\$7,000.00
2	Provide required insurance, including Liability Insurance, with the Owner and Engineer names as additionally insured,	LS	1	\$1,200.00	\$1,200.00	\$5,500.00	\$5,500.00	\$12,586.00	\$12,586.00	\$11,500.00	\$11,500.00	\$2,500.00	\$2,500.00	\$10,000.00	\$10,000.00	\$2,430.00	\$2,430.00	\$6,000.00	\$6,000.00	\$5,000.00	\$5,000.00
3	Mobilization for	LS	1	\$7,500.00	\$7,500.00	\$50,000.00	\$50,000.00	\$19,914.00	\$19,914.00	\$8,500.00	\$8,500.00	\$14,000.00	\$14,000.00	\$40,000.00	\$40,000.00	\$4,980.00	\$4,980.00	\$20,000.00	\$20,000.00	\$88,000.00	\$88,000.00
4	Provide traffic control on West Queen St and Palace Ave for	LS	1	\$3,200.00	\$3,200.00	\$5,000.00	\$5,000.00	\$1,700.00	\$1,700.00	\$1,250.00	\$1,250.00	\$1,250.00	\$1,250.00	\$3,000.00	\$3,000.00	\$867.00	\$867.00	\$10,000.00	\$10,000.00	\$1,200.00	\$1,200.00
5	Provide construction staking by RPLS for	LS	1	\$2,800.00	\$2,800.00	\$6,500.00	\$6,500.00	\$3,000.00	\$3,000.00	\$5,500.00	\$5,500.00	\$6,900.00	\$6,900.00	\$9,000.00	\$9,000.00	\$7,956.00	\$7,956.00	\$5,000.00	\$5,000.00	\$7,500.00	\$7,500.00
6	Furnish an labor, tools, equipment, supervision and any other requisite necessary for site preparation including but not limited to clearing and grubbing, removal of trees, bushes, undergrowth,	AC	1.46	\$12,700.00	\$18,542.00	\$9,500.00	\$13,870.00	\$3,425.00	\$5,000.50	\$11,500.00	\$16,790.00	\$7,900.00	\$11,534.00	\$15,000.00	\$21,900.00	\$1,305.00	\$1,905.30	\$2,000.00	\$2,920.00	\$12,500.00	\$18,250.00
7	Furnish an labor, tools, equipment, and supervision and any other requisite necessary to perform roadway excavation for Heiress Court, ROW grading, including unclassified excavation (density control),	CY	2500	\$5.00	\$12,500.00	\$6.20	\$15,500.00	\$2.50	\$6,250.00	\$12.00	\$30,000.00	\$5.00	\$12,500.00	\$22.00	\$55,000.00	\$4.25	\$10,625.00	\$12.50	\$31,250.00	\$9.00	\$22,500.00
8	Remove and salvage existing topsoil to a depth of 6" and stockpile onsite for reuse. Install salvaged topsoil to a depth of 4" on medians, parkways, easements and	LS	1	\$13,500.00	\$13,500.00	\$12,500.00	\$12,500.00	\$6,350.00	\$6,350.00	\$4,000.00	\$4,000.00	\$11,550.00	\$11,550.00	\$21,000.00	\$21,000.00	\$10,133.00	\$10,133.00	\$7,000.00	\$7,000.00	\$15,500.00	\$15,500.00
9	Comply with the storm water Pollution Prevention Plan for construction activities by installing, maintaining, monitoring and inspecting erosion control devices and providing necessary documentation and	LS	1	\$2,500.00	\$2,500.00	\$4,000.00	\$4,000.00	\$2,500.00	\$2,500.00	\$2,500.00	\$2,500.00	\$1,250.00	\$1,250.00	\$3,000.00	\$3,000.00	\$1,715.00	\$1,715.00	\$7,000.00	\$7,000.00	\$2,000.00	\$2,000.00
10	Furnish, install and maintain stabilized construction entrance for	EA	1	\$3,750.00	\$3,750.00	\$2,500.00	\$2,500.00	\$2,300.00	\$2,300.00	\$1,750.00	\$1,750.00	\$3,125.00	\$3,125.00	\$2,500.00	\$2,500.00	\$1,296.00	\$1,296.00	\$4,000.00	\$4,000.00	\$2,000.00	\$2,000.00
11	Furnish, install and maintain silt fence for	LF	845	\$4.00	\$3,380.00	\$2.62	\$2,213.90	\$3.50	\$2,957.50	\$4.50	\$3,802.50	\$4.00	\$3,380.00	\$3.60	\$3,042.00	\$2.00	\$1,690.00	\$4.00	\$3,380.00	\$4.00	\$3,380.00
12	Furnish, install and maintain silt fence	LS	1	\$500.00	\$500.00	\$2,000.00	\$2,000.00	\$300.00	\$300.00	\$1,250.00	\$1,250.00	\$375.00	\$375.00	\$600.00	\$600.00	\$405.00	\$405.00	\$1,000.00	\$1,000.00	\$300.00	\$300.00
13	Furnish and install nylon mulch, seed and/or sod for erosion control and	LS	1	\$5,225.00	\$5,225.00	\$6,000.00	\$6,000.00	\$4,000.00	\$4,000.00	\$7,500.00	\$7,500.00	\$4,550.00	\$4,550.00	\$6,250.00	\$6,250.00	\$7,440.00	\$7,440.00	\$8,000.00	\$8,000.00	\$4,600.00	\$4,600.00
14	Grade, excavate and prepare subgrade before installation of storm sewer and	LS	1	\$1,500.00	\$1,500.00	\$10,500.00	\$10,500.00	\$5,075.00	\$5,075.00	\$2,000.00	\$2,000.00	\$7,700.00	\$7,700.00	\$10,000.00	\$10,000.00	\$3,550.00	\$3,550.00	\$12,000.00	\$12,000.00	\$2,500.00	\$2,500.00
15	Grade, excavate and prepare subgrade, including improved subgrade, after installation of storm sewer and utilities for	LS	1	\$1,500.00	\$1,500.00	\$10,500.00	\$10,500.00	\$4,621.00	\$4,621.00	\$2,000.00	\$2,000.00	\$7,700.00	\$7,700.00	\$20,000.00	\$20,000.00	\$3,550.00	\$3,550.00	\$18,000.00	\$18,000.00	\$2,500.00	\$2,500.00
16	Sawcut, remove and replace pavement for utility installation for	SY	165	\$85.00	\$14,025.00	\$54.55	\$9,000.75	\$15.00	\$2,475.00	\$130.00	\$21,450.00	\$12.00	\$1,980.00	\$17.00	\$2,805.00	\$171.00	\$28,215.00	\$120.00	\$19,800.00	\$100.00	\$16,500.00
17	Provide trench safety protection per OSHA requirements for all utilities and storm	LS	1	\$2,500.00	\$2,500.00	\$30,000.00	\$30,000.00	\$250.00	\$250.00	\$750.00	\$750.00	\$1,000.00	\$1,000.00	\$1,000.00	\$1,000.00	\$0.01	\$0.01	\$17,000.00	\$17,000.00	\$1,100.00	\$1,100.00
18	Sawcut and remove existing concrete curb and gutter for	LF	173	\$4.00	\$692.00	\$28.91	\$5,001.43	\$7.00	\$1,211.00	\$15.00	\$2,595.00	\$11.00	\$1,903.00	\$25.00	\$4,325.00	\$14.65	\$2,534.45	\$8.00	\$1,384.00	\$15.00	\$2,595.00
19	Sawcut and remove existing concrete	LF	133	\$5.00	\$665.00	\$30.10	\$4,003.30	\$16.00	\$2,128.00	\$14.00	\$1,862.00	\$14.50	\$1,928.50	\$25.00	\$3,325.00	\$8.00	\$1,064.00	\$10.00	\$1,330.00	\$20.00	\$2,660.00
20	Relocation power pole on Palace Ave for	LS	1	\$375.00	\$375.00	\$5,000.00	\$5,000.00	\$7,500.00	\$7,500.00	\$1.00	\$1.00	\$625.00	\$625.00	\$1,200.00	\$1,200.00	\$0.00	\$0.00	\$2,500.00	\$2,500.00	\$1,200.00	\$1,200.00
21	Furnish and install 4" thick reinforced concrete sidewalk and accessible ramps with detectable warning for	SF	6925	\$7.50	\$51,937.50	\$6.00	\$41,550.00	\$7.40	\$51,245.00	\$9.00	\$62,325.00	\$6.00	\$41,550.00	\$8.20	\$56,785.00	\$8.00	\$55,400.00	\$9.00	\$62,325.00	\$7.50	\$51,937.50
22	Furnish and install concrete curb and	LF	1625	\$27.50	\$44,687.50	\$25.00	\$40,625.00	\$24.50	\$39,812.50	\$28.00	\$45,500.00	\$20.00	\$32,500.00	\$33.00	\$53,625.00	\$22.00	\$35,750.00	\$9.00	\$14,625.00	\$22.00	\$35,750.00
23	Furnish and install 8" tapping sleeve	EA	2	\$1,950.00	\$3,900.00	\$3,640.86	\$7,281.72	\$2,120.00	\$4,240.00	\$2,800.00	\$5,600.00	\$3,350.00	\$6,700.00	\$2,400.00	\$4,800.00	\$2,286.00	\$4,572.00	\$400.00	\$800.00	\$2,200.00	\$4,400.00
24	Furnish and install 8" PVC 900 water	LF	705	\$23.00	\$16,215.00	\$27.84	\$19,627.20	\$29.70	\$20,938.50	\$19.90	\$14,029.50	\$27.00	\$19,035.00	\$33.60	\$23,688.00	\$16.60	\$11,703.00	\$10.00	\$7,050.00	\$22.00	\$15,510.00
25	Furnish and install 8"x2" tee for	EA	1	\$585.00	\$585.00	\$2,661.69	\$2,661.69	\$265.00	\$265.00	\$1,650.00	\$1,650.00	\$1,275.00	\$1,275.00	\$300.00	\$300.00	\$372.00	\$372.00	\$400.00	\$400.00	\$400.00	\$400.00
26	Furnish and install 2" irrigation meter and backflow preventer for	EA	1	\$3,460.00	\$3,460.00	\$2,995.71	\$2,995.71	\$4,240.00	\$4,240.00	\$2,970.00	\$2,970.00	\$3,920.00	\$3,920.00	\$10,800.00	\$10,800.00	\$4,294.00	\$4,294.00	\$850.00	\$850.00	\$2,500.00	\$2,500.00
27	Furnish and install fire hydrant assembly and associated appurtenances for	EA	1	\$3,925.00	\$3,925.00	\$7,017.72	\$7,017.72	\$5,300.00	\$5,300.00	\$3,750.00	\$3,750.00	\$3,422.00	\$3,422.00	\$6,000.00	\$6,000.00	\$3,960.00	\$3,960.00	\$2,500.00	\$2,500.00	\$4,000.00	\$4,000.00
28	Furnish and install 8"x8" tee for	EA	1	\$750.00	\$750.00	\$702.87	\$702.87	\$370.00	\$370.00	\$650.00	\$650.00	\$357.00	\$357.00	\$420.00	\$420.00	\$544.00	\$544.00	\$400.00	\$400.00	\$500.00	\$500.00
29	Furnish and install 8" gate valve for	EA	1	\$1,455.00	\$1,455.00	\$2,777.28	\$2,777.28	\$1,484.00	\$1,484.00	\$1,520.00	\$1,520.00	\$1,195.00	\$1,195.00	\$1,680.00	\$1,680.00	\$1,421.00	\$1,421.00	\$850.00	\$850.00	\$1,300.00	\$1,300.00
30	Furnish and install 8"x1" reducer for	EA	1	\$1,040.00	\$1,040.00	\$221.88	\$221.88	\$690.00	\$690.00	\$150.00	\$150.00	\$181.00	\$181.00	\$780.00	\$780.00	\$1,145.00	\$1,145.00	\$800.00	\$800.00	\$200.00	\$200.00
31	Furnish and install 45 degree bend for	EA	2	\$593.00	\$1,186.00	\$498.09	\$996.18	\$500.00	\$1,000.00	\$480.00	\$960.00	\$285.00	\$570.00	\$570.00	\$1,140.00	\$394.00	\$788.00	\$400.00	\$800.00	\$400.00	\$800.00
32	Furnish and install 1" copper tubing water service with 1" corp stop and 1" meter for	EA	10	\$750.00	\$7,500.00	\$1,300.24	\$13,002.40	\$848.00	\$8,480.00	\$880.00	\$8,800.00	\$677.00	\$6,770.00	\$4,100.00	\$41,000.00	\$991.00	\$9,910.00	\$650.00	\$6,500.00	\$1,000.00	\$10,000.00
33	Furnish and install 4" conduits for	LF	80	\$6.50	\$520.00	\$5.52	\$441.60	\$16.00	\$1,280.00	\$12.00	\$960.00	\$17.00	\$1,360.00	\$18.00	\$1,440.00	\$9.00	\$720.00	\$50.00	\$4,000.00	\$17.00	\$1,360.00

Bid Item	Item Description and Written Unit Price	Unit	Quantity	Fritcher Construction		Leland Bradley		WR Welborn & Son		Capco Construction		Baker & Company		CE Marler & Associates		WM Miller Construction		AT Construction		Reynolds & Kay	
				Unit Price	Amount	Unit Price	Amount	Unit Price	Amount	Unit Price	Amount	Unit Price	Amount	Unit Price	Amount	Unit Price	Amount	Unit Price	Amount	Unit Price	Amount
34	Furnish and install 4.0' diameter sanitary sewer manhole for	EA	2	\$2,045.00	\$4,090.00	\$3,240.00	\$6,480.00	\$2,120.00	\$4,240.00	\$2,500.00	\$5,000.00	\$2,500.00	\$5,000.00	\$2,400.00	\$4,800.00	\$2,078.00	\$4,156.00	\$7,500.00	\$15,000.00	\$2,500.00	\$5,000.00
35	Furnish and install 6" sanitary sewer manhole for	LF	230	\$19.00	\$4,370.00	\$8.00	\$1,840.00	\$26.00	\$5,980.00	\$19.00	\$4,370.00	\$25.00	\$5,750.00	\$30.00	\$6,900.00	\$14.25	\$3,277.50	\$82.00	\$18,860.00	\$32.00	\$7,360.00
36	Furnish and install 4" sanitary sewer manhole for	LF	128	\$18.00	\$2,304.00	\$3.81	\$487.68	\$23.00	\$2,944.00	\$12.00	\$1,536.00	\$23.00	\$2,944.00	\$26.00	\$3,328.00	\$10.00	\$1,280.00	\$60.00	\$7,680.00	\$27.00	\$3,456.00
37	Furnish and install 4" sanitary sewer service with "Y" fitting for	EA	10	\$900.00	\$9,000.00	\$321.53	\$3,215.30	\$848.00	\$8,480.00	\$850.00	\$8,500.00	\$320.00	\$3,200.00	\$960.00	\$9,600.00	\$614.00	\$6,140.00	\$50.00	\$500.00	\$900.00	\$9,000.00
38	Furnish and install 4" wye and cleanout for	EA	1	\$375.00	\$375.00	\$387.81	\$387.81	\$210.00	\$210.00	\$590.00	\$590.00	\$240.00	\$240.00	\$240.00	\$240.00	\$602.00	\$602.00	\$400.00	\$400.00	\$1,000.00	\$1,000.00
39	Furnish and install 3-root concrete curb	EA	1	\$3,500.00	\$3,500.00	\$7,335.00	\$7,335.00	\$3,390.00	\$3,390.00	\$6,400.00	\$6,400.00	\$5,900.00	\$5,900.00	\$3,900.00	\$3,900.00	\$3,647.00	\$3,647.00	\$500.00	\$500.00	\$5,400.00	\$5,400.00
40	Furnish and install 10-root concrete curb	EA	1	\$5,130.00	\$5,130.00	\$11,664.00	\$11,664.00	\$4,560.00	\$4,560.00	\$8,950.00	\$8,950.00	\$7,500.00	\$7,500.00	\$5,200.00	\$5,200.00	\$5,265.00	\$5,265.00	\$750.00	\$750.00	\$7,200.00	\$7,200.00
41	Furnish and install 4.0' diameter storm sewer manhole for	EA	1	\$1,850.00	\$1,850.00	\$3,756.00	\$3,756.00	\$2,968.00	\$2,968.00	\$2,500.00	\$2,500.00	\$2,500.00	\$2,500.00	\$3,360.00	\$3,360.00	\$1,933.00	\$1,933.00	\$7,500.00	\$7,500.00	\$5,200.00	\$5,200.00
42	Furnish and install 21" concrete 3:1 sloped safety end treatment with rip rap pad for	EA	1	\$3,600.00	\$3,600.00	\$1,185.00	\$1,185.00	\$1,590.00	\$1,590.00	\$800.00	\$800.00	\$1,250.00	\$1,250.00	\$1,800.00	\$1,800.00	\$1,193.00	\$1,193.00	\$2,500.00	\$2,500.00	\$1,800.00	\$1,800.00
43	Furnish and install 18" reinforced concrete curb	LF	61	\$43.00	\$2,623.00	\$66.75	\$4,071.75	\$62.00	\$3,782.00	\$42.00	\$2,562.00	\$50.00	\$3,050.00	\$71.00	\$4,331.00	\$57.00	\$3,477.00	\$90.00	\$5,490.00	\$70.00	\$4,270.00
44	Furnish and install 21" reinforced concrete curb	LF	216	\$60.00	\$12,960.00	\$107.43	\$23,204.88	\$73.00	\$15,768.00	\$52.00	\$11,232.00	\$66.00	\$14,256.00	\$83.00	\$17,928.00	\$57.50	\$12,420.00	\$110.00	\$23,760.00	\$60.00	\$12,960.00
45	Furnish and install City of Tyler 4" underdrain with rock and geo-fabric for	LF	54	\$20.00	\$1,080.00	\$55.77	\$3,011.58	\$37.00	\$1,998.00	\$65.00	\$3,510.00	\$50.00	\$2,700.00	\$42.00	\$2,268.00	\$22.50	\$1,215.00	\$50.00	\$2,700.00	\$40.00	\$2,160.00
46	Furnish and install 4" SCH 40 PVC sand	LF	170	\$11.00	\$1,870.00	\$6.19	\$1,052.30	\$16.00	\$2,720.00	\$14.00	\$2,380.00	\$22.00	\$3,740.00	\$18.00	\$3,060.00	\$10.50	\$1,785.00	\$55.00	\$9,350.00	\$26.00	\$4,420.00
47	Excavate trench for utility street crossing trenches for Oncor, Centerpoint Gas and Suddenlink Cable and backfill (density	LF	50	\$5.00	\$250.00	\$160.00	\$8,000.00	\$32.00	\$1,600.00	\$20.00	\$1,000.00	\$60.00	\$3,000.00	\$36.00	\$1,800.00	\$5.75	\$287.50	\$120.00	\$6,000.00	\$26.00	\$1,300.00
48	Contingency for	LS	1	\$50,000.00	\$50,000.00	\$50,000.00	\$50,000.00	\$50,000.00	\$50,000.00	\$50,000.00	\$50,000.00	\$50,000.00	\$50,000.00	\$50,000.00	\$50,000.00	\$50,000.00	\$50,000.00	\$50,000.00	\$50,000.00	\$50,000.00	\$50,000.00
				BASE BID	\$346,517.00	BASE BID	\$470,681.93	BASE BID	\$348,345.00	BASE BID	\$400,345.00	BASE BID	\$340,015.50	BASE BID	\$548,920.00	BASE BID	\$326,254.00	BASE BID	\$435,454.00	BASE BID	\$455,468.50

Bid Item	Item Description and Written Unit Price	Unit	Quantity	Unit Price	Amount	Unit Price	Amount	Unit Price	Amount	Unit Price	Amount	Unit Price	Amount	Unit Price	Amount	Unit Price	Amount	Unit Price	Amount	Unit Price	Amount
U-1	Furnish all labor, tools, equipment, supervision and any other requisite necessary to perform Road Embankment (Final) (density controlled) for	CY	--	\$25.00	--	\$50.00	--	\$20.00	--	\$18.00	--	\$25.00	--		--	\$14.95	--	\$20.00	--	\$30.00	--

ALTERNATIVE 1:

Bid Item	Item Description and Written Unit Price	Unit	Quantity	Fritcher Construction		Leland Bradley Construction		WR Welborn & Son		Capco Construction		Baker & Company		CE Marler & Associates		WM Miller Construction		AT Construction		Reynolds & Kay	
				Unit Price	Amount	Unit Price	Amount	Unit Price	Amount	Unit Price	Amount	Unit Price	Amount	Unit Price	Amount	Unit Price	Amount	Unit Price	Amount	Unit Price	Amount
ALT 1-1	Furnish and install 6" reinforced red stamped concrete pavement and 8" lime-flyash treated subgrade for	SF	84	\$126.00	\$10,584.00	\$75.00	\$6,300.00	\$125.00	\$10,500.00	\$165.00	\$13,860.00	\$127.90	\$10,743.60	\$142.00	\$11,928.00	\$33.50	\$2,814.00	\$120.00	\$10,080.00	\$126.00	\$10,584.00
ALT 1-2	Furnish and install 6" reinforced concrete pavement and 8" lime-flyash treated subgrade for	SY	2100	\$67.00	\$140,700.00	\$70.00	\$147,000.00	\$72.00	\$151,200.00	\$85.00	\$178,500.00	\$68.40	\$143,640.00	\$74.00	\$155,400.00	\$59.05	\$124,005.00	\$120.00	\$252,000.00	\$80.00	\$168,000.00

ALTERNATIVE 2:

Bid Item	Item Description and Written Unit Price	Unit	Quantity	Fritcher Construction		Leland Bradley Construction		WR Welborn & Son		Capco Construction		Baker & Company		CE Marler & Associates		WM Miller Construction		AT Construction		Reynolds & Kay	
				Unit Price	Amount	Unit Price	Amount	Unit Price	Amount	Unit Price	Amount	Unit Price	Amount	Unit Price	Amount	Unit Price	Amount	Unit Price	Amount	Unit Price	Amount
ALT 2-1	Furnish and install 6" reinforced red stamped concrete pavement and 8" lime treated subgrade for	SY	84	\$127.00	\$10,668.00	\$75.00	\$6,300.00	\$125.00	\$10,500.00	\$163.00	\$13,692.00	\$131.40	\$11,037.60	\$142.00	\$11,928.00	\$33.50	\$2,814.00	\$130.00	\$10,920.00	\$126.00	\$10,584.00
ALT 2-2	Furnish and install 6" reinforced concrete pavement and 8" lime treated subgrade for	SY	2100	\$68.00	\$142,800.00	\$70.00	\$147,000.00	\$71.00	\$149,100.00	\$83.00	\$174,300.00	\$71.90	\$150,990.00	\$74.00	\$155,400.00	\$57.65	\$121,065.00	\$120.00	\$252,000.00	\$78.00	\$163,800.00

ALTERNATIVE 3:

Bid Item	Item Description and Written Unit Price	Unit	Quantity	Fritcher Construction		Leland Bradley Construction		WR Welborn & Son		Capco Construction		Baker & Company		CE Marler & Associates		WM Miller Construction		AT Construction		Reynolds & Kay	
				Unit Price	Amount	Unit Price	Amount	Unit Price	Amount	Unit Price	Amount	Unit Price	Amount	Unit Price	Amount	Unit Price	Amount	Unit Price	Amount	Unit Price	Amount
ALT 3-1	Furnish and install 6" reinforced red stamped concrete pavement and 8" lime-flyash treated subgrade for	SY	84	\$133.00	\$11,172.00	\$75.00	\$6,300.00	\$125.00	\$10,500.00	\$165.00	\$13,860.00	\$127.90	\$10,743.60	\$142.00	\$11,928.00	\$144.00	\$12,096.00	\$130.00	\$10,920.00	\$155.00	\$13,020.00
ALT 3-2	Furnish and install 3" asphalt surface with 7" aggregate base and 8" lime-flyash treated subgrade for	SY	2100	\$47.00	\$98,700.00	\$70.00	\$147,000.00	\$45.00	\$94,500.00	\$55.00	\$115,500.00	\$40.50	\$85,050.00	\$65.00	\$136,500.00	\$47.65	\$100,065.00	\$100.00	\$210,000.00	\$65.00	\$136,500.00

ALTERNATIVE 4:				Fritcher Construction		Leland Bradley Construction		WR Welborn & Son		Capco Construction		Baker & Company		CE Marler & Associates		WM Miller Construction		AT Construction		Reynolds & Kay	
Bid Item	Item Description and Written Unit Price	Unit	Quantity	Unit Price	Amount	Unit Price	Amount	Unit Price	Amount	Unit Price	Amount	Unit Price	Amount	Unit Price	Amount	Unit Price	Amount	Unit Price	Amount	Unit Price	Amount
ALT 4-1	Furnish and install 6" reinforced red stamped concrete pavement and 8" lime-flyash treated subgrade for	SY	84	\$133.00	\$11,172.00	\$75.00	\$6,300.00	\$125.00	\$10,500.00	\$165.00	\$13,860.00	\$127.90	\$10,743.60	\$14.00	\$1,176.00	\$144.00	\$12,096.00	\$130.00	\$10,920.00	\$200.00	\$16,800.00
ALT 4-2	Furnish and install 2.5" asphalt surface with 5" asphaltic concrete base, 8" aggregate base and 8" lime-flyash treated subgrade for	SY	2100	\$85.00	\$178,500.00	\$70.00	\$147,000.00	\$76.00	\$159,600.00	\$88.00	\$184,800.00	\$74.80	\$157,080.00	\$95.63	\$200,823.00	\$78.60	\$165,060.00	\$110.00	\$231,000.00	\$108.00	\$226,800.00

ALTERNATIVE 5:				Fritcher Construction		Leland Bradley Construction		WR Welborn & Son		Capco Construction		Baker & Company		CE Marler & Associates		WM Miller Construction		AT Construction		Reynolds & Kay	
Bid Item	Item Description and Written Unit Price	Unit	Quantity	Unit Price	Amount	Unit Price	Amount	Unit Price	Amount	Unit Price	Amount	Unit Price	Amount	Unit Price	Amount	Unit Price	Amount	Unit Price	Amount	Unit Price	Amount
ALT 5-1	Furnish and install 6" reinforced red stamped concrete pavement and 8" lime treated subgrade for	SY	84	\$134.00	\$11,256.00	\$75.00	\$6,300.00	\$125.00	\$10,500.00	\$163.00	\$13,692.00	\$131.40	\$11,037.60	\$142.00	\$11,928.00	\$144.00	\$12,096.00	\$130.00	\$10,920.00	\$155.00	\$13,020.00
ALT 5-2	Furnish and install 3" asphalt surface with 7" aggregate base and 8" lime treated subgrade for	SY	2100	\$48.00	\$100,800.00	\$50.00	\$105,000.00	\$44.00	\$92,400.00	\$55.00	\$115,500.00	\$44.00	\$92,400.00	\$65.00	\$136,500.00	\$46.25	\$97,125.00	\$110.00	\$231,000.00	\$63.00	\$132,300.00

ALTERNATIVE 6:				Fritcher Construction		Leland Bradley Construction		WR Welborn & Son		Capco Construction		Baker & Company		CE Marler & Associates		WM Miller Construction		AT Construction		Reynolds & Kay	
Bid Item	Item Description and Written Unit Price	Unit	Quantity	Unit Price	Amount	Unit Price	Amount	Unit Price	Amount	Unit Price	Amount	Unit Price	Amount	Unit Price	Amount	Unit Price	Amount	Unit Price	Amount	Unit Price	Amount
ALT 6-1	Furnish and install 6" reinforced red stamped concrete pavement and 8" lime treated subgrade for	SY	84	\$134.00	\$11,256.00	\$75.00	\$6,300.00	\$125.00	\$10,500.00	\$163.00	\$13,692.00	\$131.40	\$11,037.60	\$142.00	\$11,928.00	\$144.00	\$12,096.00	\$130.00	\$10,920.00	\$200.00	\$16,800.00
ALT 6-2	Furnish and install 2.5" asphalt surface with 5" asphaltic concrete base, 8" aggregate base and 8" lime treated subgrade for	SY	2100	\$86.00	\$180,600.00	\$75.00	\$157,500.00	\$75.00	\$157,500.00	\$86.00	\$180,600.00	\$78.30	\$164,430.00	\$95.63	\$200,823.00	\$77.25	\$162,225.00	\$110.00	\$231,000.00	\$106.00	\$222,600.00
BASE BID TOTAL				\$346,517.00		\$470,681.93		\$348,345.00		\$400,345.00		\$340,015.50		\$548,920.00		\$326,254.00		\$435,454.00		\$455,468.50	
BASE BID + ALT #1				\$497,801.00		\$623,981.93		\$510,045.00		\$592,705.00		\$494,399.10		\$716,248.00		\$453,073.00		\$697,534.00		\$634,052.50	
BASE BID + ALT #2				\$499,985.00		\$623,981.93		\$507,945.00		\$588,337.00		\$502,043.10		\$716,248.00		\$450,133.00		\$698,374.00		\$629,852.50	
BASE BID + ALT #3				\$456,389.00		\$623,981.93		\$453,345.00		\$529,705.00		\$435,809.10		\$697,348.00		\$438,415.00		\$656,374.00		\$604,988.50	
BASE BID + ALT #4				\$536,189.00		\$623,981.93		\$518,445.00		\$599,005.00		\$507,839.10		\$750,919.00		\$503,410.00		\$677,374.00		\$699,068.50	
BASE BID + ALT #5				\$458,573.00		\$581,981.93		\$451,245.00		\$529,537.00		\$443,453.10		\$697,348.00		\$435,475.00		\$677,374.00		\$600,788.50	
BASE BID + ALT #6				\$538,373.00		\$634,481.93		\$516,345.00		\$594,637.00		\$515,483.10		\$761,671.00		\$500,575.00		\$677,374.00		\$694,868.50	



CITY OF TYLER
CITY COUNCIL COMMUNICATION



Agenda Number: M-5

Date: May 13, 2020

Subject: Request that the City Council consider authorizing the City Manager to award Bid No. 20-027 for Emmett J Scott Park renovations to Garrett & Associates to furnish all necessary materials, equipment, superintendence, and labor for a total not to exceed \$562,120 from the Community Development Block Grant Fund.

Page: Page 1 of

Item Reference: City of Tyler Bid No. 20-027

On Tuesday, April 28, 2020, the City of Tyler opened bids to furnish all necessary materials, equipment, superintendence, and labor for the Emmett J Scott Park renovation projects. There were four (4) bidders that submitted bids:

	Base Bid	Bid Alternate	Total Bid w/Alternate
Watson Commercial Construction	\$202,215	\$270,773	\$472,998
Casey Slone Construction	\$247,727	\$272,963	\$520,690
TCMC Commercial	\$248,448	\$274,824	\$523,272
Garrett & Associates	\$243,680	\$318,440	\$562,120

After reviewing bids, Watson Commercial is not able to guarantee that they could get the work done by the required finish date for the grant-requirement of July 31, 2020. They were also unable to obtain a bond that would allow them to move forward with a finish date of July 31, 2020. The next bidder, Casey Slone Construction, had the same issues. The next bidder, TCMC Commercial indicated the same issue of bonding in their bid packet. The highest bidder, Garrett & Associates, advised they could guarantee a completion date except for pavilion construction.

Funding Source: 294-0935-811-39.55 Community Development Block Grant (CDBG).

RECOMMENDATION:

It is recommended that the City Council authorize the City Manager to award Bid No. 20-027 for Emmett J Scott Park renovations to Garrett & Associates to furnish all necessary materials, equipment, superintendence, and labor for a total not to exceed \$562,120 from the Community Development Block Grant Fund.

ATTACHMENTS:

Garrett & Associates Bid
TCMC Commercial Bid
Watson Commercial Construction Bid
Casey Slone Constrution Bid
Park Improvement Plans
Request for Quotation Emmett J Scott Park Construction
Specification Sheet Emmett J Scott Park Construction

Drafted/Recommended By:

Department Leader

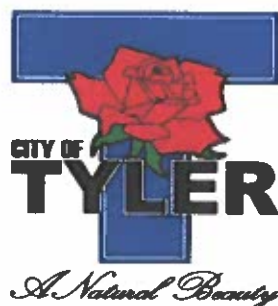
Russ Jackson, Director of Parks and Recreation

Edited/Submitted By:

City Manager

SEALED PROPOSAL FOR:

The City of Tyler Texas



Emmett J. Scott Park

Project No.: 20-027

Prepared By:



April 28, 2020

ORIGINAL

TAB	
1	Cover Letter (pg. 1)
2	Proposal Form 3-39 (pg. 2-8)
3	Request for Quotation Form 3-36 (pg. 9-10)
4	Bid Bond (pg. 11-13)
5	B1. Experience with Projects (pg. 14-20)
6	B2. Company Profile & General Experience (pg. 21-24)
7	B3. Ability & Commitment (pg. 25)
8	B4. Safety Record & Financial Statement (pg. 26-50)



04/28/2020

Ms. Sherry Pettit
Purchasing Manager
City of Tyler Texas
304 N. Border
Tyler, TX 75702

RE: Capital Improvements Program (CIP): **Emmett J. Scott Park**, Project Number: **20-027**.

Dear Ms. Pettit:

Please receive the following information for the above referenced project:

- Garrett & Associates General Contractors, Ltd.
- Randy Garrett - President
- 21405 CR 2182
Whitehouse, TX 75791
- 903.839.7909 / 903.839.9265 (fax)
- rgarrett@garrettgc.com

Sincerely,

A handwritten signature in blue ink, appearing to read 'Randy Garrett', is written over a horizontal red line. The signature is stylized and cursive.

President
Randy Garrett

Section 5 PROPOSAL

Proposal for CIP Contract to The City of Tyler, Texas

Date of Bid: 04/28/2020

The undersigned, as bidder, in compliance with CITY'S *Notice To Bidders* for construction of:

City of Tyler Bid Number: 20-027

Project Name: Demolition and Construction of Emmett J Scott Park

for the City of Tyler, Smith County, Texas, declares that the only person or parties interested in this proposal as principals are those named herein, that this proposal is made without collusion with any other person, firm, or corporation, that he has carefully examined the form of contract, *Instructions to Bidders*, specifications, and the plans therein referred to, and has carefully examined the locations, conditions, and classes of materials of the proposed work; and agrees that he will provide all the necessary labor, machinery, tools, apparatus, and other items incidental to construction, and will do all the work and furnish all the materials called for in the contract and specifications in the manner prescribed therein and according to the requirements of the Engineer as therein set forth, for the following unit prices.

It is understood that the following quantities of work to be done at unit prices are approximate only, and are intended principally to serve as a guide in evaluating bids.

It is further agreed that the following quantities of work to be done at unit prices and materials to be furnished may be increased or decreased as may be considered necessary, in the opinion of the Engineer, to complete the work fully as planned and contemplated, and that all quantities of work, whether increased or decreased are to be performed at the unit prices set forth below except as provided for in the specifications.

It is further agreed that lump sum prices may be increased by change order to cover additional work ordered by the Engineer, but not when on the plans or required by the specifications, or in accordance with the *General Conditions* and *Special Conditions* and requirements. Similarly, they may be decreased to cover deletion of work so ordered.

It is further agreed that the unit and lump sum prices shall be shown in words and figures for each item listed in this proposal, and in the event of discrepancy, the words shall control, and should the bid price on any item be completely omitted, the proposal will be considered incomplete, and the proposal will be disqualified. It is understood and agreed that the work is to be completed in full either:

- 1) within EIGHTY-FOUR, (84) calendar days after the date specified in the written *Notice to Proceed*, or
- 2) on or before the **mandatory completion** date of Enter mandatory completion date, subject to such extensions of time as are provided by the *General Conditions*.

Accompanying this proposal is a Bid Bond, Certified Check, or Cashier's Check payable to the City of Tyler for:

AMOUNT:

and FIVE PERCENT OF GREATEST AMOUNT BID Dollars
Cents

\$ _____ for the BASE BID

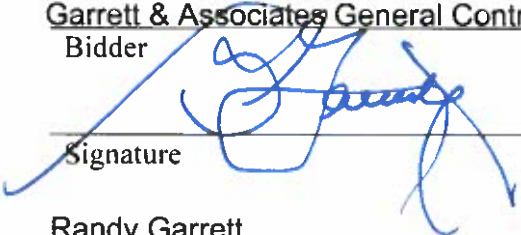
The undersigned certifies that the bid prices contained in this proposal have been carefully checked and are submitted as correct and final.

Receipt is hereby acknowledged of the following addenda to the Contract Documents:

ADDENDUM NO. 1	<u>RG</u>	Received	<u>04/14/2020</u>
ADDENDUM NO. 2	<u>RG</u>	Received	<u>04/24/2020</u>
ADDENDUM NO. 3	<u>RG</u>	Received	<u>04/27/2020</u>
ADDENDUM NO. 4	_____	Received	_____
ADDENDUM NO. 5	_____	Received	_____

Garrett & Associates General Contractors
Bidder

21405 CR 2182
Street Address


Signature

Whitehouse, TX 75791
City, State, Zip

Randy Garrett
Printed Name

903.839.7909
Telephone Number

President
Title

04/28/2020
Date

NOTE: An Environmental Plan Review is required for the project. This plan review will be coordinated by the Owner and is not the responsibility of the Bidder. However, each Bidder shall note that the Owner reserves the right to cancel or reject the bid if the Environmental Plan Review reflects that the project is not viable.

BASE BID:

Bid Item	Unit	Item Description and Written Unit Price	Unit Price	Amount
1	L.S.	Demolition of all structures, vegetation and utilities indicated on the Plans and construction of new site features, amenities and utilities shown on Plan sheet C6.2, complete and in place, for TWO HUNDRED THIRTEEN THOUSAND SIX HUNDRED EIGHTY ^{TWO HUNDRED THIRTEEN} Dollars ⁸ Cents	\$213,680	\$213,680
2	L.S.	Provide an Owner's Discretionary Allowance to be utilized by the Owner for "upgrades" to the project or to account for items that will be "discovered" during the construction that were previously unknown, for the Lump Sum amount of \$30,000.00	\$30,000	\$30,000

ADD ALTERNATES:

Bid Item	Unit	Item Description and Written Unit Price	Unit Price	Amount
A-1	L.S.	Install new park sign and ground-mounted solar-powered LED spotlight as indicated on sheet C6.2, complete and in place, for		
		for <u>Seventeen Thousand Six Hundred Sixty</u> Dollars <u>Sixty</u> Cents	\$17,660	\$17,660
A-2	L.S.	Install four (4) new light poles on concrete bases with two (2) new solar-powered, LED light fixtures per pole, complete and in place, for		
		for <u>SEVEN THOUSAND SEVEN HUNDRED TWENTY</u> Dollars <u>φ</u> Cents	\$7,720	\$7,720
A-3A	L.S.	Install reinforced concrete basketball court with "traditional" court striping, the sidewalks connecting the court to nearby park features, park bench areas adjacent to the court, and two (2) new light poles with two (2) new solar-powered LED light fixtures per pole at the court area, complete and in place, for		
		for <u>One Hundred Twenty four Thousand Seven Hundred Fifty</u> Dollars <u>φ</u> Cents	\$124,750	\$124,750
A-3B	L.S.	Install black, vinyl-coated chain link fence (with gates) around basketball court, as indicated on sheet C6.2, complete and in place, for		
		<u>THIRTY THOUSAND SIX HUNDRED SIXTY</u> Dollars <u>φ</u> Cents	\$30,660	\$30,660
A-3C	L.S.	Provide "specialty" painting of the basketball court that includes painting of the complete sidelines and baselines of the court, "Emmett J Scott" wording on each sideline, and City of Tyler logo at center court, complete and in place, for		
		<u>NINE THOUSAND ONE HUNDRED FORTY</u> Dollars <u>φ</u> Cents	\$9,140	\$9,140

ADD ALTERNATES (continued):

Bid Item	Unit	Item Description and Written Unit Price	Unit Price	Amount
A-4	L.S.	Construct new concrete walking trail and sidewalks beyond the limits of all other bid items as indicated on sheet C6.2, complete and in place. for		
		Ninety Nine Thousand Six Hundred Dollars		
		Fifty Cents	\$99,650	\$99,650.
A-5	L.S.	Install new irrigation system as indicated on the irrigation plan, complete and in place, for		
		Dollars		
		Cents	\$	\$
A-6	L.S.	Raise the canopies, and thin the canopies, of existing trees near the new playground, swingset, pavilion, and basketball court area, complete and in place, for		
		SEVEN THOUSAND TWO HUNDRED EIGHTY Dollars		
		φ Cents	\$7,280	\$ 7,280
A-7	L.S.	Furnish and install block sod in all disturbed areas, complete and in place, for		
		TWENTY-ONE THOUSAND FIVE HUNDRED EIGHTY Dollars		
		φ Cents	\$21,580	\$ 21,580

UNIT PRICING:

Bid Item	Unit	Item Description and Written Unit Price	Unit Price	Amount
U-1	S.F.	Construct 6-foot wide, 4-inch thick City of Tyler standard sidewalk with 8-inch x 8-inch thickened edge (walking trail), complete and in place, for		
		<i>Eleven</i> Dollars		
		<i>Five</i> Cents per S.F.	\$ <i>11.05</i>	\$ <i>11.05</i>
U-2	S.F.	Construct 4-inch thick concrete slab reinf w/ #3 bars @ 18" o.c.e.w., complete and in place, for		
		<i>Seven</i> Dollars		
		<i>Eighty</i> Cents per S.F.	\$ <i>7.80</i>	\$ <i>7.80</i>
U-3	Ea.	Construct new concrete light pole base, install new metal light pole (provided by City), and install new solar-powered LED area light (provided by City) with appurtenances, complete and in place, for		
		<i>Three Thousand One Hundred Sixty</i> Dollars		
		<i>0</i> Cents per Each	\$ <i>3,160</i>	\$ <i>3,160</i>
U-4	S.Y.	Furnish and install block sod grass, complete and in place, for		
		<i>Five</i> Dollars		
		<i>Eighty Five</i> Cents per S.Y.	\$ <i>5.85</i>	\$ <i>5.85</i>
U-5	Ea.	Construct new concrete pad for installation of park bench and trash receptacle having dimensions indicated on the Plans, complete and in place, for		
		<i>One Thousand Eighty</i> Dollars		
		<i>0</i> Cents		
		<i>0</i> Dollars		
		<i>0</i> Cents	\$ <i>1,080</i>	\$ <i>1,080</i>

BID SUMMARY

BASE BID TOTAL

and Two Hundred Forty Three Thousand Dollars
Six Hundred Eighty Cents
 \$ 243,680

ADD ALTERNATES TOTAL

and Three Hundred Eighteen Thousand Four Dollars
Hundred Forty Cents
 \$ 318,440

BASE BID TOTAL + ADD ALTERNATIVES = TOTAL BID

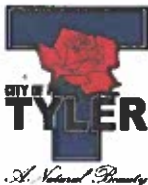
and Five Hundred Sixty Two Thousand Dollars
One Hundred Twenty Cents
 \$ 562,120

STATEMENT OF MATERIALS AND OTHER CHARGES

For purposes of complying with TEX. TAX CODE ANN. Title 2., Subtitle E., Chapter 151, Subchapter C. § 151.056; Subchapter H. § 151.301, § 151.309, § 151.311, the **CONTRACTOR** agrees that the charges for any material incorporated into the project in excess of the estimated quantity provided for herein will be no less than the invoice price for such material to the **CONTRACTOR**.

Value of Materials Incorporated Into the Project:	\$ <u>247,000</u>
Value of All Other Charges:	\$ <u>320,120</u>
*Total:	\$ <u>567,120</u>

* This statement may be submitted with **Proposal** and the total must agree with the **total bid** figure shown in the Bid Summary section above.



REQUEST FOR QUOTATION

THIS IS NOT AN ORDER

CITY OF TYLER
Purchasing Department
304 North Border
Tyler, Texas 75702

March 23, 2020
DATE MAILED

Quote No: 20-027
(Number must appear on ALL correspondence)

Closing Time: 2:00 pm

Telephone: (903) 531-1232

Closing Date: April 28, 2020

Addressed To:

INSTRUCTIONS:

Please quote as per instructions indicated below for the articles described. Quotes must be submitted on City of Tyler forms to be considered. All items or services called for must be in strict accordance with all of the requirements and specifications attached hereto or furnished upon request.

1. Keep duplicate copy of proposal for your files.
2. Federal Excise Taxes are exempted, also Federal Transportation Tax, State Tax, and City Sales Tax.
3. Return this form at once if unable to quote.
4. Specify Trade name or brand in space.

Purchasing Manager

Sealed quotes to furnish the following will be received in the Purchasing Office @ 304 North Border, Tyler, Texas 75702, Attn: Sherry Pettit until April 28th, 2020 and opened by City Staff on the City Hall Steps @ 212 North Bonner @ 2:00 pm.

Demolition and Construction of Emmett J. Scott Park

QUOTE IDENTIFICATION:

Quote number, closing time, date, and item requested must appear on outside of envelope in lower left hand corner.

DATA SHEETS:

All bidders must complete each specification data sheet in spaces provided on each item that is bid as well as all information requested on the price data sheet. Said price, data and specifications sheet is hereby made a part of this quotation.

DELIVERY:

Delivery must be stated in your quote on the data sheet as the number of calendar days from date of order.

The City of Tyler reserves the right to reject any and/or all bids and to waive any and/or all formalities and to award purchase total amount, partial amount or individual item basis.

In submitting the above, the vendor agrees that acceptance by the City of Tyler within a reasonable period constitutes a binding agreement.

In submitting the above request and attached bid to the City of Tyler, I hereby certify that we have not participated in nor been a party to any collusion, price fixing or any other agreements with any company, firm, or person concerning the pricing of the enclosed quotation.

Net 30
INVOICING TERMS

Garrett & Associates General Contractors
COMPANY NAME

04/28/2020
DATE

Randy Garrett
AUTHORIZED REPRESENTATIVE (print)

See other side for TERMS AND CONDITIONS

SIGNATURE

* All Quotes Must Be Signed

TERMS AND CONDITIONS

Quotations are requested for furnishing the items described herein in accordance with the terms set forth. **ALL QUOTATIONS MUST BE F.O.B. DESTINATION** and include the cost of boxing and cartage to the delivery point as stated on this form.

In the case of default, the City of Tyler, Texas reserves the right to hold the original bidder or contractor liable for any and all resultant increased costs.

Samples, if requested by the City of Tyler, must be furnished at the bidder's expense, and if not destroyed in testing or retained as a standard, will be returned on the same terms, if requested by the bidder.

Quotes may be withdrawn on written or telegraphic request received from bidders prior to the time set for opening. Negligence on the part of the responder in preparing the proposal confers no right for the withdrawal of the proposal after the hour fixed for the opening.

Any oral statement by any representative of the City, modifying or changing any conditions of this contract, is an expression of opinion only and confers no right upon the seller.

All discounts, if applicable, shall be shown in discount amount space provided on data sheets - **EXCEPT IN TERMS FOR PROMPT PAYMENT.**

For proper identification; proposal number, closing time, date, and item requested must appear on outside of envelope in lower left hand corner.

If delay in delivery as specified on the purchase order is foreseen, supplier shall give written notice to Purchasing Office immediately. The City has the right to extend the delivery date if reasons appear valid. Supplier must keep the City advised at all times of the status of order. Default in promised delivery (without accepted reasons) or failure to meet specifications, authorizes the City of Tyler to purchase material elsewhere and charge full increase in cost and handling to the defaulting supplier and could also be reason for cancellation of the Purchase Order (at no expense to the City if the City of Tyler deems it necessary).

Any quote submitted on a public works project shall comply with the additional requirements and conditions attached hereto as well as the terms and conditions stated herein.

Certificate of Interested Parties:

In accordance with Texas Government Code Sec. 2252.908, for certain contracts entered into on or after January 1, 2016, the successful bidder must submit a *Certificate of Interested Parties* (Form 1295) at the time the signed contract is submitted to the CITY. The law applies (with a few exceptions) only to a City contract between a business entity and a governmental entity or state agency that either (1) requires an action or vote by the City Council before the contract may be signed or (2) has a value of at least \$1 million.

The *Certificate of Interested Parties* (Form 1295) must be filed electronically with the Texas Ethics Commission using the online filing application located at https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm.

If you need additional information about the Certificate of Interested Parties Form 1295 Procedure, contact Purchasing at (903) 531-1232.

AIA[®] Document A310[™] – 2010

Bid Bond

CONTRACTOR:

(Name, legal status and address)
GARRETT & ASSOCIATES GENERAL CONTRACTORS, LTD.
21405 County Road 2182
Whitehouse, TX 75791

SURETY:

(Name, legal status and principal place of business)
Argonaut Insurance Company
c/o CMGIA
20335 Ventura Blvd., Suite 426
Woodland Hills, CA 91364

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

OWNER:

(Name, legal status and address)
City of Tyler, Texas
511 West Locust
Tyler, TX 75702

BOND AMOUNT: Five Percent of Their Greatest Amount Bid (5% of Their G.A.B.)

PROJECT: *(Name, location or address, and Project number, if any)*

Emmett J Scott Park

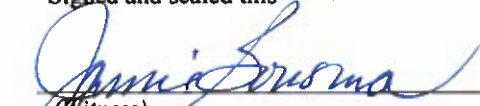
Job Location: 1710 N. Confederate Ave., Tyler, TX 75702

The Contractor and Surety are bound to the Owner in the amount set forth above, for the payment of which the Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, as provided herein. The conditions of this Bond are such that if the Owner accepts the bid of the Contractor within the time specified in the bid documents, or within such time period as may be agreed to by the Owner and Contractor, and the Contractor either (1) enters into a contract with the Owner in accordance with the terms of such bid, and gives such bond or bonds as may be specified in the bidding or Contract Documents, with a surety admitted in the jurisdiction of the Project and otherwise acceptable to the Owner, for the faithful performance of such Contract and for the prompt payment of labor and material furnished in the prosecution thereof; or (2) pays to the Owner the difference, not to exceed the amount of this Bond, between the amount specified in said bid and such larger amount for which the Owner may in good faith contract with another party to perform the work covered by said bid, then this obligation shall be null and void, otherwise to remain in full force and effect. The Surety hereby waives any notice of an agreement between the Owner and Contractor to extend the time in which the Owner may accept the bid. Waiver of notice by the Surety shall not apply to any extension exceeding sixty (60) days in the aggregate beyond the time for acceptance of bids specified in the bid documents, and the Owner and Contractor shall obtain the Surety's consent for an extension beyond sixty (60) days.

If this Bond is issued in connection with a subcontractor's bid to a Contractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

When this Bond has been furnished to comply with a statutory or other legal requirement in the location of the Project, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

Signed and sealed this **22nd** day of **April**, 20**20**


(Witness)

GARRETT & ASSOCIATES GENERAL CONTRACTORS, LTD.

(Principal)  *(Seal)*

(Title) 
Argonaut Insurance Company

(Surety)  *(Seal)*

See Attached Notary

(Witness)

(Title) **Stephanie Hope Shear, Attorney-In-Fact**

CAUTION: You should sign an original AIA Contract Document, on which this text appears in RED. An original assures that changes will not be obscured.

Init.

Bond No.: CMGB0007194

Argonaut Insurance Company
Deliveries Only: 225 W. Washington, 24th Floor
Chicago, IL 60606

United States Postal Service: P.O. Box 469011, San Antonio, TX 78246

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That the Argonaut Insurance Company, a Corporation duly organized and existing under the laws of the State of Illinois and having its principal office in the County of Cook, Illinois does hereby nominate, constitute and appoint:

Gabriella Grady, Shilo Lee Losino, Stephanie Hope Shear, Elizabeth Santos, Latanya Taylor, Stacey Garcia

Their true and lawful agent(s) and attorney(s)-in-fact, each in their separate capacity if more than one is named above, to make, execute, seal and deliver for and on its behalf as surety, and as its act and deed any and all bonds, contracts, agreements of indemnity and other undertakings in suretyship provided, however, that the penal sum of any one such instrument executed hereunder shall not exceed the sum of:

\$15,000,000.00

This Power of Attorney is granted and is signed and sealed under and by the authority of the following Resolution adopted by the Board of Directors of Argonaut Insurance Company:

"RESOLVED, That the President, Senior Vice President, Vice President, Assistant Vice President, Secretary, Treasurer and each of them hereby is authorized to execute powers of attorney, and such authority can be executed by use of facsimile signature, which may be attested or acknowledged by any officer or attorney, of the Company, qualifying the attorney or attorneys named in the given power of attorney, to execute in behalf of, and acknowledge as the act and deed of the Argonaut Insurance Company, all bond undertakings and contracts of suretyship, and to affix the corporate seal thereto."

IN WITNESS WHEREOF, Argonaut Insurance Company has caused its official seal to be hereunto affixed and these presents to be signed by its duly authorized officer on the 8th day of May, 2017.

Argonaut Insurance Company



by: _____

Joshua C. Betz

Joshua C. Betz, Senior Vice President

STATE OF TEXAS
COUNTY OF HARRIS SS:

On this 8th day of May, 2017 A.D., before me, a Notary Public of the State of Texas, in and for the County of Harris, duly commissioned and qualified, came THE ABOVE OFFICER OF THE COMPANY, to me personally known to be the individual and officer described in, and who executed the preceding instrument, and he acknowledged the execution of same, and being by me duly sworn, deposed and said that he is the officer of the said Company aforesaid, and that the seal affixed to the preceding instrument is the Corporate Seal of said Company, and the said Corporate Seal and his signature as officer were duly affixed and subscribed to the said instrument by the authority and direction of the said corporation, and that Resolution adopted by the Board of Directors of said Company, referred to in the preceding instrument is now in force.

IN TESTIMONY WHEREOF, I have hereunto set my hand, and affixed my Official Seal at the County of Harris, the day and year first above written.



Kathleen M. Meeks

(Notary Public)

I, the undersigned Officer of the Argonaut Insurance Company, Illinois Corporation, do hereby certify that the original POWER OF ATTORNEY of which the foregoing is a full, true and correct copy is still in full force and effect and has not been revoked.

IN WITNESS WHEREOF, I have hereunto set my hand, and affixed the Seal of said Company, on the 22nd day of April, 2020.



James Bluzard

James Bluzard, Vice President-Surety

THIS DOCUMENT IS NOT VALID UNLESS THE WORDS ARGO POWER OF ATTORNEY ARE IN BLUE. IF YOU HAVE QUESTIONS ON AUTHENTICITY OF THIS DOCUMENT CALL (210) 321 - 8400.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

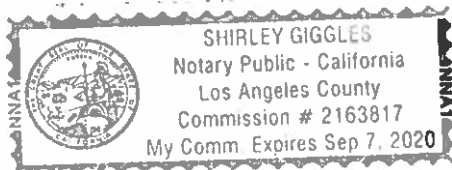
State of California)
County of LOS ANGELES)

On APR 22 2020 before me, SHIRLEY GIGGLES, NOTARY PUBLIC,
Date Here Insert Name and Title of the Officer
personally appeared STEPHANIE HOPE SHEAR
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature [Handwritten Signature]
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____ Document Date: _____
Number of Pages: _____ Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____
 Corporate Officer — Title(s): _____
 Partner — Limited General
 Individual Attorney in Fact
 Trustee Guardian or Conservator
 Other: _____
Signer Is Representing: _____

Signer's Name: _____
 Corporate Officer — Title(s): _____
 Partner — Limited General
 Individual Attorney in Fact
 Trustee Guardian or Conservator
 Other: _____
Signer Is Representing: _____

WORKERS COMPENSATION EXPERIENCE RATING



Risk Name: GARRETT AND ASSOC GC

Risk ID: 420983565

Rating Effective Date: 01/20/2020

Production Date: 11/14/2019

State: TEXAS

42-TEXAS

Firm ID: B Firm Name: GARRETT AND ASSOCIATES

Carrier: 17965

Policy No. WC024597200

Eff Date: 04/16/2018

Exp Date: 08/01/2018

Code	ELR	D-Ratio	Payroll	Expected Losses	Exp Prim Losses	Claim Data	IJ	OF	Act Inc Losses	Act Prim Losses
5403	1.73	.36	42,590	737	265					
Policy Total:			42,590	Subject Premium:	1,388	Total Act Inc Losses:		0		

Copyright 1993-2019. All rights reserved. This experience modification factor is comprised of compilations and information which are the proprietary and exclusive property of the National Council on Compensation Insurance, Inc. (NCCI). No further use, dissemination, sale, transfer, assignment or disposition of this experience rating modification factor or any part thereof may be used without the written consent of NCCI. NCCI makes no representation or warranty, expressed or implied, as to any matter whatsoever including but not limited to the accuracy of any information, product or service furnished hereunder and, as to NCCI, recipient of this experience rating modification factor subscribes to and utilizes the information service "as is".

* Total by Policy Year of all cases \$2000 or less.
C Catastrophic Loss

D Disease Loss
E Employers Liability Loss

X Ex-Medical Coverage
Limited Loss

U USL&HW

**HIGGINBOTHAM**

Global Reach. Local Touch. Single Source.

6101 S. Broadway, Suite 430
Tyler, TX 75703
Tel: (903) 509-8245
Fax: (903) 509-3564
www.higginbotham.net

March 19, 2020

Garrett & Associates General Contractors, LTD
21405 County Road 2182
Whitehouse, Texas 75791

RE: Workers' Compensation Experience Modifier

Please be advised the Workers' Compensation Experience Modifier, based upon the prior losses and payrolls in the State of Texas, is as follows:

- Effective January 20, 2020: 1.03
- Effective January 20, 2019: 0.89
- Effective January 20, 2018: 0.88
- Effective January 20, 2017: 0.80
- Effective January 20, 2016: 0.77

Sincerely,

Carrie Shaw, STAR
Commercial Account Manager

**W TOM ROBINSON CPA, PC
12604 MONTEREY PATH
AUSTIN, TEXAS 78732
512.795.4500**

INDEPENDENT ACCOUNTANT'S REVIEW REPORT

October 19, 2019

Partners

Garrett & Associates General Contractors, Ltd. And Affiliate

We have reviewed the accompanying balance sheet of Garrett & Associates General Contractors, Ltd. and Affiliate as of December 31, 2018 and the related income statement and statement of cash flows for the year then ended. A review includes primarily applying analytical procedures to management's financial data and making inquiries of company management. A review is substantially less in scope than an audit, the objective of which is the expression of an opinion regarding the financial statements as a whole. Accordingly, we do not express such an opinion.

Management is responsible for the preparation and fair presentation of the financial statements in accordance with accounting principles generally accepted in the United States of America and for designing, implementing, and maintaining internal controls relevant to the preparation and fair presentation of the financial statements.

Our responsibility is to conduct the review in accordance with Statements on Standards for Accounting and Review Services issued by the American Institute of Certified Public Accountants. Those standards require us to perform procedures to obtain limited assurance that there were no material modifications that should be made to the financial statements. We believe that the results of our procedures provide a reasonable basis for our report.

Based on our review, we are not aware of any material modifications that should be made to the accompanying financial statements in order for them to be in conformity with accounting principles generally accepted in the United States of America.

W. Tom Robinson CPA, PC

W Tom Robinson CPA, PC
October 19, 2019

Garrett & Associates General Contractors, Ltd and Affiliate
Balance Sheet
December 31, 2018

ASSETS		
Current Assets		
Cash & Cash Equivalents	\$ 73,163	
Other Current Assets		
Contracts Receivable	2,104,579	
Accounts Receivable - Employees	10,649	
Costs in Excess of Billings	199,682	
Total Other Current Assets	<u>2,314,910</u>	
Total Current Assets		2,388,073
Fixed Assets		
Vehicles	427,260	
Leasehold Improvements	143,037	
Machinery & Equipment	153,158	
Furniture & Fixtures	8,163	
Accumulated Depreciation	<u>(288,301)</u>	
Fixed Assets, net		443,317
Other Assets		
Other Assets	<u>-</u>	
Total Other Assets		-
TOTAL ASSETS		<u>\$ 2,831,390</u>
LIABILITIES & PARTNERS' CAPITAL		
Liabilities		
Current Liabilities		
Accounts Payable	\$ 1,623,144	
Credit Card Payable	13,861	
Retainage Payable	154,124	
Taxes Payable	26,900	
Billings in Excess of Costs	<u>85,084</u>	
Total Current Liabilities		1,903,113
Long Term Liabilities		
Line of Credit - CNB	290,000	
Vehicle Loans	<u>180,708</u>	
Total Long Term Liabilities		470,708
Total Liabilities		2,373,821
Partners' Capital		
Distributions		(147,500)
Retained Earnings		416,190
Current Year Net Income (Loss)		<u>188,879</u>
Total Partners' Capital		<u>457,569</u>
TOTAL LIABILITIES & PARTNERS' CAPITAL		<u>\$ 2,831,390</u>

The following notes are an integral part of the financial statements.

Garrett & Associates General Contractors, Ltd and Affiliate
Income Statement
For the Year Ended December 31, 2018

Construction Revenues	\$	11,855,345
Costs of Construction		<u>10,235,969</u>
Gross Profit		1,619,376
General & Administrative Expenses		<u>1,406,719</u>
Net Operating Income		212,657
Non-Operating Income & Expenses		
Other Income	2,190	
Gain on Sale of Asset	29,737	
Depreciation	(27,010)	
Interest Expense	(28,695)	
Other	-	
Net Non-Operating Income & Expenses		<u>(23,778)</u>
Net Income (Loss)		<u>\$ 188,879</u>

The following notes are an integral part of the financial statements.

Garrett & Associates General Contractors, Ltd and Affiliate
Statement of Cash Flows
For the Year Ended December 31, 2018

OPERATING ACTIVITIES:		
Net Income (Loss)	\$	188,879
Adjustments to Reconcile Net Income to Net Cash Provided by Operations:		
Depreciation (Non-Cash)		27,010
Gain on Sale of Assets (non-cash)		(29,737)
Decrease in Accounts Receivable		434,021
Increase in Accounts Receivable - Employees		(1,586)
Increase in Costs in Excess of Billings		(125,569)
Decrease in Accounts Payable		(536,031)
Increase in Billings in Excess of Costs		<u>32,690</u>
NET CASH USED FOR OPERATING ACTIVITIES		(10,323)
INVESTING ACTIVITIES:		
Increase in Fixed Assets, net		<u>(12,823)</u>
NET CASH USED FOR INVESTING ACTIVITIES		(12,823)
FINANCING ACTIVITIES:		
Increase in Line of Credit CNB		190,000
Decrease in Vehicle Loans		(74,596)
Distributions to Partners		<u>(147,500)</u>
NET CASH USED FOR FINANCING ACTIVITIES		(32,096)
Net Cash Decrease		(55,242)
Cash at Beginning of Period		<u>128,405</u>
Cash at End of Period		<u><u>\$ 73,163</u></u>

The following notes are an integral part of the financial statements.

Revenue and Cost Recognition

The Company recognizes revenue from construction contracts on the percentage-of-completion method of accounting for long-term contracts. The amount to be recognized each period is determined by comparison of actual costs incurred with original cost estimates and other factors that indicate the general overall job progress. Because of inherent uncertainties in estimating costs, it is at least reasonably possible that the estimates used will change within the near term.

Contract costs include all direct material, subcontractors and those indirect costs related to contract performance. General and administrative costs are recognized as expenses as incurred. Changes in job performance, job conditions, estimated profitability, and final contract settlements may result in revisions to revenues and costs, and are recognized in the period in which the revisions are determined.

The asset "Costs in Excess of Billings" represents revenues recognized in excess of amounts billed. The liability "Billings in Excess of Costs" represents amounts billed in excess of revenues recognized.

Income Taxes

The Company is a Domestic Partnership. As such, the Company does not pay federal income taxes. Instead, its individual items of income and expense are passed-through to the Partners based on their Partnership Interests, and taxed at the Partner level based on their respective individual tax rates.

As the Company was incorporated in the State of Texas, it is subject to the Texas state franchise tax reporting requirements, and if minimum gross income levels as enumerated by the Texas State Comptroller's office are reached, will be subject to state franchise taxes at the Company level.

2. Concentration of Major Customers

During the year ended December 31, 2018, there were three (3) customers that individually accounted for at least 10% of the Company's construction revenues, and in total accounted for 47% of the Company's construction revenues.

At December 31, 2018, there were five (5) customers that individually accounted for at least 10% of the Company's accounts receivable, and in total accounted for 87% of the Company's accounts receivable.

3. Related Party Transactions

Transactions with related parties are summarized and described as follows:

1. The Company has a monthly rental agreement with Randy Garrett for lease of office, shop, and yard facilities. The monthly rent was \$4,300 for 2018. Total lease payments for year ended December 31, 2018 were \$51,600.
2. The Company has a management agreement with its 1% general partner, Garrett & Garrett, LLC. During the year ended December 31, 2018, the Company incurred management fees of \$302,500 of which \$220,000 was paid in 2018 and \$82,500 was accrued and payable at December 31, 2018. Intercompany accounts relating to these management fees have been eliminated in these combined financial statements.

4. Surety Bonds

The Company, as a condition for entering into some of its construction contracts, has outstanding surety bonds as of December 31, 2018. The surety bonds are collateralized by certain contracts receivable. In addition, Partners of the Company have individually guaranteed the bonds.

5. Notes Payable

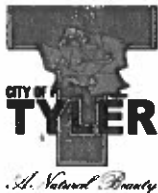
The Company has a revolving line of credit ("LOC") with Citizens National Bank, with a maximum borrowing limit of \$550,000. At December 31, 2018, \$290,000 was outstanding against this LOC. The LOC is collateralized by equipment and fixtures of the Company. In addition, Partners of the Company have individually guaranteed the note.

The Company has various notes, secured by its vehicles, for the purchase of its vehicles. These notes mature at different times in the coming years. At December 31, 2018, \$180,708 was outstanding for these various notes.

Management acknowledges it is in compliance with all covenants of the note documents.

6. Subsequent Events

Subsequent events have been evaluated through October 19, 2019, the date of the review report. There were no subsequent events that required disclosure in these notes to the financial statements.



REQUEST FOR QUOTATION

THIS IS NOT AN ORDER

CITY OF TYLER
Purchasing Department
304 North Border
Tyler, Texas 75702

March 23, 2020
DATE MAILED

Quote No: 20-027
(Number must appear on ALL correspondence)

Closing Time: 2:00 pm

Closing Date: April 28, 2020

Telephone: (903) 531-1232

Addressed To:

Please quote as per instructions indicated below for the articles described. Quotes must be submitted on City of Tyler forms to be considered. All items or services called for must be in strict accordance with all of the requirements and specifications attached hereto or furnished upon request.

INSTRUCTIONS:

1. Keep duplicate copy of proposal for your files.
2. Federal Excise Taxes are exempted, also Federal Transportation Tax, State Tax, and City Sales Tax.
3. Return this form at once if unable to quote.
4. Specify Trade name or brand in space.

Purchasing Manager

Sealed quotes to furnish the following will be received in the Purchasing Office @ 304 North Border, Tyler, Texas 75702, Attn: Sherry Pettit until April 28th, 2020 and opened by City Staff on the City Hall Steps @ 212 North Bonner @ 2:00 pm.

Demolition and Construction of Emmett J. Scott Park

QUOTE IDENTIFICATION:

Quote number, closing time, date, and item requested must appear on outside of envelope in lower left hand corner.

DATA SHEETS:

All bidders must complete each specification data sheet in spaces provided on each item that is bid as well as all information requested on the price data sheet. Said price, data and specifications sheet is hereby made a part of this quotation.

DELIVERY:

Delivery must be stated in your quote on the data sheet as the number of calendar days from date of order.

The City of Tyler reserves the right to reject any and/or all bids and to waive any and/or all formalities and to award purchase total amount, partial amount or individual item basis.

In submitting the above, the vendor agrees that acceptance by the City of Tyler within a reasonable period constitutes a binding agreement.

In submitting the above request and attached bid to the City of Tyler, I hereby certify that we have not participated in nor been a party to any collusion, price fixing or any other agreements with any company, firm, or person concerning the pricing of the enclosed quotation.

30 Days
INVOICING TERMS

TCMC COMMERCIAL, LP
COMPANY NAME

4-28-2020
DATE

Todd Williams
AUTHORIZED REPRESENTATIVE (print)

Todd Williams
SIGNATURE

See other side for TERMS AND CONDITIONS

* All Quotes Must Be Signed

TERMS AND CONDITIONS

Quotations are requested for furnishing the items described herein in accordance with the terms set forth. **ALL QUOTATIONS MUST BE F.O.B. DESTINATION** and include the cost of boxing and cartage to the delivery point as stated on this form.

In the case of default, the City of Tyler, Texas reserves the right to hold the original bidder or contractor liable for any and all resultant increased costs.

Samples, if requested by the City of Tyler, must be furnished at the bidder's expense, and if not destroyed in testing or retained as a standard, will be returned on the same terms, if requested by the bidder.

Quotes may be withdrawn on written or telegraphic request received from bidders prior to the time set for opening. Negligence on the part of the responder in preparing the proposal confers no right for the withdrawal of the proposal after the hour fixed for the opening.

Any oral statement by any representative of the City, modifying or changing any conditions of this contract, is an expression of opinion only and confers no right upon the seller.

All discounts, if applicable, shall be shown in discount amount space provided on data sheets - **EXCEPT IN TERMS FOR PROMPT PAYMENT.**

For proper identification; proposal number, closing time, date, and item requested must appear on outside of envelope in lower left hand corner.

If delay in delivery as specified on the purchase order is foreseen, supplier shall give written notice to Purchasing Office immediately. The City has the right to extend the delivery date if reasons appear valid. Supplier must keep the City advised at all times of the status of order. Default in promised delivery (without accepted reasons) or failure to meet specifications, authorizes the City of Tyler to purchase material elsewhere and charge full increase in cost and handling to the defaulting supplier and could also be reason for cancellation of the Purchase Order (at no expense to the City if the City of Tyler deems it necessary).

Any quote submitted on a public works project shall comply with the additional requirements and conditions attached hereto as well as the terms and conditions stated herein.

Certificate of Interested Parties:

In accordance with Texas Government Code Sec. 2252.908, for certain contracts entered into on or after January 1, 2016, the successful bidder must submit a *Certificate of Interested Parties* (Form 1295) at the time the signed contract is submitted to the CITY. The law applies (with a few exceptions) only to a City contract between a business entity and a governmental entity or state agency that either (1) requires an action or vote by the City Council before the contract may be signed or (2) has a value of at least \$1 million.

The *Certificate of Interested Parties* (Form 1295) must be filed electronically with the Texas Ethics Commission using the online filing application located at https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm.

If you need additional information about the Certificate of Interested Parties Form 1295 Procedure, contact Purchasing at (903) 531-1232.

Section 5 PROPOSAL

Proposal for CIP Contract to The City of Tyler, Texas

Date of Bid: 1-28-2020

The undersigned, as bidder, in compliance with CITY'S *Notice To Bidders* for construction of:

City of Tyler Bid Number: 20-027
Project Name: Demolition and Construction of Emmett J Scott Park

for the City of Tyler, Smith County, Texas, declares that the only person or parties interested in this proposal as principals are those named herein, that this proposal is made without collusion with any other person, firm, or corporation, that he has carefully examined the form of contract, *Instructions to Bidders*, specifications, and the plans therein referred to, and has carefully examined the locations, conditions, and classes of materials of the proposed work; and agrees that he will provide all the necessary labor, machinery, tools, apparatus, and other items incidental to construction, and will do all the work and furnish all the materials called for in the contract and specifications in the manner prescribed therein and according to the requirements of the Engineer as therein set forth, for the following unit prices.

It is understood that the following quantities of work to be done at unit prices are approximate only, and are intended principally to serve as a guide in evaluating bids.

It is further agreed that the following quantities of work to be done at unit prices and materials to be furnished may be increased or decreased as may be considered necessary, in the opinion of the Engineer, to complete the work fully as planned and contemplated, and that all quantities of work, whether increased or decreased are to be performed at the unit prices set forth below except as provided for in the specifications.

It is further agreed that lump sum prices may be increased by change order to cover additional work ordered by the Engineer, but not when on the plans or required by the specifications, or in accordance with the *General Conditions* and *Special Conditions* and requirements. Similarly, they may be decreased to cover deletion of work so ordered.

It is further agreed that the unit and lump sum prices shall be shown in words and figures for each item listed in this proposal, and in the event of discrepancy, the words shall control, and should the bid price on any item be completely omitted, the proposal will be considered incomplete, and the proposal will be disqualified. It is understood and agreed that the work is to be completed in full either:

- 1) within Seventy, (70) calendar days after the date specified in the written *Notice to Proceed*, or
- 2) on or before the **mandatory completion date** of Enter mandatory completion date, subject to such extensions of time as are provided by the *General Conditions*.

Accompanying this proposal is a Bid Bond, Certified Check, or Cashier's Check payable to the City of Tyler for:

AMOUNT: _____ and _____ Dollars Cents
\$ _____ for the BASE BID

The undersigned certifies that the bid prices contained in this proposal have been carefully checked and are submitted as correct and final.

Receipt is hereby acknowledged of the following addenda to the Contract Documents:

ADDENDUM NO. 1 4-14-20 Received [Signature]
ADDENDUM NO. 2 4-24-20 Received [Signature]
ADDENDUM NO. 3 4-27-20 Received [Signature]
ADDENDUM NO. 4 _____ Received _____
ADDENDUM NO. 5 _____ Received _____

TCMC COMMERCIAL, LP
Bidder

10261 Robinson DR.
Street Address

Todd Williams
Signature

Tyler, Texas 75703
City, State, Zip

Todd Williams
Printed Name

903-939-0240
Telephone Number

OWNER
Title

4-28-2020
Date

NOTE: An Environmental Plan Review is required for the project. This plan review will be coordinated by the Owner and is not the responsibility of the Bidder. However, each Bidder shall note that the Owner reserves the right to cancel or reject the bid if the Environmental Plan Review reflects that the project is not viable.

BASE BID:

Bid Item	Unit	Item Description and Written Unit Price	Unit Price	Amount
1	L.S.	Demolition of all structures, vegetation and utilities indicated on the Plans and construction of new site features, amenities and utilities shown on Plan sheet C6.2, complete and in place, for		
		Two Hundred Eighteen Thousand Dollars		
		Four Hundred Forty Eight + ⁰⁰ / ₁₀₀ Cents	\$218,448. ⁰⁰	\$218,448. ⁰⁰
2	L.S.	Provide an Owner's Discretionary Allowance to be utilized by the Owner for "upgrades" to the project or to account for items that will be "discovered" during the construction that were previously unknown, for the Lump Sum amount of \$30,000.00	\$30,000. ⁰⁰	\$30,000. ⁰⁰

ADD ALTERNATES:

Bid Item	Unit	Item Description and Written Unit Price	Unit Price	Amount
A-1	L.S.	Install new park sign and ground-mounted solar-powered LED spotlight as indicated on sheet C6.2, complete and in place, for		
		Fifteen Thousand Two Hundred Dollars Seventy-Five & ⁰⁰ / ₁₀₀ — Cents	\$ 15,275. ⁰⁰	\$ 15,275. ⁰⁰
A-2	L.S.	Install four (4) new light poles on concrete bases with two (2) new solar-powered, LED light fixtures per pole, complete and in place, for		
		Eight Thousand Four Hundred & ⁰⁰ / ₁₀₀ — Cents	\$ 8,400. ⁰⁰	\$ 8,400. ⁰⁰
A-3A	L.S.	Install reinforced concrete basketball court with "traditional" court striping, the sidewalks connecting the court to nearby park features, park bench areas adjacent to the court, and two (2) new light poles with two (2) new solar-powered LED light fixtures per pole at the court area, complete and in place, for		
		One Hundred Twelve Thousand Five Hundred & ⁰⁰ / ₁₀₀ — Cents	\$ 112,500. ⁰⁰	\$ 112,500. ⁰⁰
A-3B	L.S.	Install black, vinyl-coated chain link fence (with gates) around basketball court, as indicated on sheet C6.2, complete and in place, for		
		Twenty-Six Thousand Eight Hundred Forty-Nine & ⁰⁰ / ₁₀₀ — Cents	\$ 26,849. ⁰⁰	\$ 26,849. ⁰⁰
A-3C	L.S.	Provide "specialty" painting of the basketball court that includes painting of the complete sidelines and baselines of the court, "Emmett J Scott" wording on each sideline, and City of Tyler logo at center court, complete and in place, for		
		Sixteen Thousand & ⁰⁰ / ₁₀₀ — Dollars ⁰⁰ / ₁₀₀ Cents	\$ 16,000. ⁰⁰	\$ 16,000. ⁰⁰

ADD ALTERNATES (continued):

Bid Item	Unit	Item Description and Written Unit Price	Unit Price	Amount
A-4	L.S.	Construct new concrete walking trail and sidewalks beyond the limits of all other bid items as indicated on sheet C6.2, complete and in place, for		
		Seventy Four Thousand Dollars		
		Two Hundred + ⁰⁰ / ₁₀₀ — Cents	\$74,200. ⁰⁰	\$ 74,200. ⁰⁰
A-5	L.S.	Install new irrigation system as indicated on the irrigation plan, complete and in place, for		
		Dollars		
		Cents	\$	\$
A-6	L.S.	Raise the canopies, and thin the canopies, of existing trees near the new playground, swingset, pavilion, and basketball court area, complete and in place, for		
		Two Thousand Seven Dollars		
		Hundred + ⁰⁰ / ₁₀₀ — Cents	\$2,700. ⁰⁰	\$ 2,700. ⁰⁰
A-7	L.S.	Furnish and install block sod in all disturbed areas, complete and in place, for		
		Eighteen Thousand Dollars		
		Nine Hundred + ⁰⁰ / ₁₀₀ — Cents	\$18,900. ⁰⁰	\$ 18,900. ⁰⁰

UNIT PRICING:

Bid Item	Unit	Item Description and Written Unit Price	Unit Price	Amount
U-1	S.F.	Construct 6-foot wide, 4-inch thick City of Tyler standard sidewalk with 8-inch x 8-inch thickened edge (walking trail), complete and in place , for		
		Six Dollars + 90/100 — Dollars		
		Cents per S.F.	\$ 6.90	\$ 6.90
U-2	S.F.	Construct 4-inch thick concrete slab reinf w/ #3 bars @ 18" o.c.e.w., complete and in place, for		
		Six Dollars + 00/100 — Dollars		
		Cents per S.F.	\$ 6.00	\$ 6.00
U-3	Ea.	Construct new concrete light pole base, install new metal light pole (provided by City), and install new solar-powered LED area light (provided by City) with appurtenances, complete and in place, for		
		Two Thousand Five Hundred Dollars		
		Fifty + 00/100 — Cents per Each	\$ 2,550.00	\$ 2,550.00
U-4	S.Y.	Furnish and install block sod grass, complete and in place, for		
		Four Dollars + 50/100 — Dollars		
		Cents per S.Y.	\$ 4.50	\$ 4.50
U-5	Ea.	Construct new concrete pad for installation of park bench and trash receptacle having dimensions indicated on the Plans, complete and in place, for		
		Seven Hundred + 00/100 — Dollars		
		Cents		
		Dollars		
		Cents	\$ 700.00	\$ 700.00

BID SUMMARY

BASE BID TOTAL

and Two Hundred Forty Eight Thousand Four Hundred Dollars
Forty - Eight + ⁰⁰/₁₀₀ Cents
\$ 248,448.⁰⁰

ADD ALTERNATES TOTAL

and Two Hundred Seventy Four Thousand Eight Hundred Dollars
Twenty Four + ⁰⁰/₁₀₀ Cents
\$ 274,824.⁰⁰

BASE BID TOTAL + ADD ALTERNATIVES = TOTAL BID

and Five Hundred Twenty Three Thousand Two Hundred Dollars
Seventy Two + ⁰⁰/₁₀₀ Cents
\$ 523,272.⁰⁰

* We exclude the bond requirement for project being funded by G.C. if not complete by July 31, 2020. This would include not forfeit of Bid Bond for this clause per item 1.8C per the ITB.

STATEMENT OF MATERIALS AND OTHER CHARGES

For purposes of complying with TEX. TAX CODE ANN. Title 2., Subtitle E., Chapter 151, Subchapter C. § 151.056; Subchapter H. § 151.301, § 151.309, § 151.311, the **CONTRACTOR** agrees that the charges for any material incorporated into the project in excess of the estimated quantity provided for herein will be no less than the invoice price for such material to the **CONTRACTOR**.

Value of Materials Incorporated Into the Project:	\$ <u>125,000.⁰⁰</u>
Value of All Other Charges:	\$ <u>398,272.⁰⁰</u>
*Total:	\$ <u>523,272.⁰⁰</u>

* This statement may be submitted with **Proposal** and the total must agree with the **total bid** figure shown in the Bid Summary section above.

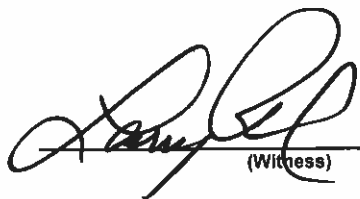
BID BOND

KNOW ALL MEN BY THESE PRESENTS, that we TCMC Commercial, L.P., 10261 Robinson, Tyler, TX 75703, as Principal, hereinafter called the Principal, and North American Specialty Insurance Company, 12750 Merit Dr. #500 Dallas, TX 75251, a corporation duly organized under the laws of the State of New Hampshire as Surety, hereinafter called the Surety, are held and firmly bound unto City of Tyler, P. O. Box 2039, Tyler, Texas 75701, hereinafter called the Obligee, in the sum of Five Percent of the Greatest Amount Bid by Principal Dollars (\$5% of the G.A.B. by Principal), for the payment of which sum well and truly to be made, the said Principal and the said Surety, bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has submitted a bid for: Emmett J. Scott Park Renovations.

NOW, THEREFORE, if the Obligee shall accept the bid of the Principal and the Principal shall enter into a Contract with the Obligee in accordance with the terms of such bid, and give such bond or bonds as may be specified in the bidding or Contract Documents with good and sufficient surety for the faithful performance of such Contract and for the prompt payment of labor and material furnished in the prosecution thereof, or in the event of the failure of the Principal to enter such Contract and give such bond or bonds, if the Principal shall pay to the Obligee the difference not to exceed the penalty hereof between the amount specified in said bid and such larger amount for which the Obligee may in good faith contract with another party to perform the Work covered by said bid, then this obligation shall be null and void, otherwise to remain in full force and effect.

Signed and sealed this 28th day of April, 2020.



(Witness)


TCMC Commercial, L.P.

(Principal)

(Seal)



Todd Williams - OWNER

(Title)

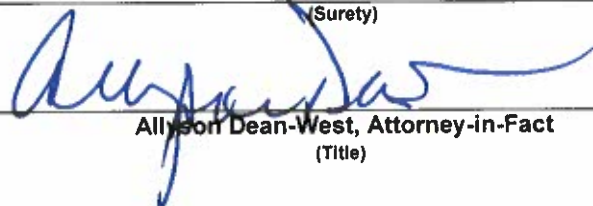


(Witness)

North American Specialty Insurance Company

(Surety)

(Seal)



Allison Dean-West, Attorney-in-Fact
(Title)

Printed in cooperation with the American Institute of Architects (AIA).

The language in this document conforms exactly to the language used in AIA Document A310 – Bid Bond – February 1970 Edition.

SWISS RE CORPORATE SOLUTIONS

NORTH AMERICAN SPECIALTY INSURANCE COMPANY
WASHINGTON INTERNATIONAL INSURANCE COMPANY

GENERAL POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS, THAT North American Specialty Insurance Company, a corporation duly organized and existing under laws of the State of New Hampshire, and having its principal office in the City of Overland Park, Kansas, and Washington International Insurance Company, a corporation organized and existing under the laws of the State of New Hampshire and having its principal office in the City of Overland Park, Kansas, each does hereby make, constitute and appoint:

JOHN R. WARD, THOMAS D. MOORE, EVA O. LIMMER,
EMILY MIKESKA and ALLYSON DEAN-WEST

JOINTLY OR SEVERALLY

Its true and lawful Attorney(s)-in-Fact, to make, execute, seal and deliver, for and on its behalf and as its act and deed, bonds or other writings obligatory in the nature of a bond on behalf of each of said Companies, as surety, on contracts of suretyship as are or may be required or permitted by law, regulation, contract or otherwise, provided that no bond or undertaking or contract or suretyship executed under this authority shall exceed the amount of:
FIFTY MILLION (\$50,000,000.00) DOLLARS

This Power of Attorney is granted and is signed by facsimile under and by the authority of the following Resolutions adopted by the Boards of Directors of both North American Specialty Insurance Company and Washington International Insurance Company at meetings duly called and held on the 9th of May, 2012:

"RESOLVED, that any two of the Presidents, any Managing Director, any Senior Vice President, any Vice President, any Assistant Vice President, the Secretary or any Assistant Secretary be, and each or any of them hereby is authorized to execute a Power of Attorney qualifying the attorney named in the given Power of Attorney to execute on behalf of the Company bonds, undertakings and all contracts of surety, and that each or any of them hereby is authorized to attest to the execution of any such Power of Attorney and to attach therein the seal of the Company; and it is

FURTHER RESOLVED, that the signature of such officers and the seal of the Company may be affixed to any such Power of Attorney or to any certificate relating thereto by facsimile, and any such Power of Attorney or certificate bearing such facsimile signatures or facsimile seal shall be binding upon the Company when so affixed and in the future with regard to any bond, undertaking or contract of surety to which it is attached."



By [Signature]
Steven P. Anderson, Senior Vice President of Washington International Insurance Company
& Senior Vice President of North American Specialty Insurance Company



By [Signature]
Michael A. Ito, Senior Vice President of Washington International Insurance Company
& Senior Vice President of North American Specialty Insurance Company

IN WITNESS WHEREOF, North American Specialty Insurance Company and Washington International Insurance Company have caused their official seals to be hereunto affixed, and these presents to be signed by their authorized officers this 27 day of October, 2017.

North American Specialty Insurance Company
Washington International Insurance Company

State of Illinois
County of Cook ss:

On this 27 day of October, 2017, before me, a Notary Public personally appeared Steven P. Anderson, Senior Vice President of Washington International Insurance Company and Senior Vice President of North American Specialty Insurance Company and Michael A. Ito, Senior Vice President of Washington International Insurance Company and Senior Vice President of North American Specialty Insurance Company, personally known to me, who being by me duly sworn, acknowledged that they signed the above Power of Attorney as officers of and acknowledged said instrument to be the voluntary act and deed of their respective companies.



[Signature]
M. Kenny, Notary Public

I, Jeffrey Goldberg, the duly elected Assistant Secretary of North American Specialty Insurance Company and Washington International Insurance Company, do hereby certify that the above and foregoing is a true and correct copy of a Power of Attorney given by said North American Specialty Insurance Company and Washington International Insurance Company, which is still in full force and effect.

IN WITNESS WHEREOF, I have set my hand and affixed the seals of the Companies this 28th day of April, 2020.

[Signature]
Jeffrey Goldberg, Vice President & Assistant Secretary of
Washington International Insurance Company & North American Specialty Insurance Company

**North American Specialty Insurance Company
Washington International Insurance Company
Westport Insurance Corporation**

TEXAS CLAIMS INFORMATION

IMPORTANT NOTICE

In order to obtain information or make a complaint:

You may contact **Jeffrey Goldberg, Vice President**
- Claims at 1-800-338-0753

You may call **Washington International Insurance Company and/or North American Specialty Insurance Company's and/or Westport Insurance Corporation** toll-free number for information or to make a complaint at:

1-800-338-0753

You may also write to **Washington International Insurance Company and/or North American Specialty Insurance Company and/or Westport Insurance Corporation** at the following address:

**1450 American Lane
Suite 1100
Schaumburg, IL 60173**

You may contact the **Texas Department of Insurance** to obtain information on companies, coverages, rights or complaints at:

1-800-252-3439

You may write the **Texas Department of Insurance**:

**P.O. Box 149104
Austin, TX 78714-9104
Fax: (512) 475-1771
Web: <http://www.tdi.state.tx.us>
Email: ConsumerProtection@tdi.state.tx.us**

PREMIUM OR CLAIM DISPUTES:

Should you have a dispute concerning your premium or about a claim you should first contact the **Washington International Insurance Company and/or North American Specialty Insurance Company and/or Westport Insurance Corporation**. If the dispute is not resolved, you may contact the **Texas Department of Insurance**.

ATTACH THIS NOTICE TO YOUR POLICY:

This notice is for information only and does not become a part or condition of the attached document.

ADVISO IMPORTANTE

Para obtener informacion o para someter un queja:

Puede comunicarse con **Jeffrey Goldberg, Vice President** - Claims, al 1-800-338-0753

Usted puede llamar al numero de telefono gratis de **Washington International Insurance Company and/or North American Specialty Insurance Company's and/or Westport Insurance Corporation** para informacion o para someter una queja al:

1-800-338-0753

Usted tambien puede escribir a **Washington International Insurance Company and/or North American Specialty Insurance Company and/or Westport Insurance Corporation** al:

**1450 American Lane
Suite 1100
Schaumburg, IL 60173**

Puede escribir al **Departamento de Seguros de Texas** para obtener informacion acerca de companias, coberturas, derechos o quejas al:

1-800-252-3439

Puede escribir al **Departamento de Seguros de Texas**:

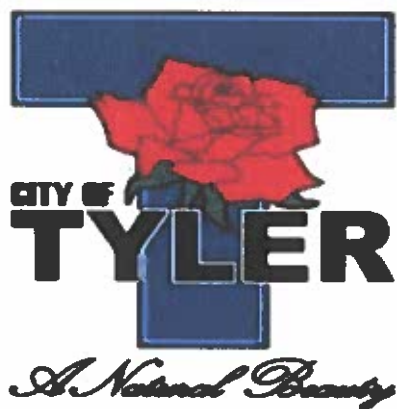
**P.O. Box 149104
Austin, TX 78714-9104
Fax: (512) 475-1771
Web: <http://www.tdi.state.tx.us>
Email: ConsumerProtection@tdi.state.tx.us**

DISPUTAS SOBRE PRIMAS O RECLAMOS:

Si tiene una disputa concierne a su prima o a un reclamo, debe comunicarse con el **Washington International Insurance Company and/or North American Specialty Insurance Company and/or Westport Insurance Corporation** primero. Si no se resuelve la disputa, puede entonces comunicarse con el **Departamento de Seguros de Texas**.

UNA ESTE AVISO A SU POLIZA

Este aviso es solo para proposito de informacion y no se convierte en parte o condicion del documento adjunto.



EMMETT J. SCOTT PARK



TCMC COMMERCIAL, LP

Contact Name: Eric Williams
Todd Williams

Address: 10261 Robinson Drive, Tyler, Texas 75703

Office Number: 903-939-0240

Fax Number: 903-939-0239

Contact Email: eric@tcmcinc.com
todd@tcmcinc.com

EXPERIENCE WITH PROJECTS OF THIS SPECIFIC TYPE ASND MAGNITUDE (WITH REFERENCES)

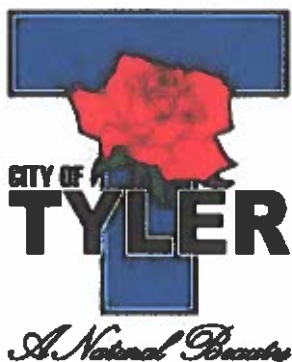
1. **Bergfeld Park Amphitheater:** The project consists of a new concrete stage with a pre-engineered metal building, new concrete with auditorium seating, sidewalks, rework of historical wall, storm drainage, landscape and irrigation, finishes and electrical.
 2. City of Tyler
511 West Locust Street
Tyler, Texas 75702
Office: 903-531-1288
Fax: 903-531-1336
 3. Stephanie franklin
Office: 903-531-1130
sfranklin@tylertexas.com
 4. September 2017
 5. Completed on Time
 6. \$987,000.00
-
1. **Splasher the Dolphin:** The project consists of a new Splash Pad for Bergfeld Park which included earthwork, concrete splash pad and sidewalks, monument sign, rock walls, benches and trash receptacles, sod and irrigation and site lighting.
 2. City of Tyler
511 West Locust Street
Tyler, Texas 75702
Office: 903-531-1288
Fax: 903-531-1336
 3. Russ Jackson
Office: 903-531-1370
rjackson@tylertexas.com
 4. June 2019
 5. Completed on Time
 6. \$232,000.00

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**WATSON
COMMERCIAL
CONSTRUCTION**
Ltd.

**Construction Management
General Contracting
Consultation**

“Quality Without Question”



City of Tyler

Emmett J. Scott Park

Response to Request for Proposal and Company Profile

April 28, 2020

Submitted by:



Commercial • Institutional • Medical
2233 Deerbrook Drive
Tyler, Texas 75703
Off: (903) 581-0393
Fax: (903) 581-0472
www.watsoncommercialgc.com



Commercial • Institutional • Medical
2233 Deerbrook Drive
Tyler, Texas 75703
Off: (903) 581-0393
Fax: (903) 581-0472
www.watsoncommercialgc.com

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Commercial • Institutional • Medical

2233 Deerbrook Drive

Tyler, Texas 75703

Off: (903) 581-0393

Fax: (903) 581-0472

www.watsoncommercialgc.com

April 28, 2020

City of Tyler, Texas
Attn: Sherry Pettit
Purchasing Department
304 North Border
Tyler, Texas 75702

Re: Demolition and Construction of Emmett J. Scott Park, Bid No. 20-027

Dear Ms. Pettit,

The purpose of this correspondence is to provide you with a bid proposal for the *City of Tyler Emmett J. Scott Park* project and information regarding our firm as follows:

Company Name:	Watson Commercial Construction, Ltd.
Contact Name:	Brad Watson, President
Mailing and Physical Address:	2233 Deerbrook Drive, Tyler, Texas 75703
Phone / Fax Numbers:	903-581-0393 / 903-581-0472
Email Address:	Brad@WatsonCommercialGC.com

We appreciate the opportunity given us in the past to manage the construction of *Southside Park, Tyler Fire Station No. 5 and the Tyler Pounds Regional Airport Rental Car Service Facility*. With our established relationship and proven record, we are hopeful that we will be selected to assist you with the *Demolition and Construction of Emmett J. Scott Park* as well.

I hope the attached information regarding our firm is beneficial to you in your selection process. Please let me know if additional information would be helpful.

Sincerely,

A handwritten signature in blue ink that reads "Brad Watson". The signature is written in a cursive, flowing style.

Brad Watson
President

BW:kd

Enc.

BASE BID:

Bid Item	Unit	Item Description and Written Unit Price	Unit Price	Amount
1	L.S.	Demolition of all structures, vegetation and utilities indicated on the Plans and construction of new site features, amenities and utilities shown on Plan sheet C6.2, complete and in place, for		
			Dollars	
			Cents	\$
				\$ 172,215. ⁰⁰
2	L.S.	Provide an Owner's Discretionary Allowance to be utilized by the Owner for "upgrades" to the project or to account for items that will be "discovered" during the construction that were previously unknown, for the Lump Sum amount of \$30,000.00	\$	\$ 30,000.00

Bid Proposal Exclusions:

- Secondary Bond for project duration as specified in the Invitation to Bid, Section 1.8, Article C.

Bid Proposal Clarifications:

- Owner to provide temporary water and electricity.
- Bid Item A-7 includes 4,200 square yards of Bermuda and St. Augustine sod.

ADD ALTERNATES:

Bid Item	Unit	Item Description and Written Unit Price	Unit Price	Amount
A-1	L.S.	Install new park sign and ground-mounted solar-powered LED spotlight as indicated on sheet C6.2, complete and in place, for		\$ 20,062. ⁰⁰
			Dollars	
			Cents	
A-2	L.S.	Install four (4) new light poles on concrete bases with two (2) new solar-powered, LED light fixtures per pole, complete and in place, for		\$ 8,600. ⁰⁰
			Dollars	
			Cents	
A-3A	L.S.	Install reinforced concrete basketball court with "traditional" court striping, the sidewalks connecting the court to nearby park features, park bench areas adjacent to the court, and two (2) new light poles with two (2) new solar-powered LED light fixtures per pole at the court area, complete and in place, for		\$ 26,849. ⁰⁰
			Dollars	
			Cents	
A-3B	L.S.	Install black, vinyl-coated chain link fence (with gates) around basketball court, as indicated on sheet C6.2, complete and in place, for		\$ 26,849. ⁰⁰
			Dollars	
			Cents	
A-3C	L.S.	Provide "specialty" painting of the basketball court that includes painting of the complete sidelines and baselines of the court, "Emmett J Scott" wording on each sideline, and City of Tyler logo at center court, complete and in place, for		\$ 15,760.00
			Dollars	
			Cents	

ADD ALTERNATES (continued):

Bid Item	Unit	Item Description and Written Unit Price	Unit Price	Amount
A-4	L.S.	Construct new concrete walking trail and sidewalks beyond the limits of all other bid items as indicated on sheet C6.2, complete and in place, for		
		Dollars		
		Cents	\$	\$ 79,421. ⁰⁰
A-5	L.S.	Install new irrigation system as indicated on the irrigation plan, complete and in place, for		
		Dollars		
		Cents	\$	\$
A-6	L.S.	Raise the canopies, and thin the canopies, of existing trees near the new playground, swingset, pavilion, and basketball court area, complete and in place, for		
		Dollars		
		Cents	\$	\$ 1,200.00
A-7	L.S.	Furnish and install block sod in all disturbed areas, complete and in place, for		
		Dollars		
		Cents	\$	\$ 18,900.00

UNIT PRICING:

Bid Item	Unit	Item Description and Written Unit Price	Unit Price	Amount
U-1	S.F.	Construct 6-foot wide, 4-inch thick City of Tyler standard sidewalk with 8-inch x 8-inch thickened edge (walking trail), complete and in place , for		\$ 6.83
		Dollars		
		Cents per S.F.	\$	
U-2	S.F.	Construct 4-inch thick concrete slab reinf w/ #3 bars @ 18" o.c.e.w., complete and in place, for		\$ 6.25
		Dollars		
		Cents per S.F.	\$	
U-3	Ea.	Construct new concrete light pole base, install new metal light pole (provided by City), and install new solar-powered LED area light (provided by City) with appurtenances, complete and in place, for		\$ 2,150.00
		Dollars		
		Cents per Each	\$	
U-4	S.Y.	Furnish and install block sod grass, complete and in place, for		\$ 4.50
		Dollars		
		Cents per S.Y.	\$	
U-5	Ea.	Construct new concrete pad for installation of park bench and trash receptacle having dimensions indicated on the Plans, complete and in place, for		\$ 500.00
		Dollars		
		Cents		
		Dollars		
		Cents	\$	

BID SUMMARY**BASE BID TOTAL**

and One hundred seventy two thousand two fifteen Dollars
Cents

\$ 172,215.⁰⁰

ADD ALTERNATES TOTAL

and Two seventy thousand seven hundred seventy three Dollars
Cents

\$ 270,773.⁰⁰

BASE BID TOTAL + ADD ALTERNATIVES = TOTAL BID

and Four hundred forty two thousand nine hundred eighty eight Dollars
Cents

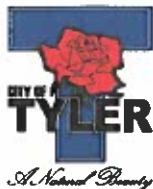
\$ 442,988.⁰⁰

STATEMENT OF MATERIALS AND OTHER CHARGES

For purposes of complying with TEX. TAX CODE ANN. Title 2., Subtitle E., Chapter 151, Subchapter C. § 151.056; Subchapter H. § 151.301, § 151.309, § 151.311, the **CONTRACTOR** agrees that the charges for any material incorporated into the project in excess of the estimated quantity provided for herein will be no less than the invoice price for such material to the **CONTRACTOR**.

Value of Materials Incorporated Into the Project:	\$	<u>221,494</u>
Value of All Other Charges:	\$	<u>221,494</u>
*Total:	\$	<u>442,988.⁰⁰</u>

- * This statement may be submitted with *Proposal* and the total must agree with the **total bid** figure shown in the Bid Summary section above.



REQUEST FOR QUOTATION

THIS IS NOT AN ORDER

CITY OF TYLER
Purchasing Department
304 North Border
Tyler, Texas 75702

March 23, 2020
DATE MAILED

Quote No: 20-027
(Number must appear on ALL correspondence)

Closing Time: 2:00 pm

Closing Date: April 28, 2020

Telephone: (903) 531-1232

Addressed To:

Please quote as per instructions indicated below for the articles described. Quotes must be submitted on City of Tyler forms to be considered. All items or services called for must be in strict accordance with all of the requirements and specifications attached hereto or furnished upon request.

INSTRUCTIONS:

1. Keep duplicate copy of proposal for your files.
2. Federal Excise Taxes are exempted, also Federal Transportation Tax, State Tax, and City Sales Tax.
3. Return this form at once if unable to quote.
4. Specify Trade name or brand in space.

Purchasing Manager

Sealed quotes to furnish the following will be received in the Purchasing Office @ 304 North Border, Tyler, Texas 75702, Attn: Sherry Pettit until April 28th, 2020 and opened by City Staff on the City Hall Steps @ 212 North Bonner @ 2:00 pm.

Demolition and Construction of Emmett J. Scott Park

QUOTE IDENTIFICATION:

Quote number, closing time, date, and item requested must appear on outside of envelope in lower left hand corner.

DATA SHEETS:

All bidders must complete each specification data sheet in spaces provided on each item that is bid as well as all information requested on the price data sheet. Said price, data and specifications sheet is hereby made a part of this quotation.

DELIVERY:

Delivery must be stated in your quote on the data sheet as the number of calendar days from date of order.

The City of Tyler reserves the right to reject any and/or all bids and to waive any and/or all formalities and to award purchase total amount, partial amount or individual item basis.

In submitting the above, the vendor agrees that acceptance by the City of Tyler within a reasonable period constitutes a binding agreement.

In submitting the above request and attached bid to the City of Tyler, I hereby certify that we have not participated in nor been a party to any collusion, price fixing or any other agreements with any company, firm, or person concerning the pricing of the enclosed quotation.

Net 30
INVOICING TERMS

Watson Commercial Construction, Ltd.
COMPANY NAME

April 28, 2020
DATE

Brad Watson, President
AUTHORIZED REPRESENTATIVE (print)


SIGNATURE

See other side for TERMS AND CONDITIONS

* All Quotes Must Be Signed

TERMS AND CONDITIONS

Quotations are requested for furnishing the items described herein in accordance with the terms set forth. **ALL QUOTATIONS MUST BE F.O.B. DESTINATION** and include the cost of boxing and cartage to the delivery point as stated on this form.

In the case of default, the City of Tyler, Texas reserves the right to hold the original bidder or contractor liable for any and all resultant increased costs.

Samples, if requested by the City of Tyler, must be furnished at the bidder's expense, and if not destroyed in testing or retained as a standard, will be returned on the same terms, if requested by the bidder.

Quotes may be withdrawn on written or telegraphic request received from bidders prior to the time set for opening. Negligence on the part of the responder in preparing the proposal confers no right for the withdrawal of the proposal after the hour fixed for the opening.

Any oral statement by any representative of the City, modifying or changing any conditions of this contract, is an expression of opinion only and confers no right upon the seller.

All discounts, if applicable, shall be shown in discount amount space provided on data sheets - **EXCEPT IN TERMS FOR PROMPT PAYMENT.**

For proper identification; proposal number, closing time, date, and item requested must appear on outside of envelope in lower left hand corner.

If delay in delivery as specified on the purchase order is foreseen, supplier shall give written notice to Purchasing Office immediately. The City has the right to extend the delivery date if reasons appear valid. Supplier must keep the City advised at all times of the status of order. Default in promised delivery (without accepted reasons) or failure to meet specifications, authorizes the City of Tyler to purchase material elsewhere and charge full increase in cost and handling to the defaulting supplier and could also be reason for cancellation of the Purchase Order (at no expense to the City if the City of Tyler deems it necessary).

Any quote submitted on a public works project shall comply with the additional requirements and conditions attached hereto as well as the terms and conditions stated herein.

Certificate of Interested Parties:

In accordance with Texas Government Code Sec. 2252.908, for certain contracts entered into on or after January 1, 2016, the successful bidder must submit a *Certificate of Interested Parties* (Form 1295) at the time the signed contract is submitted to the CITY. The law applies (with a few exceptions) only to a City contract between a business entity and a governmental entity or state agency that either (1) requires an action or vote by the City Council before the contract may be signed or (2) has a value of at least \$1 million.

The *Certificate of Interested Parties* (Form 1295) must be filed electronically with the Texas Ethics Commission using the online filing application located at https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm.

If you need additional information about the Certificate of Interested Parties Form 1295 Procedure, contact Purchasing at (903) 531-1232.



Section 6 BID BOND

Check Here if this Section is NOT Used

THE STATE OF TEXAS §
 § **BID BOND**
COUNTY OF SMITH §

THAT, Watson Commercial Construction, Ltd. [contractor], as **PRINCIPAL**, and FCCI Insurance Company [surety], as **SURETY**, acknowledge their indebtedness and are held and firmly bound unto the City of Tyler (CITY), Texas in Smith County, as **OBLIGEE**, in the amount of *****FIVE PERCENT OF BID AMOUNT***** [insert figure using written words], (**\$ 5% OF BID AMOUNT**) [insert numerical figure] payable to the City of Tyler, Texas for the payment of which, the said **PRINCIPAL** (Contractor) and **SURETY** bind themselves, and their heirs, administrators, executors, successors, legal representatives, and assigns, jointly and severally, firmly by these presents.

PRINCIPAL (Contractor) is about to submit to **OBLIGEE** (City) a bid or proposal for:

City of Tyler Bid Number 20-027
Project Name Emmett Scott Park, 2020 Park Improvements

in accordance with plans and specifications filed in **OBLIGEE'S** (City's) office and under the Request for Quotation (RFQ) / Request for Proposal (RFP) / Invitation to Bid therefor.

NOW THEREFORE:

THE CONDITION OF THIS OBLIGATION IS THAT IF:

- 1) the bid or proposal is rejected, or
- 2) the bid or proposal of **PRINCIPAL** (Contractor) is accepted; and
 - a. the contract for the work is awarded to **PRINCIPAL** (Contractor) by **OBLIGEE** (City),
 - b. **PRINCIPAL** (Contractor) enters into a written contract in the form of contract provided in these contract documents (properly completed in accordance with the bid),
 - c. **PRINCIPAL** (Contractor) furnishes a *Performance and Maintenance Bond* for the performance of the work as required by law and/or the AGREEMENT,
 - d. **PRINCIPAL** (Contractor) furnishes a *Payment Bond* for the payment of all persons performing labor or furnishing materials in connection therewith as required by law and/or the AGREEMENT, and
 - e. **PRINCIPAL** (Contractor) in all other respects performs the agreement created by the acceptance of the bid,

then this obligation will be null and void; otherwise, subject to the following limitation, it will remain in full force and effect.

The limitation referred to above is that surety, in any event, will not be liable for a greater amount than the difference between the amount of principal's bid or proposal and the lowest amount in excess of that bid or proposal for which **CITY** may be able to award the contract within a reasonable time.

The **SURETY**, for value received, hereby stipulates and agrees that the obligations of said

SURETY and its Bond shall be in no way impaired or affected by any extension of the time within which the **OBLIGEE** (City) may accept such bid; and said **SURETY** does hereby waive notice of any such extension.

I (WE) CERTIFY that the **SURETY** is registered by the State Board of Insurance to conduct business in the State of Texas, and acceptable according to the latest list of companies holding Certificates of Authority from the Secretary of the Treasury of the United States, shown on the Treasury List.

I (WE) CERTIFY that the **SURETY** has reviewed the financial condition of the **PRINCIPAL** and the **PRINCIPAL'S** qualification to perform the work required by this project.

IN WITNESS WHEREOF the **PRINCIPAL** (Contractor) and **SURETY** have hereunto set their hands and seals, and such of them as are corporations have caused their corporate seals to be hereunto affixed and these presents to be signed by their proper officers, the day and year set forth below.

Signed this 28th day of April, 2020.

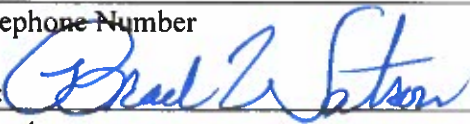
BOND NUMBER: N/A

PRINCIPAL (Contractor)
Watson Commercial Construction, Ltd.
 Printed Name of Principal

2233 Deer Brook Drive
Tyler, TX 75703
 Physical Address

2233 Deer Brook Drive
Tyler, TX 75703
 Mailing Address

(903) 581-0393
 Telephone Number

By: 
 Signature

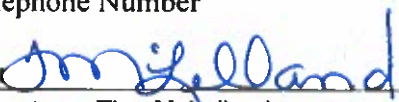
PRESIDENT
 Title

SURETY
FCCI Insurance Company
 Printed Name of Surety

2435 N. Central Expressway, Ste. 1000
Richardson, TX 75080
 Physical Address

2435 N. Central Expressway, Ste. 1000
Richardson, TX 75080
 Mailing Address

(254)749-0597
 Telephone Number

By: 
 Signature Tina McLelland

Attorney-in-Fact
 Title

SURETY'S SEAL:



GENERAL POWER OF ATTORNEY

Know all men by these presents: That the FCCI Insurance Company, a Corporation organized and existing under the laws of the State of Florida (the "Corporation") does make, constitute and appoint:

Brenda Bledsoe; Garland Martin; Robbie Martin; Josh Andrajack; Tina McLelland; Connie M. Dubski

Each, its true and lawful Attorney-In-Fact, to make, execute, seal and deliver, for and on its behalf as surety, and as its act and deed in all bonds and undertakings provided that no bond or undertaking or contract of suretyship executed under this authority shall exceed the sum of (not to exceed \$10,000,000.00): \$10,000,000.00

This Power of Attorney is made and executed by authority of a Resolution adopted by the Board of Directors. That resolution also authorized any further action by the officers of the Company necessary to effect such transaction.

The signatures below and the seal of the Corporation may be affixed by facsimile, and any such facsimile signatures or facsimile seal shall be binding upon the Corporation when so affixed and in the future with regard to any bond, undertaking or contract of surety to which it is attached.

In witness whereof, the FCCI Insurance Company has caused these presents to be signed by its duly authorized officers and its corporate seal to be hereunto affixed, this 31st day of January, 2019.

Attest: Craig Johnson
Craig Johnson, President
FCCI Insurance Company

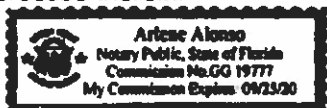


Cina Welch
Cina Welch, EVP, General Counsel,
Chief Audit & Compliance Officer, Secretary
FCCI Insurance Company

State of Florida
County of Sarasota

Before me this day personally appeared Craig Johnson, who is personally known to me and who executed the foregoing document for the purposes expressed therein.

My commission expires: 9/25/2020



Arlene Alonso
Notary Public

State of Florida
County of Sarasota

Before me this day personally appeared Cina Welch, who is personally known to me and who executed the foregoing document for the purposes expressed therein.

My commission expires: 9/25/2020



Arlene Alonso
Notary Public

CERTIFICATE

I, the undersigned Secretary of FCCI Insurance Company, a Florida Corporation, DO HEREBY CERTIFY that the foregoing Power of Attorney remains in full force and has not been revoked; and furthermore that the February 24, 2011 Resolution of the Board of Directors, referenced in said Power of Attorney, is now in force.

Dated this 28th day of April, 2020

Cina Welch
Cina Welch, EVP, General Counsel,
Chief Audit & Compliance Officer, Secretary





Sampling of Projects Completed over the Last Five Years

Project: Southside Park 2019 Renovations

Owner: City of Tyler, Texas

Contact Name: Russ Jackson, Director of Parks & Recreation

Contact Address: P.O. Box 2039, Tyler, TX, 75710

Contact Phone: 903-531-1370

Architect: The C.T. Brannon Corporation

Contact Name: Robert Breedlove, P.E.

Contact Address: PO Box 7487, Tyler, TX 75711

Contact Phone: 903-597-2122

Project Amount: \$223,136.00

Square Footage: N/A

Completion Date: November 16, 2019

Function: Recreational

Location: 455 Shiloh Rd., Tyler, TX 75703

Delivery Method: General Contracting



Project: UT Biomedical Research 'A' Wing Lab Renovations and
Dr. Ikebe's Lab Expansion

Owner: UT Health Northeast

Contact Name: Steve Brooks

Contact Address: 11937 US Highway 271, Tyler, TX 75708

Contact Phone: 903 877-7868

Architect: SM Architects, PLLC

Contact Name: Mark McComas, AAIA

Contact Address: 207 West Main St., Mesquite, TX 75149

Contact Phone: 972-285-2630

Project Amount: \$2,613,416.00

Square Footage: 7,900 SF

Completion Date: February 7, 2020

Building Function: Medical

Location: 11937 US Highway 271, Tyler, TX 75708

Delivery Method: General Contracting

WATSON COMMERCIAL CONSTRUCTION Ltd.

"QUALITY WITHOUT QUESTION"

- EDUCATIONAL
- COMMERCIAL
- MEDICAL
- RELIGIOUS



UT Health Northeast Biomedical Research 'A' Wing Lab Renovations and Dr. Ikebe's Lab Expansion

- 7,900 Square Feet
- \$2,613,416
- SM Architects, PLLC





Project: Children's Education Building
Owner: South Spring Baptist Church
Contact Name: Paul McKenzie
Contact Address: 17002 U.S. Highway 69 S, Tyler, TX 75703
Contact Phone: 903-839-0111
Architect: Jackson Galloway Associates, LLC
Contact Name: David Polkinghorn, AIA
Contact Address: 3520 Bee Caves Road, Suite 150, Austin, TX 78746
Contact Phone: 512-953-1311
Project Amount: \$3,460,621.00
Square Footage: 17,400 SF
Completion Date: August 19, 2019
Building Function: Religious
Location: 17002 U.S. Highway 69 S, Tyler, TX 75703
Delivery Method: General Contracting



Project: Texan Theater Exterior & Interior Rehabilitation

Owner: City of Athens, Texas

Contact Name: Thanasis Kombos

Contact Address: 508 E. Tyler St., Athens, TX 75751

Contact Phone: (903) 677-6617

Architect: Architexas

Contact Name: David Chase

Contact Address: 1907 Marilla Dr., 2nd Floor, Dallas, TX 75201

Contact Phone: 214-535-7992

Project Amount: \$1,636,316.00

Square Footage: 7,750 SF

Completion Date: May 10, 2018

Building Function: Historic Landmark Events Venue

Location: 207 E. Tyler St., Athens, TX 75751

Delivery Method: General Contracting

**WATSON
COMMERCIAL
CONSTRUCTION
Ltd.**

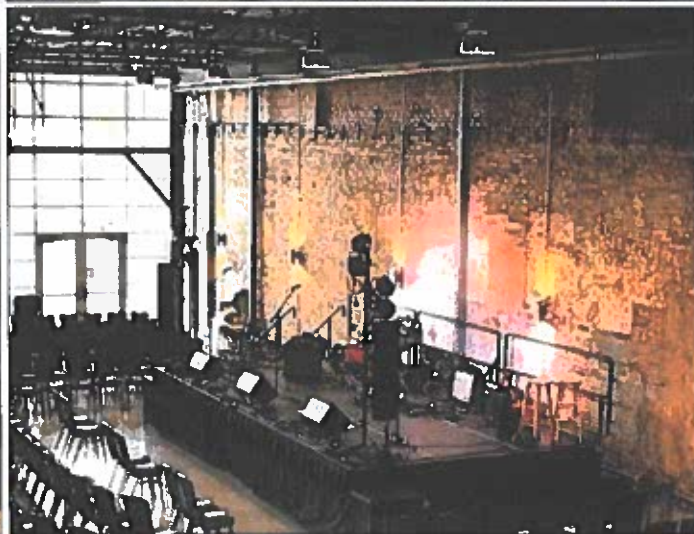
"QUALITY WITHOUT QUESTION"

- EDUCATIONAL
- COMMERCIAL
- MEDICAL
- RELIGIOUS



**City of Athens, Texas
Texan Theater Interior and Exterior
Rehabilitation**

- 7,750 Square Feet
- \$1,636,316
- Architexas, Architect





Project: New Dealership for Velocity Mazda
Owner: ASJ Land, LLC
Contact Name: Camden Jones
Contact Address: 1930 W Southwest Loop 323, Tyler, TX 75701
Contact Phone: (903) 944-7872
Architect: Kevin Craig, Architect
Contact Name: Kevin Craig
Contact Address: 108 N. Houston, Bullard, TX 75757
Contact Phone: (903) 714-6693
Project Amount: \$2,189,458
Square Footage: 12,624 SF
Completion Date: December 15, 2016
Building Function: Automotive Dealership
Location: 1930 W Southwest Loop 323, Tyler, TX 75701
Delivery Method: General Contracting

WATSON COMMERCIAL CONSTRUCTION Ltd.

"QUALITY WITHOUT QUESTION"

- EDUCATIONAL
- COMMERCIAL
- MEDICAL
- RELIGIOUS



Velocity Mazda

New Sales and Service Facility

- 12,600 Square Feet
- \$2,189,458
- Kevin Craig, Architect



Velocity





Project: Parking Lot 'G' and South Fleishel Avenue Parking Lot
Improvements and Construction

Owner: Christus Trinity Mother Frances Health System

Contact Name: Kyle Rutherford

Contact Address: 800 E. Dawson, Tyler, TX 75701

Contact Phone: (903) 531-4368

Architect: Brannon Corp. Civil Engineers

Contact Name: Rea S. Boudreaux, P.E.

Contact Address: 1321 S. Broadway, Tyler, TX 75701

Contact Phone: 903-597-2122

Project Amount: \$1,006,896.00

Square Footage: N/A

Completion Date: October 31, 2016

Building Function: Parking Lots

Location: Tyler, Texas

Delivery Method: General Contract



Project: Vocational Arts Building for Juvenile Services and Facility Recreational Area Cover for Detention Center

Owner: County of Smith

Contact Name: David Peters

Contact Address: 2630 Morningside Drive, Tyler, TX 75708

Contact Phone: (903) 535-0850

Architect: No architect was assigned to this project.

Contact Name: N/A

Contact Address: N/A

Contact Phone: N/A

Project Amount: \$391,000

Square Footage: 2,400 SF Vocational Building
4,800 SF Recreational Area

Completion Date: June 3, 2016

Location: 2630 Morningside Dr., Tyler, TX 75708

Delivery Method: General Contracting

WATSON COMMERCIAL CONSTRUCTION Ltd.

"QUALITY WITHOUT QUESTION"

- EDUCATIONAL
- COMMERCIAL
- MEDICAL
- RELIGIOUS



Smith County Juvenile Services Vocational Arts Building and Recreational Area Cover

- 2,400 Square Feet Vocational Building
- 4,800 Square Feet Recreational Area
- \$391,000





Project: South Campus Expansion and Renovations
Owner: Green Acres Baptist Church
Contact: Brett Cavett
Contact Address: 1607 Troup Hwy., Tyler, TX 75701
Contact Phone: (903) 525-1102
Architect: Fitzpatrick Architects
Contact: Corey Guidry
Contact Address: 5201 S Broadway, Ste. 200, Tyler, TX 75703
Contact Phone: (903) 592-0728
Project Amount: \$3,053,997
Square Footage: 20,145 SF
Completion Date: February 26, 2016
Building Function: Religious
Location: 1010 CR 137, Flint, TX 75762
Delivery Method: CM@Risk

WATSON COMMERCIAL CONSTRUCTION Ltd.

"QUALITY WITHOUT QUESTION"

- EDUCATIONAL
- COMMERCIAL
- MEDICAL
- RELIGIOUS



Green Acres Baptist Church South Campus Expansion and Renovation

- 20,145 Square Feet
- \$3,053,997
- Fitzpatrick Architects







Company Profile and General Experience

Legal Name of Firm: Watson Commercial Construction, Ltd.
 Primary Contact: Brad Watson
 Mailing Address: 2233 Deerbrook Drive, Tyler, Texas 75703
 Physical Location: 2233 Deerbrook Drive, Tyler, Texas 75703
 Phone Number: 903-581-0393
 Fax Number: 903-581-0472
 Email Address: Brad@WatsonCommercialGC.com
 Web Address: www.WatsonCommercialGC.com
 Organizational Structure: Limited Partnership
 Year Founded: 2003
 Years in Business: 16.5
 Predecessor Company: N/A
 State of Organization: Texas
 Company Owners: Brad Watson, President
 Brenda Watson, Secretary/Treasurer
 Current Full-time Employees: 11
 Primary Type of Construction: Commercial

Five References:

Kent Harris Principal Architect Harris Craig Architects, Inc. Tyler, TX 903-534-0995	Dave Sherman Owner Texas Construction Consultants Tyler, TX 903-312-2846	Kim Beckham Senior Pastor Central Baptist Church Tyler, TX 903-561-6361	Elizabeth Borstad City Manager City of Athens Athens, TX 903-675-5131	Kyle Rutherford Associate VP Construction Christus Trinity Mother Frances Tyler, TX 903-606-6090
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Litigations filed by our firm: None
 Litigations filed against our firm: None
 Terminations from a project: None



References

Client References

Brett Cavett Stewardship Director Green Acres Baptist Church Tyler, TX 903-525-1102	Davis Dickson Airport Manager City of Tyler Tyler Pounds Regional Airport 903-531-9825	Kent Harris Principal Architect Harris Craig Architects, Inc. Tyler, TX 903-534-0995
Blake Curtis Director of Construction UT Health Northeast Tyler, TX 903-877-2830	Mike Jones Partner Potter Minton Law Firm Tyler, TX 903-597-8311	Dave Sherman Owner Texas Construction Consultants Tyler, TX 903-312-2846
Michael Barham Principal Barham Architects, LLC Tyler, TX 903-561-8110	Russ Jackson Director of Parks & Recreation City of Tyler Tyler, TX 903-531-1370	Kyle Rutherford Regional Director of Construction Christus Trinity Mother Frances Tyler, TX 903-606-6090
Kim Beckham Senior Pastor Central Baptist Church Tyler, TX 903-561-6361	Larry Dixon President Dixon Services, Inc. Tyler, TX 903-579-9300	George Roberts CEO Northeast TX Public Health District Tyler, TX 903-535-0036

Trade References

Rudd Contracting Company Rodney Rudd P.O. Box 298 Tyler, TX 75710 903-593-9531	Pro Electrical Services Marc Caskey P.O. Box 70 Chandler, TX 75758 903-852-4175	Hartmann Building Specialties Richard Albert 2121 Anthony Dr. Tyler, TX 75701 903-561-9446	Sword Company Mike Sword P.O. Box 6365 Tyler, TX 75711 903-561-1921	Larry's Interiors, Inc. Larry Odom 5717 Old Hwy. 135 N Kilgore, TX 75662 903-983-3466
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Bank and Bonding References

Regions Bank Michelle Balfay 100 E. Ferguson St. Tyler, TX 75702 903-535-4325	Prosperity Bank Tracy Mote 7102 S. Broadway Tyler, TX 75703 903-939-2265	West American Insurance Company 12750 Merit Dr., Ste. 710 Dallas, TX 75251	Boley-Featherston Insurance - Bonding Robbie Martin 701 Lamar St. Wichita Falls, TX 76301 940-723-7111
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September 11, 2019

Watson Commercial Construction
2233 Deerbrook
Tyler, TX 75703

RE: Banking Reference

To whom it may concern:

Watson Commercial Construction, Ltd. Maintains an operating account with an average collected balance of \$265,273. This account has been open since 2005 and has been handled in a complete satisfactory / "as agreed" manner.

You are welcome to contact me if any additional information is required.

Sincerely,

Lilly Webb

Lilly Webb
Commercial Relationship Assistant
100 E Ferguson
Tyler, TX 75702
(903) 535-4362

BOLEY-FEATHERSTON INSURANCE

Robbie Martin
Surety Producer
Robbie.Martin@boleyfeatherston.com

Phone: (940)723-7111 Toll Free: 800-234-1167 Fax: (940)766-1620 P.O. Box 97513 701 Lamar Wichita Falls, Texas 76307-7513 www.boleyfeatherston.com

April 17, 2020

Re: **Watson Commercial Construction, Ltd.**

To Whom it May Concern:

It is our understanding that Watson Commercial Construction, Ltd., intends to submit to you their qualifications for future contracting opportunities. It is our pleasure to share with you our experience with this client and to offer our recommendation to you on their behalf.

As a demonstration of our confidence in the management, performance capabilities and financial strength of this entity, we welcome the opportunity to provide payment and performance bonds to you subject to our normal review of the contract and bond documents, as well as other underwriting conditions in existence at the time of the request.

Watson Commercial Construction, Ltd., is bonded by FCI Insurance Company, an A (Excellent) rated company by A.M. Best with a \$10,000,000 single and \$15,000,000 aggregate program. Again, FCI Insurance Company would favorably consider any project tendered for their consideration by this contractor.

Once again, we offer our support in the recommendation of Watson Commercial Construction, Ltd., to you. If we can be of further assistance, please feel free to contact us.

Sincerely,



Tina McLelland
Attorney-In-Fact
FCI Insurance Company

A Member of:
K & S GROUP, INC

Independent Insurance Agents of Texas Texas Alliance of Energy Producers National Association of Surety Bond Producers



To Whom It May Concern:

RE: Watson Commercial Construction, Ltd.
Tyler, TX

Sir/Madam:

Harris Craig Architects, Inc. has worked with Watson Commercial Construction, Ltd., on a variety of different construction projects since 2003. In addition, our firm has worked with owner, Brad Watson, since 1986 while he was engaged with two other East Texas construction companies.

We found Watson Commercial Construction, Ltd., to be very professional and conscientious in their approach to these projects. The projects were completed on time and within the established budget, many times ahead of schedule and under budget. The personnel assigned were experienced and capable. We continue to enjoy an excellent working relationship with their firm. Their work for our joint clients has been exemplary.

Based on my experience, I would recommend Watson Commercial Construction, Ltd., on future projects you may have under consideration. I make this recommendation with no reservation. Please contact me if additional information is needed.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kent Harris', is written over the word 'Sincerely,'.

Kent Harris, AIA
Harris Craig Architects, Inc.



Re: Letter of Recommendation for Watson Commercial Construction, Ltd.

To Whom It May Concern,

I recently served as the point staff person from South Spring Baptist Church for our New Grade School Building project.

The project was competitively bid and timely submitted. Watson Commercial Construction provided the most competitive proposal in regards to both project timing and costs.

In all aspects of the project the management, field and project support staff conducted themselves professionally, demonstrating the possession of both technical knowledge and practical skills. Brad Watson, the company owner, was involved extensively and was engaged throughout the project's duration. Through his example, his entire team proved morally driven to meet owner expectation and the result was seen in the excellence of the outcome of the project.

This quality of work by Watson Commercial and the vast majority of their subcontractors was commendable. They produced a manageable and reasonably basic punch list at the conclusion of the project. Watson made every effort to push for as quick of a conclusion of the project as was possible all while maintaining attention to small details and producing a quality product.

We have no regrets with our time working with Watson Commercial for this project and would have no hesitation entering into future partnership on any other building project.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul McKenzie", written over a horizontal line.

Paul McKenzie
Executive Pastor



Re: Letter of Recommendation

To Whom It May Concern:

We have employed the construction services of Watson Commercial, Ltd., on numerous projects varying in scope from small to large over the last five years. Each of these projects is unique in its own right but similar in that they all have varying degrees of warranty issues that must be dealt with after completion of construction. Watson Commercial has always been attentive to our warranty issues as they are reported to them, have been quick to respond, as well as keeping the owner informed while seeking resolution to the issue. We have not had any problem getting them to address reported warranty issues after substantial completion, and in some cases, past the allotted warranty period. Their performance to date regarding warranty response has been excellent.

Sincerely,

A handwritten signature in blue ink, appearing to read "Blake Curtis". The signature is fluid and cursive, written over a light blue horizontal line.

Blake Curtis
Director of Architectural and Construction Services

CONSTRUCTION.PM

318 HAMPTON HILL DR., TYLER, TX 75703 - 903-312-2846 - DAVE@CONSTRUCTION.PM

Re: Watson Commercial Construction, Tyler, Texas

To Whom It May Concern,

I recently served as the Program Manager for the design and construction of the new Velocity Mazda in Tyler, Texas. The project was competitively bid and Watson Commercial Construction, LTD provided the most competitive proposal. The team at Watson Commercial Construction worked very closely with the owner and me to value engineer the project to achieve the owner's budget requirements, without sacrificing the high standards dictated by the automotive franchisor.

The project management staff, field staff, and project support staff were technically skilled and morally driven to provide an excellent project that exceeded all of the owner's expectations. The company owner, Brad Watson, remained engaged throughout the project to support the project team.

The quality of the work by Watson Commercial Construction and their subcontractors was exemplary. At the conclusion of the project, the punchlist was short and manageable, and the project was quickly commissioned.

Their experience and attention to the small detail during construction led to a top quality end product. Warranty requests for the project have therefore been minimal, and Watson Commercial Construction processed them very quickly and professionally.

Sincerely,



Dave Sherman



Re: Warranty Response

To Whom It May Concern:

We have employed the construction services of Watson Commercial, Ltd., on numerous projects varying in scope from small to large over the last five years. Each of these projects is unique in its own right but similar in that they all have varying degrees of warranty issues that must be dealt with after completion of construction. Watson Commercial has always been attentive to our warranty issues as they are reported to them, have been quick to respond, as well as keeping the owner informed while seeking resolution to the issue. We have not had any problem getting them to address reported warranty issues after substantial completion, and in some cases, past the allotted warranty period. Their performance to date regarding warranty response has been excellent.

Sincerely,

A handwritten signature in black ink that reads "Ryan McCloskey". The signature is written in a cursive, flowing style.

Ryan McCloskey, Project Manager III
CHRISTUS Trinity Mother Frances Health System

Outpatient Department of CHRISTUS Mother Frances Hospital

800 E. Dawson | Tyler | TX 75701
Tel 903.593.8441 | christustmf.org



Re: Letter of Recommendation for Watson Commercial Construction, Ltd.

To Whom It May Concern,

I recently served as the owner representative for the project *Texan Theater Exterior & Interior Rehabilitation* in Athens, Texas.

The project was competitively bid, and Watson Commercial Construction provided the most competitive proposal.

The project management staff, field staff, and project support staff were technically skilled and morally driven to provide an excellent project that exceeded all of the owner's expectations. The company owner, Brad Watson, remained engaged throughout the project to support the project team.

The quality of the work by Watson Commercial and their subcontractors was exemplary. At the conclusion of the project, the punch list was short and manageable, and the project was quickly concluded.

Watson Commercial's experience and attention to the small details during construction led to a top quality end product. Warranty requests for the project have therefore been minimal and were processed very quickly and professionally.

Sincerely,

A handwritten signature in black ink, appearing to read 'Thanasis Kombos', is written over a light blue circular stamp.

Thanasis Kombos
Public Works Director

Public Works

501 US Highway 175 W | Athens, Texas 75751 | P 903.677.6615 | F 903.220.0935



SMITH COUNTY JUVENILE SERVICES

*Tyler-Smith County Juvenile Attention Center
2630 Morningside Drive – Tyler, Texas 75708
903.535.0850 / Fax 903.533.2392*

Director
Ross Worley

Deputy Directors
Gayle Hayward
Chet Thomas

Re: Warranty Response Letter of Recommendation

To Whom It May Concern:

Smith County employed the construction services of Watson Commercial Construction, Ltd., for the construction of *Vocational Arts Building for Smith County Juvenile Services and Facility Recreational Area Cover for Smith County Detention Center*. As is common, we experienced some warranty issues and Watson Commercial was attentive and resolved the issues as they were reported to them. Their performance regarding warranty response has been excellent. I recommend their services.

Sincerely,

David L. Peters
Vocational/Community Service Supervisor

Smith County Juvenile Board

<i>Floyd Getz</i> Juvenile Judge County Court at Law # 3	<i>Carole Clark</i> Judge 321 st District Court	<i>Jason Ellis</i> Judge County Court at Law	<i>Kerry Russell</i> Judge 7 th District Court	<i>Nathaniel Moran</i> Judge County Judge, Chairman	<i>Christi Kennedy</i> Judge 11 th District Court	<i>Randall Rogers</i> Judge County Court at Law 2	<i>Jack Skeen</i> Judge 241 st District Court
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Christian Homes
& FAMILY SERVICES

Our vision is a Christian home for every child.

Re: Warranty Response Letter of Recommendation

Greetings:

Watson Commercial Construction, Ltd. is an amazing company, and we are fans of their entire team.

When we built our new office at 5476 Hollytree Drive in Tyler, we employed Watson Commercial Construction, Ltd. Not surprising, we experienced some warranty issues. Watson Commercial was attentive and resolved the issues quickly and efficiently. Their construction services and warranty response has been excellent.

I highly recommend the services of Watson Commercial Construction.

Sincerely,

Sherri T. Statler
President & CEO

MINISTRY ADMINISTRATION
www.ChristianHomes.com
Pregnancy Helpline 1.800.592.4725
P.O. Box 270
Abilene, Texas 79604

EAST TEXAS
5476 Hollytree Drive
Tyler, Texas 75703
Phone: 903.509.0558
Fax: 903.509.0577

NORTH TEXAS
5750 Rufe Snow Blvd, Suite 149
North Richland Hills, Texas 76180
Phone: 817.428.1441

WEST TEXAS
1202 Estates Drive
Abilene, Texas 79602
Phone: 325.677.2205
Fax: 325.677.0332

OKLAHOMA
3320 South 16th Street
Chickasha, Oklahoma 73018
Phone: 800.592.4725



Trinity Valley Electric Cooperative, Inc.

Re: Warranty Response Letter of Recommendation

To Whom It May Concern:

We employed the construction services of Watson Commercial Construction, Ltd., for the construction of *Trinity Valley Electric Cooperative, Inc. - Athens Office Repairs and Remodel*. As is common, we experienced some warranty issues, and Watson Commercial was attentive and resolved the issues as they were reported to them. Their performance regarding construction services and warranty response has been excellent. I recommend their services.

Sincerely,

A handwritten signature in blue ink that reads "Tony Watson".

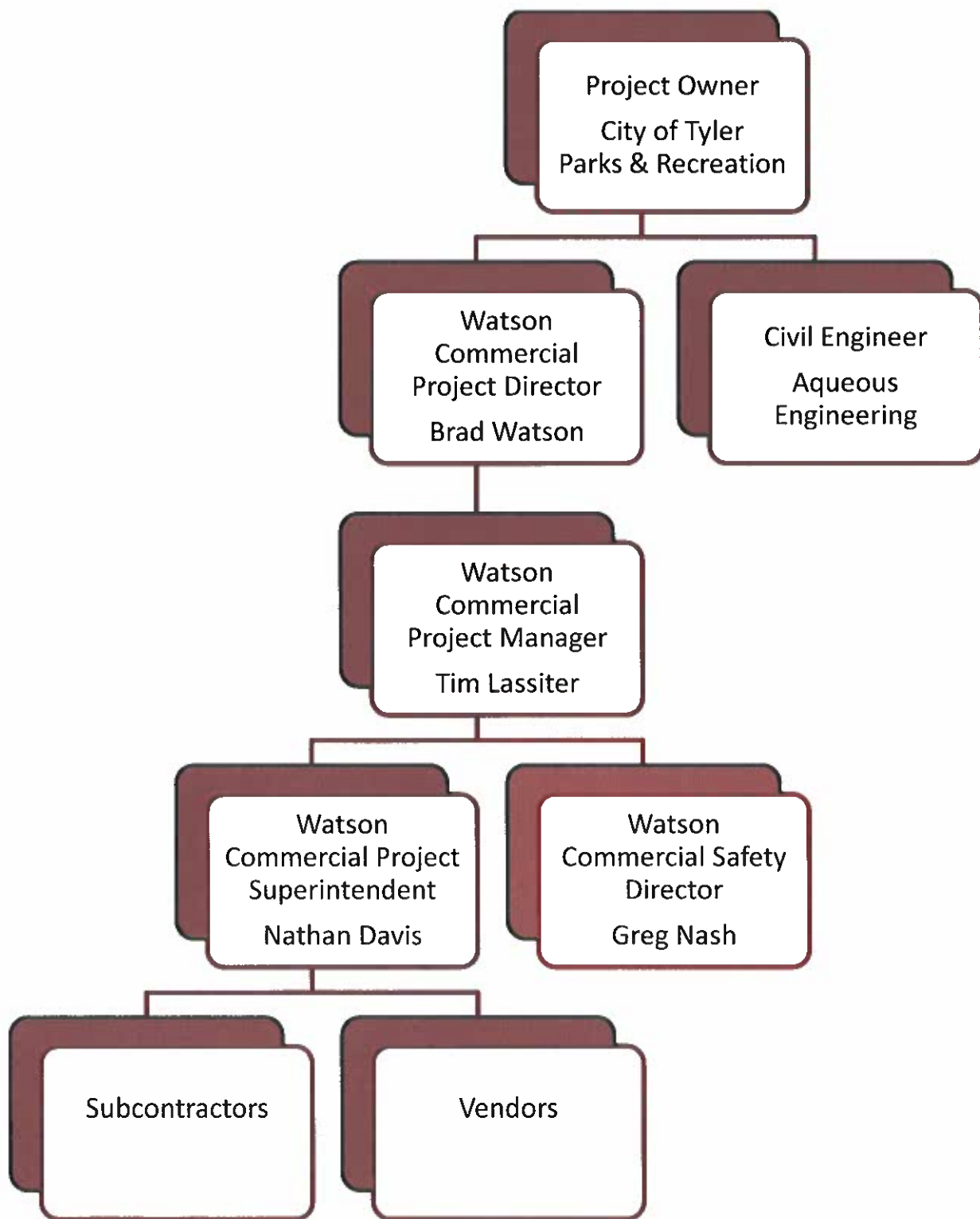
Tony Watson

Chief Operating Officer





Organizational Chart





Commercial • Institutional • Medical
 2233 Deerbrook Drive
 Tyler, Texas 75703
 Off: (903) 581-0393
 Fax: (903) 581-0472
www.watsoncommercialgc.com

Professional Resume for
Brad Watson
Project Director

Education:

- Graduated Palestine High School – 1971
- Graduated Tyler Junior College – 1973
- Associates of Arts Degree
- Graduated Texas A&M University – 1975
- Bachelor of Science Degree in Construction Management

Employment:

Watson Commercial Construction, Ltd., as Project Director

Projects (Brad's resume in its entirety is available upon request):

- UT Biomedical Research 'A' Wing Lab Renovations and Dr. Ikebe's Lab 2,613,416.00
- South Spring Baptist Church, Children's Education Building 3,460,621.00
- Additions and Renovations, First Baptist Church Atlanta TX 617,000.00
- Texan Theater Exterior and Interior Rehabilitation, Athens, Texas 1,636,316.00
- UT Health Northeast, Inpatient Pharmacy Renovation, Tyler, Texas 1,166,103.00
- Velocity Mazda, New Dealership, Tyler, Texas 2,189,458.00
- The Reynolds Company, New Electrical Supply House, Tyler, Texas 1,696,600.00
- Green Acres Baptist Church South, Expansion and Renovations 3,131,243.00
- UT North Tyler Clinic, Additions and Alterations 1,405,000.00
- Brookshire's Food Store #084, A Renovated Building and Fuel Kiosk Facility, Chandler, Texas 3,508,000.00
- Lakes Regional MHMR, New Daytime Activity Center, Rockwall, Texas 2,000,000.00
- Tyler Pounds Regional Airport, Rental Car Service Facility 1,139,000.00
- City of Tyler, New Fire Station No. 5 1,708,318.00
- Trinity Mother Frances Hospitals and Clinics, Fourth Floor Renovation Phases 1 and 2, Tyler, Texas 2,144,781.00
- Billings Tire Co., New Tire Facility, Tyler, Texas 540,000.00
- Adams Consulting Engineers, Additions and Renovations, Tyler, Texas 775,000.00
- Hainesville Baptist Church, Phases 1 & 2, Family Life and Youth Center, Mineola, Texas 3,565,000.00
- Trinity Mother Frances Hospitals and Clinics, Lake Palestine Fitness Clinic, Flint, Texas 4,500,000.00
- Trinity Mother Frances Hospitals and Clinics, Administrative Services Building, Tyler, Texas 3,372,000.00



Commercial • Institutional • Medical
 2233 Deerbrook Drive
 Tyler, Texas 75703
 Off: (903) 581-0393
 Fax: (903) 581-0472
www.watsoncommercialgc.com

Professional Resume for
Tim Lassiter
Project Manager

Education:

Certified Medical Assistant in Nursing

Nashville College of Medical Careers, Nashville, TN – 2000-2002

Marketing

Texas Tech, Lubbock, TX – 1998-2000

Business

Tyler Junior College, Tyler, TX – 1996-1998

Employment:

Watson Commercial Construction, Ltd., Project Manager, 2017-Current

- | | |
|--|------------|
| • Southside Park 2019 Renovations (in the final stages) | 223,136.00 |
| • Henderson County Precinct 4 Justice of the Peace Building (final stages) | 356,497.00 |
| • CTMF ASB Analysts Office Renovation | 12,967.00 |
| • First Baptist Church Atlanta TX Additions and Renovations | 617,000.00 |
| • CTMF Sulphur Springs Orthopedic Clinic | 376,444.00 |
| • City of Clarksville City Education and Community Gathering Space,
Clarksville City, Texas | 472,054.00 |
| • CBS News Room Renovation | 62,079.00 |

Canvas Construction Group, Tyler, TX – 2014-2017

Project Manager

- Manage projects from inception to close out.
- Perform take-off, build scopes of work, estimate and prepare proposals based on customer needs. Pursue bids from subcontractors to fulfill proposal requests.
- Create and maintain accurate project budgets. Create and maintain project schedules. Fulfill change order requests. Coordinate with subcontractors and job site personnel. Review subcontractor draw requests for accuracy and facilitate payment. Daily and weekly reports with customers, subcontractors, architects and management. Document and maintain all information for project records. Complete punch lists and facilitate payments on completed projects.

Off The Wall Design Company, Tyler, TX – 2001-2014
Owner/Manager

Responsibilities:

Manage day to day functions of a residential and commercial painting/remodel company. Coordinate with builders, designers, and customers on a daily basis. Manage crews at multiple locations. Market and sales of our products and services.

Skills:

Sales, Commercial and Residential Construction, Project Management, Interior Design, Employee Management, Payroll Management, Budget Analysis, Project Estimations, Blueprint Proficiency, Site Management



Commercial • Institutional • Medical

2233 Deerbrook Drive

Tyler, Texas 75703

Off: (903) 581-0393

Fax: (903) 581-0472

www.watsoncommercialgc.com

Professional Resume for
Nathan Davis
Project Superintendent

Employment:

Watson Commercial Construction, Ltd., 2014 - Present

Projects Supervised:

- | | |
|---|--------------|
| • PharmScript Tyler Interior Fit-out (in the final stage of completion) | 1,278,398.00 |
| • South Spring Baptist Church, Children's Education Building | 3,460,621.00 |
| • Texan Theater, Exterior and Interior Rehabilitation | 1,636,316.00 |
| • The Reynolds Company, New Electrical Supply House | 1,696,600.00 |
| • Green Acres Baptist Church South, Expansion and Renovations | 3,131,243.00 |

Jacobe Brothers Construction, Inc., 2011 - 2014

Projects Supervised:

- Pilgrims Bank
- Smith County Adult Probation Building
- Dayspring United Methodist Church, Phase II
- Pentecostal Church of God, a five-story renovation
 Following completion, research and pricing were required by Jacobe Brothers Construction, Inc., for renovations of existing structures for college campus and dormitories on behalf of Pentecostal Church of God College located in Euless, Texas.
- Colonial Hills Baptist Church
- Daysprings United Methodist Church, Phase I

WRL General Contractors, Ltd., 2010 - 2011

Projects Supervised:

- Lindale Baseball Fields
- Hallsville North Elementary

Denson Construction Company, Inc., 1995 - 2010

Projects Supervised:

- Tyler ISD, Ore Elementary
- Kaufman ISD Primary School
- Green Acres Baptist Church, Phase IV Renovations
- Green Acres Baptist Church, The Lighthouse Education Building
- East Texas Physician's Alliance Clinic
- Tyler ISD, Douglas Elementary
- Trinity Mother Frances Hospital
 - Canton Clinic
 - Pharmacy Renovations I and II
 - MRI #2

- Physicians' Dining and Renovation
- Jacksonville Hospital Bed Expansion
- Health Park Plaza, Phase II
- Northeast Expansion, Phases I and II
- Jacksonville Hospital New Heart Center and Imaging
- Neurology
- Cath Lab
- Urology Suite / Isolation Rooms
- GYN Surgery / HVAC Upgrade
- Emergency Care Renovations
- Radiology Refurbishment
- Kaufman ISD, Monday Primary School renovation
- DeKalb ISD, renovations and new buildings
- Whitehouse ISD, new high school
- Marshall Memorial Hospital, Executive Suite finish-out
- Marshall Memorial Hospital
 - Multi-health Service Facility
 - Entry / Lobby Addition, Phase I

Union Local # 1097, 1978 - 1995

Carpentry Projects:

- Thomas S. Byrne Company – Neiman Marcus warehouse
- Pro-Quip Corporation – set forms, tie rebar, pour concrete
- J.E. Kingham – carpentry work at Gladewater ISD's Gay Elementary School
- Monterey Construction Company – form carpenter, tie rebar, pour concrete
- Danan Services Company, Inc. – carpentry, set store fixtures in Sears Department Store at Longview Mall
- Arnold Hiet Construction Company – renovations and new home additions
- B.B. Reese Construction Company – form and finish carpenter
- Fisher Development, Inc. – carpentry, set store fixtures in Gap Department Store at Tyler Mall
- RPR Construction Company – form work, finish carpentry, doors, hardware, etc., on numerous projects
- Don Hill Construction Company – set forms, pour concrete, finish concrete, doors, hardware and install millwork
- Royal Plastering – drywall framing and sheetrock





Ability/Commitment to Respond to Needs

1. Number of projects currently under contract:

Six (6)

2. Ability to contact key personnel and anticipated response times outside of regular business hours and in the event of an emergency:

We are local and carry cell phones that are on 24/7.



Major Projects in Progress

Project:	Elkton Trail Clinic
Owner:	Staton Rose, LLC
Contact Name:	Suzanne Lambert
Contact Address:	2202 Woodlands Dr., Tyler, TX 75703
Contact Phone:	903-676-4019
Architect:	SC Architecture, LP
Contact Name:	Todd Colvin
Contact Address:	2931 Elkton Trail, Tyler, TX 75703
Contact Phone:	903-630-7330
Contract Amount:	\$890,000.00
Percent Complete:	40%
Scheduled Completion:	July 15, 2020
Delivery Method:	General Contracting
Project:	Country Place Senior Living of Jacksonville, TX
Owner:	CP Jacksonville (TX) LLC
Contact Name:	Rusty Prentice
Contact Address:	2909 Cole Ave., Ste. #115, Dallas, TX 75204
Contact Phone:	214-347-7140 ext. 101
Architect:	Randy Phillips, AIA
Contact Name:	Mike Decker
Contact Address:	121 N. Mead, Ste. 201, Wichita, KS 67202
Contact Phone:	316-267-4002
Contract Amount:	\$2,424,889.00
Percent Complete:	85%
Scheduled Completion:	May 1, 2020
Delivery Method:	General Contracting



Project: PharmScript Tyler - Interior Fit-out
Owner: Grey Street Builders, LLC
Contact Name: John Huthwaite
Contact Address: 57 W 57th St., 4th Fl., New York, NY 10019
Contact Phone: 212-223-7154
Architect: Architecture Studio Seo, PLLC
Contact Name: Go-Woon Seo
Contact Address: 308 W 82nd St., 11D, New York, NY 10024
Contact Phone: 310-795-3300
Contract Amount: \$1,255,989.00
Percent Complete: 98%
Scheduled Completion: March 15, 2020
Delivery Method: General Contracting

Project: Henderson Co. Precinct 4 Justice of the Peace Building
Owner: Henderson County
Contact Name: Jennifer Nicholson, Purchasing Department
Contact Address: 125 N. Prairieville, Ste. 202, Athens, TX 75751
Contact Phone: 903-676-4019
Architect: Chris Johnston
Contact Name: Chris Johnston
Contact Address: 16398 Red Oak Rd., Tyler, TX 75707
Contact Phone: 903-566-9444
Contract Amount: \$356,497.00
Percent Complete: 98%
Scheduled Completion: March 15, 2020
Delivery Method: General Contracting





Site Safety Practices

Our Culture

Watson Commercial is committed to maintaining a company culture that promotes and supports safe jobsite practices. This is key to operational excellence and elimination of injuries and property damage with the additional benefit of reduced operating costs. Following are the highlights of our safety program. Our written Safety Program in its entirety is available upon request.

- Daily jobsite analysis and reporting (see sample Daily Report, this tab)
- Weekly onsite safety meetings conducted by the superintendent for all present subcontractors (see sample Toolbox Talks, this tab)
- Weekly safety inspections performed by the Safety Director
- Highest OSHA-compliant safety standards
- Appropriate signage posted throughout the jobsite to alert workers of potential safety hazards
- Workers required to follow our strict safety and loss prevention program
- Workers held accountable to identify and report unsafe situations
- Drug and alcohol testing
- Management and owner involvement
- Subcontractor accountability for accidents
- Thorough accident management and follow-up by Watson Commercial and subcontractors
- Number of days without a "lost time" accident: none since October 30, 2009
- Notable Experience Modification Rate for Workers' Compensation insurance over the past six years (see letter from K&S Insurance Agency, this tab)



Commercial • Institutional • Medical
 2233 Deerbrook Drive
 Tyler, Texas 75703
 Off: (903) 581-0393
 Fax: (903) 581-0472
 www.watsoncommercialgc.com

DAILY REPORT
Construction Quality Control

Project Name	Report Date
Superintendent	

Weather and Site Conditions

Request Time Extension		Reason and Impact on Project			
Yes <input type="radio"/>	No <input checked="" type="radio"/>				
Site Condition		Temperature (°F)	Precipitation	Amount (inches)	Sky Condition
Suitable <input checked="" type="radio"/>	Windy <input checked="" type="radio"/>	7:00 AM 69	Rainfall	0	Clear <input checked="" type="radio"/> Cloudy <input type="radio"/>
Muddy <input type="radio"/>	Calm <input type="radio"/>	3:30 PM 92	Ice/Snow	0	Partly Cloudy <input type="radio"/>

WCC and Subcontractor Labor Activities

Name of Firm	Labor No.	% Task Complete	Activities and Tasks Performed
Watson Construction	2		Supervision, set leveling nuts on anchor bolts.
WM Miller Construction	8		Set forms on col. plinths from col. line B through col. line E at north covered walkway, clean up and backfill and compact on outside of
AK Contracting	8		Haul in and install rock base material on south parking lot.

Instructions from Owner, Architect and Engineer			
Superintendent's Notes			
Problems and Delays		Remarks and Actions Taken	
Interim Life Safety Measures - Daily			
Verified	Check List Item	Corrective Action	Date Completed or N/A
<input checked="" type="radio"/> Yes <input type="radio"/> No	Exits Unobstructed		
<input checked="" type="radio"/> Yes <input type="radio"/> No	Emergency Care Center Accessible		
<input type="radio"/> Yes <input checked="" type="radio"/> No	Temporary Alarms/Suppression System Function		N/A
<input checked="" type="radio"/> Yes <input type="radio"/> No	No Smoking Policy Enforced		
<input checked="" type="radio"/> Yes <input type="radio"/> No	Trash Cleaned Up		
<input checked="" type="radio"/> Yes <input type="radio"/> No	Hazardous Free Work Areas		
Interim Life Safety Measures - Weekly			
Verified	Check List Item	Corrective Action	Date Completed or N/A
<input type="radio"/> Yes <input checked="" type="radio"/> No	Smoke Tight Partition		N/A
<input checked="" type="radio"/> Yes <input type="radio"/> No	Fire Extinguishers in Place and Serviced		
<input checked="" type="radio"/> Yes <input type="radio"/> No	Safety and Hazard Inspection		
Contractor's Verification			
<p>Material and equipment used and work performed during this reporting period are in compliance with the contract plans, specifications and authorizations, and is acceptable to be forwarded on to other parties as deemed necessary by Watson Commercial Construction, Ltd.</p> <p><i>The information contained in this report is true and accurate to the best of my knowledge.</i></p>			
			_____ Project Superintendent

TOOLBOXTOPICS.COM

Company Name _____ Date _____

Job Name _____

GROUNDING & BONDING

The noncurrent-carrying metal parts of portable and/or plug-connected equipment shall be grounded. Portable tools and appliances protected by an approved system of double insulation or its equivalent need not be grounded. Where such an approved system is employed, the equipment shall be distinctively marked.

Exposed noncurrent-carrying metal parts of fixed electrical equipment, including motors, generators, frames and tracks of electrically operated cranes, electrically driven machinery, etc., shall be grounded.

Extension cords used with portable electric tools and appliances shall be of the approved three-wire type.

All temporary wiring shall be effectively grounded in accordance with the National Electrical Code.

Temporary lights shall be equipped with guards to prevent accidental contact with the bulb; however, guards are not required when the construction of the reflector is such that the bulb is deeply recessed. Temporary lights shall be equipped with heavy-duty electric cords with connections and insulation maintained in safe condition. Temporary lights shall not be suspended by their electric cords unless cords and lights are designed for this means of suspension. Splices shall have insulation equal to that of the cable. Cords shall be kept clear of working spaces and walkways or other locations in which they are readily exposed to damage. Portable electric lighting used in moist and/or other hazardous locations (For Example: drums, tanks, and vessels) shall be operated at a maximum of 12 volts.

Safety Recommendations: _____

Job Specific Topics: _____

M.S.D.S Reviewed: _____

Attended By:



Days without Lost Time

Number of days without a "lost time" accident: approximately ten and one-half (10.5) years.



K&S INSURANCE
NAVIGATING RISK. ENHANCING BUSINESS.

kandsins.com

March 17, 2020

RE: Watson Commercial Construction, Ltd
Workers' Compensation/Experience Modification Rate

To Whom It May Concern,

Please be advised the above-mentioned insured has had an EMR – Experience Modification Rate for Workers' Compensation insurance for the past six (6) years as follows:

Year	Exp. Mod. Factor
January 1, 2020	0.77
January 1, 2019	0.73
January 1, 2018	0.76
October 1, 2017	0.71
October 1, 2016	1.55
October 1, 2015	1.56

Please note that the loss experience data used to calculate the 2015-2017 experience modification rate for Watson Commercial Construction, Ltd. is combined with Watson Commercial Painting, Ltd. due to common ownership.

Sincerely,

Rebecca Powell



WORKERS COMPENSATION EXPERIENCE RATING

Risk Name: WATSON COMMERCIAL CONSTRUCTION LTD

Risk ID: 420955286

Rating Effective Date: 01/01/2020

Production Date: 08/20/2019

State: TEXAS

State	Wt	Exp Excess Losses	Expected Losses	Exp Prim Losses	Act Exc Losses	Ballast	Act Inc Losses	Act Prim Losses
TX	.09	17,870	28,849	10,979	0	25,375	1,158	1,158
(A) Wt	(B) Exp Excess Losses (D - E)	(D) Expected Losses	(E) Exp Prim Losses	(F) Act Exc Losses (H - I)	(G) Ballast	(H) Act Inc Losses	(I) Act Prim Losses	
.09	17,870	28,849	10,979	0	25,375	347	347	

	Primary Losses	Stabilizing Value	Ratable Excess	Totals
Actual	(I) 347	$C * (1 - A) + G$ 41,637	(A) * (F) 0	(J) 41,984
Expected	(E) 10,979	$C * (1 - A) + G$ 41,637	(A) * (C) 1,608	(K) 54,224
	ARAP	FLARAP	SARAP	MAARAP
Factors				(J) / (K) .77

RATING REFLECTS A DECREASE OF 70% MEDICAL ONLY PRIMARY AND EXCESS LOSS DOLLARS WHERE ERA IS APPLIED.

Carrier: 29939-000 Policy: 0002008444

Eff-Date: 01-01-2019 Exp-Date: 01-01-2020

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WORKERS COMPENSATION EXPERIENCE RATING

Risk Name: WATSON COMMERCIAL CONSTRUCTION LTD

Risk ID: 420955286

Rating Effective Date: 01/01/2020

Production Date: 08/20/2019

State: TEXAS

42-TEXAS

Firm ID: Firm Name: WATSON COMMERCIAL CONSTRUCTION LTD

Carrier: 29939 Policy No. 0001276547 Eff Date: 10/01/2015 Exp Date: 10/01/2016

Code	ELR	D-Ratio	Payroll	Expected Losses	Exp Prim Losses	Claim Data	IJ	OF	Act Inc Losses	Act Prim Losses
5437	1.52	.39	29,183	444	173	0001027296	06	F	1,158	1,158
5474	1.07	.38	981,462	10,502	3,991					
5606	.24	.38	288,890	693	263					
8227	.81	.36	43,090	349	126					
8742	.07	.37	56,000	39	14					
8810	.04	.40	380,552	152	61					
9014	.82	.39	33,281	273	106					
Policy Total:			1,812,458	Subject Premium:	59,801	Total Act Inc Losses:			1,158	

42-TEXAS

Firm ID: Firm Name: WATSON COMMERCIAL CONSTRUCTION LTD

Carrier: 29939 Policy No. 0001276547 Eff Date: 10/01/2016 Exp Date: 10/01/2017

Code	ELR	D-Ratio	Payroll	Expected Losses	Exp Prim Losses	Claim Data	IJ	OF	Act Inc Losses	Act Prim Losses
5437	1.52	.39	25,176	383	149					
5474	1.07	.38	1,253,007	13,407	5,095					
5606	.24	.38	219,723	527	200					
8227	.81	.36	28,974	235	85					
8742	.07	.37	59,400	42	16					
8810	.04	.40	364,607	146	58					
9014	.82	.39	28,472	233	91					
Policy Total:			1,979,359	Subject Premium:	63,620	Total Act Inc Losses:			0	

42-TEXAS

Firm ID: Firm Name: WATSON COMMERCIAL CONSTRUCTION LTD

Carrier: 29939 Policy No. 0002008444 Eff Date: 01/01/2018 Exp Date: 01/01/2019

Code	ELR	D-Ratio	Payroll	Expected Losses	Exp Prim Losses	Claim Data	IJ	OF	Act Inc Losses	Act Prim Losses
5437	1.52	.39	43,552	662	258					
5606	.24	.38	171,404	411	156					
8742	.07	.37	62,400	44	16					
8810	.04	.40	243,057	97	39					
9014	.82	.39	25,562	210	82					
Policy Total:			545,975	Subject Premium:	6,471	Total Act Inc Losses:			0	

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Financial Profile

Preparer of Financial Statement:

Gollob Morgan Peddy PC
1001 ESE Loop 323, Suite 300
Tyler, Texas 75701
903-534-0088

Revenue for 2015:	\$10,276,935.00
Revenue for 2016:	8,777,847.00
Revenue for 2017:	3,941,427.00
Revenue for 2018:	4,421,252.00
Revenue for 2019:	8,134,402.00
Anticipated Revenue for 2020:	\$8,000,000.00

Surety Information:

Bonding Company: West American Insurance Company
Address: 12750 Merit Dr., Ste. 710, Dallas, Texas 75251
Agent: Boley-Featherston Insurance
Address: 701 Lamar Street, Wichita Falls, Texas 76301

Total Bonding Capacity: \$15 Million

Total Bonding Amount Currently Committed to Other Projects: \$580,000.00

CONFIDENTIAL

**WATSON COMMERCIAL CONSTRUCTION, LTD.
AND AFFILIATE**

TYLER, TEXAS

COMBINED FINANCIAL STATEMENTS

YEAR ENDED DECEMBER 31, 2019

Gollob Morgan Peddy PC
CERTIFIED PUBLIC ACCOUNTANTS

1001 ESE Loop 323, Suite 300, Tyler, TX 75701
Tel 903-534-0088 Fax 903-581-3915 www.gmpcpa.com
Members American Institute of Certified Public Accountants and Private Companies Practice Section

**WATSON COMMERCIAL CONSTRUCTION, LTD. AND AFFILIATE
COMBINED BALANCE SHEET
DECEMBER 31, 2019**

ASSETS

CURRENT ASSETS

Cash and cash equivalents	\$ 371,600
Contracts receivable	1,582,974
Due from related party	47,918
Prepaid expenses	7,852
Employee advances	1,044
Contract assets	<u>187,133</u>

Total current assets 2,198,521

OTHER ASSETS

Marketable securities	<u>223,022</u>
-----------------------	----------------

Total non-current assets 223,022

PROPERTY AND EQUIPMENT

Machinery and equipment	135,890
Leasehold improvements	249,095
Vehicles	278,958
Furniture and fixtures	20,769
Computer and office equipment	<u>85,839</u>
	770,551
Less: accumulated depreciation	<u>(541,649)</u>

Total property and equipment 228,902

TOTAL ASSETS **\$ 2,650,445**

WATSON COMMERCIAL CONSTRUCTION, LTD. AND AFFILIATE
COMBINED BALANCE SHEET
DECEMBER 31, 2019

LIABILITIES AND PARTNERS' CAPITAL

CURRENT LIABILITIES	
Accounts payable - trade	\$ 1,507,148
Accrued payroll	10,412
Other accrued expenses	18,742
Due to related party	76,920
Current portion of long-term debt	25,856
Contract liabilities	<u>7,955</u>
Total current liabilities	1,647,033
LONG-TERM LIABILITIES	
Long-term debt, net of current portion	<u>100,993</u>
Total long-term liabilities	100,993
PARTNERS' CAPITAL	
Partners' capital	895,295
Accumulated other comprehensive loss	<u>7,124</u>
Total partners' capital	<u>902,419</u>
TOTAL LIABILITIES AND PARTNERS' CAPITAL	<u>\$ 2,650,445</u>

**WATSON COMMERCIAL CONSTRUCTION, LTD. AND AFFILIATE
COMBINED STATEMENT OF COMPREHENSIVE INCOME
YEAR ENDED DECEMBER 31, 2019**

CONSTRUCTION REVENUES		\$ 8,134,402
COSTS OF CONSTRUCTION		
Direct job costs		7,329,696
Indirect costs		<u>309,535</u>
Total costs of construction		<u>7,639,231</u>
Gross profit		495,171
GENERAL AND ADMINISTRATIVE EXPENSES		<u>334,335</u>
Income from operations		160,836
OTHER INCOME AND EXPENSE		
Interest income		4,541
Dividend income		1,502
Realized gain from investments		4,284
Gain on sale of fixed assets		<u>19,763</u>
Total other income		<u>30,090</u>
NET INCOME		190,926
OTHER COMPREHENSIVE INCOME		
Net unrealized gain on marketable securities		<u>16,540</u>
TOTAL COMPREHENSIVE INCOME		<u><u>\$ 207,466</u></u>

**WATSON COMMERCIAL CONSTRUCTION, LTD. AND AFFILIATE
COMBINED STATEMENT OF CHANGES IN PARTNERS' CAPITAL
YEAR ENDED DECEMBER 31, 2019**

BALANCE, DECEMBER 31, 2018	\$	728,334
Distributions		(23,965)
Net income		<u>190,926</u>
BALANCE, DECEMBER 31, 2019	\$	<u>895,295</u>
 ACCUMULATED OTHER COMPREHENSIVE INCOME (LOSS):		
Balance, beginning of the year	\$	(9,416)
Other comprehensive gain on marketable securities		<u>16,540</u>
Balance, end of the year	\$	<u>7,124</u>

WATSON COMMERCIAL CONSTRUCTION, LTD. AND AFFILIATE
COMBINED STATEMENT OF CASH FLOW
YEAR ENDED DECEMBER 31, 2019

Cash Flows From Operating Activities:	
Net income	\$ 190,926
Adjustments to Reconcile Net Income to	
Net Cash Provided by Operating Activities:	
Depreciation	55,414
Gain from sale of fixed assets	(19,763)
Realized gain from investments	(4,284)
(Increase) decrease in:	
Contracts receivable	(728,905)
Prepaid expenses	(2,265)
Due from related party	(13,190)
Receivables - other	(164)
Contract assets	(69,373)
Increase (decrease) in:	
Accounts payable	612,175
Due to related party	4,808
Accrued expenses	5,327
Contract liabilities	<u>7,955</u>
Net Cash Provided by Operating Activities	38,661
Cash Flows From Investing Activities:	
Purchases of fixed assets	(15,000)
Purchase of marketable securities	(104,977)
Proceeds from sale of marketable securities	54,781
Proceeds from sale of fixed asset	<u>21,408</u>
Net Cash Used in Investing Activities	(43,788)
Cash Flows From Financing Activities:	
Distributions	(5,500)
Principal paid on long-term debt	<u>(43,239)</u>
Net Cash Used in Financing Activities	(48,739)
Net Decrease in Cash and Cash Equivalents	(53,866)
CASH AND CASH EQUIVALENTS, BEGINNING OF YEAR	<u>425,466</u>
CASH AND CASH EQUIVALENTS, END OF YEAR	<u>\$ 371,600</u>
Supplemental Disclosure of Cash Flow Information	
Interest paid	\$ 4,066
Summary of Non-cash Investing and Financing Activities:	
Fixed assets acquired by financing agreement	\$ 112,800
Distribution of company property	\$ 18,465

The Reynolds Company Electrical Supply



Green Acres Baptist Church South Campus



Five Guys Restaurant



Lakes Regional Community Center, Rockwell



Central Baptist Church Student Center



UT North Tyler Clinic



Flint Baptist Church



Region 7 Education Service Center



CTMF Lake Palestine HealthPark



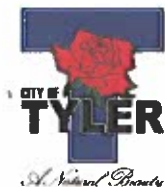
Caddo Mounds Visitor Center



UT Tyler Baptist Student Ministries Student Center



Brookshire's Grocery Company, Chandler



REQUEST FOR QUOTATION

THIS IS NOT AN ORDER

CITY OF TYLER
Purchasing Department
304 North Border
Tyler, Texas 75702

March 23, 2020
DATE MAILED

Quote No: 20-027
(Number must appear on ALL correspondence)

Closing Time: 2:00 pm

Closing Date: April 28, 2020

Telephone: (903) 531-1232

Addressed To:

Casey Slone Construction, I.I.C.
PO Box 1614
Marshall, Texas 75671

Please quote as per instructions indicated below for the articles described. Quotes must be submitted on City of Tyler forms to be considered. All items or services called for must be in strict accordance with all of the requirements and specifications attached hereto or furnished upon request.

INSTRUCTIONS:

1. Keep duplicate copy of proposal for your files.
2. Federal Excise Taxes are exempted, also Federal Transportation Tax, State Tax, and City Sales Tax.
3. Return this form at once if unable to quote.
4. Specify Trade name or brand in space.

Purchasing Manager

Sealed quotes to furnish the following will be received in the Purchasing Office @ 304 North Border, Tyler, Texas 75702, Attn: Sherry Pettit until April 28th, 2020 and opened by City Staff on the City Hall Steps @ 212 North Bonner @ 2:00 pm.

Demolition and Construction of Emmett J. Scott Park

QUOTE IDENTIFICATION:

Quote number, closing time, date, and item requested must appear on outside of envelope in lower left hand corner.

DATA SHEETS:

All bidders must complete each specification data sheet in spaces provided on each item that is bid as well as all information requested on the price data sheet. Said price, data and specifications sheet is hereby made a part of this quotation.

DELIVERY:

Delivery must be stated in your quote on the data sheet as the number of calendar days from date of order.

The City of Tyler reserves the right to reject any and/or all bids and to waive any and/or all formalities and to award purchase total amount, partial amount or individual item basis.

In submitting the above, the vendor agrees that acceptance by the City of Tyler within a reasonable period constitutes a binding agreement.

In submitting the above request and attached bid to the City of Tyler, I hereby certify that we have not participated in nor been a party to any collusion, price fixing or any other agreements with any company, firm, or person concerning the pricing of the enclosed quotation.

NET 30
INVOICING TERMS

Casey Slone Construction, I.I.C.
COMPANY NAME

April 28, 2020
DATE

Casey Slone
AUTHORIZED REPRESENTATIVE (print)

SIGNATURE

See other side for TERMS AND CONDITIONS

* All Quotes Must Be Signed

TERMS AND CONDITIONS

Quotations are requested for furnishing the items described herein in accordance with the terms set forth. **ALL QUOTATIONS MUST BE F.O.B. DESTINATION** and include the cost of boxing and cartage to the delivery point as stated on this form.

In the case of default, the City of Tyler, Texas reserves the right to hold the original bidder or contractor liable for any and all resultant increased costs.

Samples, if requested by the City of Tyler, must be furnished at the bidder's expense, and if not destroyed in testing or retained as a standard, will be returned on the same terms, if requested by the bidder.

Quotes may be withdrawn on written or telegraphic request received from bidders prior to the time set for opening. Negligence on the part of the responder in preparing the proposal confers no right for the withdrawal of the proposal after the hour fixed for the opening.

Any oral statement by any representative of the City, modifying or changing any conditions of this contract, is an expression of opinion only and confers no right upon the seller.

All discounts, if applicable, shall be shown in discount amount space provided on data sheets - **EXCEPT IN TERMS FOR PROMPT PAYMENT.**

For proper identification; proposal number, closing time, date, and item requested must appear on outside of envelope in lower left hand corner.

If delay in delivery as specified on the purchase order is foreseen, supplier shall give written notice to Purchasing Office immediately. The City has the right to extend the delivery date if reasons appear valid. Supplier must keep the City advised at all times of the status of order. Default in promised delivery (without accepted reasons) or failure to meet specifications, authorizes the City of Tyler to purchase material elsewhere and charge full increase in cost and handling to the defaulting supplier and could also be reason for cancellation of the Purchase Order (at no expense to the City if the City of Tyler deems it necessary).

Any quote submitted on a public works project shall comply with the additional requirements and conditions attached hereto as well as the terms and conditions stated herein.

Certificate of Interested Parties:

In accordance with Texas Government Code Sec. 2252.908, for certain contracts entered into on or after January 1, 2016, the successful bidder must submit a *Certificate of Interested Parties* (Form 1295) at the time the signed contract is submitted to the CITY. The law applies (with a few exceptions) only to a City contract between a business entity and a governmental entity or state agency that either (1) requires an action or vote by the City Council before the contract may be signed or (2) has a value of at least \$1 million.

The *Certificate of Interested Parties* (Form 1295) must be filed electronically with the Texas Ethics Commission using the online filing application located at https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm.

If you need additional information about the Certificate of Interested Parties Form 1295 Procedure, contact Purchasing at (903) 531-1232.



Post Office Box 1614 - Marshall, Texas 75671 - (903) 503-3733
casey@caseysloneconstruction.com

BID DOCUMENTS

City of Tyler – Emmett J Scott Park

RFP # 20-027

Casey Slone Construction, LLC.

Casey Slone – (903) 503-3733

Fax # - N/A

PO Box 1614, Marshall, TX 75671

casey@caseysloneconstruction.com

Bid Opening: April 28, 2020, 2:00pm



Post Office Box 1614 ~ Marshall, Texas 75671 ~ (903) 503-3733
 casey@caseysloneconstruction.com

Emmett J Scott Park
 City of Tyler, Texas
 Bid #20-027

Table of Contents

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Section 5 PROPOSAL

Proposal for CIP Contract to The City of Tyler, Texas

Date of Bid: April 28, 2020

The undersigned, as bidder, in compliance with **CITY'S Notice To Bidders** for construction of:

City of Tyler Bid Number: 20-027

Project Name: Demolition and Construction of Emmett J Scott Park

for the City of Tyler, Smith County, Texas, declares that the only person or parties interested in this proposal as principals are those named herein, that this proposal is made without collusion with any other person, firm, or corporation, that he has carefully examined the form of contract, **Instructions to Bidders**, specifications, and the plans therein referred to, and has carefully examined the locations, conditions, and classes of materials of the proposed work; and agrees that he will provide all the necessary labor, machinery, tools, apparatus, and other items incidental to construction, and will do all the work and furnish all the materials called for in the contract and specifications in the manner prescribed therein and according to the requirements of the Engineer as therein set forth, for the following unit prices.

It is understood that the following quantities of work to be done at unit prices are approximate only, and are intended principally to serve as a guide in evaluating bids.

It is further agreed that the following quantities of work to be done at unit prices and materials to be furnished may be increased or decreased as may be considered necessary, in the opinion of the Engineer, to complete the work fully as planned and contemplated, and that all quantities of work, whether increased or decreased are to be performed at the unit prices set forth below except as provided for in the specifications.

It is further agreed that lump sum prices may be increased by change order to cover additional work ordered by the Engineer, but not when on the plans or required by the specifications, or in accordance with the **General Conditions** and **Special Conditions** and requirements. Similarly, they may be decreased to cover deletion of work so ordered.

It is further agreed that the unit and lump sum prices shall be shown in words and figures for each item listed in this proposal, and in the event of discrepancy, the words shall control, and should the bid price on any item be completely omitted, the proposal will be considered incomplete, and the proposal will be disqualified. It is understood and agreed that the work is to be completed in full either:

- 1) within Seventy-Five, (75) calendar days after the date specified in the written **Notice to Proceed**, or ****Pending Building Delivery**
- 2) on or before the **mandatory completion** date of Enter mandatory completion date, subject to such extensions of time as are provided by the **General Conditions**.

Accompanying this proposal is a Bid Bond, Certified Check, or Cashier's Check payable to the City of Tyler for:



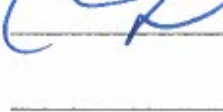
AMOUNT:

Five percent of Greatest Amount Bid Dollars
and Cents

\$ 5% GAB for the BASE BID

The undersigned certifies that the bid prices contained in this proposal have been carefully checked and are submitted as correct and final.

Receipt is hereby acknowledged of the following addenda to the Contract Documents:

ADDENDUM NO. 1	<u>April 14, 2020</u>	Received 
ADDENDUM NO. 2	<u>April 24, 2020</u>	Received 
ADDENDUM NO. 3	<u>April 27, 2020</u>	Received 
ADDENDUM NO. 4	_____	Received _____
ADDENDUM NO. 5	_____	Received _____

Casey Slone Construction, LLC.

Bidder 

Signature

PO Box 1614

Street Address

Marshall, Texas, 75671

City, State, Zip

Casey Slone

Printed Name

903-503-3733

Telephone Number

President

Title

April 28, 2020

Date

NOTE: An Environmental Plan Review is required for the project. This plan review will be coordinated by the Owner and is not the responsibility of the Bidder. However, each Bidder shall note that **the Owner reserves the right to cancel or reject the bid if the Environmental Plan Review reflects that the project is not viable.**

****We are excluding the Contractor Responsibility Clause
**Requested bond for Contractor to fund project is not available
Block sod is NOT included in the base bid.

BASE BID:

Bid Item	Unit	Item Description and Written Unit Price	Unit Price	Amount
1	L.S.	Demolition of all structures, vegetation and utilities indicated on the Plans and construction of new site features, amenities and utilities shown on Plan sheet C6.2, complete and in place, for		
		Two hundred seventeen thousand seven hundred twenty-seven Dollars		
		ZERO Cents	\$ 217,727.00	\$ 217,727.00
2	L.S.	Provide an Owner's Discretionary Allowance to be utilized by the Owner for "upgrades" to the project or to account for items that will be "discovered" during the construction that were previously unknown, for the Lump Sum amount of \$30,000.00	\$ 30,000.00	\$ 30,000.00

ADD ALTERNATES:

Bid Item	Unit	Item Description and Written Unit Price	Unit Price	Amount
A-1	L.S.	Install new park sign and ground-mounted solar-powered LED spotlight as indicated on sheet C6.2, complete and in place, for		
		<i>Twenty-four thousand six hundred thirty-three</i> Dollars		
		<i>ZERO</i> Cents	\$ <i>24,633⁰⁰</i>	\$ <i>24,633⁰⁰</i>
A-2	L.S.	Install four (4) new light poles on concrete bases with two (2) new solar-powered, LED light fixtures per pole, complete and in place, for		
		Eleven thousand nine hundred fifty-six Dollars		
		<i>ZERO</i> Cents	\$ 11,956.00	\$ 11,956.00
A-3A	L.S.	Install reinforced concrete basketball court with "traditional" court striping, the sidewalks connecting the court to nearby park features, park bench areas adjacent to the court, and two (2) new light poles with two (2) new solar-powered LED light fixtures per pole at the court area, complete and in place, for		
		One hundred eighteen thousand Dollars		
		<i>ZERO</i> Cents	\$ 118,000.00	\$ 118,000.00
A-3B	L.S.	Install black, vinyl-coated chain link fence (with gates) around basketball court, as indicated on sheet C6.2, complete and in place, for		
		Nineteen thousand four hundred eighty-six Dollars		
		<i>ZERO</i> Cents	\$ 19,486.00	\$ 19,486.00
A-3C	L.S.	Provide "specialty" painting of the basketball court that includes painting of the complete sidelines and baselines of the court, "Emmett J Scott" wording on each sideline, and City of Tyler logo at center court, complete and in place, for		
		Seven thousand five hundred Dollars		
		<i>Zero</i> Cents	\$ 7,500.00	\$ 7,500.00

ADD ALTERNATES (continued):

Bid Item	Unit	Item Description and Written Unit Price	Unit Price	Amount
A-4	L.S.	Construct new concrete walking trail and sidewalks beyond the limits of all other bid items as indicated on sheet C6.2, complete and in place, for		
		Sixty-five thousand six hundred eighty-eight Dollars		
		ZERO Cents	\$ 65,688.00	\$ 65,688.00
A-5	L.S.	Install new irrigation system as indicated on the irrigation plan, complete and in place, for		
		Dollars		
		Cents	\$	\$
A-6	L.S.	Raise the canopies, and thin the canopies, of existing trees near the new playground, swingset, pavilion, and basketball court area, complete and in place, for		
		Four thousand Dollars		
		ZERO Cents	\$ 4,000.00	\$ 4,000.00
A-7	L.S.	Furnish and install block sod in all disturbed areas, complete and in place, for		
		Twenty-one thousand seven hundred Dollars		
		ZERO Cents	\$ 21,700.00	\$ 21,700.00

UNIT PRICING:

Bid Item	Unit	Item Description and Written Unit Price	Unit Price	Amount
U-1	S.F.	Construct 6-foot wide, 4-inch thick City of Tyler standard sidewalk with 8-inch x 8-inch thickened edge (walking trail), complete and in place , for		
		Eight Dollars		
		Twenty-five Cents per S.F.	\$ 8.25	\$ 8.25
U-2	S.F.	Construct 4-inch thick concrete slab reinf w/ #3 bars @ 18" o.c.e.w., complete and in place, for		
		Eight Dollars		
		Twenty-five Cents per S.F.	\$ 8.25	\$ 8.25
U-3	Ea.	Construct new concrete light pole base, install new metal light pole (provided by City), and install new solar-powered LED area light (provided by City) with appurtenances, complete and in place, for		
		Two thousand six hundred eighty Dollars		
		ZERO Cents per Each	\$ 2,680.00	\$ 2,680.00
U-4	S.Y.	Furnish and install block sod grass, complete and in place, for		
		Five Dollars		
		Twenty Cents per S.Y.	\$ 5.20	\$ 5.20
U-5	Ea.	Construct new concrete pad for installation of park bench and trash receptacle having dimensions indicated on the Plans, complete and in place, for		
		Five hundred eighty-five Dollars		
		ZERO Cents		
		Dollars		
		Cents	\$ 585.00	\$ 585.00

BID SUMMARY

BASE BID TOTAL

Two hundred forty-seven thousand seven hundred twenty-seven Dollars
and ZERO Cents

\$ 247,727.00

ADD ALTERNATES TOTAL

Two hundred seventy-two thousand nine hundred sixty-three Dollars
and ZERO Cents

\$ *272,963⁰⁰*

BASE BID TOTAL + ADD ALTERNATIVES = TOTAL BID

Five hundred twenty thousand six hundred ninety Dollars
and ZERO Cents

\$ *520,690⁰⁰*

STATEMENT OF MATERIALS AND OTHER CHARGES

For purposes of complying with TEX. TAX CODE ANN. Title 2., Subtitle E., Chapter 151, Subchapter C. § 151.056, Subchapter H. § 151.301, § 151.309, § 151.311, the **CONTRACTOR** agrees that the charges for any material incorporated into the project in excess of the estimated quantity provided for herein will be no less than the invoice price for such material to the **CONTRACTOR**.

Value of Materials Incorporated Into the Project:	\$ 134,990.74
Value of All Other Charges:	\$ 82,736.26
*Total:	\$ 217,727.00

**This is base bid without the \$30,000 owner contingency

* This statement may be submitted with *Proposal* and the total must agree with the **total bid** figure shown in the Bid Summary section above.

Section 6 BID BOND

Check Here if this Section is NOT Used

THE STATE OF TEXAS §
 § **BID BOND**
COUNTY OF SMITH §

THAT, Casey Slone Construction, LLC [contractor], as **PRINCIPAL**, and Travelers Casualty and Surety Company of America [surety], as **SURETY**, acknowledge their indebtedness and are held and firmly bound unto the City of Tyler (CITY), Texas in Smith County, as **OBLIGEE**, in the amount of Five Percent of Greatest Amount Bid [insert figure using written words], (\$ 5% GAB) [insert numerical figure] payable to the City of Tyler, Texas for the payment of which, the said **PRINCIPAL** (Contractor) and **SURETY** bind themselves, and their heirs, administrators, executors, successors, legal representatives, and assigns, jointly and severally, firmly by these presents.

PRINCIPAL (Contractor) is about to submit to **OBLIGEE** (City) a bid or proposal for:

City of Tyler Bid Number 20-027
Project Name **Emmett J Scott Park**

in accordance with plans and specifications filed in **OBLIGEE'S** (City's) office and under the Request for Quotation (RFQ) / Request for Proposal (RFP) / Invitation to Bid therefor.

NOW THEREFORE:
THE CONDITION OF THIS OBLIGATION IS THAT IF:

- 1) the bid or proposal is rejected, or
- 2) the bid or proposal of **PRINCIPAL** (Contractor) is accepted; and
 - a. the contract for the work is awarded to **PRINCIPAL** (Contractor) by **OBLIGEE** (City),
 - b. **PRINCIPAL** (Contractor) enters into a written contract in the form of contract provided in these contract documents (properly completed in accordance with the bid),
 - c. **PRINCIPAL** (Contractor) furnishes a *Performance and Maintenance Bond* for the performance of the work as required by law and/or the AGREEMENT,
 - d. **PRINCIPAL** (Contractor) furnishes a *Payment Bond* for the payment of all persons performing labor or furnishing materials in connection therewith as required by law and/or the AGREEMENT, and
 - e. **PRINCIPAL** (Contractor) in all other respects performs the agreement created by the acceptance of the bid,

then this obligation will be null and void; otherwise, subject to the following limitation, it will remain in full force and effect.

The limitation referred to above is that surety, in any event, will not be liable for a greater amount than the difference between the amount of principal's bid or proposal and the lowest amount in excess of that bid or proposal for which **CITY** may be able to award the contract within a reasonable time.

The **SURETY**, for value received, hereby stipulates and agrees that the obligations of said

SURETY and its Bond shall be in no way impaired or affected by any extension of the time within which the **OBLIGEE** (City) may accept such bid; and said **SURETY** does hereby waive notice of any such extension.

I (WE) CERTIFY that the **SURETY** is registered by the State Board of Insurance to conduct business in the State of Texas, and acceptable according to the latest list of companies holding Certificates of Authority from the Secretary of the Treasury of the United States, shown on the Treasury List.

I (WE) CERTIFY that the **SURETY** has reviewed the financial condition of the **PRINCIPAL** and the **PRINCIPAL'S** qualification to perform the work required by this project.

IN WITNESS WHEREOF the **PRINCIPAL** (Contractor) and **SURETY** have hereunto set their hands and seals, and such of them as are corporations have caused their corporate seals to be hereunto affixed and these presents to be signed by their proper officers, the day and year set forth below.

Signed this 28th day of April, 20 20.

BOND NUMBER: Lid

PRINCIPAL (Contractor)

Casey Slone Construction, LLC
Printed Name of Principal

7128 IH 20 North Service Rd. W
Hallsville, TX 75650
Physical Address

P. O. Box 1614
Marshall, TX 75671
Mailing Address

903-503-3733
Telephone Number

By: [Signature]
Signature

President
Title

SURETY

Travelers Casualty and Surety Company of America
Printed Name of Surety

1 Tower Square
Hartford, CT 06183
Physical Address

1 Tower Square
Hartford, CT 06183
Mailing Address

800-842-8496
Telephone Number

By: [Signature]
Signature **Cindy Rodriguez**

Attorney-in-Fact
Title

SURETY'S SEAL:



Travelers Casualty and Surety Company of America
Travelers Casualty and Surety Company
St. Paul Fire and Marine Insurance Company

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St Paul Fire and Marine Insurance Company are corporations duly organized under the laws of the State of Connecticut (herein collectively called the "Companies"), and that the Companies do hereby make, constitute and appoint **Cindy Rodriguez** of **ROCKWALL Texas**, their true and lawful Attorney-in-Fact to sign, execute, seal and acknowledge any and all bonds, recognizances conditional undertakings and other writings obligatory in the nature thereof on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

IN WITNESS WHEREOF, the Companies have caused this instrument to be signed, and their corporate seals to be hereto affixed, this 17th day of January 2019.



State of Connecticut
City of Hartford ss.

By: *Robert L. Raney*
Robert L. Raney, Senior Vice President

On this the 17th day of January, 2019, before me personally appeared Robert L. Raney, who acknowledged himself to be the Senior Vice President of Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company, and that he, as such, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing on behalf of said Companies by himself as a duly authorized officer.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

My Commission expires the 30th day of June, 2021



Anna P. Nowik
Anna P. Nowik, Notary Public

This Power of Attorney is granted under and by the authority of the following resolutions adopted by the Boards of Directors of Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company, which resolutions are now in full force and effect, reading as follows:

RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President, any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary may appoint Attorneys-in-Fact and Agents to act for and on behalf of the Company and may give such appointee such authority as his or her certificate of authority may prescribe to sign with the Company's name and seal with the Company's seal bonds, recognizances, contracts of indemnity, and other writings obligatory in the nature of a bond, recognizance, or conditional undertaking, and any of said officers or the Board of Directors at any time may remove any such appointee and revoke the power given him or her; and it is

FURTHER RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President may delegate all or any part of the foregoing authority to one or more officers or employees of this Company, provided that each such delegation is in writing and a copy thereof is filed in the office of the Secretary; and it is

FURTHER RESOLVED, that any bond, recognizance, contract of indemnity, or writing obligatory in the nature of a bond, recognizance, or conditional undertaking shall be valid and binding upon the Company when (a) signed by the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or an Assistant Secretary and duly attested and sealed with the Company's seal by a Secretary or Assistant Secretary; or (b) duly executed (under seal, required) by one or more Attorneys-in-Fact and Agents pursuant to the power prescribed in his or her certificate or their certificates of authority or by one or more Company officers pursuant to a written delegation of authority; and it is

FURTHER RESOLVED, that the signature of each of the following officers: President, any Executive Vice President, any Senior Vice President, any Vice President, any Assistant Vice President, any Secretary, any Assistant Secretary, and the seal of the Company may be affixed by facsimile to any Power of Attorney or to any certificate relating thereto appointing Resident Vice Presidents, Resident Assistant Secretaries or Attorneys-in-Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and any such Power of Attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by such facsimile signature and facsimile seal shall be valid and binding on the Company in the future with respect to any bond or understanding to which it is attached.

I, **Kevin E. Hughes**, the undersigned, Assistant Secretary of Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company, do hereby certify that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which remains in full force and effect.

Dated this 28th day of April, 2020.



Kevin E. Hughes
Kevin E. Hughes, Assistant Secretary

To verify the authenticity of this Power of Attorney, please call us at 1-800-421-3880.
Please refer to the above-named Attorney-in-Fact and the details of the bond to which this Power of Attorney is attached.



Post Office Box 1614 – Marshall, Texas 75671 – (903) 503-3733
 casey@caseysloneconstruction.com

Supplementary Information Requirements

1. PROJECT EXPERIENCE WITH REFERENCES

Project Name	Mission Dolores State Historic Site		
Project Location	701 S. Broadway, San Augustine, TX 75972		
Contract Delivery Method	General Contractor		
Project Description	Multiple site project consisting of Visitor Center renovation and new maintenance building.		
Project Owner	Texas Historical Commission – Glenn Reed – 512.463.6387		
Owner Address	PO Box 12276, Austin, TX 78711		
Final Project Size (Gross Square Feet)	Visitor Center (Renovation) = 6,330 Maintenance Building (New) = 1,500		
Original Cost	\$ 713,900	Final Cost (Including Change Orders)	\$ 750,730
Construction Type	New & Renovation		
Date of Notice to Proceed	July 22, 2019	Date of Substantial Completion	February 14, 2020
Project Manager	Casey Slone & Wade Hughes		
Project Architect	Hawkins Architecture – Andrew Hawkins – 979.693.3179		

Project Name	Mount Pleasant Animal Care and Adoption Center		
Project Location	300 Enterprise Blvd, Mount Pleasant, TX 75455		
Contract Delivery Method	General Contractor		
Project Description	Construction of multi-purpose animal shelter serving Mt.Pleasant and surrounding communities.		
Project Owner	City of Mount Pleasant – Corey Gable (Current Facility Manager) 903.717.1077		
Owner Address	501 North Madison, Mount Pleasant, TX 75455		
Final Project Size (Gross Square Feet)	8,200		
Original Cost	\$ 1,800,000	Final Cost (Including Change Orders)	\$ 1,848,282
Construction Type	New		
Date of Notice to Proceed	July 2018	Date of Substantial Completion	April 2019
Project Manager	Casey Slone & Brian Wright		
Project Architect	Brevard Architecture – Brent Brevard – 903.747.0704		

Project Name	Longview Multimodal Transportation Center		
Project Location	908 E Pacific Ave, Longview, TX 75602		
Contract Delivery Method	General Contractor		
Project Description	Site enhancement, site work, existing restroom re-location, site utilities, electrical services, storm drainage, handicap ramps and sidewalks		
Project Owner	City of Longview – Kevin Chumbley (Public Works Facility Manager) 903.237.1112		
Owner Address	300 W. Cotton, Longview, TX 75601		
Original Cost	\$ 1,036,000	Final Cost (Including Change Orders)	\$ 1,036,000
Construction Type	New		
Date of Notice to Proceed	November 2018	Date of Substantial Completion	November 22, 2019
Project Manager	Casey Slone & Wade Hughes		
Project Architect	Johnson & Pace		



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Project Name	Caddo Lake State Park – Camping Area Restrooms and Parking		
Project Location	245 Park Road 2, Karnack, TX 75661		
Contract Delivery Method	General Contractor		
Project Description	Constructed new bathroom & shower facilities in public camping area.		
Project Owner	Texas Parks and Wildlife - Jessica Davisson – 512.657.1549		
Owner Address	4200 Smith School Road, Austin, TX 78744		
Final Project Size (Gross Square Feet)	2,380		
Original Cost	\$ 834,899	Final Cost (Including Change Orders)	\$ 1,008,923
Construction Type	New		
Date of Notice to Proceed	December 2017	Date of Substantial Completion	November 2018
Project Manager	Casey Slone & Wade Hughes		
Project Architect	T. Howard & Associates		

Project Name	Stephen F Austin State University – Boynton Building		
Project Location	Nacogdoches, Texas 75962		
Contract Delivery Method	General Contractor		
Project Description	Complete demo and reconstruction of men's and women's restrooms on 1 st , 2 nd , and 3 rd floors while maintaining owner operations during construction. (Phased)		
Project Owner	SFA – Jessica Dewitt (903-468-4807)		
Owner Address	2124 Wilson Drive		
Original Cost	\$ 227,413	Final Cost (Including Change Orders)	\$ 227,413
Construction Type	Remodel		
Date of Notice to Proceed	May 28, 2019	Date of Substantial Completion	December 5, 2019
Project Manager	Casey Slone & Wade Hughes		
Project Architect	Goodwin – Lasiter - Strong		

Project Name	Marshall Public Library		
Project Location	300 S Alamo Blvd, Marshall, TX 75670		
Contract Delivery Method	General Contractor		
Project Description	Complete Interior Renovation and Handicap Accessible Upgrades to Restrooms		
Project Owner	City of Marshall – Mark Rohr (City Manager) 903.935.4421		
Owner Address	401 S. Alamo Blvd, Marshall, TX 75670		
Final Project Size (Gross Square Feet)	14,700		
Original Cost	\$ 347,000	Final Cost (Including Change Orders)	\$ 362,994
Construction Type	Renovation		
Date of Notice to Proceed	December 2016	Date of Substantial Completion	June 2017
Project Manager	Casey Slone & Wade Hughes		
Project Architect	Mark A. Thacker Architecture - Mark Thacker - 903-316-2194		



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casey@caseysloneconstruction.com

2. COMPANY PROFILE AND GENERAL EXPERIENCE (WITH REFERENCES)

Company Profile

Casey Slone Construction, LLC.

Mailing Address: PO Box 1614, Marshall, Texas 75671

Physical Location: 7128 IH-20 North Service Road West, Hallsville, Texas 75650

S-Corporation, Been in business since 2003 with no other business names.

Primary Business = General Contracting; Commercial Construction (All Trades)

Principal = Casey Slone, President, (903) 503-3733

casey@caseysloneconstruction.com

Key personnel – Casey Slone, Main Project Manager; Brian Wright, Project Superintendent; Wade Hughes, Project Superintendent; Linda Bolt, Office Manager; Dustin Bobbitt, Construction Administrator.

See Attached Resumes – “EXHIBIT A ”

Payment and Performance Bonding:

Traveler’s Casualty and Surety Company of America

1301 E. Collins Blvd.

Richardson, Texas 75081

Russell Jones (p) 214-200-2139

Keystone Southwest Insurance Agency, Inc.

PO Box 1747

Rockwall, Texas 75087

James Leeker (p) 972-772-1030

Casey Slone Construction Has:

- Never had any design or construction claims against surety.
- Never had any outstanding financial judgments.
- Never been in default of any loan or financial agreement.
- Never failed to complete work or assessed liquidated damages.
- No judgments, claims, arbitration proceedings or suits.
- No lawsuits or has ever requested arbitration.
- No claims under construction or professional malpractice.
- No convictions under state or federal antitrust laws.
- Never had any termination from a project other than successful completion and acceptance by owner.



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Additional References

Harrison County - Kendl Russel, *Purchasing Director*, 903-935-8412; Phillip Mauldin, *County Commissioner*, 903-935-8402; Jay Ebarb, *County Commissioner*, 903-935-8402; Chad Sims, *County Judge*, 903-935-8401. Projects = Airport Runway & T-Hangars, Juvenile Renovations, Courthouse Exterior Improvements.

City of Marshall – Mark Rohr, *City Manager*, 903-935-4421; Wes Morrison, *Planning and Development Director*, 903-935-4456. Projects = Public Library Renovation, City Arena, Memorial City Hall

TravelCenters of America - Robert Chadwick, *Regional Construction Manager*, 972-841-5114
 Multiple projects over past 10 years at Travel America and Petro stores in the Southern United States.

East Texas Baptist University - Ned Calvert, *Vice President*, 903-930-0561

Women's Center of East Texas – Shannon Trist, *Director*, 903-445-5642

City of Mount Pleasant – Wayne Isbell, *Former Police Chief*, 817-272-9693; Kyle Holcomb, *Interim Chief of Police*, 903-575-4004.

City of Longview – Brent Brevard, *Former City Architect*, 903-747-0704.

See Attached Letters of Recommendation – “EXHIBIT B ”

3. ABILITY/COMMITMENT TO RESPOND TO CITY NEEDS IN A TIMELY FASHION

Projects Currently In Progress

<i>Project Name</i>	<i>City of Marshall – Perkin’s Building</i>
<i>Location</i>	206 N. Washington, Marshall, Texas
<i>Owner</i>	City of Marshall, Texas
<i>Contract Amount</i>	\$269,200
<i>Percentage of Completion</i>	85%
<i>Scheduled Completion Date</i>	May 2020
<i>Reference</i>	Wes Morrison (Planning & Development Director) 903.935.4456
<i>Project Name</i>	<i>Texas State Technical College – Marshall – New Physical Plant Building</i>
<i>Location</i>	2650 E. End Blvd. S. Marshall, Texas
<i>Owner</i>	TSTC
<i>Contract Amount</i>	\$318,204
<i>Percentage of Completion</i>	15%
<i>Scheduled Completion Date</i>	July 2020
<i>Reference</i>	Micheal Schumacher (Construction Project Manager) 254.867.3794



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<i>Project Name</i>	<i>City of Winnsboro – Sidewalk Improvements</i>
<i>Location</i>	Winnsboro, Texas
<i>Owner</i>	City of Winnsboro, Texas
<i>Contract Amount</i>	\$198,002
<i>Percentage of Completion</i>	20%
<i>Scheduled Completion Date</i>	July 2020
<i>Reference</i>	Jacob Finley (Construction Manager) 903.951.2131
<i>Project Name</i>	<i>Naples Housing Authority – Playground Improvements</i>
<i>Location</i>	401 Walnut Street
<i>Owner</i>	Smith County
<i>Contract Amount</i>	\$183,500
<i>Percentage of Completion</i>	5%
<i>Scheduled Completion Date</i>	July 2020
<i>Reference</i>	Jim Dean (Architect) – 318.470.1814
<i>Project Name</i>	<i>Smith County Jail – Central Jail Generator Replacement</i>
<i>Location</i>	206 E. Elm St, Tyler, Texas
<i>Owner</i>	Smith County
<i>Contract Amount</i>	\$230,000
<i>Percentage of Completion</i>	5%
<i>Scheduled Completion Date</i>	To Be Determined
<i>Project Name</i>	<i>Gilcrease Personal Project - Owner Requested Location Remain Confidential</i>
<i>Location</i>	East Texas
<i>Owner</i>	Casey Gilcrease
<i>Contract Amount</i>	\$200,000 - \$300,000
<i>Percentage of Completion</i>	3%
<i>Scheduled Completion Date</i>	To Be Determined
<i>Project Name</i>	<i>CJ Boyd Personal Project - Owner Requested Location Remain Confidential</i>
<i>Location</i>	East Texas
<i>Owner</i>	CJ Boyd
<i>Contract Amount</i>	\$200,000 - \$300,000
<i>Percentage of Completion</i>	20%
<i>Scheduled Completion Date</i>	To Be Determined

Casey Slone and project superintendents may be contacted at anytime, day or night, should an emergency situation develop related to the company's work on the project. Response time would be immediate, and if necessary, key personnel from Casey Slone Construction could be dispatched and present on the job site within the hour.

Administrative duties are addressed promptly for all of the projects we are involved in. Casey Slone Construction's admin team is diligent in its responsibilities, including accounting, contract management and project documentation. We take great pride to ensure that calls and emails are returned in a timely manner.



Post Office Box 1614 - Marshall, Texas 75671 - (903) 503-3733
casey@caseysloneconstruction.com

4. SAFETY RECORD AND FINANCIAL PROFILE

Casey Slone Construction has a safety plan we continue to update and teach employees. We consistently update our system with current local, state and federal guidelines in regard to construction, all of which gets passed on to our subcontractors and suppliers. Superintendents, foreman and other workers are trained to routinely inspect tools and equipment for any safety related issues or concerns. Supervisors monitor the work of in-house employees as well as all subcontractors for safety compliance.

See Attached Experience Modification Rating – “EXHIBIT C”

See Attached Pages From Casey Slone Construction’s Safety Plan – “EXHIBIT D”

Casey Slone Construction maintains a solid financial backbone and has a strong relationship with it’s banking and other financial institutions.

Bank Reference: Austin Bank, 911 NW Loop 281, Longview, Texas 75604. Jim Wallace, *Senior Vice President*, 903-295-4400

Audited financial statements will be provided upon intent to award contract.



Post Office Box 1614 - Marshall, Texas 75671 - (903) 503-3733
casey@caseysloneconstruction.com

Exhibit A

Resumes of Officers & Superintendants

Post Office Box 1614
Marshall, Texas 75671

Phone (903) 503-3733
caseysloneconstruction@gmail.com

Casey Slone

Summary of qualifications

Experienced as a field engineer, project manager, estimator and job superintendent.

Work experience

2009 – Present Casey Slone Construction LLC Marshall, Texas
Owner

Primary Estimator for all projects
Primary project manager
Handles all safety and quality control regulations and issues
Responsible for all business management of the company
Prequalifies all subcontractors and suppliers
Handles all contract negotiations and administration
Handles all sequence and scheduling
Handles all bonding and insurance negotiations
Takes hands-on approach on all projects regardless of size

2003 – 2009 Slone Construction Co. Marshall, Texas
Vice President

Supervise and manage all aspects of Slone Construction Co.
Primary estimator and project manager on all jobs.

1996 - 2003 Slone Construction Co. Marshall, Texas
Superintendent / Estimator

TSTC South Campus / Marshall Regional Medical Center / ETBU
Apartment Complex
Project manager / estimator for all other projects
Assisted Larry Slone with all company related business decisions and duties.

1995 - 1996 Flintco Laredo, Texas
Field Engineer / Carpenter Forman

Texas A&M Branch / sixty million
All on-site field engineering of four buildings. All scheduling and coordination for carpenters.

1994 - 1995 DalMac College Station, Texas
Field Engineer / Carpenter Forman

Texas A&M Auditorium / fifty-eight million
All on-site field engineering. All scheduling and coordination for carpenters.

1992 - 1993 Spaw Glass College Station, Texas
Field Engineer / Carpenter Forman

Business Administration Bldg. / Library / forty million
All on-site field engineering. All scheduling and coordination for carpenters.

1991 - 1992 Flintco College Station, Texas
Field Engineer / Carpenter Forman
Texas A&M Large Animal Hospital / Lab - thirty million
All on-site field engineering. All scheduling and coordination for
carpenters.

1991 BFW Construction Company Bryan, Texas
Field Engineer / Carpenter Forman
Women's Federal Prison Expansion - fifteen million
All on-site field engineering. All scheduling and coordination for
carpenters.

Education

1985 - 1989 Marshall High School Marshall, Texas
High School Degree

1989 - 1991 TSTI @ Waco Waco, Texas
Associate Degree Business Construction

References

See Attached

Linda G. Bolt
903.926.1673

SUMMARY OF QUALIFICATIONS

Extensive experience in the accounting industry focusing on setting and increasing goals. Exceptional interpersonal, team oriented, accuracy, and follow-through skills. Emphasis on increasing productivity with focus on profitability.

EXPERIENCE

- CASEY SLONE CONSTRUCTION, LLC** March 2016 – Present
Office Manager
Responsible for all accounting functions, including AR, AP, Month End journal entries, Month End F/S, Quarterly Payroll Reports, Bi-Weekly Payroll, and all HR duties
Responsible for overseeing all aspects of administrative duties
- COONER & COONER, CPAs, LONGVIEW, TX** Aug 2011 – Mar 2016
Accountant Jan 2009 – Dec 2010
Prepare: Trial Balance, Balance Sheet, P & L; 941, 940, TWC reports. Analyze and organize client general ledger accounts to ensure accounting compliance procedures are adhered. Assist filing tax returns: 1120S, 1120, 1065, 1040, and Franchise Tax Returns
- MAVERICK BUSINESS FORMS, INC, LONGVIEW, TX** Dec 2010 – Aug 2011
Senior Accountant and HR Representative
Responsible for all accounting functions, including AR, AP, Month End journal entries, Month End F/S, Quarterly Payroll Reports, Bi-Weekly Payroll, and all HR duties
- NORIT AMERICAS, INC, MARSHALL, TX** June 2005 – 2007
Accounts Receivable – Manage A/R Accounts
Analyze new applicants for credit approval & limitations
Maintain and monitor all account balances and collections
Assist in month end closing & prepare board reports
Payroll Administrator – Prepare, monitor, and maintain:
Tax records / payments for eight states
All sales personnel expense accounts
Weekly and Bi-weekly payroll in various states and including union for weekly payroll
- TEXAS BANK & TRUST, LONGVIEW, TX (while obtaining BS degree)** 2002-2003
Escrow Analyst
Facilitated, analyzed, and managed over 1,600 escrow accounts
Council customers and loan officers per escrow regulations due to Texas' black mold issues
- BANCORP SOUTH, MARSHALL, TX** 1998-2000
Assistant Vice President
Prefunded loans of \$50,000 and above and all real estate loans
Collateral vault manager/auditor
Managed note and credit departments and loan secretaries

EDUCATION**EAST TEXAS BAPTIST UNIVERSITY Marshall, TX, 2004****Bachelor's Degree, Cum Laude. Major: Business and Finance. Minor: Accounting with additional accounting hours after graduation thru 2005****LETOURNEAU UNIVERSITY, LONGVIEW, TX, Fall 2010****Auditing course**

Wade Hughes Project Manager, Superintendent

Education

Texas A & M University -Commerce,
2001 Bachelor of Science,
Construction Science, 2nd Major,
Spanish; currently pursuing Masters in
Management.

Affiliations & Extracurricular Activities

Building committee member, *Sigma
Chi Fraternity*

Dallas Alumni Chapter, *Sigma Chi
Fraternity*

Counselor, -Kids Life- -Student Life- ,
Cypress Valley Bible Church

Special Skills

Fluent in Spanish

Proficient in Prolog, QuikBid, On-
Screen Takeoff, American Contractor,
JD Edwards- E1, MS PowerPoint,
Word, and Excel.

Educated in Surveying, Estimating, and
Soil Science.

Contact Information

Phone (903) 407-9347
Alt . (903) 935-3440

Address: 102 Albemarle Rd
Marshall, TX

Profile

Mr. Hughes is a talented professional with over 25 years of progressive construction, superintendent, & Project Management experience with emphasis in the build-out, ground-up, and remodel of light to medium commercial & institutional projects. During his career, Mr. Hughes' areas of expertise include: Residential Construction, Heavy Highway, Higher Education, Hospital & MOB, School, Light/Medium Commercial, Restaurant, and Retail.

Employment History

- **Casey Slone Construction**
Marshall, TX
Superintendent/Project Manager: Oversight of various commercial construction projects. Daily work progress and quality control. Scheduling of work and buyout of trades. Interaction with owners, architects, engineers, and subcontractors on multiple occasions for project coordination on design intent. Project completion schedules, punch lists.
- **Parkway Construction and Associates-July 2010-July 2014**
Lewisville, TX
Superintendent: Restaurant tenant finish-outs and remodels. Bid negotiations, buyout, scheduling, supervision and QA/QC of strict branding requirements. Accelerated schedules and heavy focus on branding and OFE coordination. Coordinated design reviews with architects, owners, and subcontractors for value and constructability.
- **CFW Construction, LLC -March 2009-July 2010**
Colleyville, TX
Project Manager, Estimator, and General Superintendent for Commercial Drywall/Framing Subcontractor. Multiple Multi-Million Dollar Projects including higher education, medium/light commercial, and governmental public works.
- **Bovis Lend Lease- February 2006-November 2008**
Houston, Texas/Dallas, TX
Assistant Project Manager; Assistant Superintendent- Participate in Pre-construction review, Architect & Owner negotiation, Subcontract negotiations, Scope of work coverage, Budget review, Submittal procedures, Shop Drawing review, QA/QC, Contract execution, Schedule, & Close-out Procedures for Medium to Heavy Commercial Construction projects
- **Cooper Plastering, Inc.- 2002- 2006**
Tyler, Texas
Project Manager/Superintendent; Estimate labor and materials for drywall, metal stud, lath, plaster, EIFS, and acoustic ceilings for Institutional, Healthcare, Government, Commercial, Residential, Higher Education and Retail construction. Estimation & Supervision of lay-out, building-process, labor and materials on jobsite.
- **TRA Corp.- 2000**
Sulphur Springs, Texas
Participated in Lay Out and construction of Pre-Fab & Welded Metal Buildings & Covered Riding Arenas.
- **Slone Construction Co.- 1996-1999**
Marshall, Texas
Performed duties required in managing & building processes of medium commercial buildings. Advanced from general laborer to crew leader to asst. superintendent. Construction Management firm: Healthcare, Education, Commercial, and Higher Education Projects.

Wade Hughes Project Manager, Superintendent

- **All-Phase Construction- 1999**
Bryan, Texas
Performed remodel and renovation of 10+ Multi-unit apartment complexes, which included: Roofing, trim carpentry, concrete, framing, paint, drywall and finish.
- **Texas Dept Of Transportation- Summers 1993 & 1994**
Marshall, Texas
Collaborated with subs, inspected work, tested materials, estimated materials.
Submitted schedules and prepared progress payment reports. Heavy Highway.

Construction Management Sectors of Work

Details and Specifics Available On Request

- **Government (Federal, State & Local) Project Experience**
- **Healthcare Industry Project Experience**
- **Hospitality Project Experience**
- **Office Project Experience**
- **Religious Project Experience**
- **Higher Education Project Experience**
- **K-12 Project Experience**
- **Retail/Restaurant Project Experience**

Brian Wright

1008 C.R. 4186
Quitman, Tx 75783
469 475 0478

Professional Summary

38 years experience in commercial general construction including but not limited to interior remodel and finish out, new ground up buildings, underground utilities, foundations, demolition.

Work history

Carpenter's Union local 198: 1980 – 1984 completed apprenticeship working for multiple companies. Mostly high rise and tilt panel buildings.

Texas Fixtures: 1984 – 1985 Company specialized in grocery store remodel for Tom Thumb Page and Skaggs Albertson.

Holleman Construction Co.: 1985 – 2014 Worked as a carpenter, field superintendent, project manager and estimator. Completed projects for many companies including Vought Aircraft, Kraft foods, Daisy Brand, Lockheed Martin, Federal Air Marshal Training facility, Texas Instruments, Air Liquid, EDS, Perot Systems, Dell.

Caliber Associates: 2014 – 2017 Project Manager and Estimator. Completed projects for Kimberly Clark, Sabre, Verizon, City of Tyler, Moore Supply.

Self Employed 2017 – 2018 Various projects on Capitol One banks for Nest Construction.

Contracted with Broadcast Works to help on their new office warehouse. Established budgets, managed the project in the field, coordinated sub contractors.

Personal

Married to Donna Wright for 37 years. We have 2 sons and 6 grandkids. We recently completed building a house in Quitman and are in the process of moving there from Mesquite. My hobbies are hunting, fishing, shotgun sports and golf. I consider myself a dedicated employee and a team player. I have always believed that in any business, if you give the customer a good quality product at a fair price you will be successful.

References

Aaron Comer
Operations Manager for Broadcast Works
903 253 2706

Larry Ness
Owner Nest Construction in Dayton Tx.
936 257 2946

Shane Frazier
Superintendent for Hill and Wilkinson construction
214 717 0215

Paige Hunter
Superintendent for Hill and Wilkinson Construction
214 882 5189

Jeff Parrish
Apache Glass
903 571 0481

Domingo Padron
Owner Padron drywall
903 941 2881



Post Office Box 1614 - Marshall, Texas 75671 - (903) 503-3733
casey@caseysloneconstruction.com

Exhibit B

Letters of Recommendation

Bockmon, Knight, & Traylor Insurance Agency
450 E Loop 281, STE C-1
Longview, TX 75606
Office (903) 234-8505 Fax (903) 234-8717
Daingerfield – Hughes Springs – Lone Star – Longview- Marshall –
Mt. Pleasant – Ore City – Texarkana
Email: kellylester@bockmoninsurance.com

March 3, 2020

City of Marshall
2101 E End Blvd N
Marshall, TX 75670

To Whom It May Concern:

Our Agency has done business with Casey Slone since 1994.

Casey Slone Construction Company has an immaculate record concerning exemplary work, safety, and financial responsibility.

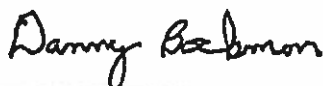
Casey's company has never incurred a general liability or worker's compensation claim; his company has never had an insurance claim brought against it for defective or faulty workmanship.

Casey Slone Construction has always paid their bills on time, and there has never been a question about his Company's credit, worthiness, or integrity.

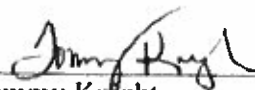
I could not recommend a more capable person than Casey Slone to manage any construction needed by City of Marshall.

Per the attached COI, Casey Slone Construction is providing the type coverage and levels specified per your insurance requirements.

Thank you,



Danny Bockmon
C N A Insurance Company Representative



Tommy Knight
Agent

**Mount Pleasant Police Department**

501 N. Madison Avenue
Mount Pleasant TX 75455-3650
(903) 575-4004

*Texas Police Chief Association
Recognized Agency Since 2008*

Kyle Holcomb, Interim Police Chief

March 13, 2020

To Whom It May Concern,

The City of Mount Pleasant has been very pleased with the completed Mount Pleasant Animal Shelter project that was constructed by Casey Slone Construction and designed by Brevard Architecture. Before, during and after the project both have been constant professionals.

Casey Slone Construction and their Project Manager Brian were always available for any concerns we had during construction, and Brent Brevard was always available to make adjustments to plans if needed. The quality of craftsmanship has been impressive.

Since completion of construction, Casey has been in contact with us regularly to make sure everything is running smoothly or that we have no issues. Any warrant issues that have come up, he has taken care of quickly.

We would recommend both Brevard Architecture and Casey Slone Construction for any construction and especially an animal shelter.

Sincerely,

**Kyle Holcomb
Interim Chief of Police**

03/11/20

Re: Casey Slone Construction
Letter of Recommendation

To Whom It May Concern:

TravelCenters of America has had the pleasure of working with Casey Slone Construction since approximately 2013 and I have personally used their services on numerous occasions in the last four years. TA has been completely satisfied with Casey Slone Constructions level of professionalism, clear & concise communications, competitiveness in bidding, and most importantly their quality of work is excellent. And operating in a 24/7/365 type of business, Casey Slone Construction also is very attentive and work diligently to ensure that our customer base & that our Operations Teams can function with as little disruption as possible.

Whether going through a normal bid process, or mobilizing in a moment's notice to assist TA in a natural disaster, Casey Slone Construction treats us with fairness and with complete integrity.

I highly recommend Casey Slone Construction services to other potential clients and prospective business opportunities.

Respectfully,
Robert W. Chadwick
Regional Construction Manager
TravelCenters of America
972-841-5114



PO Box 2612
PH 903-595-2656

Lindale, Texas 75771
mark@markathacker.com

Mark Rohr - City Manager
City of Marshall
401 S Alamo Blvd
Marshall Tx 75670

Re: New Animal Adoption Center

Mr. Rohr;

This letter is to provide a favorable reference for the construction company Casey Slone Construction and owner Casey Slone.

I am the owner of an architectural firm, Mark A. Thacker, AIA, and have had the pleasure of working with Mr. Casey Slone and his construction company on two City of Marshall projects. The projects included the City of Marshall Public Library Renovations and a project nearing completion, demolition of the Perkins Building.

For both projects Mr. Slone was directly involved in the bidding phase, tasks were not simply assigned to someone else in his office. During the bidding phase Mr. Slone raised many questions, this is a welcomed participation as it demonstrates the contractor is thoroughly reviewing plans and specifications to gain a complete understanding of project requirements. Ultimately, this is a benefit to the owner as it will often provide the best possible price for the stipulated scope of work.

For both projects, Mr. Slone actively provided leadership on behalf of his company during pre-construction and construction. He was always willing to work with the architect and owner to determine the best way to integrate work to be performed by the owner and how to incorporate that work into the construction schedule. He is certainly a team player who never loses sight of the end product, a successful project that we can all be proud of.

Mr. Slone's leadership skill is truly an asset during construction. Both projects mentioned above were complicated and contained a number of unknown conditions. He is constantly ahead of issues before they become problems, and when they are presented to the architect, possible solutions and options are offered. His change order proposals have been fair and reasonable and fully explained with a breakdown showing all costs.

I highly recommend Casey Slone Construction and look forward to working with that company on many future projects. Please let me know if you have any questions.

Sincerely,
Mark A. Thacker, AIA

Jessica Davisson
126 Royal Oak Ln
Lakeway, Tx 78734
512-657-1549
Jessica.davisson@gmail.com

March 11, 2020

Mark Rohr
City Manager and Evaluation Committee
City of Marshall
401 S Alamo Blvd
Marshall, Texas 75670

Dear Mark Rohr :

I am the former Infrastructure Director for the Texas Parks and Wildlife Department and Casey Slone Construction was awarded an IFB contract for constructing a new Restroom/Shower Building at Caddo Lake State Park. This is 2,380 sf commercial structure that was completed in 2018. The contract amount was ~\$1,009,000.

Truth be told, at no fault of Casey Sloan Construction, the design documents for this project were subpar, which caused issues during the bidding and construction phases of the project. However, Casey Slone Construction did not exploit this issue, but instead worked closely with the TPWD project team to proactively troubleshoot and devise solutions that resulted in a better-quality facility which is saving the State operating and maintenance costs long-term. In the end, the project workmanship was excellent, all issues were resolved, and the project was completed on time. As a result, citizens now have a wonderful new shower and restroom facility at one of Texas's most beloved state parks.

It was a pleasure working with Casey Slone Construction, as well as, I would have no hesitation in working with them again or in recommending them to others.

Sincerely,



Jessica Davisson

Enclosure

DocuSign Envelope ID: 782768F8-6831-47A7-BFA3-60F16FA99456



125 EAST 11TH STREET, AUSTIN, TEXAS 78701-2483 | 512.463.8588 | WWW.TXDOT.GOV

March 21, 2019

CASEY SLONE CONSTRUCTION LLC
PO BOX 1614
MARSHALL, TX 75671

RE: TxDOT Vendor Code # 16241

Dear Contractor:

Your Bidder's Questionnaire is satisfactory and qualifies you to bid on waived projects let by the Texas Department of Transportation (TxDOT) from the date of this letter through December 31, 2019.

Your bidding capacity has been set at \$23,936,000.00. You may request and receive bidding proposals for waived projects on which the engineer's estimate does not exceed your bidding capacity less any uncompleted work currently under contract with TxDOT.

If we may be of further assistance, please contact our Construction Division, Pre-qualification Branch at 512.416.2584.

Sincerely,

DocuSigned by:

D5A5197E70004F3

Jesse A. Lineberger

Director, Construction & Maintenance Contract Letting Section
Construction Division

OUR VALUES: People • Accountability • Trust • Honesty

OUR MISSION: Through collaboration and leadership, we deliver a safe, reliable, and integrated transportation system that enables the movement of people and goods.

An Equal Opportunity Employer




Post Office Box 1614 - Marshall, Texas 75671 - (903) 503-3733
casey@caseysloneconstruction.com

Exhibit C

Workers Compensation Experience Rating

EMR/EMOD

 WORKERS COMPENSATION EXPERIENCE RATING								
Risk Name: CASEY SLONE CONSTRUCTION LLC						Risk ID: 421273685		
Rating Effective Date: 11/10/2019			Production Date: 06/11/2019			State: TEXAS		
State	Wt	Exp Excess Losses	Expected Losses	Exp Prim Losses	Act Exc Losses	Ballast	Act Inc Losses	Act Prim Losses
TX	.05	1,642	2,678	1,036	0	25,375	0	0
(A) Wt	(B)	(C) Exp Excess Losses (D - E)	(D) Expected Losses	(E) Exp Prim Losses	(F) Act Exc Losses (H - I)	(G) Ballast	(H) Act Inc Losses	(I) Act Prim Losses
05		1,642	2,678	1,036	0	25,375	0	0
		Primary Losses	Stabilizing Value		Ratable Excess		Totals	
Actual	(I)	0	C * (1 - A) + G 26,935		(A) * (F) 0		(J) 26,935	
Expected	(E)	1,036	C * (1 - A) + G 26,935		(A) * (C) 82		(K) 28,053	
		ARAP	FLARAP	SARAP	MAARAP		Exp Mod	
Factors							(J) / (K) .96	

Carrier: 29939-000 Policy: 0001206261 Eff-Date: 11-10-2018 Exp-Date: 11-10-2019

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WORKERS COMPENSATION EXPERIENCE RATING

Risk Name: CASEY SLONE CONSTRUCTION LLC

Risk ID: 421273685

Rating Effective Date: 11/10/2019

Production Date: 06/11/2019

State: TEXAS

42-TEXAS
Firm ID: **Firm Name:** CASEY SLONE CONSTRUCTION LLC

Carrier: 29939 **Policy No.** 0001206261 **Eff Date:** 11/10/2015 **Exp Date:** 11/10/2016

Code	ELR	D-Ratio	Payroll	Expected Losses	Exp Prim Losses	Claim Data	IJ	OF	Act Inc Losses	Act Prim Losses
5606	.24	.38	62,400	150	57					
9014	.82	.39	71,748	588	229					
Policy Total:			134,148	Subject Premium:	6,000	Total Act Inc Losses:			0	

42-TEXAS
Firm ID: **Firm Name:** CASEY SLONE CONSTRUCTION LLC

Carrier: 29939 **Policy No.** 0001206261 **Eff Date:** 11/10/2016 **Exp Date:** 11/10/2017

Code	ELR	D-Ratio	Payroll	Expected Losses	Exp Prim Losses	Claim Data	IJ	OF	Act Inc Losses	Act Prim Losses
5606	.24	.38	94,703	227	86					
9014	.82	.39	65,449	537	209					
Policy Total:			160,152	Subject Premium:	5,512	Total Act Inc Losses:			0	

42-TEXAS
Firm ID: **Firm Name:** CASEY SLONE CONSTRUCTION LLC

Carrier: 29939 **Policy No.** 0001206261 **Eff Date:** 11/10/2017 **Exp Date:** 11/10/2018

Code	ELR	D-Ratio	Payroll	Expected Losses	Exp Prim Losses	Claim Data	IJ	OF	Act Inc Losses	Act Prim Losses
5606	.24	.38	148,410	356	135					
9014	.82	.39	100,044	820	320					
Policy Total:			248,454	Subject Premium:	7,946	Total Act Inc Losses:			0	

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* Total by Policy Year of all cases \$2000 or less.

D Disease Loss

X Ex-Medical Coverage

U USL&HW

C Catastrophic Loss

E Employers Liability Loss

Limited Loss

Page 2 of 2



Post Office Box 1614 - Marshall, Texas 75671 - (903) 503-3733
casey@caseysloneconstruction.com

Exhibit D

Pages From Company Safety Policy
(Entire Manual Too Lengthy To Include)

CASEY SLONE CONSTRUCTION, LLC
P O BOX 1614
MARSHALL, TX 75671
903-503-3733

SAFETY MANUAL

INDEX

Safety Program.....	Section 1
Personal Protective Equipment Guidelines.....	Section 2
Drug-Free Workplace Policy.....	Section 3
Hand & Portable Power Tools.....	Section 4
Hearing Conservation Program.....	Section 5
Small Tools & Equipment.....	Section 6
Job Safety Analysis.....	Section 7
Respiratory Protection Program.....	Section 8
Confined Space Entry Program.....	Section 9
Bloodborne Pathogens Exposure Control	Section 10
Welding,Cutting,Brazing Awareness.....	Section 11
Lock-Out-Tag-Out Program.....	Section 12
Hazard Communication Program	Section 13
Fall Protection Program.....	Section 14
Miscellaneous.....	Section 15

CASEY SLOANE CONSTRUCTION, LLC

SAFETY PROGRAM

CASEY SLONE CONSTRUCTION, LLC
SAFETY PROGRAM

SAFETY POLICY

CASEY SLONE CONSTRUCTION, LLC's policy is to provide a safe and healthful place of employment for every employee and to abide by accident prevention regulations set forth by the Federal, State and Local Governments. Our goal is to:

Provide rules and regulations for the safety of employees and to warn them of known hazards associated with their position of employment. This includes the duty to supervise.

Inform employees through orientation and ongoing safety training of known hazards, safety work practices and equipment operation.

Furnish reasonably safe machinery or instrumentalities. Included in this duty is the duty to inspect and repair.

Furnish a reasonably safe place to work.

Involve all levels of employees in the development and maintenance of the safety program

Exercise ordinary care to select careful and competent fellow servants.

We are sincerely interested in the safety and welfare of our employees. Accident prevention is essential in maintaining an efficient operation and is a responsibility of all employees

It is our policy that safety procedures should be strictly observed at all times. Although these rules are considered to be very important, it is impossible to publish a rule to cover every circumstance. If a rule that might cover any specific safety hazard condition has been omitted that shall be no excuse for carelessness or a disregard of common sense in the performance of your work.

You are urged to cooperate fully. Abuse or a disregard of these rules is a violation of CASEY SLONE CONSTRUCTION, LLC Policy and will be treated accordingly. Remember, your help in preventing accidents benefits you and your fellow employees. We should all strive for a record of zero accidents.

CASEY SLONE



REQUEST FOR QUOTATION

THIS IS NOT AN ORDER

CITY OF TYLER
Purchasing Department
304 North Border
Tyler, Texas 75702

March 23, 2020
DATE MAILED

Quote No: 20-027
(Number must appear on ALL correspondence)

Closing Time: 2:00 pm

Closing Date: April 28, 2020

Telephone: (903) 531-1232

Addressed To:

INSTRUCTIONS:

1. Keep duplicate copy of proposal for your files.
2. Federal Excise Taxes are exempted, also Federal Transportation Tax, State Tax, and City Sales Tax.
3. Return this form at once if unable to quote.
4. Specify Trade name or brand in space.

Please quote as per instructions indicated below for the articles described. Quotes must be submitted on City of Tyler forms to be considered. All items or services called for must be in strict accordance with all of the requirements and specifications attached hereto or furnished upon request.

Purchasing Manager

Sealed quotes to furnish the following will be received in the Purchasing Office @ 304 North Border, Tyler, Texas 75702, Attn: Sherry Pettit until April 28th, 2020 and opened by City Staff on the City Hall Steps @ 212 North Bonner @ 2:00 pm.

Demolition and Construction of Emmett J. Scott Park

QUOTE IDENTIFICATION:

Quote number, closing time, date, and item requested must appear on outside of envelope in lower left hand corner.

DATA SHEETS:

All bidders must complete each specification data sheet in spaces provided on each item that is bid as well as all information requested on the price data sheet. Said price, data and specifications sheet is hereby made a part of this quotation.

DELIVERY:

Delivery must be stated in your quote on the data sheet as the number of calendar days from date of order.

The City of Tyler reserves the right to reject any and/or all bids and to waive any and/or all formalities and to award purchase total amount, partial amount or individual item basis.

In submitting the above, the vendor agrees that acceptance by the City of Tyler within a reasonable period constitutes a binding agreement.

In submitting the above request and attached bid to the City of Tyler, I hereby certify that we have not participated in nor been a party to any collusion, price fixing or any other agreements with any company, firm, or person concerning the pricing of the enclosed quotation.

INVOICING TERMS

COMPANY NAME

DATE

AUTHORIZED REPRESENTATIVE (print)

SIGNATURE

See other side for TERMS AND CONDITIONS

* All Quotes Must Be Signed

TERMS AND CONDITIONS

Quotations are requested for furnishing the items described herein in accordance with the terms set forth. **ALL QUOTATIONS MUST BE F.O.B. DESTINATION** and include the cost of boxing and cartage to the delivery point as stated on this form.

In the case of default, the City of Tyler, Texas reserves the right to hold the original bidder or contractor liable for any and all resultant increased costs.

Samples, if requested by the City of Tyler, must be furnished at the bidder's expense, and if not destroyed in testing or retained as a standard, will be returned on the same terms, if requested by the bidder.

Quotes may be withdrawn on written or telegraphic request received from bidders prior to the time set for opening. Negligence on the part of the responder in preparing the proposal confers no right for the withdrawal of the proposal after the hour fixed for the opening.

Any oral statement by any representative of the City, modifying or changing any conditions of this contract, is an expression of opinion only and confers no right upon the seller.

All discounts, if applicable, shall be shown in discount amount space provided on data sheets - **EXCEPT IN TERMS FOR PROMPT PAYMENT.**

For proper identification; proposal number, closing time, date, and item requested must appear on outside of envelope in lower left hand corner.

If delay in delivery as specified on the purchase order is foreseen, supplier shall give written notice to Purchasing Office immediately. The City has the right to extend the delivery date if reasons appear valid. Supplier must keep the City advised at all times of the status of order. Default in promised delivery (without accepted reasons) or failure to meet specifications, authorizes the City of Tyler to purchase material elsewhere and charge full increase in cost and handling to the defaulting supplier and could also be reason for cancellation of the Purchase Order (at no expense to the City if the City of Tyler deems it necessary).

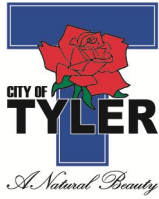
Any quote submitted on a public works project shall comply with the additional requirements and conditions attached hereto as well as the terms and conditions stated herein.

Certificate of Interested Parties:

In accordance with Texas Government Code Sec. 2252.908, for certain contracts entered into on or after January 1, 2016, the successful bidder must submit a *Certificate of Interested Parties* (Form 1295) at the time the signed contract is submitted to the **CITY**. The law applies (with a few exceptions) only to a City contract between a business entity and a governmental entity or state agency that either (1) requires an action or vote by the City Council before the contract may be signed or (2) has a value of at least \$1 million.

The *Certificate of Interested Parties* (Form 1295) must be filed electronically with the Texas Ethics Commission using the online filing application located at https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm.

If you need additional information about the Certificate of Interested Parties Form 1295 Procedure, contact Purchasing at (903) 531-1232.



PRICE, DATA, AND SPECIFICATION SHEET

CITY OF TYLER
 Purchasing Department
 304 North Border
 Tyler, Texas 75702

Telephone: (903) 531-1232

DATE: March 20, 2020

BID # / PROPOSAL #: 20-027

CLOSING TIME: 2:00 pm

CLOSING DATE: April 28th, 2020

PROPOSERS MUST COMPLETE THIS SECTION

ITEM NO.	QUANTITY	DESCRIPTION	BRAND	UNIT PRICE	TOTAL NET PRICE
1	1				
		<p>The following information is provided to each bidder for the purpose of clarifying the bid items required by the project. Each bidder will provide separate pricing for the bid items listed below. Each of the items listed below will be considered to “stand on its own” unless specifically noted otherwise so that the Owner can select from the list of items that it would like to see completed at this time.</p> <p>Please note that Bid Item 1 is for complete construction/installation of all improvements shown on these plans. The remaining bid items are “line item” costs for each of the bid items that comprise Bid Item 1. The costs for those other bid items <u>are not required</u> to equal the cost of Bid Item 1 as there may be additional costs in coordination, materials, installation, etc. for these bid items if they are considered separate installations rather than one overall project.</p>			
1	1	<p>This bid item includes demolition of existing trees, landscaping, structures, flatwork, and amenities as shown on the Demolition Plan and installation of all new site improvements shown on the Site Plan. This bid item assumes all improvements shown on the Site Plan will be implemented as one single project and at one time.</p>			
2	1	<p><u>Owner’s Discretionary Allowance:</u> Each bid will include a mandatory \$30,000 “Owner’s Discretionary Allowance.” This line item can be spent, at the sole direction of the facility Owner, for upgrades, improvements, or other costs/expenses directly related to the project. Once the project is complete, the balance of this allowance must be credited back to the Owner and will not be billed against the project.</p>			

3	1	Demolish and remove portions of the existing concrete sidewalks, concrete slabs, and shade structures as shown on the Plans and dispose of each properly. Remove existing trees and vegetation specifically indicated on the Demolition Plan and dispose of properly. Remove all organic material left from the tree demolition as new structures will be constructed on the site. Construct new playground area. Coordinate with owner's playground equipment installer agent for demolition and installation of new playground equipment and mulch. Construct new swing set area. Coordinate with owner's playground equipment installer agent for demolition and installation of new playground equipment and mulch. Construct new concrete sidewalks and walking paths in the park as shown on the Plans. Construct new ADA-compliant, City of Tyler-approved curb ramps at the corners of the park. This bid items also includes installation of all concrete slabs adjacent to the walking path and play areas. Coordinate with owner's playground equipment installer agent for installation of new park benches and picnic tables provided by the Owner.			
4	1	Install new concrete basketball court with traditional court striping and the concrete sidewalks leading up to the edge of the court. This item also includes the two concrete slabs on either side of "center court" where a park bench and trash receptacle will be installed. Coordinate with owner's playground equipment installer agent for installation of new basketball goals provided by the Owner. (This bid item <u>does not include</u> the custom logo and park name painted on the court. Also <u>excluded</u> from this bid item is 10-ft tall black, vinyl chain link fence around the court.)			
5	1	Install 10-ft tall chain link fence around the basketball court. The chain link fence will have 1.5"x1.5" climb-resistant mesh with black, vinyl coating. Fencing shall have top, bottom and mid rails as well as diagonal corner bracing at each corner in each direction. The gate will have four (4) 7'-0" tall x 3'-6" wide gates near the four corners of the court (refer to Plans).			
6	1	Install a new irrigation system in the park as indicated on the plans (refer to Irrigation Plan that will have to be provided upon request). The irrigation system will be compatible with City of Tyler standards. Must attend Pre-Bid meeting to go over details. If the irrigation plans are not available by the meeting, we will consider accepting contractors designs as long as they meet or exceed our current on line system.			
7	1	Install new solar-powered LED area lights on the light poles as shown on the plans. Bidders shall note that some of the area lights will be installed on existing poles and others will be installed on new poles. When new poles are required, the Contractor will construct a new concrete light pier as indicated on the Plans. All LED light fixtures, lamps, and accessories will be furnished by the Owner and installed by the Contractor. Where new light poles are required, those poles will be furnished by the Owner and installed by the Contractor.			

8	1	Construct new hard-roofed shade pavilion with foundations (foundations design shall be provided by shade pavilion manufacturer), circular concrete slab around pavilion, and concrete sidewalks leading up to pavilion. The pavilion will be furnished by the Owner and installed by the Contractor.			
9	1	Furnish and install the park sign with foundation and ground-mounted, solar powered LED spotlight as indicated on the Plans.			
10	1	Furnish and install block sod in all disturbed areas. Contractor shall install St. Augustine sod for shaded areas, and Bermuda sod for unshaded areas in direct sunlight.			
11	1	Paint basketball court with custom City of Tyler "rose" logo and "Emmett J. Scott Park" block lettering on sidelines. Sidelines and baseline will be painted an alternating color from the interior color of the court.			
12	1	In an effort to provide sunlight to the grassed areas under existing trees, provide pricing for raising the canopies of the existing trees near the new playground and basketball court areas. In addition, the canopies will be thinned out to provide penetration of sunlight to the grassed areas below. The canopies for large diameter trees will be raised to 6- to 8-ft, and the canopies of smaller diameter trees will be raised to 3- to 4-feet.			
13	1	Each bidder will provide a proposed time of project completion in calendar days. All construction must be completed by July 20th because the Grant payout ends in August.			
		<u>LUMP SUM PRICING FOR ALL 13 PROPOSALS:</u>			\$
		<u>Unit Pricing</u>			
14	1	Provide a unit price for installation of 5-inch (min) thick reinforced concrete sidewalk by 5 (five) foot wide.			
15	1	Provide a unit price for installation of 5-inch (min) thick reinforced concrete sidewalk by 6 (six) foot wide.			
16	1	Provide a unit price for installation of new light pole, light pole base, and solar-powered LED area light. Lamp, fixture, and light appurtenances will be furnished by the Owner and installed by the Contractor. Light pole will be furnished by the Owner and installed by the Contractor.			
17	1	Provide a unit price for furnishing and installing block sod grass. Grass species will be either Bermuda or St. Augustine.			
18	1	Provide a unit price for constructing additional reinforced concrete pads for installation of a park bench and trash receptacle. The slab size will be as detailed in the drawings. As part of this bid item, include installation of a park bench and trash receptacle that will be furnished by the Owner.			

		<p><u>NOTE:</u> An Environmental Plan Review is required for the project. This plan review will be coordinated by the Owner and is not the responsibility of the Bidder. However, each Bidder shall note that <u>the Owner reserves the right to cancel or reject the bid if the Environmental Plan Review reflects that the project is not viable.</u></p>			
			TOTAL:		



**CITY OF TYLER
CITY COUNCIL COMMUNICATION**



Agenda Number: M-6

Date: May 13, 2020

Subject: Request that the City Council consider authorizing the City Manager to purchase one new Gillig Low Floor Fixed Route Bus and three new Chevy Arboc Buses for a total purchase of \$870,265 utilizing grant funds and Transportation Development Credits.

Page: Page 1 of M-6

Item Reference:

The fleet replacement program budgets for departments to replace their vehicles on a regular schedule, particularly those with mileage and/or maintenance cost expectations. Transit staff researched bids with City specified options through the Virginia and Oklahoma State Contract purchasing cooperatives and recommends awarding the chosen vendors as shown below.

The new Gillig Low Floor Bus will be purchased from Gillig of Livermore, California off of the Virginia State Contract for a purchase price of \$404,827. Funding for this bus purchase is from the Section 5307 Grant Fund along with Transportation Development Credits.

The three new Chevy Arbocs will be purchased from Creative Bus Sales of Irving, Texas off of the Oklahoma State Contract for a purchase price of \$155,146 each. This is a total purchase price of \$465,438. Funding for these three new buses will come from the Coronavirus Aid, Relief, and Economic Security (CARES) Act Grant.

RECOMMENDATION:

It is recommended that the City Council consider authorizing the City Manager to purchase one new Gillig Low Floor Fixed Route Bus and three new Chevy Arboc Buses for a total purchase of \$870,265 utilizing grant funds and Transportation Development Credits.

ATTACHMENTS:

Drafted/Recommended By:
Department Leader

Robert Gil, Transit Manager

**Edited/Submitted By:
City Manager**



**CITY OF TYLER
CITY COUNCIL COMMUNICATION**



Agenda Number: M-7

Date: May 13, 2020

Subject: Request that the City Council consider authorizing the City Manager to award IBC Construction LLC as the successful bidder for Bid 20-023 to furnish all necessary material, equipment, superintendence, and labor to replace the underground fuel storage tanks, leak detection system, fuel, oil, and diesel exhaust fluid (DEF) dispensing system per Texas Commission of Environmental Quality (TCEQ) regulations in the amount of \$344,700.00. This does not include material remediation if necessary as directed by TCEQ testing.

Page: Page 1 of

Item Reference:

In October 2019, the Vehicle Services Department (VES) was informed the underground fuel storage tanks at the Oakwood Maintenance Complex were no longer eligible to be insured after December 2020. After researching the Texas Commission of Environmental Quality (TCEQ) regulations, VES determined that the dispensing system and leak detection system must be replaced along with the storage tanks to be in compliance with current TCEQ regulations.

VES researched a variety of solutions that included above ground storage tanks, fuel cards, and external fueling. VES determined that underground tanks were the best solution for the Oakwood Complex.

On April 14, 2020, VES received a total of four sealed bids 20-023 to upgrade the fueling system at the Oakwood Complex. The four vendors that responded were IBC Construction LLC , Covey Bros. Contracting, Pump Masters, and T&P Services.

After reviewing the submitted proposals, VES staff recommends IBC Construction LLC as the successful bidder. IBC Construction LLC meets all the specifications and provided the lowest overall project cost.

RECOMMENDATION:

It is recommended that the City Council authorize the City Manager to award IBC Construction LLC as the successful bidder for Bid 20-023 to furnish all necessary material, equipment, superintendence, and labor to replace the underground fuel storage tanks, leak detection system, fuel, oil, and diesel exhaust fluid (DEF) dispensing system per Texas Commission of Environmental Quality (TCEQ) regulations in the amount of \$344,700.00. This does not include material remediation if necessary as directed by TCEQ

testing.

ATTACHMENTS:

[Bid Tabulation](#)

[04-17-2020-09.36.15.pdf](#)

Drafted/Recommended By:
Department Leader

Stan Stoffregen, Fleet Manager

Edited/Submitted By:
City Manager



**Purchasing Department
Bid Tabulation**

City of Tyler Bid No. / Description: Bid # 20-023 Upgrade Fueling System at Oakwood Complex

Date Opened: April 14, 2020

Managing Department: VES / D. Schreck

	Vendor	Vendor	Vendor	Vendor	Vendor
	Covey Bros. Contracting	Pump Masters Inc.	T&P Free Service	I Bc Const.	
Unit Cost	TBT	TBT	TBT	TBT	
Total	398294.00	4755065	401400.00	344700.00	
Bid Bond					
Addenda					
Base Bid					
Alternate 1					
Alternate 2					
Alternate 3					
Alternate 4					
Base Bid + Alternates					

Purchasing Personnel in attendance:

Signature: _____

Signature: 

Form #	Work Instruction #	Originating Date	Revision Date	Revision #
PURF003	PURWI001	6/1/2012		



IBC Construction LLC
 204 devenshire dr
 murphy Texas 75094
 U.S.A

ESTIMATE

PROPOSAL #20-023

Estimate Date : 04/14/20
 Expiry Date : 06/14/20
 Reference# : PROPOSAL #20-023

Bill To
Ms. SHERRY PETTIT

#	Item & Description	Qty	Rate	Amount
1	Remove any liquid left in TANKS, WASH TANKS FROM INSIDE INSPECTED BY FIRE MARSHALL AND TCEQ FOR LEL . Remove Old USTs,HAUL OFF THE SITE. REMOVE OLD PRODUCT LINES- OLD DISPENSERS AND VENT LINES.	1.00	16,500.00	16,500.00
2	SET NEW TANK SUMPS, DISPENSERS SUMPS, NEW STPs FOR REGULAR, DIESEL, AND DEF. INSTALL TRANSITION SUMPS FOR THREE PRODUCTS, INTO THE GROUND. INSTALL DOUBLE WALL PRODUCTS LINES INSTALL NEW SUMP SENSORS FOR ALL TANK AND DISPENSER SUMPS. PERFORM ALL ELECTRIC WORK AT SITE. BACKFILL,SET MANHOLES AND POUR CONCRETE. SET NEW DISPENSERS- PURAGE AND CALIBRATE. UPGRADE FUELMASER FOR DISPENSERS UPGRADE FUELMASER - FOR OIL DISPENSERS. ELECTRIC WORK FOR FUELMASER. STARTUP FUEL SYSTEM. Concrete work clean site and final inspection. By City ,Fire Marshall and TCEQ. Brand new dispensers with company warranty (2 year) Brand new TLS 450- WITH PROBES AND SENSORS UPGRADE FUELMASER. TURN KEY SCOPE OF WORK	1.00	328,200.00 0	328,200.00

2 DEF Dispensers

3	Fuel Master equipment upgrade- backed by Fuel control solution 179 spring edge drive, Montgomery TX 77356 MAINTENANCE PLAN INCLUDED FOR TWO YEAR - FROM INSTALL DATE	1.00	0.00	0.00
---	--	------	------	------

Quaidenly

Sub Total **344,700.00**

Total **\$344,700.00**

Notes

Looking forward for your business.



General Builders / Petroleum Contractors

2301 N. Masch Branch Rd. Suite 208 Denton, TX 76207

Office: 940-535-5566 Fax 866-706-8265

Scott@coveybros.com

www.coveybros.com

TOTAL FOR THESE SERVICE: \$398,294

Dispensers: 1 gas/1 diesel,1 combo, 2 DEF (5)	\$61,250.00
Tanks: 1-30K split and 1-6K DEF	\$84,720.00
Gravel	\$34,560.00
Veeder Root & Equipment	\$19,720.00
Piping/UDCs/Spill buckets/STPs++	\$17,220.00
Installation	\$58,420.00
Electrical	\$36,840.00
Concrete/Paving	\$31,422.00
Sampling/Environmental	\$8,820.00
Soil/debris haul off, filter fabric, misc.	\$19,120.00
Tax	\$26,202.00
Total	\$398,294.00

Alternate costs and Options

To use of a Xerxes Double Wall Fiberglass 30K Tank ADD:	\$15,220	
To increase Diesel Fuel Dispenser speed to 40 GPM ADD:	\$ 3,240	each
If shoring of the excavation(s) is required ADD:	\$38,120	
Traffic Plating (included): If this is not needed deduct:	\$ 5,250	
Removal & Disposal of extra Gallons of hazardous waste:	\$ 1.75	per gallon
To provide Monthly Inspection Services:	\$ 245	per month
To provide Quarterly Preventative Maintenance:	\$ 640	quarterly
Annual Tank/Line Testing, Leak Detector Cert, Veeder Root Certification, meter calibration, spill bucket test:	\$ 3,575	Annually

READ, UNDERSTOOD, AGREED TO AND ACCEPTED
BY The City of Tyler

Name: _____

Title: _____

Signature: _____

Date: _____



REQUEST FOR PROPOSAL

THIS IS NOT AN ORDER

CITY OF TYLER
Purchasing Department
304 North Border
Tyler, Texas 75702

03/23/2020
DATE MAILED

Proposal No: 20-023
(Number must appear on ALL correspondence)

Closing Time: 2:00 pm

Closing Date: 04/14/2020

Telephone: (903) 531-1232

Addressed To:

INSTRUCTIONS:

1. Keep duplicate copy of proposal for your files.
2. Federal Excise Taxes are exempted, also Federal Transportation Tax, State Tax, and City Sales Tax.
3. Return this form at once if unable to quote.
4. Specify Trade name or brand in space.

Please quote as per instructions indicated below for the articles described. Proposal must be submitted on City of Tyler forms to be considered. All items or services called for must be in strict accordance with all of the requirements and specifications attached hereto or furnished upon request.

Purchasing Manager

Sealed proposals to furnish the following will be received in the Purchasing Office @ 304 North Border, Tyler, Texas 75702, Attn: Sherry Pettit until 2:00pm on 04/14/2020 and opened by City Staff in the City Council Chambers @ 212 North Bonner, City Hall, 2nd Floor @ 2:00 pm on 04/14/2020.

UPGRADE FUELING SYSTEM AT OAKWOOD COMPLEX

PROPOSAL IDENTIFICATION:

Proposal number, closing time, date, and item requested must appear on outside of envelope in lower left hand corner.

DATA SHEETS:

All responders must complete each specification data sheet in spaces provided on each item that is bid as well as all information requested on the price data sheet. Said price, data and specifications sheet is hereby made a part of this proposal.

DELIVERY:

Delivery must be stated in your proposal on the data sheet as the number of calendar days from date of order.

The City of Tyler reserves the right to reject any and/or all proposals and to waive any and/or all formalities and to award purchase total amount, partial amount or individual item basis.

In submitting the above, the vendor agrees that acceptance by the City of Tyler within a reasonable period constitutes a binding agreement.

In submitting the above request and attached proposal to the City of Tyler, I hereby certify that we have not participated in nor been a party to any collusion, price fixing or any other agreements with any company, firm, or person concerning the pricing of the enclosed proposal.

50% Down upon acceptance - Balance @ Net 10 Days w/partial billings

INVOICING TERMS

4/14/2020

DATE

Pump Masters Inc

COMPANY NAME

Douglas L. Jones

AUTHORIZED REPRESENTATIVE (print)

Douglas L. Jones
SIGNATURE

* All Proposals Must Be Signed

See other side for TERMS AND CONDITIONS

05/09/19 ** Form 3-37 **

(Page 1 of 2)



PRICE, DATA, AND SPECIFICATION SHEET

CITY OF TYLER
 Purchasing Department
 304 North Border
 Tyler, Texas 75702

Telephone: (903) 531-1232

DATE: 3/23/2020

BID # / PROPOSAL #: 20-023

CLOSING TIME: 2:00 pm

CLOSING DATE: 04/14/2020

PROPOSERS MUST COMPLETE THIS SECTION

ITEM NO.	QUANTITY	DESCRIPTION	BRAND	UNIT PRICE	TOTAL NET PRICE
1	1	Furnish All Necessary Materials, Equipment, Superintendence, and Labor for Replace underground fuel storage tanks, leak monitoring system and fuel, DEF and bulk oil dispensing system with new per TCEQ regulations Project (Delivery - 210 Days)	Tanks - Hall Dispensers - Wayne ATG - Veeder Root	\$545,050.65	\$545,050.65
1 - ALT	1	Same as above with option on Tank relocation (Delivery - 210 Days)	Same as above	\$475,550.65	\$475,550.65
2	12	Monthly & Annual Inspection & Documentation for TCEQ using PEI- RP900 Checklists modified as needed Billed Monthly - Recurring (Does not include repair or correction)	Maintenance	\$275.00	\$3300.00
3	1	Tri-Annual Testing & Inspection & Documentation for TCEQ using PEI-RP1200 Checklists modified as needed Billed Annually - Recurring (Includes Testing & disposal but no repair)	Maintenance	\$3500.00	\$3500.00
			Total for 1,2,3		\$551,850.65
			or		
			Total for 1 -ALT, 2,3		\$482,350.65
<i>NOTE - Proposal only includes items shown above. Does not include removal or disposal of contaminated soil and/or water or discharges by TCEQ on such. Also does not include rock conditions or excessive groundwater or cave-ins.</i>					



REQUEST FOR PROPOSAL

THIS IS NOT AN ORDER

CITY OF TYLER
Purchasing Department
304 North Border
Tyler, Texas 75702

03/11/2020
DRAFT MAILED

Proposal No: 20-023
(Number must appear on ALL correspondence)

Closing Time: 2:00 pm

Closing Date: 03/17/2020

Telephone: (903) 531-1232

Addressed To:

*TOP SERVICE, LLC
17130 W Hwy 155
FRANKSTON, TX 75763*

Please quote as per instructions indicated below for the articles described. Proposal must be submitted on City of Tyler forms to be considered. All items or services called for must be in strict accordance with all of the requirements and specifications attached hereto or furnished upon request.

INSTRUCTIONS

1. Keep duplicate copy of proposal for your files.
2. Federal Excise Taxes are exempted, also Federal Transportation Tax, State Tax, and City Sales Tax.
3. Return this form at once if unable to quote.
4. Specify Trade name or brand in space.

Purchasing Manager

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UPGRADE FUELING SYSTEM AT OAKWOOD COMPLEX

PROPOSAL IDENTIFICATION

Proposal number, closing time, date, and item requested must appear on outside of envelope in lower left hand corner.

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DELIVERY

Delivery must be stated in your proposal on the data sheet as the number of calendar days from date of order.

The City of Tyler reserves the right to reject any and all proposals and to waive any and/or all formalities and to award purchase total amount, partial amount or individual item basis.

In submitting the above, the vendor agrees that acceptance by the City of Tyler within a reasonable period constitutes a binding agreement.

In submitting the above request and attached proposal to the City of Tyler, I hereby certify that we have not participated in nor been a party to any collusion, price fixing or any other agreements with any company, firm, or person concerning the pricing of the enclosed proposal.

DUE UPON RECEIPT
INVOICING TERMS

DATE *4/14/2020*

TOP SERVICE, LLC
COMPANY NAME

Kyle McGill
AUTHORIZED REPRESENTATIVE (print)

SIGNATURE

See other side for TERMS AND CONDITIONS

All Proposals Must Be Signed



PRICE, DATA, AND SPECIFICATION SHEET

CITY OF TYLER
 Purchasing Department
 304 North Border
 Tyler, Texas 75702

Telephone: (903) 531-1232

DATE: 3/23/2020

BID # / PROPOSAL #: 20-023

CLOSING TIME: 2:00 pm

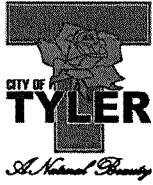
CLOSING DATE: 04/14/2020

PROPOSERS MUST COMPLETE THIS SECTION

ITEM NO.	QUANTITY	DESCRIPTION	BRAND	UNIT PRICE	TOTAL NET PRICE
		Furnish All Necessary Materials, Equipment, Superintendence, and Labor for Replace underground fuel storage tanks, leak monitoring system and fuel, DEF and bulk oil dispensing system with newer TCEQ regulations Project			
1	1	Tank Removal	—	22,000	22,000
2	1	36,000-gal UST (split 15/15/6)	Xerox	74,800	74,800
3	1	Single Product/Single Hose Dispenser	Wayne	4,500	4,500
4	1	Single Product/Dual Hose Dispenser	Wayne	7,800	7,800
5	1	Dual Product/Dual Hose Dispenser	Wayne	7,800	7,800
6	2	DEF Dispenser	Wayne	9,850	19,700
7	3	Fuel Master Prokee System	Fuel Master	10,433.33	31,300
8	1	Installation Materials	—	143,548	143,548
9	1	Labor	—	75,552	75,552
10	36	Monthly Monitoring	Accent	400	14,400
					\$ 401,400⁰⁰

Bid 20-023**Score Card****3000 possible score**

	Cost	Maintenance plane	Firm Experience	Manager experience	Total
IBC Construction	1200	520	600	600	2920
T&P Service	600	490	600	600	2290
Pump Master	350	150	600	600	1700
Covey Bros	900	320	600	600	2420



260 per month

*31 years
24 years*

RFP#20-023

Upgrade Fueling System at Oakwood Complex SCORE SHEET - MAXIMUM PROPOSAL GRADE IS 1000 POINTS

Vendor Name IBC Construction

Evaluator Initials US Date _____

Item	Evaluation Criteria	Points Possible	Score
1.	Overall cost of Proposal	400	400
2.	Maintenance plan for the City of Tyler	200	150
3.	Experience of firm	200	200
4.	Experience of Manager/contractor	200	200
	TOTAL	1000	

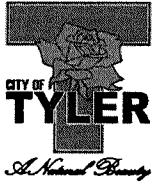
QUESTIONS TO CONSIDER IN THE EVALUATION OF THE VENDOR IN EACH CRITERIA:

1. **Reasonable Cost and Proposer's Reference Check:**
 - Has the vendor established a cost that is reasonable for the scope of work?
 - Is the City of Tyler receiving good value for its dollar?
 - Does the fee appear cost effective?
 - Are the cost reasonable compared to the competition?

2. **Maintenance plan for the City of Tyler**
 - Does the vendor propose to meet or exceed the scope of work the City desires to maintain?
 - Does the vendor propose on going testing and maintenance for the City of Tyler?
 - Does the vendor propose adequate qualified staff to perform quality work consistently?
 - Will they be available for follow up issues? Is there a local office or contact person?

3. **Experience of the firm**
 - Did the vendor's proposal provide all the necessary information requested in the RFP in a professional manner?
 - Did the proposal cause doubt regarding its ability to complete the necessary tasks?
 - Was the proposal easy to understand, or did it create more questions?
 - Does the vendor have prior experience that will ensure all the skills necessary to perform tasks well? Did the vendor have success in other work for a private or government entity?
 - Has the vendor provided adequate references?
 -

4. **Experience of the Manager/Contractor**
 - Did the vendor provide sufficient data to convince you that they will do a good job for the City of Tyler?
 - Are you confident that the vendor has the knowledge, skills, and abilities to perform all the tasks in the scope of work well?
 - Will the vendor's resources be adequate to serve the City of Tyler's needs?
 - Does the vendor suggest new ways to enhance performance?
 - Does the vendor have the flexible capacity to handle all the needs of the City as we continue to change?
 - Did the vendor present sufficient work history to convince you of its ability?
 - Has the vendor been in business long enough to provide good stability?



RFP#20-023

Upgrade Fueling System at Oakwood Complex SCORE SHEET - MAXIMUM PROPOSAL GRADE IS 1000 POINTS

Vendor Name IBC Construction

Evaluator Initials SHS Date 4-17-2020

Item	Evaluation Criteria	Points Possible	Score
1.	Overall cost of Proposal	400	400
2.	Maintenance plan for the City of Tyler	200	190
3.	Experience of firm	200	200
4.	Experience of Manager/contractor	200	200
	TOTAL	1000	990

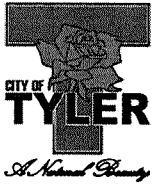
QUESTIONS TO CONSIDER IN THE EVALUATION OF THE VENDOR IN EACH CRITERIA:

1. **Reasonable Cost and Proposer's Reference Check:**
 - Has the vendor established a cost that is reasonable for the scope of work?
 - Is the City of Tyler receiving good value for its dollar?
 - Does the fee appear cost effective?
 - Are the cost reasonable compared to the competition?

2. **Maintenance plan for the City of Tyler**
 - Does the vendor propose to meet or exceed the scope of work the City desires to maintain?
 - Does the vendor propose on going testing and maintenance for the City of Tyler?
 - Does the vendor propose adequate qualified staff to perform quality work consistently?
 - Will they be available for follow up issues? Is there a local office or contact person?

3. **Experience of the firm**
 - Did the vendor's proposal provide all the necessary information requested in the RFP in a professional manner?
 - Did the proposal cause doubt regarding its ability to complete the necessary tasks?
 - Was the proposal easy to understand, or did it create more questions?
 - Does the vendor have prior experience that will ensure all the skills necessary to perform tasks well? Did the vendor have success in other work for a private or government entity?
 - Has the vendor provided adequate references?
 -

4. **Experience of the Manager/Contractor**
 - Did the vendor provide sufficient data to convince you that they will do a good job for the City of Tyler?
 - Are you confident that the vendor has the knowledge, skills, and abilities to perform all the tasks in the scope of work well?
 - Will the vendor's resources be adequate to serve the City of Tyler's needs?
 - Does the vendor suggest new ways to enhance performance?
 - Does the vendor have the flexible capacity to handle all the needs of the City as we continue to change?
 - Did the vendor present sufficient work history to convince you of its ability?
 - Has the vendor been in business long enough to provide good stability?



RFP#20-023

Upgrade Fueling System at Oakwood Complex SCORE SHEET - MAXIMUM PROPOSAL GRADE IS 1000 POINTS

Vendor Name IBC Constructor

Evaluator Initials DS Date 4/17/2

Item	Evaluation Criteria	Points Possible	Score
1.	Overall cost of Proposal	400	400
2.	Maintenance plan for the City of Tyler	200	180
3.	Experience of firm	200	200
4.	Experience of Manager/contractor	200	200
	TOTAL	1000	980

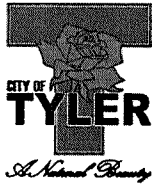
QUESTIONS TO CONSIDER IN THE EVALUATION OF THE VENDOR IN EACH CRITERIA:

1. **Reasonable Cost and Proposer's Reference Check:**
 - Has the vendor established a cost that is reasonable for the scope of work?
 - Is the City of Tyler receiving good value for its dollar?
 - Does the fee appear cost effective?
 - Are the cost reasonable compared to the competition?

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 - Does the vendor propose on going testing and maintenance for the City of Tyler?
 - Does the vendor propose adequate qualified staff to perform quality work consistently?
 - Will they be available for follow up issues? Is there a local office or contact person?

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 - Does the vendor have the flexible capacity to handle all the needs of the City as we continue to change?
 - Did the vendor present sufficient work history to convince you of its ability?
 - Has the vendor been in business long enough to provide good stability?



36 month

RFP#20-023

Upgrade Fueling System at Oakwood Complex SCORE SHEET - MAXIMUM PROPOSAL GRADE IS 1000 POINTS

Vendor Name TAP Service

Evaluator Initials LS Date _____

Item	Evaluation Criteria	Points Possible	Score
1.	Overall cost of Proposal	400	200
2.	Maintenance plan for the City of Tyler	200	200
3.	Experience of firm	200	200
4.	Experience of Manager/contractor	200	200
	TOTAL	1000	

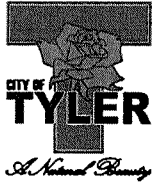
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RFP#20-023

Upgrade Fueling System at Oakwood Complex SCORE SHEET - MAXIMUM PROPOSAL GRADE IS 1000 POINTS

Vendor Name T&P Service

Evaluator Initials SW Date 4-17-2020

Item	Evaluation Criteria	Points Possible	Score
1.	Overall cost of Proposal	400	200
2.	Maintenance plan for the City of Tyler	200	190
3.	Experience of firm	200	200
4.	Experience of Manager/contractor	200	200
	TOTAL	1000	790

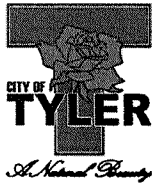
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RFP#20-023

Upgrade Fueling System at Oakwood Complex SCORE SHEET - MAXIMUM PROPOSAL GRADE IS 1000 POINTS

Vendor Name T & P Services

Evaluator Initials _____ Date _____

Item	Evaluation Criteria	Points Possible	Score
1.	Overall cost of Proposal	400	200
2.	Maintenance plan for the City of Tyler	200	100
3.	Experience of firm	200	200
4.	Experience of Manager/contractor	200	200
	TOTAL	1000	700

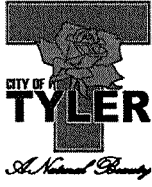
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245

RFP#20-023

Upgrade Fueling System at Oakwood Complex SCORE SHEET - MAXIMUM PROPOSAL GRADE IS 1000 POINTS

Vendor Name Covey Bros Contracting

Evaluator Initials LG Date _____

Item	Evaluation Criteria	Points Possible	Score
1.	Overall cost of Proposal	400	300
2.	Maintenance plan for the City of Tyler	200	100
3.	Experience of firm	200	200
4.	Experience of Manager/contractor	200	200
	TOTAL	1000	

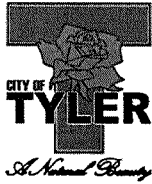
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RFP#20-023

Upgrade Fueling System at Oakwood Complex SCORE SHEET - MAXIMUM PROPOSAL GRADE IS 1000 POINTS

Vendor Name Covey Bros Contracting
 Evaluator Initials DS Date 4-17-20

Item	Evaluation Criteria	Points Possible	Score
1.	Overall cost of Proposal	400	300
2.	Maintenance plan for the City of Tyler	200	100
3.	Experience of firm	200	200
4.	Experience of Manager/contractor	200	200
	TOTAL	1000	800

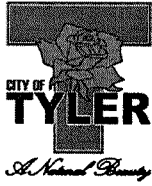
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RFP#20-023

Upgrade Fueling System at Oakwood Complex SCORE SHEET - MAXIMUM PROPOSAL GRADE IS 1000 POINTS

Vendor Name Covey Bros Contracting

Evaluator Initials SM Date 4-17-2020

Item	Evaluation Criteria	Points Possible	Score
1.	Overall cost of Proposal	400	300
2.	Maintenance plan for the City of Tyler	200	120
3.	Experience of firm	200	200
4.	Experience of Manager/contractor	200	200
	TOTAL	1000	820

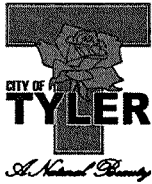
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RFP#20-023

Upgrade Fueling System at Oakwood Complex SCORE SHEET - MAXIMUM PROPOSAL GRADE IS 1000 POINTS

Vendor Name Pump Masters

Evaluator Initials LS Date _____

Item	Evaluation Criteria	Points Possible	Score
1.	Overall cost of Proposal	400	100
2.	Maintenance plan for the City of Tyler	200	50
3.	Experience of firm	200	200
4.	Experience of Manager/contractor	200	200
	TOTAL	1000	

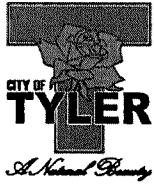
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RFP#20-023

Upgrade Fueling System at Oakwood Complex SCORE SHEET - MAXIMUM PROPOSAL GRADE IS 1000 POINTS

Vendor Name Pump Masters
 Evaluator Initials DS Date 9/17/20

Item	Evaluation Criteria	Points Possible	Score
1.	Overall cost of Proposal	400	150
2.	Maintenance plan for the City of Tyler	200	50
3.	Experience of firm	200	200
4.	Experience of Manager/contractor	200	200
	TOTAL	1000	600

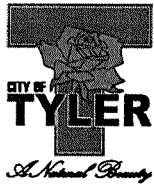
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RFP#20-023

Upgrade Fueling System at Oakwood Complex SCORE SHEET - MAXIMUM PROPOSAL GRADE IS 1000 POINTS

Vendor Name Pump Masters

Evaluator Initials SW Date 4-17-2020

Item	Evaluation Criteria	Points Possible	Score
1.	Overall cost of Proposal	400	1000
2.	Maintenance plan for the City of Tyler	200	50
3.	Experience of firm	200	200
4.	Experience of Manager/contractor	200	200
	TOTAL	1000	350

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**CITY OF TYLER
CITY COUNCIL COMMUNICATION**

Agenda Number: B-1

Date: May 13, 2020

Subject: Request that the City Council consider appointing members to the Airport Board and the Half Cent Sales Tax Board for the Central District.

Page: Page 1 of

Item Reference:

Due to the vacancies on the Airport Board and the Half Cent Sales Tax Board the City has solicited applicants for board membership to fill positions on the Airport Board and the Half Cent Sales Tax Board for the Central District.

Attached are the most recent applications from individuals who have expressed an interest in serving on the Airport Board and the Half Cent Sales Tax Board.

RECOMMENDATION:

It is recommended that the City Council consider appointing members to the Airport Board and the Half Cent Sales Tax Board for the Central District.

ATTACHMENTS:

[Airport Board](#)
[Half Cent Sales Tax](#)
[C Perry Marshall](#)
[Trey Graham](#)

Drafted/Recommended By:
Department Leader

Cassandra Brager, City Clerk

Edited/Submitted By:
City Manager



AIRPORT ADVISORY BOARD



2 year terms (Created 3-6-70) (Revised 5-19-87) (City Code Section 12-1)

City Liaison: Meets 3rd Monday (11/18/13) of every month at 12:00 noon at the Airport Conference Room.

Single Member District	Place	* Chair	Board Member Mailing Address & Email Address	Telephone Numbers	Terms Completed	Date Appointed	Date Term Expires
South	1		John Barber Jr. 1409 Jeff Davis Dr. Tyler, Texas 75703 Barberjr73@gmail.com	H 817-914-2824 W M	2	09-09-2015	08-31-2021
South	2	*	Lindsey Birdsong 1101 Wilmington Tyler, Texas 75701 Lindsey@birdsonglaw.com	H 903-581-0938 W 903-595-6297 M	2	09-24-2014 Council made appts. late	08-31-2020
Central	3		Amir Mirmiran 3900 University Blvd, Steward Hall 314 Tyler, Texas 75799 amirmiran@uttyler.edu	H 903-266 9888 W 903-566-7104 M	0	09-25-2019	08-31-2021
Central	4		Robert Spivey 6303 Shady Oaks Dr. Tyler, Texas 75703 Bob.spivey@att.net	H 903-581-2484 W 903-408-2100 M	2	09-24-2014 Council made appts. late	08-31-2020
N. East	5		James C Wynne III 2024 Republic Dr Tyler, Texas 75701 jwynne@tyler.net	H 903-597-7594 W 903-509-9795 M	2	09-09-2015	08-31-2021
Central (vacant)	6		Kelly Walker 1121 ESE Loop 323 Suite 120 Tyler, Texas 75703 kwwalker@walkermgt.com	H 903-561-8989 W 903-561-6650 M	1	08-31-2016	08-31-2020
South	7		Robert "Robbie" Campbell III 1100 Regency Lane Tyler, Texas 75703 Robbie2sara@suddenlink.net	H 903-534-8505 W M	1	08-23-2017	08-31-2021



Tyler One-Half Cent Sales Tax Corporation Board of Directors

2 year terms (Created 9-4-96)							
City Liaison: Lisa Crossman		Meets 2 nd Tuesday each month at 4:00 p.m., Tyler Development Center Large conference Room. (more than advisory)					
Single Member District	Place	* Chair	Board Member Mailing Address & Email Address	Telephone Numbers	Terms Completed	Date Appointed	Date Term Expires
At Large <small>(Mayor's Appointment)</small>		*	Mark Whatley - President 3826 Brighton Creek Circle Tyler, Texas 75707	H W M 903-530-0955	1	06-05-2013	05-2020
Central Resigned	1		Jeff Buie 309 S. Palace Tyler, Texas 75702 jeffbuie@gmail.com	H 903-561-4465 W 903-521-5766 M	0	01-11-2017	05-2021
West	2		Darryl Bowdre 711 S. Vine St. Tyler, Texas 75701 pastor@sctyler.com	H 903-352-2415 W M	0	06-13-2018	05-2020
N. West	3		John Walton 309 Tournament Tyler, Texas 75702 admin@cuabsaturday.org	H 903-574-9110 W M 903-574-9110	0	07-24-2019	08-31-2021
N. East Fill unex term until 2018	4		Nicanor (Nick) Pesina Jr. 118 W. Fourth Street Tyler, Texas 75701 nick@robertslawfirm.com	H 903-920-7042 W 903-597-6655 M	1	04-12-2017	05-2020
East	5		Aubrey Sharpe 3306 Lakepine Circle Tyler, Texas 75707 asha@tjc.edu	H 903-565-6049 W 903-510-2901 M 903-521-6332	0	06-14-2017	05-2021
South	6		John Nix 1515 Jeff Davis Dr. Tyler, Texas 75703 jnix@tylertexas.com	H 903-376-4291 W M	1	07-10-2019	05-2020

III. BACKGROUND INFORMATION

1. Number of years you have lived in Tyler?

Years: 12

2. Education

Institution / School	Diploma / Degree	Year
Baylor University	BS	1970
Universidad Autonoma de Guadalajara	MD	1975

3. Employment (List most recent first)

Employer	Position	Dates
Business Health @ Direct RehabMed	Medical Director	2016 -
US Healthworks	Medical Director	2013 - 2016
Div of Workers' Comp, State of TX	Designated Doctor	2011 - 2013

4. Professional Licenses

(e.g. Physician, Attorney, Engineer, Master Electrician, C.P.A., etc.)

Occupation	Type of License Associated with Occupation
Physician	Medical license to practice medicine

5. Professional Association Memberships

Association	Office Held (if applicable)
Aerospace Medical Association, Assoc of US Naval Flt Surg's	N/A
Texas Medical Association	N/A
Smith County Medical Association	N/A

6. Civic-Volunteer Organizations and Activities

(e.g. United Way Loaned Executive, Boy Scout Scoutmaster, etc.)

Organization / Activity	Dates
Shriners (past Potentate, Mbr hosp Bd of Gov), Scot & York Rite, Mas Mason	Since 1974
Boy Scouts of America: Unit Commissioner, Roundtable Commissioner	Multiple

If applying for the Civil Service Commission, please indicate if you meet the following requirements by marking an "X" in the appropriate box. A person appointed to the commission must:	NO	YES	NOT SURE
1) be of good moral character			
2) be a United States citizen;			
3) be a resident of the municipality who has resided in the municipality for more than three years			
4) be over 25 years of age			
5) not have held a public office within the preceding three years			

***** FOR OFFICE USE ONLY *****	
Applicant's District #:	<u>W. 2nd</u>
Applicant appointed to the following Board:	
Date City Council appointed applicant:	

IV. QUESTIONNAIRE REGARDING CONFLICT OF INTERESTS

Please indicate your answer with an "X" in the appropriate box.

QUESTION	NO	YES	NOT SURE
1) Do you or a family member have a contract with, or currently own a business that has a contract with, the City of Tyler?	X		
2) Are you or a family member currently involved in any real estate transactions in which you or the family member are either buying from, or selling to, the City of Tyler?	X		
3) Do you have any delinquent City taxes, utilities, or other assessments or have any pending claims against the City?	X		

NOTE:

Answering yes will NOT automatically disqualify a person from serving on a City Board, as the type of interest will determine whether a conflict is present.

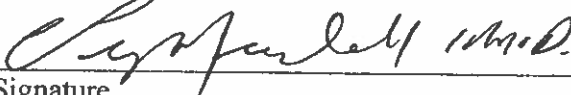
I understand that if I am appointed to a board I will be expected to participate actively in the business of the respective board, and adhere to the attendance requirements in City Code Section 1-20.1. I also understand that I will be expected to become familiar with relevant City Codes, and review all material relating to decisions to be made and that I can abstain only for cause. I agree to contact the City Clerk's Office in the event that there is any change in my home address/phone number/e-mail address listed above.

City Boards that are more than advisory. I understand that if I am appointed to a City Board that is more than advisory in nature as listed in the definition of "City Officer" in City Code Section 1-26, that I will be subject to provisions of the City's Ethics Ordinance in City Code Sections 1-26 through 1-29. If a situation arises during my term on said Board where I have a prohibited financial interest [as defined in City Code Section 1-27], either direct or indirect, in any contract with, or sale of, land or materials to, the City of Tyler, I understand that I will need to resign.

Furthermore, if a situation arises during my term on said Board where I have a prohibited substantial interest [as defined in City Code Section 1-29], either direct or indirect, in any contract with, or sale of land or materials to, the City of Tyler, and such matter comes before said Board, I understand that I will need to abstain from any discussion or vote on the matter, and that I will also need to file an affidavit showing such prohibited substantial interest.

C Perry Marshall, MD

Printed Name

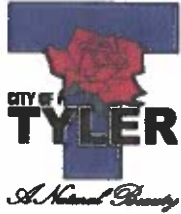


Signature

26 January 2020

Date

Return completed form to:	
Cassandra Brager, City Clerk P. O. Box 2039 Tyler, TX 75710	CLERK TO CC: City Council City Manager



CITY OF TYLER, TEXAS
BOARD / COMMISSION / COMMITTEE
MEMBERSHIP APPLICATION

I. CONTACT INFORMATION

Please indicate with an "X" the title you prefer.

Mr. x Miss _____ Mrs. _____ Ms. _____ Dr. _____ Prof. _____

NAME: TREY GRAHAM			
Home Address: 1309 BELLEHAVEN CT TYLER TX 75703			
Street	City	State	Zip Code
Home Telephone Number: 903-253-6700 (CELL)			

Office Address:			
2101 E FIFTH STREET TYLER TX 75701			
Street	City	State	Zip Code
Office Telephone Number: 903-592-6591			
<i>Please indicate with an "X" which address you would like to use for mailings.</i>		CELL: X	OFFICE:

E-Mail Address: TREYGRAHAM3@YAHOO.COM

II. BOARD SELECTION

PRIORITY PREFERENCE:

Place a 1 beside the name of the Board indicating your 1st Choice, and 2 for your 2nd Choice. Please limit your preferences to two (2) Boards.

NOTE: * Specific technical expertise is required for membership on these boards.
 # The board is more than advisory in nature; will require additional training time.
 @ Special State law requirements, see additional requirements on page 3.

	Airport Advisory Board
	Animal Care Advisory Board (*)
	Board of Adjustment (Zoning) (*) (#)
	Civil Service Commission (#) (@)
	Construction Board of Adjustment & Appeals (*) (#) Building, Plumbing, Mechanical, Residential & Gas Codes)
	Disability Issues Review Board
	Industrial Development Corporation of Tyler Board of Directors (*)
	Keep Tyler Beautiful Board
	Main Street Board (*) (#)
	Neighborhood Revitalization Board (*) (#)
	Parks Board
	Planning and Zoning Commission (#)
	Northeast Texas Public Health District Board (#)
	Traffic Safety Board
	Tyler Health Facilities Development Corporation Board of Directors (*)
	Tyler Historical Preservation Board (*) (#)
1	Tyler One-half Cent Sales Tax Corp, Inc. Board (#)
	Tyler Public Library Board

III. BACKGROUND INFORMATION

1. Number of years you have lived in Tyler?

Years: 52 Yrs

2. Education

Institution / School	Diploma / Degree	Year
Bachelor's degree	Agribusiness	1991

3. Employment (List most recent first)

Employer	Position	Dates
Terry Graham Interest, Ltd.	Co-Owner	1991

4. Professional Licenses

(e.g. Physician, Attorney, Engineer, Master Electrician, C.P.A., etc.)

Occupation	Type of License Associated with Occupation
Real Estate/ Investments	Real Estate License

5. Professional Association Memberships

Association	Office Held (if applicable)

6. Civic-Volunteer Organizations and Activities

(e.g. United Way Loaned Executive, Boy Scout Scoutmaster, etc.)

Organization / Activity	Dates
Board of Directors Hollytree Homeowners Associates	Current
Board of Directors Winsford Homeowners Associates	Current

If applying for the Civil Service Commission, please indicate if you meet the following requirements by marking an "X" in the appropriate box. A person appointed to the commission must:	NO	YES	NOT SURE
1) be of good moral character			
2) be a United States citizen;			
3) be a resident of the municipality who has resided in the municipality for more than three years			
4) be over 25 years of age			
5) not have held a public office within the preceding three years			

******* FOR OFFICE USE ONLY *******

Applicant's District #:	
Applicant appointed to the following Board:	
Date City Council appointed applicant:	

IV. QUESTIONNAIRE REGARDING CONFLICT OF INTERESTS

Please indicate your answer with an "X" in the appropriate box.

QUESTION	NO	YES	NOT SURE
1) Do you or a family member have a contract with, or currently own a business that has a contract with, the City of Tyler?	X		
2) Are you or a family member currently involved in any real estate transactions in which you or the family member are either buying from, or selling to, the City of Tyler?	X		
3) Do you have any delinquent City taxes, utilities, or other assessments or have any pending claims against the City?	X		

NOTE:

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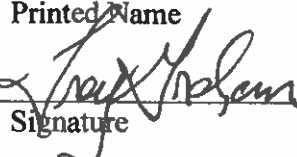
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Furthermore, if a situation arises during my term on said Board where I have a prohibited substantial interest [as defined in City Code Section 1-29], either direct or indirect, in any contract with, or sale of land or materials to, the City of Tyler, and such matter comes before said Board, I understand that I will need to abstain from any discussion or vote on the matter, and that I will also need to file an affidavit showing such prohibited substantial interest.

Trey Graham

 Printed Name



 Signature

April 22, 2020

 Date

Return completed form to:	
Cassandra Brager, City Clerk P. O. Box 2039 Tyler, TX 75710	CLERK TO CC: City Council City Manager



CITY OF TYLER CITY COUNCIL COMMUNICATION

Agenda Number: C-A-1

Date: May 13, 2020

Subject: Request that the City Council consider adoption of an updated Resolution approving the continued participation in the Texas State Department of Information Resources (DIR) Program and General Services Commission Local Government Purchasing Program and authorizing the City Manager to renew several annual leases for technology equipment including computers, software, and telephones from approved vendors previously obtained through this program for FY 2019-2020.

Page: Page 1 of

Item Reference: Participation in State Catalogue Purchasing Program and annual leasing of technology equipment; Tyler City Code Sec. 2-6.

As an initial part of the City of Tyler Blueprint process, a three-year cycle of leasing and replacing of computers was implemented. The most efficient way to implement this was to participate in a lease and purchase program was for the City Council to approve and authorize purchasing Dell EMC Isilon storage for Police video storage for a maximum five-year lease in the amount of \$478,702.88 with prosperity Bank with an annual cost of \$95,741.12 from the State Catalogue Purchasing Program. That program has since been changed and is now called the State Department of Information Resources (DIR) Program with MarkIII as reseller. State law, in Texas Local Government Code Chapter 271, Subchapter D State Cooperation in Local Purchasing Programs, authorizes the State to conduct a bid process and create a list of vendors and products available without further bidding if the City passes a Resolution and designates an official to act on the City's behalf. This enables the City to take advantage of vendors who have the most up-to-date equipment at the best price.

It is still considered to be in the City of Tyler's best interest to lease computer equipment and software. As prices continue to go down, it may become more economical to begin purchasing equipment in future replacements. Leasing equipment continues to provide the City a way to obtain the latest technology at the lowest possible cost.

Tyler City Code Sect. 2-6.b. requires all expenditures over \$50,000 be approved by City Council.

RECOMMENDATION:

It is recommended that the City Council adopt an updated Resolution approving the City of Tyler's continued participation in the Texas State DIR Program and General Services Commission Local

Government Purchasing Program and that the City Council also authorize the City Manager to renew annual leases for technology equipment including computers and software, and telephones from approved vendors previously obtained through this program for FY 2019-2020.

ATTACHMENTS:

Resolution
UCC-1 Financing Statement
UCC-1 Financing Statement - Exhibit A
Certificate with Respect to Tax-Exempt
Equipment-Lease Agreement
Essential Use Letter
IRS Form 8038-G
Incumbency Certificate
Notice of Final Agreement
Opinion of Borrower's Counsel

Drafted/Recommended By:
Department Leader

Benny Yazdanpanahi, Chief Information Officer

Edited/Submitted By:
City Manager

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS, AUTHORIZING THE CITY MANAGER TO EXECUTE A LEASE WITH PROSPERITY BANK; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the governing body of the CITY OF TYLER, TEXAS (the “Lessee”) has determined that in order for the Lessee to better accomplish its public purposes, the Lessee needs to acquire the use of the Equipment described in the schedule attached to or set forth in the Equipment Lease-Purchase Agreement (the “Lease”) attached hereto; and

WHEREAS, the Lessee’s payment obligations under the Lease will be subject to annual appropriation and the Lessee will designate the Lease as a non-bank qualified obligation; and

WHEREAS, the Lessee has determined that the most economical and efficient means of acquiring the use of said Equipment is pursuant to a lease-purchase of the Equipment pursuant to the Lease; and

WHEREAS, a copy of the Lease has been presented to, considered and approved by the governing body of the Lessee;

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

PART 1: That the Lessee is hereby authorized to enter into the Lease between the Lessee and PROSPERITY BANK, as lessor, with all riders, certificates, schedules, and amendments thereto, substantially in the form attached hereto, and the execution and delivery of the Lease is hereby approved, authorized and confirmed.

PART 2: That the City Manager is hereby authorized to execute and deliver the Lease on behalf of the Lessee in substantially the form presented to the governing body of Lessee at this meeting with such changes or additions thereto or deletions therefrom as the officer executing the same shall approve, which approval shall be conclusively evidenced by his or her execution of the Lease. The City Manager is hereby authorized to execute and deliver on behalf of the Lessee such agreements, indemnities, purchase orders, leases, bills of sale, certificates or other instruments or obligations as they or any one of them may deem necessary or appropriate to the accomplishment of the Lease, and the execution and delivery of any such agreement, instrument or obligation prior to the date hereof by any such officer is in all respects hereby confirmed, ratified and approved.

The City Clerk is hereby authorized and directed to affix the corporate seal to such instruments and to attest the same.

PART 3: That the proper officers of the Lessee are authorized and directed to do or cause to be done all such other acts and things, to make all payments, including rent payments, required pursuant to the Lease and related documents, and to execute all such documents, certificates and instruments as in his, her or their judgment may be necessary or advisable in order to carry out the foregoing Resolutions and the Lessee's obligations under the Lease; and all actions heretofore taken by the officers of the Lessee in connection with the acquisition of the Equipment and negotiation of the Lease are hereby approved, ratified and confirmed in all respects.

PART 4: That this Resolution shall become effective immediately upon adoption.

ADOPTED this 13th day of May, 2020.

MARTIN HEINES, MAYOR OF THE
CITY OF TYLER, TEXAS

ATTEST:

APPROVED:

CASSANDRA BRAGER
CITY CLERK

DEBORAH G. PULLUM
CITY ATTORNEY

CITY SEAL

UCC FINANCING STATEMENT

FOLLOW INSTRUCTIONS

A. NAME & PHONE OF CONTACT AT FILER (optional)
B. E-MAIL CONTACT AT FILER (optional)
C. SEND ACKNOWLEDGMENT TO: (Name and Address)
<div style="border: 1px solid black; width: 100%; height: 100%; position: relative;"> </div>

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1. DEBTOR'S NAME: Provide only one Debtor name (1a or 1b) (use exact, full name; do not omit, modify, or abbreviate any part of the Debtor's name); if any part of the Individual Debtor's name will not fit in line 1b, leave all of item 1 blank, check here and provide the Individual Debtor information in item 10 of the Financing Statement Addendum (Form UCC1Ad)

1a. ORGANIZATION'S NAME				
OR	1b. INDIVIDUAL'S SURNAME			
	FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX	
1c. MAILING ADDRESS	CITY	STATE	POSTAL CODE	COUNTRY

2. DEBTOR'S NAME: Provide only one Debtor name (2a or 2b) (use exact, full name; do not omit, modify, or abbreviate any part of the Debtor's name); if any part of the Individual Debtor's name will not fit in line 2b, leave all of item 2 blank, check here and provide the Individual Debtor information in item 10 of the Financing Statement Addendum (Form UCC1Ad)

2a. ORGANIZATION'S NAME				
OR	2b. INDIVIDUAL'S SURNAME			
	FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX	
2c. MAILING ADDRESS	CITY	STATE	POSTAL CODE	COUNTRY

3. SECURED PARTY'S NAME (or NAME of ASSIGNEE of ASSIGNOR SECURED PARTY): Provide only one Secured Party name (3a or 3b)

3a. ORGANIZATION'S NAME				
OR	3b. INDIVIDUAL'S SURNAME			
	FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX	
3c. MAILING ADDRESS	CITY	STATE	POSTAL CODE	COUNTRY

4. COLLATERAL: This financing statement covers the following collateral:

5. Check only if applicable and check only one box: Collateral is held in a Trust (see UCC1Ad, item 17 and Instructions) being administered by a Decedent's Personal Representative

6a. Check <u>only</u> if applicable and check <u>only</u> one box: <input type="checkbox"/> Public-Finance Transaction <input type="checkbox"/> Manufactured-Home Transaction <input type="checkbox"/> A Debtor is a Transmitting Utility	6b. Check <u>only</u> if applicable and check <u>only</u> one box: <input type="checkbox"/> Agricultural Lien <input type="checkbox"/> Non-UCC Filing
--	--

7. ALTERNATIVE DESIGNATION (if applicable): Lessee/Lessor Consignee/Consignor Seller/Buyer Bailee/Bailor Licensee/Licenser

8. OPTIONAL FILER REFERENCE DATA:

**ANNEX 1
TO
UCC-1 FINANCING STATEMENT
DEBTOR: CITY OF TYLER, TEXAS**

All capitalized terms used herein, but not otherwise defined shall have the meaning ascribed to such term in that certain Equipment Lease-Purchase Agreement, dated May 20, 2020, between Debtor and Secured Party (the "Agreement").

Any and all right, title and interest of Debtor any and all right, title and interest of Lessee in the Equipment described in **Exhibit A** and in all additions, attachments, accessions, and substitutions thereto, and in any proceeds therefrom.

EXHIBIT A

Location of Equipment: City of Tyler Texas Municipal Court
813 N. Broadway
Tyler, Texas 75702

City of Tyler Police Department
711 W. Ferguson
Tyler, Texas 75702

	Production	
PS-PDPAD-ISIAD1DIN	PDP ADDON, ISILON ADD 1 DENSE NODE	3
PS-PDP-ISIENHDDP	PDP FOR ISILON ENTERPRISE BUNDLE DENSE	1
800-0077-PR	PWCRD KIT FOR GEN6 DEEP CHASSIS/PROMO	2
ICH-DEEP-PR	BASE CHASSIS - DEEP/PROMO	1
IBEIO-10GBE-PR	2X10GBE SFP+BACK END/PROMO W/O OPTICS	4
IFEIO-10GBE-B-PR	2X10GBE (SFP+) L/M/PROMO W/O OPTICS	4
CE-PDPISLTC0001	1 TRAINING CREDIT VALID 1YR (PDP ISL)	1500
PS-PDP-P30ISILON	30DAYPOSTDEPLOYASSIST ISILON	1
M-PSP-HW-I-002	PROSUPPORT PLUS 4HR/MC HARDWARE SUPPORT	1
IA2000-10T-400G-VS	A2000-10TB SAT/400GB/VIS PROMO	4
458-002-328	SMARTQUOTAS PROMO	1
456-113-387	SMARTQUOTAS BASE LIC PROMO TIER 4=ID	4
M-PSP-SW-I-002	PROSUPPORT PLUS 4HR/MC SOFTWARE SUPPORT	1
456-113-388	SMARTQUOTAS CAP LIC PROMO TIER 4 =CB	800
458-002-327	SMARTCONNECT PROMO	1
456-113-385	SMARTCONNECT BASE LIC PROMO TIER 4=ID	4
M-PSP-SW-I-002	PROSUPPORT PLUS 4HR/MC SOFTWARE SUPPORT	1
456-113-386	SMARTCONNECT CAP LIC PROMO TIER 4 =CB	800
458-002-326	ONEFS PRODUCT PROMO	1
456-113-383	ONEFS BASE LICENSE PROMO TIER 4=ID	4
M-PSP-SW-I-002	PROSUPPORT PLUS 4HR/MC SOFTWARE SUPPORT	1
456-113-384	ONEFS CAP LICENSE PROMO TIER 4 =CB	800
M-PSP-HW-I-002	PROSUPPORT PLUS 4HR/MC HARDWARE SUPPORT	1
851-0296	TRANSCEIVERS/OPTIC/SFP+/SR/10GBE/2 GEN6	4
851-0258	SWITCH 10GBE 24P 2PS CELESTICA	2
851-0263	CABLE ETHERNET 10G PASS SFP+ 3M	8
EYEGLOSS-P015	SEL-SUPERNA-EYEGLOSS DR QUICK START	1
458-001-942	SNAPSHOTIQ	1
M-PSP-SW-I-002	PROSUPPORT PLUS 4HR/MC SOFTWARE SUPPORT	1
456-112-007	SNAPSHOTIQ BASE LICENSE TIER 4=ID	4
456-112-011	SNAPSHOTIQ CAPACITY LICENSE TIER 4 =CB	800
458-001-944	SYNCIQ	1
M-PSP-SW-I-002	PROSUPPORT PLUS 4HR/MC SOFTWARE SUPPORT	1
456-112-023	SYNCIQ BASE LICENSE TIER 4=ID	4
456-112-027	SYNCIQ CAPACITY LICENSE TIER 4 =CB	800
458-001-969	HDFS FOR ONEFS 0.00	4
M-PSP-SW-I-002	PROSUPPORT PLUS 4HR/MC SOFTWARE SUPPORT	1
EGL-ENT-NODE-LIC	SEL EYEGLOSS DR MANAGER ENTERPRISE VAPP	4
EGL-ENT-NODE-5Y	SEL MAINT EYEGLOSS DR MANAGER ENT 5YR	4

		<u>DR</u>
PS-PDPAD-ISIAD1DIN	PDP ADDON, ISILON ADD 1 DENSE NODE	3
PS-PDP-ISIENTHDDP	PDP FOR ISILON ENTERPRISE BUNDLE DENSE	1
800-0077-PR	PWCRD KIT FOR GEN6 DEEP CHASSIS/PROMO	2
ICH-DEEP-PR	BASE CHASSIS - DEEP/PROMO	1
IBEIO-10GBE-PR	2X10GBE SFP+BACK END/PROMO W/O OPTICS	4
IFEIO-10GBE-B-PR	2X10GBE (SFP+) L/M/PROMO W/O OPTICS	4
CE-PDPISLTC0001	1 TRAINING CREDIT VALID 1YR (PDP ISL)	1500
PS-PDP-P30ISILON	30DAYPOSTDEPLOYASSIST ISILON	1
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851-0258	SWITCH 10GBE 24P 2PS CELESTICA	2
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458-001-969	HDFS FOR ONEFS 0.00	4
M-PSP-SW-I-002	PROSUPPORT PLUS 4HR/MC SOFTWARE SUPPORT	1
EGL-ENT-NODE-LIC	SEL EYEGLASS DR MANAGER ENTERPRISE VAPP	4
EGL-ENT-NODE-5Y	SEL MAINT EYEGLASS DR MANAGER ENT 5YR	4

		<u>Superna</u>
UPG-ESUITE1-5YR	SEL IGLS EBUNDLE UPG 1 WRITE CLUSTER 5YR	1
EGL-PA-LIC	SEL PERFORMANCE AUDITOR FEATURE LIC	1
EYEGLASS-P016	SEL EYEGLASS CLUSTER ADDON INSTALL SERV	1
EGL-PA-5Y	SEL PERFORMANCE AUDITOR 5YR	1

<u>APC Rack Parts</u>		
ACDC2551	Depth Adapter, 1070 to 1200mm, SX42U to SX48U, 600-750mm Width	1
AR7000A	NetShelter SX 42U 600mm Wide Perforated Curved Door Black	1

<u>Refurbished</u>		
GLC-ZX-SMD-RF	CISCO CERT REFURB 1000BASE-ZX PERP SFP TRANSCEIVER MODULE CISCO WARR	4
SFP-10G-LR-RF	CISCO CERT REFURB 10GBASE-LR PERP SFP MODULE CISCO WRTY NO RETURNS	6
<u>New</u>		
GLC-ZX-SMD=	1000BASE-ZX SFP TRANSCEIVER PERP MODULE SMF 1550NM DOM	4
SFP-10G-LR=	10GBASE-LR SFP MODULE PERP	6

CERTIFICATE WITH RESPECT TO TAX-EXEMPT INTEREST

I, the City Manager of the CITY OF TYLER, TEXAS (“Lessee”), am duly charged with the authority for executing that certain Equipment Lease-Purchase Agreement dated as of May 20, 2020 (the “Lease”) by and between Lessee and PROSPERITY BANK and do hereby certify as follows:

1. Lessee is a political subdivision of the State of Texas.
2. All proceeds of the Lease will be used to acquire the Equipment on the date of acceptance thereof by the Lessee, and Lessee shall never invest, or have the opportunity to invest, any proceeds of the Lease. None of the proceeds shall be used to reimburse Lessee for any expenditure made prior to sixty (60) days from the date of this Certificate.
3. The Lessee has not established any sinking fund or other similar fund for the payment of the Lease Payments.
4. No portion of the gross proceeds of the Lease will be used to make or finance loans to persons other than governmental units or be used in any trade or business carried on by any person other than a governmental unit.
5. No portion of the payment of principal of, or interest on, the Lease is directly or indirectly (i) secured by any interest in property used or to be used for a private business use, or payments in respect of such property, or (ii) to be derived from payments (whether or not to Lessee) in respect of property, or borrowed money, used or to be used for a private business use.
6. This certificate is based on facts and circumstances in existence on this date.

IN WITNESS WHEREOF, this certificate has been executed on behalf of Lessee by the undersigned officer.

Dated: May 20, 2020

CITY OF TYLER, TEXAS

By: _____
Name: Edward Broussard
Title: City Manager

Date of Lease: May 20, 2020

Lease No. _____

Lease Amount: \$451,473.00

EQUIPMENT LEASE-PURCHASE AGREEMENT

Lessor: PROSPERITY BANK, a Texas Banking Association

Address: 101 N Prairieville St., Athens, Texas 75751

Lessee: CITY OF TYLER, TEXAS

Address: P.O. Box 2039, Tyler, Texas 75710

Lessor agrees to lease to Lessee and Lessee agrees to lease from Lessor, the items of Equipment (the "Equipment") described in **Exhibit A** attached to this Equipment Lease-Purchase Agreement (the "Lease"), upon the following terms and conditions:

1. **Delivery and Acceptance.** Lessee, or if Lessee so requests, Lessor, will cause the Equipment to be delivered to Lessee at the location specified in **Exhibit A** (the "Equipment Location"). Lessee will pay all transportation and other costs, if any, incurred in connection with the delivery of the Equipment. Lessee will accept the Equipment as soon as it has been delivered and is operational, or in the event that the manufacturer or vendor allows a pre-acceptance test period, as soon as the test period has expired. Lessee will evidence its acceptance of the Equipment by executing and delivering to Lessor an acceptance certificate ("Acceptance Certificate") in the form attached hereto as **Exhibit B** upon receipt of the Equipment.

2. **Term.** This Lease will become effective upon the execution hereof by Lessee and Lessor. The term of this Lease will commence on the date the Equipment is accepted pursuant to Section 1 above and, unless earlier terminated as expressly provided for in this Lease, will terminate absolutely, without further obligation on the part of the Lessee, at the end of the fiscal year in which this Lease is executed and at the end of each succeeding fiscal year for which it may be renewed as hereinafter provided. The term of this Lease will be automatically renewed for an additional period of one year at the end of each fiscal year unless Lessee gives written notice to Lessor of its intent to terminate the Lease not less than 60 days prior to the end of the fiscal year. If not sooner terminated, the Lease will continue until the Expiration Date set forth in **Exhibit C** attached hereto (the "Lease Term"). THIS EQUIPMENT LEASE CANNOT BE CANCELED OR TERMINATED EXCEPT AS EXPRESSLY PROVIDED HEREIN.

3. **Rent.** Lessee agrees to pay to Lessor or its assignee the lease payments (the "Lease Payments"), including the interest portion, equal to the aggregate amounts specified in **Exhibit C**; provided, however, that the Lessee shall be obligated to make such Lease Payments during any fiscal year to the extent that such Lease Payments may be made from current revenues lawfully budgeted and appropriated for such purpose during such year. The Lease Payments will be payable without notice or demand at the office of the Lessor (or such other place as Lessor or its assignee may from time to time designate in writing), and will commence on the first Lease Payment date as set forth in **Exhibit C** and thereafter on the dates set forth in **Exhibit C**. Except as specifically provided in Section 4 hereof, the obligation to make the Lease Payments will be absolute and unconditional in all events and will not be subject to any set-off, defense, counterclaim or recoupment for any reason whatsoever. Any and all payment(s) received by Lessor hereunder shall be applied to amounts due hereunder at Lessor's sole discretion notwithstanding any contrary instruction or instrumentation by Lessee. Unless Lessor decides, in its sole discretion, to apply any and all payments(s) received from Lessee in a different manner, then any payments shall be applied in the following order of

priority: (i) to repay any reimbursement items due Lessor from Lessee pursuant to the provisions of this Lease; (ii) to pay for any amounts owed by Lessee by virtue of its indemnification obligations under Section 16 hereof; (iii) to any accrued interest owed in connection with a late Lease Payment; (iv) to any accrued interest with respect to any Lease Payments then due; and then (iv) to reduce the principal component(s) of the Lease Payment(s) as and when due hereunder.

Lessee reasonably believes that funds can be obtained sufficient to make all Lease Payments during the Lease Term and hereby covenants that it will do all things lawfully within its power to obtain, maintain and properly request and pursue funds from which the Lease Payments may be made, including making provisions for such payments to the extent necessary in each budget submitted for the purpose of obtaining funding, using its bona fide best efforts to have such portion of the budget approved and exhausting all available administrative reviews and appeals in the event such portion of the budget is not approved. It is Lessee's intent to make Lease Payments for the full Lease Term if funds are legally available therefor and in that regard Lessee represents that the use of the Equipment is essential to its proper, efficient and economic operation.

The total obligation of Lessee for the fiscal year of execution is the sum of the payments for such fiscal year as set forth on **Exhibit C**. The total obligation of Lessee in each fiscal year renewal term is the sum of the payments during such fiscal year renewal term as set forth on **Exhibit C**. A schedule of Lessee's total obligation for the fiscal year of execution and for each fiscal year in which this Lease is renewed is attached hereto as **Exhibit C**.

4. **Nonappropriation of Funds.** In the event no funds or insufficient funds are appropriated and budgeted, or funds are otherwise not available out of current revenues of Lessee, in any fiscal period for Lease Payments due under this Lease, then Lessee will immediately notify Lessor or its assignee of such occurrence and this Lease shall terminate on the last day of the fiscal period for which appropriations were received without penalty or expense to Lessee of any kind whatsoever, except as to the portions of Lease Payments herein agreed upon for which funds shall have been appropriated and budgeted or are otherwise available. In the event of such termination, Lessee agrees to peaceably and immediately surrender possession of the Equipment to Lessor or its assignee on the date of such termination, packed for shipment in accordance with manufacturer specifications and freight prepaid and insured to any location in the continental United States designated by Lessor and to execute any and all documents necessary or convenient to memorialize the relinquishment of all of Lessee's rights, title and or interest in such Equipment to Lessor or its successors and assigns. Lessor will have all legal and equitable rights and remedies to take possession of the Equipment.

Notwithstanding the foregoing, Lessee agrees that it will not cancel this Lease under the provisions of this Section if any funds are appropriated to it, or by it, for the acquisition, retention or operation of the Equipment or other equipment performing functions similar to the Equipment for the fiscal period in which such termination occurs or the next succeeding fiscal period thereafter.

Notwithstanding any provision to the contrary contained in this Lease, it is expressly understood and agreed that Lease Payments to be made in each fiscal year shall be payable only out of current revenues of Lessee for that fiscal year lawfully budgeted and appropriated during such year.

5. **Limitation on Warranties and Disclaimer.** Lessee acknowledges and agrees that the Equipment is of a size, design and capacity selected by Lessee, that Lessor is neither a manufacturer nor a vendor of such equipment, and that LESSOR HAS NOT MADE, AND DOES NOT HEREBY MAKE, ANY REPRESENTATION, WARRANTY, OR COVENANT, EXPRESS OR IMPLIED, WITH RESPECT TO THE MERCHANTABILITY, CONDITION, QUALITY, DURABILITY, DESIGN, OPERATION, FITNESS FOR USE OR SUITABILITY OF THE EQUIPMENT IN ANY RESPECT WHATSOEVER OR IN CONNECTION WITH OR FOR THE PURPOSES AND USES OF LESSEE, OR ANY OTHER

REPRESENTATION, WARRANTY OR COVENANT OF ANY KIND OR CHARACTER, EXPRESS OR IMPLIED, WITH RESPECT THERETO, AND LESSOR SHALL NOT BE OBLIGATED OR LIABLE FOR ACTUAL, INCIDENTAL, CONSEQUENTIAL, OR OTHER DAMAGES OF OR TO LESSEE OR ANY OTHER PERSON OR ENTITY ARISING OUT OF OR IN CONNECTION WITH THE USE OR PERFORMANCE OF THE EQUIPMENT INCLUDING THE MAINTENANCE , INSTALLATION, OPERATION, OR REPAIR THEREOF. Lessee acknowledges that it has selected the equipment based upon its own judgment and expressly disclaims any reliance upon any statements or representations made by Lessor. All Equipment is or will be accepted by Lessee “as is” after inspection by Lessee.

Lessor hereby assigns to Lessee during the Lease Term, so long as no Event of Default (as hereinafter defined) has occurred and is continuing, all manufacturer’s warranties, if any, express or implied with respect to the Equipment, and Lessor authorizes Lessee to obtain the customary services furnished in connection with such warranties at Lessee’s expense.

6. **Authority and Authorization.** Lessee represents, covenants and warrants, and as requested by Lessor, will deliver an opinion of counsel to the effect that: (i) Lessee is a fully constituted political subdivision, agency or public corporation of the State of Texas; (ii) the execution, delivery and performance by Lessee of this Lease has been duly authorized by all necessary action on the part of Lessee; (iii) this Lease has been executed on behalf of the Lessee by its duly authorized officers; and (iv) this Lease constitutes a legal, valid and binding obligation of Lessee enforceable in accordance with its terms. Lessee agrees that (i) it will do or cause to be done all things necessary to preserve and keep the Lease in full force and effect; (ii) it has complied with all bidding requirements where necessary and by due notification presented this Lease for approval and adoption as a valid obligation on its part; and (iii) it has sufficient appropriations or other funds available to pay all amounts due hereunder for the current fiscal period.

7. **Title.** Upon acceptance of the Equipment by Lessee hereunder, title to the Equipment will vest in Lessee; subject to reversion to Lessor (i) in the event of termination of this Lease by Lessee pursuant to Section 4 hereinabove; or (ii) upon the occurrence of an Event of Default hereunder related to said Equipment, and as long as such Event of Default is continuing. Lessee (i) shall not sell, assign, subject or otherwise dispose of, or permit legal process or encumbrance upon or against any interest in, this Lease or the Equipment; (ii) shall keep the Equipment free of liens and give immediate written notice to Lessor of any such process or encumbrance; and (iii) shall, at its sole expense, protect and defend Lessor’s title and interest against all persons claiming against or through Lessee and indemnify and hold Lessor harmless from and against any loss caused thereby. Lessee shall affix to the Equipment any markings requested by Lessor or execute any and all documents reasonably requested to be signed by Lessee to memorialize Lessor’s interest in such Equipment.

8. **Security Interest.** In order to secure all of its obligations hereunder, Lessee hereby (i) grants to Lessor a first and prior security interest in any and all right, title and interest of Lessee in the Equipment and in all additions, attachments, accessions, and substitutions thereto, and in any proceeds therefrom, (ii) agrees that this Lease or a memorandum of lease may be filed as a financing statement evidencing such security interest, (iii) agrees to execute and deliver all financing statements, certificates of title and other instruments necessary or appropriate to evidence such security interest, and (iv) agrees to pay all fees and charges necessary for filing or recording such instruments or establishing or maintaining such security interest. Lessee acknowledges that only Lessor’s original of this Lease constitutes chattel paper for purposes of the Texas Uniform Commercial Code. No security interest can be perfected by possession of any other counterpart or of the Equipment.

9. **Personal Property.** The Equipment is and will remain personal property and will not be deemed to be affixed to or a part of the real estate on which it may be situated, notwithstanding that the equipment or any part thereof may be or hereafter become in any manner physically affixed or attached to

real estate or any building thereon. If requested by Lessor, Lessee will, at Lessee's expense, furnish a landlord or mortgagee waiver with respect to the Equipment.

10. **Use: Repairs.** Lessee will use the Equipment in a careful manner for the use contemplated by the manufacturer of the Equipment and shall comply with all laws, ordinances, insurance policies and regulations relating to, and will pay all costs, claims, damages, fees and charges arising out of its possession, use or maintenance. Lessee, at its expense, will keep the Equipment in good repair, good operating condition and working order, according to the manufacturer's recommended guidelines or the equivalent and meet any and all recertification requirements and shall furnish proof of such maintenance, if requested by Lessor, and shall furnish all needed servicing and parts, which parts shall become the property of Lessor and part of the Equipment. If the Equipment is such as is customarily covered by a maintenance agreement, Lessee will, at its expense, furnish Lessor upon its reasonable request with a maintenance agreement with a party satisfactory to Lessor.

11. **Alterations.** Lessee will not make any alterations, additions or improvements to the Equipment without Lessor's prior written consent unless such alterations, additions or improvements may be readily removed without damage to the Equipment. Any alteration to the Equipment which cannot be readily removed without damage to the Equipment shall become part of the Equipment and shall vest in the Lessee subject to reversion to Lessor in accordance with the provisions of this Agreement. Notwithstanding the foregoing, any upgrade, addition or modification added by the Lessee as required by law or under any manufacturer's or service's recommendations shall, without further action, become a part of the Equipment and said title shall vest in Lessor; subject to reversion to Lessor.

12. **Location; Inspection.** The Equipment will not be removed from, or if the Equipment consists of rolling stock, its permanent base will not be changed from, the Equipment Location without Lessor's prior written consent which will not be unreasonably withheld. Lessor will be entitled to enter upon the Equipment Location or elsewhere during reasonable business hours to inspect the Equipment or observe its use and operation.

13. **Liens and Taxes.** Lessee shall keep the Equipment free and clear of all levies, liens and encumbrances except those created under this Lease. Lessee shall pay, when due, all charges and taxes (local, state and federal) which may now or hereafter be imposed upon the ownership, leasing, rental, sale, purchase, possession or use of the Equipment. If Lessee fails to pay said charges and taxes when due, Lessor shall have the right, but shall not be obligated, to pay said charges and taxes. If Lessor pays any charges or taxes for which Lessee is responsible or liable under this Lease, Lessee shall reimburse Lessor therefor immediately upon demand from Lessor. Lessee agrees to cooperate with Lessor in filing all tax returns and informational statements, if any, required by any federal, state, and/or local governmental agency.

14. **Risk of Loss: Damage; Destruction.** Lessee assumes all risk of loss of or damage to the Equipment from any cause whatsoever, and no such loss of or damage to the Equipment nor defect therein nor unfitness or obsolescence thereof shall relieve Lessee of the obligation to make Lease Payments or to perform any other obligation under this Lease. In the event of damage to any item of Equipment, Lessee will immediately place the same in good repair with the proceeds of any insurance recovery applied to the cost of such repair. If Lessor determines that any item of Equipment is lost, stolen, destroyed or damaged beyond repair, Lessee at the option of Lessor will: either (a) replace the same with like equipment in good repair; or (b) on the next Lease Payment date, pay Lessor all amounts then owed by Lessee to Lessor under this Lease, including the Lease Payment due on such date. In the event that Lessee is obligated to make such payment with respect to less than all of the Equipment, Lessor will provide Lessee with the pro rata amount of the Lease Payment to be made by Lessee with respect to the Equipment which has suffered the event of loss. Lessee hereby appoints Lessor as Lessee's attorney-in-fact to make claim for, receive payments of, negotiate with insurance carrier(s), bring lawsuits, settle claims or suits, and execute and

endorse all documents, checks or drafts issued with respect to any loss, damage, destruction, to, or theft of, the Equipment and/or under any insurance policy relating to the Equipment.

15. **Insurance.** Lessee will, at its expense, maintain at all times during the Term, fire and extended coverage, public liability and property damage insurance with respect to the Equipment in such amounts, covering such risks, and with such insurers as shall be satisfactory to Lessor, or, with Lessor's prior written consent, may self-insure against any or all such risks. In no event will the insurance limits be less than the amount of the then applicable amount outstanding with respect to such Equipment. Each insurance policy will name Lessee as an insured and Lessor or its assigns as an additional insured and loss payee, and will contain a clause requiring the insurer to give Lessor at least 30 days prior written notice of any alteration in the terms of such policy or the cancellation thereof. The proceeds of any such policies will be payable to Lessee and Lessor or its assigns as their interests may appear. Upon acceptance of the Equipment and upon each insurance renewal date, Lessee will deliver to Lessor a certificate evidencing such insurance. In the event that Lessee has been permitted to self-insure, Lessee will furnish Lessor with a letter or certificate to such effect. In the event of any loss, damage, injury or accident involving the Equipment, Lessee will promptly provide Lessor with written notice thereof and make available to Lessor all information and documentation relating thereto. Lessee shall furnish a certificate of insurance or other evidence satisfactory to Lessor that the required insurance coverage is in effect. Lessor shall have no duty to ascertain the existence of or to examine the insurance policies to advise Lessee if the insurance coverage does not comply with the requirements of this Section. If Lessee fails to insure the Equipment as required, Lessor shall have the right, but not the obligation, to obtain such insurance, and the cost of the insurance shall be for the account of Lessee, due as part of the next due Lease Payment. Lessee consents to Lessor's release, upon its failure to obtain appropriate insurance coverage, of any and all information necessary to obtain insurance with respect to the Equipment and/or Lessor's interest therein. Lessor retains the right to substitute its own insurance for any insurance obtained by Lessee in accordance with this Section upon reasonable notice to Lessee with an insurer or through an agent or broker of its choice, at Lessee's sole cost.

16. **Indemnification.** To the extent permitted by applicable law, Lessee indemnifies and agrees to defend and hold Lessor and any successor, assignee or secured party of Lessor, harmless from and against all claims, costs, expenses (including, but not limited to, attorneys' fees and expenses), damages, losses, judgments and liabilities of any nature whatsoever that may be imposed on, incurred by, or asserted against an indemnified party with respect to any item of Equipment or its purchase, acceptance, delivery, ownership, leasing, possession, maintenance, use, operation or transportation, or arising out of this Lease or the transactions contemplated hereby, whether or not other parties are involved, including, without limitation, (a) claims for injury to or death of persons and for damage to property, (b) claims relating to patent, copyright or trademark infringement, and (c) claims relating to latent or other defects in the Equipment whether or not discoverable by Lessor. Lessee agrees to give Lessor prompt notice of any such claim or liability. Any payment made hereunder to Lessor shall include the amount of any taxes required to be paid by Lessor as the result of the receipt of such payment. The provisions of this Section 16 shall survive the termination of this Lease.

17. **Prepayment.** Lessee shall be permitted to prepay the Lease Payments on any date with three (3) business days prior written notice to the Lessor.

18. **Assignment.** Without Lessor's prior written consent, Lessee shall not (i) assign, transfer, pledge, hypothecate, grant any security interest in or otherwise dispose of this Lease or the Equipment or any interest in this Lease or the Equipment, or (ii) sublet or lend the Equipment or permit it to be used by anyone other than Lessee or Lessee's employees or agents. Lessee shall remain

primarily liable on this Lease. Lessor may assign its right, title and interest in and to this Lease, the Equipment and any other documents executed with respect to this Lease and/or grant or assign a security interest in this Lease and the Equipment, in whole or in part. Lessee agrees that any such assignment shall not materially change Lessee's duties or obligations under this Lease. Any such assignees shall have all the rights of Lessor under this Lease. No assignment or reassignment of any of Lessee's right, title or interest in this Lease or the Equipment shall be effective unless and until Lessor shall have consented to such assignment and Lessor has received a duplicate original counterpart of the document by which the assignment or reassignment is made, disclosing the name and address of each such assignee. DURING THE LEASE TERM LESSEE SHALL KEEP A COMPLETE AND ACCURATE RECORD OF ALL SUCH ASSIGNMENTS IN FORM NECESSARY TO COMPLY WITH SECTION 149(a) OF THE INTERNAL REVENUE CODE OF 1986, OR ANY SUCCESSOR PROVISION THERETO, AND THE REGULATIONS, PROPOSED OR EXISTING, FROM TIME TO TIME PROMULGATED THEREUNDER. Subject to the foregoing, this Lease inures to the benefit of and is binding upon the successors and assigns of the parties hereto. No further action will be required by Lessor or by Lessee to evidence the assignment, but Lessee will acknowledge such assignments in writing if so requested.

19. **Events of Default.** The term "Event of Default", as used herein, means the occurrence of any one or more of the following events:

(a) Lessee fails to make any Lease Payment (or any other payment including insurance premiums required hereunder) when due in accordance with the terms of this Lease, and any such failure continues for ten days;

(b) Lessee fails to perform or observe any other covenant, condition or agreement to be performed or observed by it hereunder; or

(c) The discovery by Lessor that any statement, representation or warranty made by Lessee in this Lease or in any writing ever delivered by Lessee pursuant hereto or in connection herewith is false, misleading or erroneous in any material respect;

(d) Lessee shall attempt to abandon, remove, sell, encumber or sublet any item of Equipment or to assign any rights under or interest in this Lease; or

(e) Lessee fails to appropriate sufficient funds to pay all Lease Payments due or to become due for the then-current fiscal year; or

(f) Lessee shall become insolvent or make an assignment for the benefit of creditors, or a trustee or receiver shall be appointed for Lessee or for a substantial part of its assets, or bankruptcy, reorganization or insolvency proceedings shall be instituted by or against Lessee; or

(g) Lessee shall suffer a material adverse change in its financial conditions or operations; or

(h) Lessee shall be in default under any other agreement with Lessor or any of its affiliates.

20. **Remedies.** Upon the occurrence of an Event of Default, and so long as such Event of Default is continuing, Lessor may, at its option, exercise any one or more of the following remedies:

(a) the Lessor may, at its option, declare all installments of the Lease Payments, payable until the end of the current Fiscal Year in which the Event of Default occurred, to be

immediately due and payable, whereupon the same shall become immediately due and payable. If Lessor elects to exercise the remedy afforded in this Section 20(a) and accelerates all Lease Payments payable until the end of current Fiscal Year in which the Event of Default occurred, the amount then due and payable by the Lessee as accelerated rents shall be the sum of (1) the aggregate Lease Payments due until the end of the current Fiscal Year in which the Event of Default occurred and (2) any other amounts which may be owing to the Lessor pursuant to this Lease;

(b) the Lessor may, without demand or legal process, take possession of the Equipment with or without terminating this Lease and without any liability to the Lessee for such repossession, and lease or sell the Equipment;

(c) release or sell any or all of the Equipment at a public or private sale on such terms and notices as Lessor shall deem reasonable and, in addition to reclaiming the total proceeds received from such lease or sale, recover from Lessee damages, not as a penalty, but liquidated for all purposes and in an amount equal to the sum of (i) any accrued and unpaid Lease Payments, and other amounts due hereunder, as of the later of (A) the date of the Event of Default, the date that Lessor has obtained possession of the Equipment or such other date as Lessee has made an effective tender of possession of the Equipment back to Lessor ("Default Date"); plus Lease Payments (at the periodic rate provided for in this Lease) for the additional period (but in no event longer than six (6) months) that it takes Lessor to resell or re-let all of the Equipment, plus interest at the rate per annum charged by the Internal Revenue Service for the late payment of tax; (ii) the difference between the monthly Lease Payments for the remainder of the Term as they become due and the net proceeds, if any, of any reletting of the Equipment after deducting all of Lessor's expenses in connection with such reletting, including without limitation, all repossession costs, broker's commissions, attorney's fees and expenses, and alteration costs and expenses of preparing the Equipment for reletting; and (iii) any indemnity under Section 16 hereunder, if then determinable, plus interest at the same rate per annum charged by the Internal Revenue Service for the late payment of tax, LESS the amount received by Lessor upon such public or private sale or re-lease of such items of Equipment, if any; and

(d) the Lessor may require the Lessee to furnish copies of all books and records of the Lessee pertaining to the Equipment; and

(e) the Lessor may exercise any other right, remedy or privilege which may be available to it under applicable laws of the State of Texas or any other applicable laws including, without limitation, the rights of a secured party under the Texas Uniform Commercial Code, or proceed by appropriate court action to enforce the terms of this Lease or to recover damages for the breach of this Lease or to rescind this Lease as to any or all of the Equipment.

In addition, Lessee will remain liable for all covenants and indemnities under this Lease and for all legal fees and other costs and expenses, including court costs and reasonable attorney's fees, incurred by Lessor with respect to the enforcement of any of the remedies listed above or any other remedy available to Lessor. A cancellation hereunder shall occur only upon notice by Lessor and only as to such Items of Equipment as Lessor specifically elects to cancel, and this Lease shall continue in full force and effect as to the remaining items of Equipment, if any. Lessee shall be liable for and shall pay to Lessor all attorneys' fees and expenses and other costs incurred by Lessor in exercising Lessor's remedies, including placing any Equipment in the condition required by Section 10 hereof. If this Lease is deemed at any time to be one intended as security as set forth in Section 8, Lessee agrees that the Equipment shall secure, in addition to the indebtedness herein, all other indebtedness at any time owing by Lessee to Lessor. No remedy referred to in this Lease is intended to be exclusive, but each shall be in addition to any other remedy referred to or otherwise available to Lessor at law or in equity. No express or implied waiver by Lessor of any Default

shall constitute a waiver of any other Default by Lessor or a waiver of any of Lessor's rights and no delay by Lessor in enforcing any right or requiring performance of any provisions of this Lease by Lessee shall be a waiver of such right or affect the right of Lessor to enforce such provision.

Notwithstanding any provision of this Section to the contrary, the Lessee may terminate this Lease as provided in Section 4, and the Lessee shall not be liable under this Lease for any Lease Payments in excess of the amount otherwise due under Section 3.

21. **Notices.** All notices to be given under this Lease shall be made in writing and mailed by certified mail, return receipt requested, to the other party at its address set forth herein or at such address as the party may provide in writing from time to time. Any such notice shall be deemed to have been received five days subsequent to mailing if mailed in accordance with this Section.

22. **Section Headings.** All section headings contained herein are for convenience of reference only and are not intended to define or limit the scope of any provision of this Lease.

23. **Governing Law.** This Lease shall be construed in accordance with, and governed by the laws of, the State of Texas.

24. **Delivery of Related Documents.** Lessee will execute or provide, as requested by Lessor, such other documents and information as are reasonably necessary with respect to the transaction contemplated by this Lease. At the request of Lessor, Lessee will furnish Lessor annual financial statements of Lessee within **180** days after the end of Lessee's fiscal year.

25. **Entire Agreement: Waiver.** This Lease, together with the Acceptance Certificate and other attachments hereto, and other documents or instruments executed by Lessee and Lessor in connection herewith, constitute the entire agreement between the parties with respect to the lease of the Equipment, and this Lease shall not be modified, amended, altered or changed except with the written consent of Lessee and Lessor. Any provision of this Lease found to be invalid or unenforceable shall be ineffective to the extent of such invalidity or unenforceability without invalidating the remainder of this Lease. The waiver by Lessor of any breach by Lessee of any term, covenant or condition hereof shall not operate as a waiver of any subsequent breach thereof.

26. **Reserved.**

27. **Covenant Regarding Tax-Exempt Interest.** The Lessee covenants and agrees that it will not take any action, or fail to take any action, if such action or failure to act would cause the interest portion of each Lease Payment to be or become includible in gross income of the Lessor for purposes of federal income taxation. Without limiting the generality of the preceding sentence, the Lessee covenants and agrees that, to the extent necessary for the interest portion of each Lease Payment to be so excludable from gross income,

(a) the Equipment shall not be used in any private business use; the Lease Payments shall not be secured by, or derived from, property used in a private business use; no portion of the proceeds of this Lease shall be used to make or finance loans to persons other than governmental units; and proceeds of this Lease shall not be used in any manner that would cause this Lease to be or become a "private activity bond", as defined in Section 141 of the Code; and

(b) the Lessee shall submit to the Secretary of the Treasury a statement or report with respect to the execution and delivery of this Lease as required by Section 149(e) of the Code.

If Lessor determines in good faith (which determination shall be supported by an opinion of nationally recognized bond counsel) or if the Internal Revenue Service shall claim in writing that the interest portion of the Lease Payments is includible in the gross income of Lessor or any former Lessor (“Taxable”), then the interest rate hereunder shall be adjusted to the Prime Rate plus 1.0%, determined daily according to the Prime Rate in effect for such date, effective as to the earliest date that such interest was Taxable. Any additional amount of interest due for the period prior to the date Lessee was notified that interest was Taxable and began making payments at the adjusted rate shall be paid by Lessee, at the option of Lessor, (i) within thirty (30) days after the date Lessee is notified of the amount due, or (ii) on such other payment schedule as shall be satisfactory to Lessor. “Prime Rate” shall mean the rate of interest announced by Regions Bank (the “Bank”) as its prime rate, with the understanding that the Bank’s prime rate is one of its base rates established from time to time for lending purposes and is not necessarily the best or lowest rate offered by the Bank and is evidenced by the recording thereof after its announcement in such internal publication or publications as the Bank may designate.

28. **Representations of Lessee.** Lessee represents and warrants that: (i) Lessee is a duly constituted, organized and validly existing political subdivision existing under the laws of the State of Texas and is authorized to lease personal property and to sell or lease or otherwise dispose of personal property; (ii) Lessee has full power, authority, and legal right to execute, deliver and perform the agreements on its part contained in this Lease; (iii) the person or persons executing this Lease on behalf of Lessee have been duly authorized under the laws of the State of Texas and a duly adopted resolution of Lessee’s governing body is in full force and effect on the date hereof to execute this Lease on behalf of Lessee and to obligate Lessee hereunder; (iv) Lessee has taken all necessary steps or complied with all procedures required for the authorization and execution of this Lease; (v) all Lease Payments which are to be made hereunder will be paid out of funds which are legally available for such purpose; (vi) Lessee has obtained or made, or does not require, the approval of or the giving of notice to any Federal, State, local or foreign governmental authority in order to enter into this Lease; (vii) Lessee is not required to submit this Lease to Lessee’s electorate for approval; (viii) Lessee, by entering into this Lease, does not violate any law binding on Lessee or contravene any indenture, credit Lease, or any other agreement under which Lessee is a party or by which it is bound; (ix) this Lease constitutes a legal, valid and binding obligation of Lessee, enforceable in accordance with its terms; (x) there are no pending or threatened actions or proceedings before any court, administrative agency or other tribunal or body or judgments which may materially adversely affect Lessee’s financial condition or operations; (xi) the Equipment is personal property and is not now nor will it become either real property or a fixture or inventory; (xii) the use of the Equipment is essential, necessary, useful, and appropriate to the lawful purposes of Lessee and in the discharge of its duties as a governmental body; (xiii) the execution of this Lease does not constitute a default in any other agreement of Lessee; (xiv) there is not existing, and Lessee will not directly or indirectly create, incur, assume or suffer to exist, any mortgage, security interest, pledge, lien, charge, encumbrance or claim on or with respect to the Equipment, title thereto or any interest therein, except the respective rights of Bank and Lessee under this Lease and further excepting any mortgage, security interest, pledge, lien or encumbrance granted by Bank; (xv) the Equipment is of size, design, capacity and manufacture selected by Lessee and will be suitable for Lessee’s purposes; (xvi) Lessee will cause to be done, executed, acknowledged and delivered all such further acts, instruments, conveyances and assurances as Bank shall require for accomplishing the purposes of this Lease; (xvii) Lessee has complied with insurance provisions of Section 15; (xviii) Lessee will execute or file any reports or tax forms required by State or Federal authorities; (xix) Lessee and its governing body reasonably believe that Lessee shall have sufficient available funds during each fiscal year through the maximum term to elect to appropriate monies to make the Lease Payments hereunder; and (xx) all actions of the governing body of the Lessee and its members concerning this Lease have been taken in accordance with the laws of the State of Texas.

29. **Reserved.**

30. **No Agency.** Lessee acknowledges and agrees that neither the manufacturer, the supplier, nor any salesman, representative or other agent of the manufacturer or supplier, is an agent of Lessor. No salesman, representative or agent of the manufacturer or supplier is authorized to waive or alter any term of condition of this Lease and no representation as to the Equipment or any other matter by the manufacturer or supplier shall in any way affect Lessee's duty to pay Lease Payments and perform its other obligations as set forth in this Lease.

31. **Finance Lease.** Lessee acknowledges that for purposes of the Texas Uniform Commercial Code (the "UCC") this Lease is a finance lease and Lessor is not an agent of the manufacturer or vendor of the equipment. Lessee acknowledges that Lessee has selected the supplier of the equipment and directed Lessor to purchase the equipment from the supplier. Lessee knows that it is entitled under Article 2A of the UCC to all warranties and other rights provided to Lessee by the supplier of the equipment and to contact the supplier for an accurate and complete statement of any such express warranties and other rights and any disclaimers or limitations of such rights or of remedies.

32. **Waivers of Lessee.** To the extent permitted by Texas law, Lessee waives any and all rights and remedies conferred by the UCC, including, without limitation, any rights to (a) cancel or repudiate the Lease, (b) reject or revoke acceptance of the Equipment, (c) recover damages from the Lessor for breach of warranty or for any other reason, (d) claim a security interest in any rejected Equipment in the Lessee's possession or control, (e) deduct from rent all or any part of any claimed damages resulting from the Lessor's default under the Lease, (f) accept partial delivery of the Equipment, (g) "cover" by making any purchase or lease of substitute equipment, (h) recover from the Lessor or any assignee of the Lessor any general, special, incidental or consequential damages for any reason whatsoever, and (i) specific performance, replevin or the like for any of the Equipment. The Lessee also waives any statutory right it may have now or in the future to require the Lessor to sell or re-lease the Equipment or otherwise to mitigate damages.

LESSEE:

CITY OF TYLER, TEXAS

By: _____
Name: Edward Broussard
Title: City Manager

ATTEST:

By: _____
Name: Cassandra Brager
Title: City Clerk

LESSOR:

PROSPERITY BANK

By: _____

Name: Eddie Lick

Title: Area President, East Texas

**EXHIBIT A
TO
EQUIPMENT-LEASE PURCHASE AGREEMENT
DATED MAY 20, 2020
BETWEEN PROSPERITY BANK
AND CITY OF TYLER, TEXAS**

Location of Equipment: City of Tyler Texas Municipal Court
813 N. Broadway
Tyler, Texas 75702

City of Tyler Police Department
711 W. Ferguson
Tyler, Texas 75702

	<u>Production</u>	
PS-PDPAD-ISIAD1DIN	PDP ADDON, ISILON ADD 1 DENSE NODE	3
PS-PDP-ISIENTHDDP	PDP FOR ISILON ENTERPRISE BUNDLE DENSE	1
800-0077-PR	PWCRD KIT FOR GEN6 DEEP CHASSIS/PROMO	2
ICH-DEEP-PR	BASE CHASSIS - DEEP/PROMO	1
IBEIO-10GBE-PR	2X10GBE SFP+BACK END/PROMO W/O OPTICS	4
IFEIO-10GBE-B-PR	2X10GBE (SFP+) L/M/PROMO W/O OPTICS	4
CE-PDPISLTC0001	1 TRAINING CREDIT VALID 1YR (PDP ISL)	1500
PS-PDP-P30ISILON	30DAYPOSTDEPLOYASSIST ISILON	1
M-PSP-HW-I-002	PROSUPPORT PLUS 4HR/MC HARDWARE SUPPORT	1
IA2000-10T-400G-VS	A2000-10TB SAT/400GB/VIS PROMO	4
458-002-328	SMARTQUOTAS PROMO	1
456-113-387	SMARTQUOTAS BASE LIC PROMO TIER 4=ID	4
M-PSP-SW-I-002	PROSUPPORT PLUS 4HR/MC SOFTWARE SUPPORT	1
456-113-388	SMARTQUOTAS CAP LIC PROMO TIER 4 =CB	800
458-002-327	SMARTCONNECT PROMO	1
456-113-385	SMARTCONNECT BASE LIC PROMO TIER 4=ID	4
M-PSP-SW-I-002	PROSUPPORT PLUS 4HR/MC SOFTWARE SUPPORT	1
456-113-386	SMARTCONNECT CAP LIC PROMO TIER 4 =CB	800
458-002-326	ONEFS PRODUCT PROMO	1
456-113-383	ONEFS BASE LICENSE PROMO TIER 4=ID	4
M-PSP-SW-I-002	PROSUPPORT PLUS 4HR/MC SOFTWARE SUPPORT	1
456-113-384	ONEFS CAP LICENSE PROMO TIER 4 =CB	800
M-PSP-HW-I-002	PROSUPPORT PLUS 4HR/MC HARDWARE SUPPORT	1
851-0296	TRANSCEIVERS/OPTIC/SFP+/SR/10GBE/2 GEN6	4
851-0258	SWITCH 10GBE 24P 2PS CELESTICA	2
851-0263	CABLE ETHERNET 10G PASS SFP+ 3M	8
EYEGLOSS-P015	SEL-SUPERNA-EYEGLOSS DR QUICK START	1
458-001-942	SNAPSHOTIQ	1
M-PSP-SW-I-002	PROSUPPORT PLUS 4HR/MC SOFTWARE SUPPORT	1
456-112-007	SNAPSHOTIQ BASE LICENSE TIER 4=ID	4
456-112-011	SNAPSHOTIQ CAPACITY LICENSE TIER 4 =CB	800
458-001-944	SYNCIQ	1
M-PSP-SW-I-002	PROSUPPORT PLUS 4HR/MC SOFTWARE SUPPORT	1
456-112-023	SYNCIQ BASE LICENSE TIER 4=ID	4
456-112-027	SYNCIQ CAPACITY LICENSE TIER 4 =CB	800
458-001-969	HDFS FOR ONEFS 0.00	4
M-PSP-SW-I-002	PROSUPPORT PLUS 4HR/MC SOFTWARE SUPPORT	1
EGL-ENT-NODE-LIC	SEL EYEGLOSS DR MANAGER ENTERPRISE VAPP	4
EGL-ENT-NODE-5Y	SEL MAINT EYEGLOSS DR MANAGER ENT 5YR	4

		<u>DR</u>
PS-PDPAD-ISIAD1DIN	PDP ADDON, ISILON ADD 1 DENSE NODE	3
PS-PDP-ISIENTHDDP	PDP FOR ISILON ENTERPRISE BUNDLE DENSE	1
800-0077-PR	PWCRD KIT FOR GEN6 DEEP CHASSIS/PROMO	2
ICH-DEEP-PR	BASE CHASSIS - DEEP/PROMO	1
IBEIO-10GBE-PR	2X10GBE SFP+BACK END/PROMO W/O OPTICS	4
IFEIO-10GBE-B-PR	2X10GBE (SFP+) L/M/PROMO W/O OPTICS	4
CE-PDPISLTC0001	1 TRAINING CREDIT VALID 1YR (PDP ISL)	1500
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IA2000-10T-400G-VS	A2000-10TB SAT/400GB/VS PROMO	4
458-002-328	SMARTQUOTAS PROMO	1
456-113-387	SMARTQUOTAS BASE LIC PROMO TIER 4=ID	4
M-PSP-SW-I-002	PROSUPPORT PLUS 4HR/MC SOFTWARE SUPPORT	1
456-113-388	SMARTQUOTAS CAP LIC PROMO TIER 4 =CB	800
458-002-327	SMARTCONNECT PROMO	1
456-113-385	SMARTCONNECT BASE LIC PROMO TIER 4=ID	4
M-PSP-SW-I-002	PROSUPPORT PLUS 4HR/MC SOFTWARE SUPPORT	1
456-113-386	SMARTCONNECT CAP LIC PROMO TIER 4 =CB	800
458-002-326	ONEFS PRODUCT PROMO	1
456-113-383	ONEFS BASE LICENSE PROMO TIER 4=ID	4
M-PSP-SW-I-002	PROSUPPORT PLUS 4HR/MC SOFTWARE SUPPORT	1
456-113-384	ONEFS CAP LICENSE PROMO TIER 4 =CB	800
M-PSP-HW-I-002	PROSUPPORT PLUS 4HR/MC HARDWARE SUPPORT	1
851-0296	TRANSCEIVERS/OPTIC/SFP+/SR/10GBE/2 GEN6	4
851-0258	SWITCH 10GBE 24P 2PS CELESTICA	2
851-0263	CABLE ETHERNET 10G PASS SFP+ 3M	8
458-001-942	SNAPSHOTIQ	1
M-PSP-SW-I-002	PROSUPPORT PLUS 4HR/MC SOFTWARE SUPPORT	1
456-112-007	SNAPSHOTIQ BASE LICENSE TIER 4=ID	4
456-112-011	SNAPSHOTIQ CAPACITY LICENSE TIER 4 =CB	800
458-001-944	SYNCIQ	1
M-PSP-SW-I-002	PROSUPPORT PLUS 4HR/MC SOFTWARE SUPPORT	1
456-112-023	SYNCIQ BASE LICENSE TIER 4=ID	4
456-112-027	SYNCIQ CAPACITY LICENSE TIER 4 =CB	800
458-001-969	HDFS FOR ONEFS 0.00	4
M-PSP-SW-I-002	PROSUPPORT PLUS 4HR/MC SOFTWARE SUPPORT	1
EGL-ENT-NODE-LIC	SEL EYEGLASS DR MANAGER ENTERPRISE VAPP	4
EGL-ENT-NODE-5Y	SEL MAINT EYEGLASS DR MANAGER ENT 5YR	4

		<u>Superna</u>
UPG-ESUITE1-5YR	SEL IGLS EBUNDLE UPG 1 WRITE CLUSTER 5YR	1
EGL-PA-LIC	SEL PERFORMANCE AUDITOR FEATURE LIC	1
EYEGLASS-P016	SEL EYEGLASS CLUSTER ADDON INSTALL SERV	1
EGL-PA-5Y	SEL PERFORMANCE AUDITOR 5YR	1

<u>APC Rack Parts</u>		
ACDC2551	Depth Adapter, 1070 to 1200mm, SX42U to SX48U, 600-750mm Width	1
AR7000A	NetShelter SX 42U 600mm Wide Perforated Curved Door Black	1

<u>Refurbished</u>		
GLC-ZX-SMD-RF	CISCO CERT REFURB 1000BASE-ZX PERP SFP TRANSCEIVER MODULE CISCO WARR	4
SFP-10G-LR-RF	CISCO CERT REFURB 10GBASE-LR PERP SFP MODULE CISCO WRTY NO RETURNS	6
<u>New</u>		
GLC-ZX-SMD=	1000BASE-ZX SFP TRANSCEIVER PERP MODULE SMF 1550NM DOM	4
SFP-10G-LR=	10GBASE-LR SFP MODULE PERP	6

EXHIBIT B
TO
EQUIPMENT-LEASE PURCHASE AGREEMENT
DATED MAY 20, 2020
BETWEEN PROSPERITY BANK
AND CITY OF TYLER, TEXAS

FORM OF ACCEPTANCE CERTIFICATE

Prosperity Bank
101 N Prairieville St.
Athens, Texas 75751

Re: Equipment Lease-Purchase Agreement, dated as of May 20, 2020, between Prosperity Bank, as Lessor, and the City of Tyler, Texas, as Lessee

Ladies and Gentlemen:

In accordance with the Equipment Lease-Purchase Agreement (the "*Agreement*"), the undersigned Lessee hereby certifies and represents to, and agrees with Lessor as follows:

1. All of the Equipment (as such term is defined in the Agreement) has been delivered, installed and accepted on the date hereof.
2. Lessee has conducted such inspection and/or testing of the Equipment as it deems necessary and appropriate and hereby acknowledges that it accepts the Equipment for all purposes.
3. Lessee is currently maintaining the insurance coverage required by Section 15 of the Agreement.
4. Lessee hereby reaffirms that the representations, warranties and covenants contained in the Agreement are true and correct as of the date hereof.
5. No event or condition that constitutes, or with notice or lapse of time, or both, would constitute, an Event of Default (as defined in the Agreement) exists at the date hereof.
6. No material adverse change has occurred since the date of the execution and delivery of the Agreement.

Date: _____

LESSEE:

THE CITY OF TYLER, TEXAS

By: _____

Name: _____

Title: _____

(Seal)

**EXHIBIT C
TO
EQUIPMENT-LEASE PURCHASE AGREEMENT
DATED MAY 20, 2020
BETWEEN PROSPERITY BANK
AND CITY OF TYLER, TEXAS**

Commencement Date: May 20, 2020

Expiration Date: October 15, 2024

Interest Rate: 2.4900%

Accrual Basis: 30/360

Seq	Payment Date	Principal	Interest	Balance	Interest Paid	Interest YTD
1	10/15/20	91,212.54	4,527.90	360,260.46	4,527.90	4,527.90
2	10/15/21	86,769.96	8,970.48	273,490.50	13,498.38	8,970.48
3	10/15/22	88,930.52	6,809.92	184,559.98	20,308.30	6,809.92
4	10/15/23	91,144.89	4,595.55	93,415.09	24,903.85	4,595.55
5	10/15/24	93,415.09	2,326.03	0.00	27,229.88	2,326.03
The last payment will vary depending on early/late payments						95,741.12

ESSENTIAL USE LETTER

Dated: May 20, 2020

Prosperity Bank
101 N Prairieville St.
Athens, Texas 75751

Re: Equipment Lease-Purchase Agreement dated May 20, 2020
Gentlemen:

This letter is being written with respect to the use of the equipment (the "Equipment") to be leased to the undersigned pursuant to the above-referenced Equipment Lease-Purchase Agreement. The Equipment will be used by

(Department or Division Using Equipment)

for the following purposes:

(State how and for what purposes the Equipment will be used.)

The undersigned hereby represents that the use of the Equipment is essential and necessary to its proper, efficient and economic operation of its governmental functions and its purchase is pursuant to a legitimate public purpose.

Very truly yours,

CITY OF TYLER, TEXAS

By: _____
Name: Edward Broussard
Title: City Manager

► Under Internal Revenue Code section 149(e)
► See separate instructions.

Department of the Treasury
Internal Revenue Service

Caution: If the issue price is under \$100,000, use Form 8038-GC.
► Go to www.irs.gov/F8038G for instructions and the latest information.

Part I Reporting Authority		If Amended Return, check here <input type="checkbox"/>	
1 Issuer's name		2 Issuer's employer identification number (EIN)	
3a Name of person (other than issuer) with whom the IRS may communicate about this return (see instructions)		3b Telephone number of other person shown on 3a	
4 Number and street (or P.O. box if mail is not delivered to street address)	Room/suite	5 Report number (For IRS Use Only)	
6 City, town, or post office, state, and ZIP code		7 Date of issue	
8 Name of issue		9 CUSIP number	
10a Name and title of officer or other employee of the issuer whom the IRS may call for more information (see instructions)		10b Telephone number of officer or other employee shown on 10a	

Part II Type of Issue (enter the issue price). See the instructions and attach schedule.

11 Education	11		
12 Health and hospital	12		
13 Transportation	13		
14 Public safety	14		
15 Environment (including sewage bonds)	15		
16 Housing	16		
17 Utilities	17		
18 Other. Describe ►	18		
19a If bonds are TANs or RANs, check only box 19a		<input type="checkbox"/>	
b If bonds are BANs, check only box 19b		<input type="checkbox"/>	
20 If bonds are in the form of a lease or installment sale, check box		<input type="checkbox"/>	

Part III Description of Bonds. Complete for the entire issue for which this form is being filed.

	(a) Final maturity date	(b) Issue price	(c) Stated redemption price at maturity	(d) Weighted average maturity	(e) Yield
21		\$	\$	years	%

Part IV Uses of Proceeds of Bond Issue (including underwriters' discount)

22 Proceeds used for accrued interest	22		
23 Issue price of entire issue (enter amount from line 21, column (b))	23		
24 Proceeds used for bond issuance costs (including underwriters' discount)	24		
25 Proceeds used for credit enhancement	25		
26 Proceeds allocated to reasonably required reserve or replacement fund	26		
27 Proceeds used to refund prior tax-exempt bonds. Complete Part V	27		
28 Proceeds used to refund prior taxable bonds. Complete Part V	28		
29 Total (add lines 24 through 28)	29		
30 Nonrefunding proceeds of the issue (subtract line 29 from line 23 and enter amount here)	30		

Part V Description of Refunded Bonds. Complete this part only for refunding bonds.

31 Enter the remaining weighted average maturity of the tax-exempt bonds to be refunded . . . ► _____ years

32 Enter the remaining weighted average maturity of the taxable bonds to be refunded . . . ► _____ years

33 Enter the last date on which the refunded tax-exempt bonds will be called (MM/DD/YYYY) . . . ► _____

34 Enter the date(s) the refunded bonds were issued ► (MM/DD/YYYY)

Part VI Miscellaneous

- | | | |
|------------|--|--|
| 35 | | |
| 36a | | |
| 37 | | |
- 35** Enter the amount of the state volume cap allocated to the issue under section 141(b)(5)
 - 36a** Enter the amount of gross proceeds invested or to be invested in a guaranteed investment contract (GIC). See instructions
 - b** Enter the final maturity date of the GIC ▶ (MM/DD/YYYY) _____
 - c** Enter the name of the GIC provider ▶ _____
 - 37** Pooled financings: Enter the amount of the proceeds of this issue that are to be used to make loans to other governmental units
 - 38a** If this issue is a loan made from the proceeds of another tax-exempt issue, check box ▶ and enter the following information:
 - b** Enter the date of the master pool bond ▶ (MM/DD/YYYY) _____
 - c** Enter the EIN of the issuer of the master pool bond ▶ _____
 - d** Enter the name of the issuer of the master pool bond ▶ _____
 - 39** If the issuer has designated the issue under section 265(b)(3)(B)(i)(III) (small issuer exception), check box ▶
 - 40** If the issuer has elected to pay a penalty in lieu of arbitrage rebate, check box ▶
 - 41a** If the issuer has identified a hedge, check here ▶ and enter the following information:
 - b** Name of hedge provider ▶ _____
 - c** Type of hedge ▶ _____
 - d** Term of hedge ▶ _____
 - 42** If the issuer has superintegrated the hedge, check box ▶
 - 43** If the issuer has established written procedures to ensure that all nonqualified bonds of this issue are remediated according to the requirements under the Code and Regulations (see instructions), check box ▶
 - 44** If the issuer has established written procedures to monitor the requirements of section 148, check box ▶
 - 45a** If some portion of the proceeds was used to reimburse expenditures, check here ▶ and enter the amount of reimbursement ▶ _____
 - b** Enter the date the official intent was adopted ▶ (MM/DD/YYYY) _____

Signature and Consent	Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. I further declare that I consent to the IRS's disclosure of the issuer's return information, as necessary to process this return, to the person that I have authorized above.			
	▶ _____ Signature of issuer's authorized representative	▶ _____ Date	▶ _____ Type or print name and title	
Paid Preparer Use Only	Print/Type preparer's name	Preparer's signature	Date	Check <input type="checkbox"/> if self-employed
	Firm's name ▶ _____	Firm's EIN ▶ _____		PTIN
	Firm's address ▶ _____	Phone no. _____		

INCUMBENCY CERTIFICATE

I, Cassandra Brager, do hereby certify that I am the duly elected or appointed and acting Clerk of the CITY OF TYLER, TEXAS, a political subdivision or agency or public corporation duly organized and existing under the laws of the State of Texas (“Lessee”), that I have custody of the records of such entity, and that, as of the date hereof, the individuals named below are the duly elected or appointed officers of Lessee holding the offices set forth opposite their respective names. I further certify that (i) the signatures set opposite their respective names and titles are their true and authentic signatures and (ii) such officers have the authority on behalf of Lessee to enter into that certain Equipment Lease-Purchase Agreement dated May 20, 2020, between Lessee and PROSPERITY BANK, as evidenced by the copy of the resolution of the Lessee attached hereto.

<u>NAME</u>	<u>TITLE</u>	<u>SIGNATURE</u>
Martin Heines	Mayor	_____
Edward Broussard	City Manager	_____

IN WITNESS WHEREOF, this certificate has been executed by the undersigned and the seal of Lessee has been affixed.

Dated May 13, 2020

Cassandra Brager, City Clerk

(City Seal)

NOTICE OF FINAL AGREEMENT

Lessee:	City of Tyler, Texas	Lessor:	Prosperity Bank
Address:	P.O. Box 2039		101 N. Prairieville Street
	Tyler, Texas 75710		Athens, Texas 75751

(Lessee, whether one or more, "Obligated Party")

As of May 20, 2020, Obligated Party and PROSPERITY BANK, a Texas Banking Association ("Lessor") have consummated a transaction pursuant to which Lessor has agreed to make a Lease to Lessee and/or to otherwise extend credit or make financial accommodations to or for the benefit of Lessee, in an aggregate amount up to \$451,473.00 (collectively, whether one or more, the "Lease").

NOTICE OF FINAL AGREEMENT

In connection with the Lease, Obligated Party has executed and delivered and may hereafter execute and deliver certain agreements, instruments and documents (collectively hereinafter referred to as the "Written Equipment Lease-Purchase Agreement").

It is the intention of Lessor and Obligated Party that this Notice be incorporated by reference into each of the written agreements, instruments and documents comprising the Written Equipment Lease-Purchase Agreement. Each Obligated Party warrants and represents that the entire agreement made and existing by or between Lessor and Obligated Party with respect to the Lease is and shall be contained within the Written Equipment Lease-Purchase Agreement, as amended and supplemented hereby, and that no agreements or promises exist or shall exist by or between, Lessor and Obligated Party that are not reflected in the Written Equipment Lease-Purchase Agreement.

THE WRITTEN EQUIPMENT LEASE-PURCHASE AGREEMENT REPRESENTS THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES.

THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

Effective as the date first written above.

PROSPERITY BANK, a Texas Banking
Association

By: _____
Name: Eddie Lick
Title: Area President, East Texas

ACKNOWLEDGED AND AGREED:

LESSEE:

CITY OF TYLER, TEXAS

By: _____
Name: Edward Broussard
Title: City Manager

May 20, 2020

Prosperity Bank
101 N Prairieville St.
Athens, Texas 75751

RE: Equipment Lease-Purchase Agreement dated May 20, 2020

Ladies and Gentlemen:

I have acted as Counsel to the CITY OF TYLER, TEXAS (“Lessee”) with respect to that certain Equipment Lease-Purchase Agreement (the “Lease”) dated May 20, 2020, by and between PROSPERITY BANK (“Lessor”) and the Lessee. I have reviewed the Lease and such other documents, records and certificates of Lessee and appropriate public officials as I have deemed relevant and am of the opinion that:

1. The Lessee is a political subdivision or agency of the State of Texas;
2. The execution, delivery and performance by the Lessee of the Lease have been duly authorized by all necessary action on the part of Lessee and no other necessary approval or consent is required in order for the Lease to be a legal, valid and binding obligation of Lessee enforceable in accordance with its terms; and
3. The Lease constitutes a legal, valid and binding obligation of the Lessee enforceable in accordance with its terms.
4. Lessee has complied with all competitive bid law provisions of Texas law applicable to the Lease and the equipment financed thereby.

This opinion is rendered to and may be relied upon by Prosperity Bank, and or its successors and assigns and its legal counsel

Sincerely,

Deborah G. Pullum
City Attorney



**CITY OF TYLER
CITY COUNCIL COMMUNICATION**



Agenda Number: C-A-2

Date: May 13, 2020

Subject: Request that the City Council consider authorizing the City Manager to award Eagle Fuel & Oil LP, Tyler Travel Center, and Triple J as successful bidders for bid 20-024 to provide external fueling for the City of Tyler fleet during the fuel storage tank replacement project at the City of Tyler Oakwood Complex.

Page: Page 1 of

Item Reference:

In October 2019, the Vehicle Services Department (VES) learned the underground storage tanks at the City of Tyler Oakwood Complex would need to be replaced due to age. Sealed bids for this project were returned on April 14, 2020. As a result of this project the Oakwood fueling complex will be shut down for two months or more and will be unable to fuel the City of Tyler Fleet.

The City of Tyler Oakwood Complex uses approximately 295,000 gallons of diesel and approximately 225,000 gallons of unleaded gasoline yearly to provide fuel for the City of Tyler Fleet. Therefore, it was necessary for VES to have a sealed bid to ensure compliance with the City's purchasing policy.

VES sent the sealed bid package to 21 different vendors that sell fuel throughout the City of Tyler. Three vendors responded to the sealed bid. In an effort to not overwhelm any one vendor, we would like for the City Council to approve the City Manager to award the external fuel bid to all three of these vendors. This will allow for several locations to be utilized and enable the City of Tyler fleet to fuel at the approved facility closest to them.

RECOMMENDATION:

It is recommended that the City Council authorize the City Manager to award Eagle Fuel & Oil LP, Tyler Travel Center and Triple J as successful bidders for bid 20-024 to provide external fueling for the City of Tyler fleet during the fuel storage tank replacement project at the City of Tyler Oakwood Complex.

ATTACHMENTS:

[External Fuel Bid Vendor List](#)
[Request for Quotes](#)

Drafted/Recommended By:
Department Leader

Stan Stoffregen, Fleet Manager

Edited/Submitted By:
City Manager

bid 20-

024

<u>AWARD</u>	<u>Vendor name</u>	<u>Address</u>	<u>Phone</u>	<u>gas</u>
large	tyler travel Center	407 ENE loop 323 tylert tx 75706	903-592-0653	.02 off retail
	race Runner #6	2216 E 5th st tyler,tx 75701	903-592-2417	.02 off retail
	Race runner #7	1516 S. Vine Tyler, tx 75701	903-592-2836	.02 off retail
	Race Runner #8	1801 SSE loop 323 Tyler Tx 75701	903-592-2970	.02 off retail
	Race runner #9	401 s beckham tyler,tx 75701	903-592-3054	.02 off retail
Large	Triple J	124 SSE loop 323 Tyler,tx 75702	903-595-4305	.05 off retail
Large	Eagle Fuel	12426 HWY 64 West Tyler Texas 75704	903-596-7707	.10 over rack
	Kidd Jones Corporate	850 state hwy. 31 west chandler, tx 75758	903-849-6865	no bid
	KJ #9	1315 s beckham tyler,tx 75701	903-595-2596	no bid
	KJ	2200 ESE loop 323 Tyler,tx 75701	903-596-7008	no bid
	KJ#8	11421 state hwy 64 tyler,tx 75704	903-593-5149	no bid
	KJ	12540 HWY 155s tyler,tx 75703	903-561-8322	no bid
	KJ	12440 HWY 31 tyler,tx 75709	903-526-0574	no bid
	Glass oil co	2523 ESE loop 323 tyler,tx 75701	903-566-1416	no bid
	JJ fast Stop	2700 WNW loop 323 tylert,tx 75702	903-597-0791	no bid
	JJ fast Stop	2615 E Commerce st tylert,tx 75702		no bid
	JJ fast Stop	5015 S Broadway tyler,tx 75703	903-509-0614	no bid
Large	Bunny's	638 ENE loop 323 tyler,tx 75706	903-526-6786	no bid
	Regency Shell	5943 S Broadway tyler,tx 75703	903-561-7097	no bid
	Regency Shell	16243 US HWY 271 tyler,tx 75708		no bid
Large	Fast Fuels	215 W MLK blvd tyler,tx 75702	903-630-6296	no bid
	Murphy USA	3804 SH64 Tyler,Tx 75704		no bid
	Brookshires	430 E Front tylert.tx 75702		no bid

diesel

def

.03 off retail 2.99 gal

.03 off retail 2.99 gal

.03 off retail 2.99 gal

.03 off retail 2.99 gal

.03 off retail 2.99 gal

.10 off retail 2.00 off retail

.10 over rack 1.36 per gal



REQUEST FOR QUOTATION

THIS IS NOT AN ORDER

CITY OF TYLER
Purchasing Department
304 North Border
Tyler, Texas 75702

03/23/2020

Quote No:20-024
(Number must appear on ALL correspondence)

DATE MAILED

Closing Time: 2:00pm

Telephone: (903) 531-1232

Closing Date:04/14/2020

Addressed To:

INSTRUCTIONS:

1. Keep duplicate copy of proposal for your files.
2. Federal Excise Taxes are exempted, also Federal Transportation Tax, State Tax, and City Sales Tax.
3. Return this form at once if unable to quote.
4. Specify Trade name or brand in space.

Please quote as per instructions indicated below for the articles described. Quotes must be submitted on City of Tyler forms to be considered. All items or services called for must be in strict accordance with all of the requirements and specifications attached hereto or furnished upon request.

SAGEEER NELLIPARAMBAN
Purchasing Manager

Sealed quotes to furnish the following will be received in the Purchasing Office @ 304 North Border, Tyler, Texas 75702. Attn: Sherry Pettit until 2:00 pm on 4/14/2020 and opened by City Staff in the City Council Chambers @ 212 North Bonner, City Hall, 2nd Floor @ 2:00 pm on 4/14/2020.

Quote number: 20-024

Provide the City of Tyler with unleaded fuel, diesel fuel and diesel exhaust fluid during the Oakwood fuel storage tank replacement project. See specifications for details.

QUOTE IDENTIFICATION:

Quote number, closing time, date, and item requested must appear on outside of envelope in lower left hand corner.

DATA SHEETS:

All bidders must complete each specification data sheet in spaces provided on each item that is bid as well as all information requested on the price data sheet. Said price, data and specifications sheet is hereby made a part of this quotation.

DELIVERY:

Delivery must be stated in your quote on the data sheet as the number of calendar days from date of order.

The City of Tyler reserves the right to reject any and/or all bids and to waive any and/or all formalities and to award purchase total amount, partial amount or individual item basis.

In submitting the above, the vendor agrees that acceptance by the City of Tyler within a reasonable period constitutes a binding agreement.

In submitting the above request and attached bid to the City of Tyler, I hereby certify that we have not participated in nor been a party to any collusion, price fixing or any other agreements with any company, firm, or person concerning the pricing of the enclosed quotation.

INVOICING TERMS
04/13/2020
DATE

TYLER GAS INC
COMPANY NAME
SAGEEER NELLIPARAMBAN
AUTHORIZED REPRESENTATIVE (print)
[Signature]
SIGNATURE



PRICE, DATA, AND SPECIFICATION SHEET

CITY OF TYLER
 Purchasing Department
 304 North Border
 Tyler, Texas 75702

Telephone: (903) 531-1232

DATE: 3/23/2020

BID # / PROPOSAL #: 20-024

CLOSING TIME: 2:00 pm

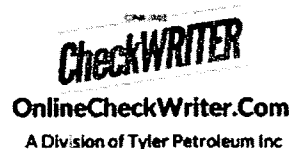
CLOSING DATE: 4/14/2020

PROPOSERS MUST COMPLETE THIS SECTION

ITEM NO.	QUANTITY	DESCRIPTION	BRAND	UNIT PRICE	TOTAL NET PRICE
1		Provide the City of Tyler with unleaded fuel, diesel fuel and diesel exhaust fluid during the fuel storage tank replacement project. See specifications for details.			
1	UN LIMITED	UNLEADED FUEL	VALERO	DAILY PRICE	BOARD PRICE - 2.1
			EXXON		OR BOARD PRICE - 3.4
			TEXACO		
2	UN LIMITED	DIESEL	VALERO	DAILY PRICE	BOARD PRICE - 2.1
			EXXON		OR BOARD PRICE - 4.4
			TEXACO		
3	UN LIMITED	DIESEL EXHAUST FLUID	VALERO	2.99	2.99
4	ANY	DEF JUG 2.5 GALLONS	PEAK	19.99	19.99

No	Store Name	Address	Build Size	Acre	Gas Pump	Diesel Pump	DEF Pump	Restaurant	Car Wash	Truck Wash	Scale	Shower	Laundry	Launch	Parking Space
1	Tyler Travel Center	407 E NE Loop 323, Tyler, TX 75706	13,000	24.00	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	200+
2	Race Runner 6	2216 E 5th St, Tyler, TX 75701	3,722	0.48	✓	✓			✓						15+
3	Race Runner 7	1516 S Vine Ave, Tyler, TX 75701	2,232	0.44	✓										12+
4	Race Runner 8	1801 S SE Loop 323, Tyler, TX 75701	3,600	0.78	✓	✓									20+
5	Race Runner 9	401 S Beckham Ave Tyler, TX 75702	1,950	0.78	✓										10+
6	Race Runner 11	22046 TX-155, Flint, TX 75762	7,200	1.95	✓	✓									20+
7	Race Runner 3	201 N Jackson St, Jacksonville, TX 75766	2,235	0.33	✓										10+
8	Race Runner 5	400 W Broadway St, Winnsboro, TX 75494	2,985	0.48	✓	✓		✓							20+
9	Race Runner 14	823 S Main St, Winnsboro, TX 75494	2,565	1.56	✓	✓									15+
10	Race Runner 15	302 Main St, Mt Vernon, TX 75457	2,654	0.52	✓	✓		✓							15+

- * Any location when you buy 25+ gallon will get free coffee or fountain drink
- * @ Tyler Travel Center, All break Fast get free Coffee
- * @ Tyler Travel Center, Free Wash and Fold for work clothes only pay machine cost
- * @ Tyler Travel Center, Seperate Diesel lane and console area



RACERUNNER



PO 6543 Tyler TX 75711
PH: 903 374 FUEL (3835) FAX: 877 722 3376
www.tylerpetroleum.com
support@tylerpetroleum.com



PRICE, DATA, AND SPECIFICATION SHEET

CITY OF TYLER
 Purchasing Department
 304 North Border
 Tyler, Texas 75702

Telephone: (903) 531-1232

DATE: 3/23/2020

BID # / PROPOSAL #: 20-024

CLOSING TIME: 2:00 pm

CLOSING DATE: 4/14/2020

PROPOSERS MUST COMPLETE THIS SECTION

ITEM NO.	QUANTITY	DESCRIPTION	BRAND	UNIT PRICE	TOTAL NET PRICE
1		Provide the City of Tyler with unleaded fuel, diesel fuel and diesel exhaust fluid during the fuel storage tank replacement project. See specifications for details.			
<i>GAS</i>		<i>5 cent discount off retail price</i>	<i>SHELL</i>		
<i>DIESEL</i>		<i>10 cent discount off retail price</i>	<i>SHELL</i>		
<i>DEF</i>		<i>2 dollar discount off retail price</i>	<i>PEAK DEF</i>		
		<i>Andy Osborn 903-540-5452</i>			
		<i>Triple J's</i>			
		<i>124 SSE Loop 323</i>			
		<i>Tyler TX 75702</i>			



REQUEST FOR QUOTATION

THIS IS NOT AN ORDER

CITY OF TYLER
Purchasing Department
304 North Border
Tyler, Texas 75702

03/23/2020

Quote No:20-024
(Number must appear on ALL correspondence)

DATE MAILED

Closing Time: 2:00pm

Telephone: (903) 531-1232

Closing Date:04/14/2020

Addressed To:

INSTRUCTIONS:

Please quote as per instructions indicated below for the articles described. Quotes must be submitted on City of Tyler forms to be considered. All items or services called for must be in strict accordance with all of the requirements and specifications attached hereto or furnished upon request.

1. Keep duplicate copy of proposal for your files.
2. Federal Excise Taxes are exempted, also Federal Transportation Tax, State Tax, and City Sales Tax.
3. Return this form at once if unable to quote.
4. Specify Trade name or brand in space.

Purchasing Manager

Sealed quotes to furnish the following will be received in the Purchasing Office @ 304 North Border, Tyler, Texas 75702, Attn: Sherry Pettit until 2:00 pm on 4/14/2020 and opened by City Staff in the City Council Chambers @ 212 North Bonner, City Hall, 2nd Floor @ 2:00 pm on 4/14/2020.

Quote number: 20-024

Provide the City of Tyler with unleaded fuel, diesel fuel and diesel exhaust fluid during the Oakwood fuel storage tank replacement project. See specifications for details.

QUOTE IDENTIFICATION:

Quote number, closing time, date, and item requested must appear on outside of envelope in lower left hand corner.

DATA SHEETS:

All bidders must complete each specification data sheet in spaces provided on each item that is bid as well as all information requested on the price data sheet. Said price, data and specifications sheet is hereby made a part of this quotation.

DELIVERY:

Delivery must be stated in your quote on the data sheet as the number of calendar days from date of order.

The City of Tyler reserves the right to reject any and/or all bids and to waive any and/or all formalities and to award purchase total amount, partial amount or individual item basis.

In submitting the above, the vendor agrees that acceptance by the City of Tyler within a reasonable period constitutes a binding agreement.

In submitting the above request and attached bid to the City of Tyler, I hereby certify that we have not participated in nor been a party to any collusion, price fixing or any other agreements with any company, firm, or person concerning the pricing of the enclosed quotation.

NET 15 Days
INVOICING TERMS

EAGLE FUEL & OIL Lp
COMPANY NAME

4/14/2020
DATE

Jason Paulk
AUTHORIZED REPRESENTATIVE (print)

Jason Paulk
SIGNATURE



PRICE, DATA, AND SPECIFICATION SHEET

CITY OF TYLER
 Purchasing Department
 304 North Border
 Tyler, Texas 75702

Telephone: (903) 531-1232

DATE: 3/23/2020

BID # / PROPOSAL #: 20-024

CLOSING TIME: 2:00 pm

CLOSING DATE: 4/14/2020

PROPOSERS MUST COMPLETE THIS SECTION

ITEM NO.	QUANTITY	DESCRIPTION	BRAND	UNIT PRICE	TOTAL NET PRICE
1		Provide the City of Tyler with unleaded fuel, diesel fuel and diesel exhaust fluid during the fuel storage tank replacement project. See specifications for details.			7.10 pack price
2	100,000	Reg Unleaded 87 Octane	UN	1.196	1.01
3	100,000	Ultra Low Sulfur Diesel	UN	1.40	1.35
4	3000	ALL Fleet DEF	Reliance	1.80	1.36
					Bulk



CITY OF TYLER CITY COUNCIL COMMUNICATION

Agenda Number: C-A-3

Date: May 13, 2020

Subject: Request that the City Council consider adopting a Resolution authorizing the sale of certain tracts of land located at 345 and 351 Fairway within the City of Tyler city limits and owned by taxing entities including the City of Tyler.

Page: Page 1 of

Item Reference:

The City of Tyler has contracts with Smith County to provide tax collection services for the City. Smith County also contracts with a private law firm to provide delinquent tax collection work for many Smith County taxing entities. One of the services provided by that law firm is to sell certain properties from time to time upon which a delinquent tax judgment has been entered. The purpose of such a sale is both to receive any money that might be obtained from a new buyer, but also to place the properties back on the tax rolls. Sometimes, however, there just is no bidder at such sales or the bid is so low that it is not in the taxing entities' interests to accept the bid.

This request is from the taxing entities' law firm, and it concerns tracts, which were previously offered at a tax sale, but became the property of the taxing entities because there were either no bids or insufficient bids. Since the date of the tax sale, potential buyers have come forward, and in order for such sale to be authorized, the governing bodies of all involved taxing entities must consent to the sale. This type of sale arrangement is permitted under Section 34.05 of the Texas Property Tax Code.

The properties involved in this request along with details on when Judgments were taken, Judgment amounts, and other costs, prior owners, current bids and bidders, are set out in Exhibit "A" of the Resolution.

The distribution of proceeds from such sales are governed by Sections 34.06 and 34.02 of the Property Tax Code and provide as follows:

Section 34.02 Distribution of Proceeds.

- (a) The proceeds of a tax sale shall be applied first to the payment of costs. The remainder shall be distributed to all taxing units participating in the sale in satisfaction of the taxes, penalties, and interest due each.
- (b) If the proceeds are not sufficient to pay the costs and taxes, penalties, and interest due all

participants in the sale, each participant is entitled to a share of the proceeds after payment of costs in an amount equal to the proportion its taxes, penalties, and interest bear to the total amount of taxes, penalties, and interest due all participants in the sale.

(c) If the sale is pursuant to foreclosure of a tax lien, the officer conducting the sale shall pay any excess proceeds after payment of all costs and of all taxes, penalties, and interest due all participants in the sale to the clerk of the court issuing the order of sale.

(d) If the sale is pursuant to seizure of personal property, the officers conducting the sale shall distribute any excess of proceeds as provided by law for excess proceeds in the case of execution."

A representative of the law firm of Linebarger Goggan Blair & Sampson, LLP., of Tyler, Texas will be present to answer questions regarding this tax sale.

RECOMMENDATION:

It is recommended that the City Council adopt a Resolution authorizing the sale of certain tracts of land located at 345 and 351 Fairway within the City of Tyler city limits and owned by taxing entities including the City of Tyler.

ATTACHMENTS:

[Resolution](#)

[Resale Deed](#)

[Correspondence with Linebarger Goggan Blair & Sampson, LLP](#)

[Bid Analysis](#)

[Property Detail](#)

[Property Map](#)

Drafted/Recommended By:

Department Leader

Deborah G. Pullum, City Attorney

Edited/Submitted By:

City Manager

RESOLUTION NO. R-2020-_____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS AGREEING TO THE SALE OF CERTAIN PROPERTY LOCATED WITHIN TYLER CITY LIMITS AND OWNED BY TAXING ENTITIES INCLUDING THE CITY OF TYLER AS THE RESULT OF A TAX SALE: AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, The taxing entities, including the City of Tyler, Smith County, Texas, have become the owners of certain real property by virtue of the foreclosure sale conducted by the Sheriff pursuant to an order of the District Court as set out in the attachments described below: and

WHEREAS, all taxing entities involved in the below-referenced causes must consent to the sale of the described real property; and

WHEREAS, it is to the benefit of all taxing entities involved that the property be returned to its respective tax rolls;

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

PART 1: That the Mayor be and is hereby directed and authorized to execute the deed and any and all documents necessary to convey the real property referred to in a District Court Order in **Cause No. 24,369-B: Being Lots 23, and 24, Block No.4, NKA Block 738, of the Country Club Addition, as described in Warranty Deed Recorded in Volume 3283, Page 893, on Instrument dated July 19, 1933, and recorded on October 6, 1992, deed records of Smith County, Texas (150000073800023000)** to the buyer for and in consideration of the cash bid; all as described in the attached Exhibit "A", said monies to be distributed pursuant to Section 34.05 of the Texas Property Tax Code.

PART 2: That this resolution shall take effect immediately upon adoption.

ADOPTED this 13th day of May, 2020.

MARTIN HEINES, MAYOR
OF THE CITY OF TYLER, TEXAS

A T T E S T:

APPROVED:

CASSANDRA BRAGER, CITY CLERK

DEBORAH G. PULLUM,
CITY ATTORNEY

EXHIBIT "A" TO RESOLUTION R-2020-_____

Cause No. **24,369-B**

Date of Tax Sale **September 4, 2018**

Taxes Due: **\$1,440.47** **Tyler ISD**
 \$ 275.37 **Smith County**
 \$ 141.41 **TJC**
 \$ 327.47 **City of Tyler**

Adjudged Value **\$1,072.00**

Acct. No. **150000073800023000**

Present Bid **\$2,000.00**

Bidder **IRAIS GARCIA LOPEZ**
 11864 HWY 64
 TYLER, TEXAS 75707

PROPERTY DESCRIPTION

Being Lots 23, and 24, Block No.4, NKA Block 738, of the Country Club Addition, as described in Warranty Deed Recorded in Volume 3283, Page 893, on Instrument dated July 19, 1933, and recorded on October 6, 1992, deed records of Smith County, Texas (150000073800023000).

IN TESTIMONY WHEREOF CITY OF TYLER has caused these presents to be executed this _____ day of _____, 2020.

CITY OF TYLER

By: _____
Martin Heines
Mayor

STATE OF TEXAS §

COUNTY OF SMITH §

This instrument was acknowledged before me on this _____ day of _____, 2020, by Martin Heines, Mayor of the **CITY OF TYLER**.

Printed Name: _____
Notary Public, State of Texas
My Commission Expires: _____

LINEBARGER GOGGAN BLAIR & SAMPSON, LLP

ATTORNEYS AT LAW
1517 W. FRONT ST., SUITE 202
TYLER, TX 75702

Telephone (903) 597-2897
FAX (903) 597-2402

May _____, 2019

Deborah G. Pullum, City Attorney
City of Tyler
212 N. Bonner
Tyler, Texas 75702

RE: Agenda Item(s): SUIT NO. 24,369-B; TYLER INDEPENDENT SCHOOL DISTRICT VS. O. J. BERRY ESTATE

Dear Mrs. Pullum:

Enclosed for the earliest Tyler City Council meeting is a resolution authorizing the Mayor to approve the bid for the sale of the above Struck Off property. The bidder and the amount being bid is stated in the attached exhibit.

The taxing entities in Smith County became owners of this property by virtue of a tax foreclosure sale conducted by the Sheriff of Smith County, pursuant to an order of the court in this case.

When the scheduled meeting has been determined, please notify us by returning this letter with the date and time of the meeting.

FAX #: 903-597-2402

ATTN: Tammy Weaver:

Date: _____

Time: _____

Comments: _____

or e-mail to: Tammy.Weaver@lgbs.com

Very truly yours,

Tammy Weaver
Area Manager

TW/srm

cc: Gary B. Barber Tax Assessor-Collector
Smith County
1517 W. Front Street
Tyler, TX 75702

SUIT NO. 24,369-B; TYLER INDEPENDENT SCHOOL DISTRICT VS. O. J. BERRY ESTATE P444

EXHIBIT "A"

BID ANALYSIS

Cause Number: 24,369-B	Previous Owner: O. J. Berry
Bid Amount: \$2,000.00	Judgment Value: \$1,072.00
Bidders Name: Irais Garcia Lopez	Opening Bid at Sale: \$
Bidders Address: 11864 Highway 64 Tyler, Texas 75707	Date of Sale: September 4, 2018
	Date of Bid Submitted: November 28, 2018

Sale Recording Date: September 27, 2018
Redemption Expires: March 27, 2019

PROPERTY DESCRIPTION

Being Lots 23, and 24, Block No.4, NKA Block 738, of the Country Club Addition, as described in Warranty Deed Recorded in Volume 3283, Page 893, on Instrument dated July 19, 1933, and recorded on October 6, 1992, deed records of Smith County, Texas. (1500000738000230000)

SITUS OR LOCATION: Fairway

JUDGMENT INFORMATION

<u>Tax Entity</u>	<u>Tax Years</u>	<u>Amount Due</u>
TYLER ISD	1994-2017	\$1,440.47
SMITH COUNTY	1994-2017	\$ 275.37
TYLER JUNIOR COLLEGE	1994-2017	\$ 141.41
CITY OF TYLER	1994-2017	\$ 327.47
	TOTAL:	\$2,184.72

COSTS

Court Costs	\$1,067.00
Sheriff's Fees:	\$ 215.00
Publication Fee:	\$ 112.51
Title Research:	\$ 200.00
Recording Fee:	\$ <u>66.00</u>
TOTAL:	\$1,660.51

PROPOSED DISTRIBUTION

Bid Amount:	\$2,000.00
Costs:	\$1,660.51
Net to Distribute:	\$ 339.49

<u>ENTITY</u>	<u>PERCENTAGE</u>	<u>AMOUNT TO DISBURSE</u>
TYLER ISD	66%	\$224.06
SMITH COUNTY	13%	\$ 44.14
TYLER JUNIOR COLLEGE	6%	\$ 20.37
CITY OF TYLER	15%	\$ 50.92
	TOTAL:	\$339.49

Property Detail

Account Number: **150000073800023000**

Tax Year: **2019** Change Year: **2019** ▼

[Tax History](#)

[Print This Page](#)

[Map It](#)

[Search Results](#)

Ownership Information		Certified Values	
YEAR	2019	IMPROVEMENT VALUE	(+) \$0
PIN NUMBER	R063782	LAND VALUE	(+) <u>\$1,072</u>
ACCOUNT NUMBER	1-50000-0738-00-023000	MARKET VALUE	(=) \$1,072
OWNER	SMITH COUNTY TRUSTEE		
IN CARE OF			
ADDRESS	PO BOX 2011		
CITY	TYLER		
STATE	TX		
ZIP	75710-2011		
Jurisdictions		Estimated Tax Information*	
COUNTY	SMITH COUNTY	COUNTY	\$0.00
CITY	CITY OF TYLER	CITY	\$0.00
ISD	TYLER ISD	ISD	\$0.00
COLLEGE	TYLER JR. COLLEGE	COLLEGE	\$0.00
		TOTAL TAX	\$0.00
		<p>* For Actual Tax Levy contact Gary Barber Tax Assessor/Collector at (903) 590-2920. Tax amounts shown are Estimates prepared by Smith County Appraisal District.</p>	
Legal Information			
LOCATION	FAIRWAY		
MAP NUMBER	C109		
MAP GRID	H-17.2A		
SUBDIVISION	COUNTRY CLUB		
SECTION			
BLOCK/LOT/TRACT	BLOCK 738 LOT 23 & 24		
ACRES	0.000		
Deed Information		Exemptions	
RECORDING DATE	9/27/2018	HOMESTEAD APPLICATION FORM	
INSTRUMENT	SD 40135	TOTAL EXEMPTION	<input checked="" type="checkbox"/>
VOLUME NUMBER			
PAGE NUMBER			
Dwelling Information			



CITY OF TYLER CITY COUNCIL COMMUNICATION

Agenda Number: C-A-4

Date: May 13, 2020

Subject: Request that the City Council consider adopting a Resolution agreeing to the sale of certain tracts of land located at 2600 North Confederate and 2527 and 2523 North Englewood within the City of Tyler city limits and owned by taxing entities including the City of Tyler.

Page: Page 1 of

Item Reference:

The City of Tyler has contracts with Smith County to provide tax collection services for the City. Smith County also contracts with a private law firm to provide delinquent tax collection work for many Smith County taxing entities. One of the services provided by that law firm is to sell certain properties from time to time upon which a delinquent tax judgment has been entered. The purpose of such a sale is both to receive any money that might be obtained from a new buyer, but also to place the properties back on the tax rolls. Sometimes, however, there just is no bidder at such sales or the bid is so low that it is not in the taxing entities' interests to accept the bid.

This request is from the taxing entities' law firm, and it concerns tracts, which were previously offered at a tax sale, but became the property of the taxing entities because there were either no bids or insufficient bids. Since the date of the tax sale, potential buyers have come forward, and in order for such sale to be authorized, the governing bodies of all involved taxing entities must consent to the sale. This type of sale arrangement is permitted under Section 34.05 of the Texas Property Tax Code.

The properties involved in this request along with details on when Judgments were taken, Judgment amounts, and other costs, prior owners, current bids and bidders, are set out in Exhibit "A" of the Resolution.

The distribution of proceeds from such sales are governed by Sections 34.06 and 34.02 of the Property Tax Code and provide as follows:

"Section 34.02 Distribution of Proceeds.

(a) The proceeds of a tax sale shall be applied first to the payment of costs. The remainder shall be distributed to all taxing units participating in the sale in satisfaction of the taxes, penalties, and interest due each.

(b) If the proceeds are not sufficient to pay the costs and taxes, penalties, and interest due all participants in the sale, each participant is entitled to a share of the proceeds after payment of costs in an amount equal to the proportion its taxes, penalties, and interest bear to the total amount of taxes, penalties, and interest due all participants in the sale.

(c) If the sale is pursuant to foreclosure of a tax lien, the officer conducting the sale shall pay any excess proceeds after payment of all costs and of all taxes, penalties, and interest due all participants in the sale to the clerk of the court issuing the order of sale.

(d) If the sale is pursuant to seizure of personal property, the officers conducting the sale shall distribute any excess of proceeds as provided by law for excess proceeds in the case of execution."

A representative of the law firm of Linebarger Goggan Blair & Sampson, LLP., of Tyler, Texas will be present to answer questions regarding this tax sale.

RECOMMENDATION:

It is recommended that the City Council adopt a Resolution authorizing the sale of certain tracts of land located at 2600 North Confederate and 2527 and 2523 North Englewood within the City of Tyler city limits and owned by taxing entities including the City of Tyler.

ATTACHMENTS:

[Resolution](#)

[Resale Deed](#)

[Correspondence with Linebarger Goggan Blair & Sampson, LLP](#)

[Bid Analysis](#)

[Property Detail](#)

[Property Map](#)

**Drafted/Recommended By:
Department Leader**

Deborah G. Pullum, City Attorney

**Edited/Submitted By:
City Manager**

RESOLUTION NO. R-2020-_____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS AGREEING TO THE SALE OF CERTAIN PROPERTY LOCATED WITHIN TYLER CITY LIMITS AND OWNED BY TAXING ENTITIES INCLUDING THE CITY OF TYLER AS THE RESULT OF A TAX SALE: AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, The taxing entities, including the City of Tyler, Smith County, Texas, have become the owners of certain real property by virtue of the foreclosure sale conducted by the Sheriff pursuant to an order of the District Court as set out in the attachments described below:
and

WHEREAS, all taxing entities involved in the below-referenced causes must consent to the sale of the described real property; and

WHEREAS, it is to the benefit of all taxing entities involved that the property be returned to its respective tax rolls;

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

PART 1: That the Mayor be and is hereby directed and authorized to execute the deed and any and all documents necessary to convey the real property referred to in a District Court Order in **Cause No. 25,271-A: Being Lot 11A, 12A, and 50A, NCB 502-A, Northridge Addition to the city of Tyler, Smith County, Texas, as Described in Deed Recorded under Document No. 2012-0031195, Filed July 13, 2012, Deed Records of Smith County, Texas (150000050201011010)** to the buyer for and in consideration of the cash bid; all as described in the attached Exhibit "A", said monies to be distributed pursuant to Section 34.05 of the Texas Property Tax Code.

PART 2: That this resolution shall take effect immediately upon adoption.

ADOPTED this 13th day of May, 2020.

MARTIN HEINES, MAYOR
OF THE CITY OF TYLER, TEXAS

A T T E S T:

APPROVED:

CASSANDRA BRAGER, CITY CLERK

DEBORAH G. PULLUM,
CITY ATTORNEY

EXHIBIT "A" TO RESOLUTION R-2020-_____

Cause No. 25,271-A

Date of Tax Sale August 7, 2018

Taxes Due: \$4,836.40 Tyler ISD
\$1,151.38 Smith County
\$ 700.74 TJC
\$ 788.92 City of Tyler

Adjudged Value \$44,224.00

Acct. No. 150000050201011010

Present Bid \$7,377.61

Bidder MARK A. MANNING
5613 NIMITZ
TYLER, TEXAS 75704

PROPERTY DESCRIPTION

Being Lot 11A, 12A, and 50A, NCB 502-A, Northridge Addition to the city of Tyler, Smith County, Texas, as Described in Deed Recorded under Document No. 2012-0031195, Filed July 13, 2012, Deed Records of Smith County, Texas (150000050201011010).

THE STATE OF TEXAS

§

RESALE DEED

COUNTY OF SMITH

§

KNOW ALL MEN BY THESE PRESENTS that TYLER INDEPENDENT SCHOOL DISTRICT, SMITH COUNTY, CITY OF TYLER AND TYLER JUNIOR COLLEGE each acting by and through its duly elected official ("GRANTOR") as authorized by Section 34.05, Texas Property Tax Code, for and in consideration of the sum of SEVEN THOUSAND THREE HUNDRED SEVENTY SEVEN DOLLARS AND 61/100 (\$7,377.61) AND OTHER GOOD AND VALUABLE CONSIDERATION, in hand paid by **Mark Manning** ("GRANTEE") the receipt of which is hereby acknowledged and confessed, has conveyed and quitclaimed and by these presents do convey and quitclaim unto said grantee all right, title and interest of the TYLER INDEPENDENT SCHOOL DISTRICT, SMITH COUNTY, CITY OF TYLER AND TYLER JUNIOR COLLEGE, in the property herein conveyed, acquired by tax foreclosure sale heretofore held in Cause No. 25,271-A styled State of Texas, Tyler Independent School District vs. Rudy Richards, Et Al said property being described as:

BEING LOT 11A, 12A AND 50A, NCB 502-A, NORTHRIDGE ADDITION TO THE CITY OF TYLER, SMITH COUNTY, TEXAS, AS DESCRIBED IN DEED RECORDED UNDER DOCUMENT NO. 2012-00031195, FILED JULY 13, 2012, DEED RECORDS OF SMITH COUNTY, TEXAS AND BEING FURTHER IDENTIFIED ON THE TAX ROLLS AND RECORDS OF TYLER INDEPENDENT SCHOOL DISTRICT UNDER ACCOUNT NUMBER 150000050201011010.

This conveyance is made and accepted subject to the following matters to the extent that the same are in effect at this time: any and all rights of redemption, restrictions, covenants, conditions, easements, encumbrances and outstanding mineral interests, if any, relating to the hereinabove mentioned County and State, and to all zoning laws, regulations and ordinances of municipal and/or governmental authorities, if any but only to the extent that they are still in effect, relating to the hereinabove described property.

TO HAVE AND TO HOLD said premises, together with all and singular the rights, privileges and appurtenances thereto in any manner belonging unto the said **Mark Manning**, their heirs and assigns forever, so that neither TYLER INDEPENDENT SCHOOL DISTRICT, SMITH COUNTY, CITY OF TYLER AND TYLER JUNIOR COLLEGE, and any person claiming under it shall at any time hereafter have, claim or demand any right or title to the aforesaid premises or appurtenances, or any part thereof.

Grantee accepts the property in "AS IS" condition and subject to any environmental conditions that might have or still exist on said property.

Post judgment taxes and taxes for the current year are assumed by Grantee.

IN TESTIMONY WHEREOF CITY OF TYLER has caused these presents to be executed this _____ day of _____, 2020.

CITY OF TYLER

By: _____
Martin Heines
Mayor

STATE OF TEXAS §

COUNTY OF SMITH §

This instrument was acknowledged before me on this _____ day of _____, 2020, by Martin Heines, Mayor of the **CITY OF TYLER**.

Printed Name: _____
Notary Public, State of Texas
My Commission Expires: _____

LINEBARGER GOGGAN BLAIR & SAMPSON, LLP

ATTORNEYS AT LAW
1517 W. FRONT ST., SUITE 202
TYLER, TX 75702

Telephone (903) 597-2897
FAX (903) 597-2402

May _____, 2019

Deborah G. Pullum, City Attorney
City of Tyler
212 N. Bonner
Tyler, Texas 75702

RE: Agenda Item(s): SUIT NO. 25,271-A; TYLER INDEPENDENT SCHOOL DISTRICT VS. RUDY R. RICHARDS, DECEASED, AND THE UNKNOWN HEIRS OF RUDY R. RICHARDS, ET AL

Dear Mrs. Pullum:

Enclosed for the earliest Tyler City Council meeting is a resolution authorizing the Mayor to approve the bid for the sale of the above Struck Off property. The bidder and the amount being bid is stated in the attached exhibit.

The taxing entities in Smith County became owners of this property by virtue of a tax foreclosure sale conducted by the Sheriff of Smith County, pursuant to an order of the court in this case.

When the scheduled meeting has been determined, please notify us by returning this letter with the date and time of the meeting.

FAX #: 903-597-2402

ATTN: Tammy Weaver:

Date: _____

Time: _____

Comments: _____

or e-mail to: Tammy.Weaver@lgbs.com

Very truly yours,

Tammy Weaver
Area Manager

TW/srm

cc: Gary B. Barber Tax Assessor-Collector
Smith County
1517 W. Front Street
Tyler, TX 75702
SUIT NO. 25,271-A; TYLER INDEPENDENT SCHOOL DISTRICT VS. RUDY R. RICHARDS, DECEASED, AND THE UNKNOWN HEIRS OF RUDY R. RICHARDS, ET AL P443

EXHIBIT "A"
BID ANALYSIS

Cause Number: 25,271-A
Bid Amount: \$7,377.61
Bidders Name: Mark A. Manning
Bidders Address: 5613 Nimitz
 Tyler, Texas 75704

Previous Owner: Ruby R. Richards
Judgment Value: \$44,224.00
Opening Bid at Sale: \$
Date of Sale: August 7, 2018
Date of Bid Submitted: December 16, 2018

Sale Recording Date: August 23, 2018
Redemption Expires: February 23, 2019

PROPERTY DESCRIPTION

Being Lot 11A, 12A, and 50A, NCB 502-A, Northridge Addition to the city of Tyler, Smith County, Texas, as Described in Deed Recorded under Document No. 2012-0031195, Filed July 13, 2012, Deed Records of Smith County, Texas. (150000050201011010)

SITUS OR LOCATION: 2527 N. Englewood

JUDGMENT INFORMATION

<u>Tax Entity</u>	<u>Tax Years</u>	<u>Amount Due</u>
TYLER ISD	2013-2017	\$4,836.40
SMITH COUNTY	2013-2017	\$1,151.38
TYLER JUNIOR COLLEGE	2013-2017	\$ 700.74
CITY OF TYLER	2013-2017	\$ 788.92
	TOTAL:	\$7,477.44

COSTS

Court Costs	\$1,515.00
Sheriff's Fees:	\$ 215.00
Publication Fee:	\$ 78.33
Title Research:	\$ 250.00
Recording Fee:	\$ 66.00
TOTAL:	\$2,124.33

PROPOSED DISTRIBUTION

Bid Amount:	\$7,377.61
Costs:	\$2,124.33
Net to Distribute:	\$5,253.28

<u>ENTITY</u>	<u>PERCENTAGE</u>	<u>AMOUNT TO DISBURSE</u>
TYLER ISD	65%	\$3,414.63
SMITH COUNTY	15%	\$ 787.99
TYLER JUNIOR COLLEGE	9%	\$ 472.80
CITY OF TYLER	11%	\$ 577.86
	TOTAL:	\$5,253.28

Property Detail

Account Number: **150000050201011010**

Tax Year: **2019** Change Year: **2019** ▼

[Tax History](#)

[Print This Page](#)

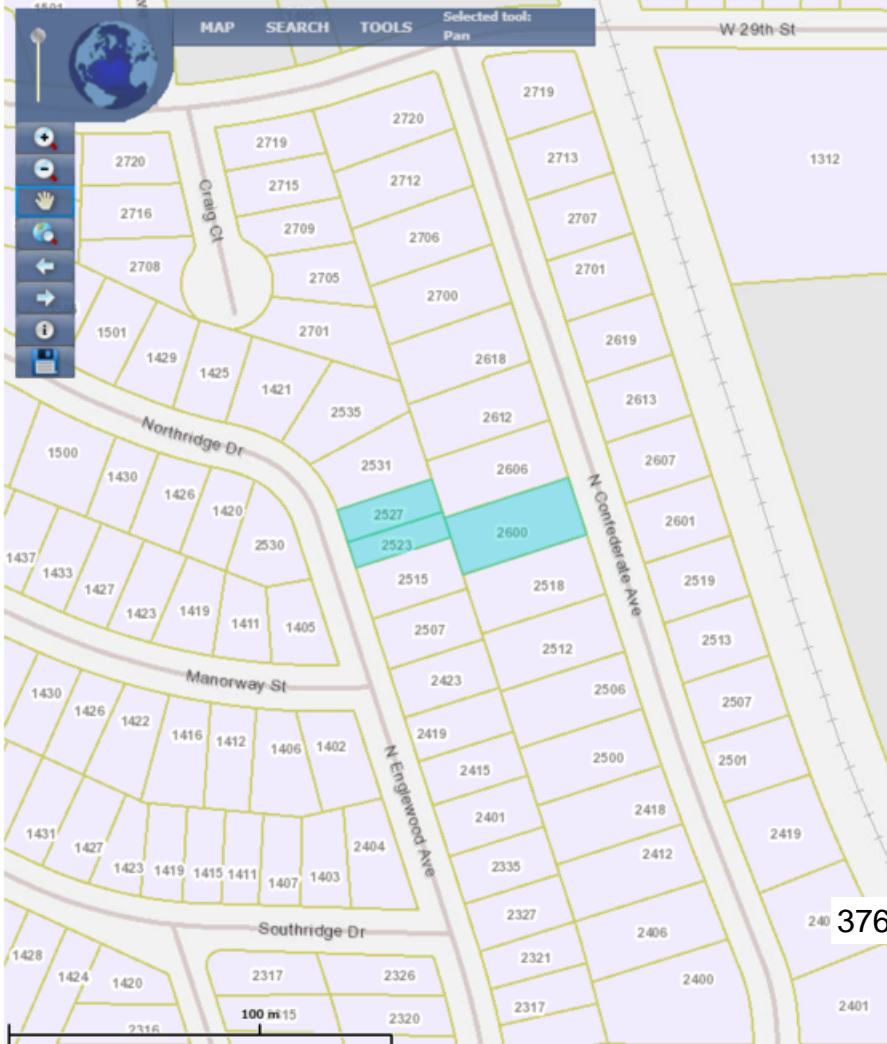
[Map It](#)

[Search Results](#)

Ownership Information		Certified Values	
YEAR	2019	IMPROVEMENT VALUE	(+) \$0
PIN NUMBER	R056196	LAND VALUE	(+) <u>\$17,616</u>
ACCOUNT NUMBER	1-50000-0502-01-011010	MARKET VALUE	(=) \$17,616
OWNER	SMITH COUNTY TRUSTEE		
IN CARE OF			
ADDRESS	PO BOX 2011		
CITY	TYLER		
STATE	TX		
ZIP	75710-		
Jurisdictions		Estimated Tax Information*	
COUNTY	SMITH COUNTY	COUNTY	\$0.00
CITY	CITY OF TYLER	CITY	\$0.00
ISD	TYLER ISD	ISD	\$0.00
COLLEGE	TYLER JR. COLLEGE	COLLEGE	\$0.00
		TOTAL TAX	\$0.00
		* For Actual Tax Levy contact Gary Barber Tax Assessor/Collector at (903) 590-2920. Tax amounts shown are Estimates prepared by Smith County Appraisal District.	
Legal Information			
LOCATION	2600 N CONFEDERATE AVE		
MAP NUMBER	C 2A		
MAP GRID	H-15.4D		
SUBDIVISION	NORTHRIDGE		
SECTION			
BLOCK/LOT/TRACT	BLOCK 502-A LOT 11A, 12A, 50A		
ACRES	0.000		
Deed Information		Exemptions	
RECORDING DATE	8/23/2018	HOMESTEAD APPLICATION FORM	
INSTRUMENT	SD 35603	TOTAL EXEMPTION	<input checked="" type="checkbox"/>
VOLUME NUMBER			
PAGE NUMBER			
Dwelling Information			

Smith CAD

Available Maps: Home Property Search Development & Zoning Elevation & Flood Data Parks & Rec





CITY OF TYLER CITY COUNCIL COMMUNICATION

Agenda Number: C-A-5

Date: May 13, 2020

Subject: Request that the City Council consider adopting a Resolution agreeing to the sale of certain tracts of land located at 2114 Boswell within the City of Tyler city limits and owned by taxing entities including the City of Tyler.

Page: Page 1 of

Item Reference:

The City of Tyler has contracts with Smith County to provide tax collection services for the City. Smith County also contracts with a private law firm to provide delinquent tax collection work for many Smith County taxing entities. One of the services provided by that law firm is to sell certain properties from time to time upon which a delinquent tax judgment has been entered. The purpose of such a sale is both to receive any money that might be obtained from a new buyer, but also to place the properties back on the tax rolls. Sometimes, however, there just is no bidder at such sales or the bid is so low that it is not in the taxing entities' interests to accept the bid.

This request is from the taxing entities' law firm, and it concerns tracts, which were previously offered at a tax sale, but became the property of the taxing entities because there were either no bids or insufficient bids. Since the date of the tax sale, potential buyers have come forward, and in order for such sale to be authorized, the governing bodies of all involved taxing entities must consent to the sale. This type of sale arrangement is permitted under Section 34.05 of the Texas Property Tax Code.

The properties involved in this request along with details on when Judgments were taken, Judgment amounts, and other costs, prior owners, current bids and bidders, are set out in Exhibit "A" of the Resolution.

The distribution of proceeds from such sales are governed by Sections 34.06 and 34.02 of the Property Tax Code and provide as follows:

"Section 34.02 Distribution of Proceeds.

(a) The proceeds of a tax sale shall be applied first to the payment of costs. The remainder shall be distributed to all taxing units participating in the sale in satisfaction of the taxes, penalties, and interest due each.

(b) If the proceeds are not sufficient to pay the costs and taxes, penalties, and interest due all

participants in the sale, each participant is entitled to a share of the proceeds after payment of costs in an amount equal to the proportion its taxes, penalties, and interest bear to the total amount of taxes, penalties, and interest due all participants in the sale.

(c) If the sale is pursuant to foreclosure of a tax lien, the officer conducting the sale shall pay any excess proceeds after payment of all costs and of all taxes, penalties, and interest due all participants in the sale to the clerk of the court issuing the order of sale.

(d) If the sale is pursuant to seizure of personal property, the officers conducting the sale shall distribute any excess of proceeds as provided by law for excess proceeds in the case of execution."

A representative of the law firm of Linebarger Goggan Blair & Sampson, LLP., of Tyler, Texas will be present to answer questions regarding this tax sale.

RECOMMENDATION:

It is recommended that the City Council adopt a Resolution authorizing the sale of certain tracts of land located at 2114 Boswell within the City of Tyler city limits and owned by taxing entities including the City of Tyler.

ATTACHMENTS:

[Resolution](#)

[Resale Deed](#)

[Bid Analysis](#)

[Correspondence with Linebarger Goggan Blair & Sampson, LLP](#)

[Property Detail](#)

[Property Map](#)

Drafted/Recommended By:

Department Leader

Deborah G. Pullum, City Attorney

Edited/Submitted By:

City Manager

RESOLUTION NO. R-2020-_____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS AGREEING TO THE SALE OF CERTAIN PROPERTY LOCATED WITHIN TYLER CITY LIMITS AND OWNED BY TAXING ENTITIES INCLUDING THE CITY OF TYLER AS THE RESULT OF A TAX SALE: AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, The taxing entities, including the City of Tyler, Smith County, Texas, have become the owners of certain real property by virtue of the foreclosure sale conducted by the Sheriff pursuant to an order of the District Court as set out in the attachments described below: and

WHEREAS, all taxing entities involved in the below-referenced causes must consent to the sale of the described real property; and

WHEREAS, it is to the benefit of all taxing entities involved that the property be returned to its respective tax rolls;

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

PART 1: That the Mayor be and is hereby directed and authorized to execute the deed and any and all documents necessary to convey the real property referred to in a District Court Order in **CAUSE NO. 22,935-B: 0.1377 ACRES, MORE OR LESS, OUT OF LOT 15E, BLOCK 836K, AN ADDITION TO THE CITY OF TYLER, SMITH COUNTY, TEXAS, AS DESCRIBED IN DEED DATED FEBRUARY 17,1982, FROM LUTHER C. BOSWELL TO RONALD LYNN, VOLUME 1957, PAGE 70, LAND RECORDS OF SMITH COUNTY, TEXAS (LOCATION: BOSWELL) [150000083611015050]** to the buyer for and in consideration of the cash bid; all as described in the attached Exhibit "A", said monies to be distributed pursuant to Section 34.05 of the Texas Property Tax Code.

PART 2: That this resolution shall take effect immediately upon adoption.

ADOPTED this 13th day of May, 2020.

MARTIN HEINES, MAYOR
OF THE CITY OF TYLER, TEXAS

A T T E S T:

APPROVED:

CASSANDRA BRAGER, CITY CLERK

DEBORAH G. PULLUM,
CITY ATTORNEY

EXHIBIT "A" TO RESOLUTION R-2020-_____

Cause No. **22,935-B**

Date of Tax Sale **March 6, 2012**

Taxes Due: **\$7,854.44** **Tyler ISD**
 \$1,388.69 **Smith County**
 \$ 696.21 **TJC**
 \$1,751.44 **City of Tyler**

Adjudged Value **\$1,600.00**

Acct. No. **150000083611015050**

Present Bid **\$820.00**

Bidder **SOLOMON EMANUEL**
 1140 12th STREET
 HEMPSTEAD, TEXAS 77445

PROPERTY DESCRIPTION

0.1377 ACRES, MORE OR LESS, OUT OF LOT 15E, BLOCK 836K, AN ADDITION TO THE CITY OF TYLER, SMITH COUNTY, TEXAS, AS DESCRIBED IN DEED DATED FEBRUARY 17,1982, FROM LUTHER C. BOSWELL TO RONALD LYNN, VOLUME 1957, PAGE 70, LAND RECORDS OF SMITH COUNTY, TEXAS (LOCATION: BOSWELL) [150000083611015050]

Notice of confidentiality rights: If you are a natural person, you may remove or strike any or all of the following information from any instrument that transfers an interest in real property before it is filed for record in the public records: your social security number or your driver's license number.

TAX RESALE DEED

STATE OF TEXAS §

§ **KNOW ALL MEN BY THESE PRESENTS**

COUNTY OF SMITH §

That **CITY OF TYLER, SMITH COUNTY and TYLER JUNIOR COLLEGE**, acting through the presiding officer of its governing body, hereunto duly authorized by resolution and order of each respective governing body which is duly recorded in their official Minutes, hereinafter called grantors, for and in consideration of the sum of **\$820.00** cash in hand paid by

**SOLOMON EMANUEL
1140 12th STREET
HEMPSTEAD, TEXAS 77445**

hereinafter called grantee(s), the receipt of which is acknowledged and confessed, have quitclaimed and by these presents do quitclaim unto said grantee(s) all of the right, title and interest of grantor and all other taxing units interested in the tax foreclosure judgment against the property herein described, acquired by tax foreclosure sale heretofore held under Suit No. 22,935-B, City Of Tyler, Et Al vs. Ronald Lynn, in the district court of said county, said property being located in Smith County, Texas, and described as follows:

**0.1377 ACRES, MORE OR LESS, OUT OF LOT 15E, BLOCK 836K, AN ADDITION TO THE CITY OF TYLER, SMITH COUNTY, TEXAS, AS DESCRIBED IN DEED DATED FEBRUARY 17,1982, FROM LUTHER C. BOSWELL TO RONALD LYNN, VOLUME 1957, PAGE 70, LAND RECORDS OF SMITH COUNTY, TEXAS (LOCATION: BOSWELL)
[150000083611015050]**

TO HAVE AND TO HOLD the said premises, together with all and singular the rights, privileges, and appurtenances thereto in any manner belonging unto the said grantee(s), their heirs and assigns forever, so that neither the grantors, nor any other taxing unit interested in said tax foreclosure judgment, nor any person claiming under it and them, shall at any time hereafter have, claim or demand any right or title to the aforesaid premises or appurtenances, or any part thereof.

Taxes for the present year are to be paid by grantee(s) herein.

This deed is given expressly subject to recorded restrictive covenants running with the land, and valid easements of record as of the date of this sale, if such covenants or easements were recorded prior to January 1 of the year the tax lien(s) arose.

IN TESTIMONY WHEREOF CITY OF TYLER has caused these presents to be executed this _____ day of _____, 2020.

CITY OF TYLER

By: _____
Martin Heines
Mayor

STATE OF TEXAS §

COUNTY OF SMITH §

This instrument was acknowledged before me on this _____ day of _____, 2020, by Martin Heines, Mayor of the **CITY OF TYLER**.

Printed Name: _____
Notary Public, State of Texas
My Commission Expires: _____

EXHIBIT "A"
BID ANALYSIS

Cause Number: 22,935-B	Previous Owner: Ronald Lynn
Bid Amount: \$820.00	Judgment Value: \$1,600.00
Bidders Name: Solomon Emanuel	Opening Bid at Sale:
Bidders Address: 1140 12th Street	Date of Sale: March 6, 2012
Hempstead, Texas 77445	Date of Bid Submitted: January 24, 2019

Sale Recording Date: April 1, 2012
Redemption Expires: October 1, 2012

PROPERTY DESCRIPTION

0.1377 ACRES, MORE OR LESS, OUT OF LOT 15E, BLOCK 836K, AN ADDITION TO THE CITY OF TYLER, SMITH COUNTY, TEXAS, AS DESCRIBED IN DEED DATED FEBRUARY 17,1982, FROM LUTHER C. BOSWELL TO RONALD LYNN, VOLUME 1957, PAGE 70, LAND RECORDS OF SMITH COUNTY, TEXAS (LOCATION: BOSWELL) [150000083611015050]

SITUS OR LOCATION: Boswell

JUDGMENT INFORMATION

<u>Tax Entity</u>	<u>Tax Years</u>	<u>Amount Due</u>
SMITH COUNTY	1998-2010	\$1,388.69
CITY OF TYLER	1998-2010	\$1,751.44
TYLER JUNIOR COLLEGE	1998-2010	\$ 696.21
TYLER ISD	1998-2010	\$7,854.44
TOTAL:		\$11,690.78

COSTS

Court Costs	\$580.00
Sheriff's Fees:	\$120.00
Publication Fee:	\$211.44
Title Research:	\$175.00
Recording Fee:	\$ <u>42.00</u>
TOTAL:	\$1,128.44

PROPOSED DISTRIBUTION

Bid Amount:	\$ 820.00
Costs:	\$1,128.44
Net to Distribute:	\$ 0.00

<u>ENTITY</u>	<u>PERCENTAGE</u>	<u>AMOUNT TO DISBURSE</u>
SMITH COUNTY	12%	\$0.00
CITY OF TYLER	15%	\$0.00
TYLER JUNIOR COLLEGE	6%	\$0.00
TYLER ISD	67%	\$0.00
TOTAL:		\$0.00

LINEBARGER GOGGAN BLAIR & SAMPSON, LLP

ATTORNEYS AT LAW
1517 W. FRONT ST., SUITE 202
TYLER, TX 75702

Telephone (903) 597-2897
FAX (903) 597-2402

June _____, 2019

Deborah G. Pullum, City Attorney
City of Tyler
212 N. Bonner
Tyler, Texas 75702

RE: Agenda Item(s): **SUIT NO. 22,935-B; CITY OF TYLER, ET AL vs. RONALD LYNN**

Dear Mrs. Pullum:

Enclosed for the earliest Tyler City Council meeting is a resolution authorizing the Mayor to approve the bid for the sale of the above Struck Off property. The bidder and the amount being bid is stated in the attached exhibit.

The taxing entities in Smith County became owners of this property by virtue of a tax foreclosure sale conducted by the Sheriff of Smith County, pursuant to an order of the court in this case.

When the scheduled meeting has been determined, please notify us by returning this letter with the date and time of the meeting.

FAX #: 903-597-2402

ATTN: Tammy Weaver:

Date: _____

Time: _____

Comments: _____

or e-mail to: Tammy.Weaver@lgbs.com

Very truly yours,

Tammy Weaver
Area Manager

TW/srm

cc: Gary B. Barber Tax Assessor-Collector
Smith County
1517 W. Front Street
Tyler, TX 75702
SUIT NO. 22,935-B; CITY OF TYLER, ET AL vs. RONALD LYNN P981

Property Detail

Account Number: **150000083611015050**

Tax Year: **2019** Change Year: **2019** ▼

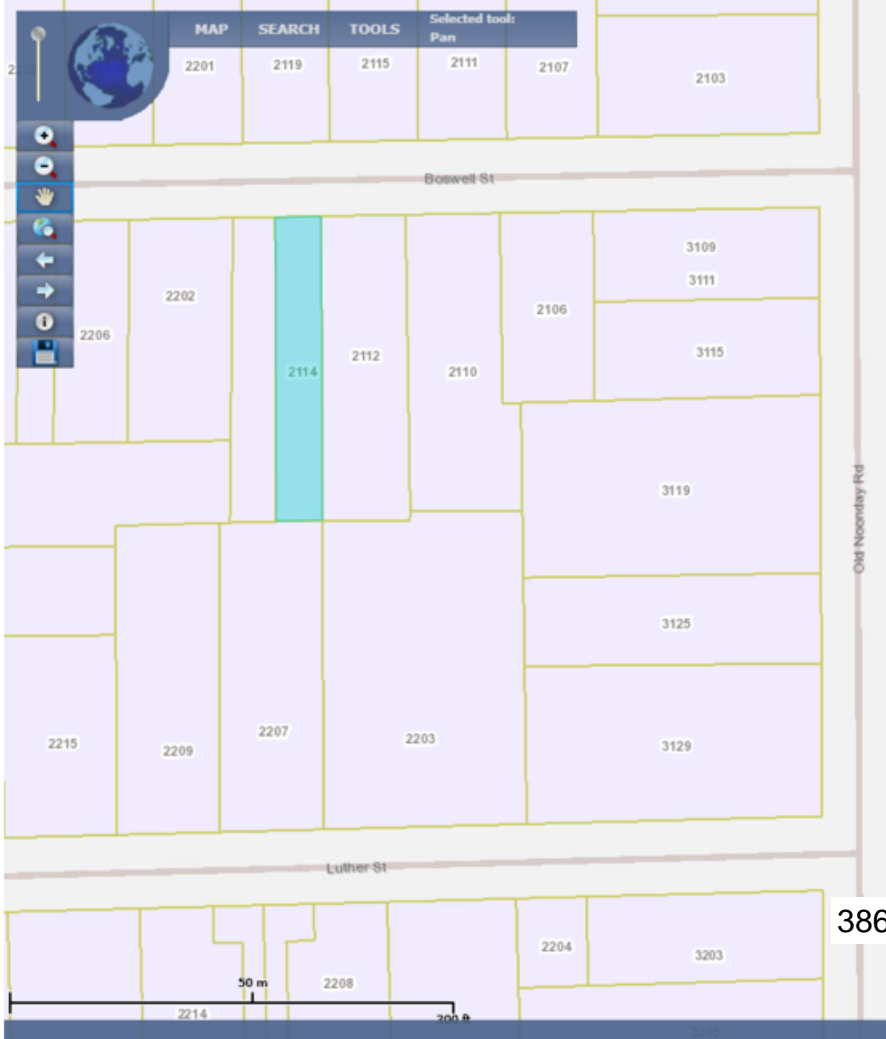
[Tax History](#)

[Print This Page](#)

[Map It](#)

[Search Results](#)

Ownership Information		Certified Values	
YEAR	2019	IMPROVEMENT VALUE	(+) \$0
PIN NUMBER	R065960	LAND VALUE	(+) <u>\$1,580</u>
ACCOUNT NUMBER	1-50000-0836-11-015050	MARKET VALUE	(=) \$1,580
OWNER	TYLER CITY OF		
IN CARE OF			
ADDRESS	PO BOX 2039		
CITY	TYLER		
STATE	TX		
ZIP	75710-2039		
Jurisdictions		Estimated Tax Information*	
COUNTY	SMITH COUNTY	COUNTY	\$0.00
CITY	CITY OF TYLER	CITY	\$0.00
ISD	TYLER ISD	ISD	\$0.00
COLLEGE	TYLER JR. COLLEGE	COLLEGE	\$0.00
		TOTAL TAX	\$0.00
		* For Actual Tax Levy contact Gary Barber Tax Assessor/Collector at (903) 590-2920. Tax amounts shown are Estimates prepared by Smith County Appraisal District.	
Legal Information			
LOCATION	2114 BOSWELL		
MAP NUMBER	C216		
MAP GRID	H-18.4B		
SUBDIVISION	CITY OF TYLER		
SECTION			
BLOCK/LOT/TRACT	BLOCK 836K LOT 15E		
ACRES	0.138		
Deed Information		Exemptions	
RECORDING DATE	4/10/2012	HOMESTEAD APPLICATION FORM	
INSTRUMENT	STD 15958	TOTAL EXEMPTION	<input checked="" type="checkbox"/>
VOLUME NUMBER			
PAGE NUMBER			
Dwelling Information			





CITY OF TYLER CITY COUNCIL COMMUNICATION

Agenda Number: C-A-6

Date: May 13, 2020

Subject: Request that the City Council consider adopting a Resolution agreeing to the sale of certain tracts of land located at 1600 East Earle within the City of Tyler city limits and owned by taxing entities including the City of Tyler.

Page: Page 1 of

Item Reference:

The City of Tyler has contracts with Smith County to provide tax collection services for the City. Smith County also contracts with a private law firm to provide delinquent tax collection work for many Smith County taxing entities. One of the services provided by that law firm is to sell certain properties from time to time upon which a delinquent tax judgment has been entered. The purpose of such a sale is both to receive any money that might be obtained from a new buyer, but also to place the properties back on the tax rolls. Sometimes, however, there just is no bidder at such sales or the bid is so low that it is not in the taxing entities' interests to accept the bid.

This request is from the taxing entities' law firm, and it concerns tracts, which were previously offered at a tax sale, but became the property of the taxing entities because there were either no bids or insufficient bids. Since the date of the tax sale, potential buyers have come forward, and in order for such sale to be authorized, the governing bodies of all involved taxing entities must consent to the sale. This type of sale arrangement is permitted under Section 34.05 of the Texas Property Tax Code.

The properties involved in this request along with details on when Judgments were taken, Judgment amounts, and other costs, prior owners, current bids and bidders, are set out in Exhibit "A" of the Resolution.

The distribution of proceeds from such sales are governed by Sections 34.06 and 34.02 of the Property Tax Code and provide as follows:

"Section 34.02 Distribution of Proceeds.

(a) The proceeds of a tax sale shall be applied first to the payment of costs. The remainder shall be distributed to all taxing units participating in the sale in satisfaction of the taxes, penalties, and interest due each.

(b) If the proceeds are not sufficient to pay the costs and taxes, penalties, and interest due all

participants in the sale, each participant is entitled to a share of the proceeds after payment of costs in an amount equal to the proportion its taxes, penalties, and interest bear to the total amount of taxes, penalties, and interest due all participants in the sale.

(c) If the sale is pursuant to foreclosure of a tax lien, the officer conducting the sale shall pay any excess proceeds after payment of all costs and of all taxes, penalties, and interest due all participants in the sale to the clerk of the court issuing the order of sale.

(d) If the sale is pursuant to seizure of personal property, the officers conducting the sale shall distribute any excess of proceeds as provided by law for excess proceeds in the case of execution."

A representative of the law firm of Linebarger Goggan Blair & Sampson, LLP., of Tyler, Texas will be present to answer questions regarding this tax sale.

RECOMMENDATION:

It is recommended that the City Council adopt a Resolution authorizing the sale of certain tracts of land located at 1600 East Earle within the City of Tyler city limits and owned by taxing entities including the City of Tyler.

ATTACHMENTS:

[Resolution](#)

[Resale Deed](#)

[Bid Analysis](#)

[Correspondence with Linebarger Goggan Blair & Sampson, LLP](#)

[Property Detail](#)

[Property Map](#)

Drafted/Recommended By:

Department Leader

Deborah G. Pullum, City Attorney

Edited/Submitted By:

City Manager

RESOLUTION NO. R-2020-_____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS AGREEING TO THE SALE OF CERTAIN PROPERTY LOCATED WITHIN TYLER CITY LIMITS AND OWNED BY TAXING ENTITIES INCLUDING THE CITY OF TYLER AS THE RESULT OF A TAX SALE: AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, The taxing entities, including the City of Tyler, Smith County, Texas, have become the owners of certain real property by virtue of the foreclosure sale conducted by the Sheriff pursuant to an order of the District Court as set out in the attachments described below: and

WHEREAS, all taxing entities involved in the below-referenced causes must consent to the sale of the described real property; and

WHEREAS, it is to the benefit of all taxing entities involved that the property be returned to its respective tax rolls;

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

PART 1: That the Mayor be and is hereby directed and authorized to execute the deed and any and all documents necessary to convey the real property referred to in a District Court Order in **CAUSE NO. 20,424-A: LOT 12 (NCB) 621, EARLE ADDITION #2, CITY OF TYLER, SMITH COUNTY, TEXAS ACCORDING TO THE MAP OR PLAT THEREOF, RECORDED IN VOLUME 116, PAGE 316, DEED RECORDS OF SMITH COUNTY, TEXAS (ACCOUNT NUMBER 1-50000-0621-00-012010, CITY OF TYLER, TYLER INDEPENDENT SC (150000062100012010)** to the buyer for and in consideration of the cash bid; all as described in the attached Exhibit "A", said monies to be distributed pursuant to Section 34.05 of the Texas Property Tax Code.

PART 2: That this resolution shall take effect immediately upon adoption.

ADOPTED this 13th day of May, 2020.

MARTIN HEINES, MAYOR
OF THE CITY OF TYLER, TEXAS

A T T E S T:

APPROVED:

CASSANDRA BRAGER, CITY CLERK

DEBORAH G. PULLUM,
CITY ATTORNEY

EXHIBIT "A" TO RESOLUTION R-2020-_____

Cause No. **20,424-A**

Date of Tax Sale **October 7, 2008**

Taxes Due: **\$5,425.40 Tyler ISD**
 \$ 958.02 Smith County
 \$ 468.42 TJC
 \$ 957.35 City of Tyler

Adjudged Value **\$10,900.00**

Acct. No. **150000062100012010**

Present Bid **\$4,500.00**

Bidder **RSB LAND MARK PROPERTIES**
 502 Woodland Hills Drive
 Tyler, Texas 75701

PROPERTY DESCRIPTION

0.1377 ACRES, MORE OR LESS, OUT OF LOT 15E, BLOCK 836K, AN ADDITION TO THE CITY OF TYLER, SMITH COUNTY, TEXAS, AS DESCRIBED IN DEED DATED FEBRUARY 17, 1982, FROM LUTHER C. BOSWELL TO RONALD LYNN, VOLUME 1957, PAGE 70, LAND RECORDS OF SMITH COUNTY, TEXAS (LOCATION: BOSWELL) [150000083611015050]

THE STATE OF TEXAS

§

RESALE DEED

COUNTY OF SMITH

§

KNOW ALL MEN BY THESE PRESENTS that TYLER INDEPENDENT SCHOOL DISTRICT, SMITH COUNTY, CITY OF TYLER AND TYLER JUNIOR COLLEGE each acting by and through its duly elected official ("GRANTOR") as authorized by Section 34.05, Texas Property Tax Code, for and in consideration of the sum of FOUR THOUSAND FIVE HUNDRED DOLLARS AND 00/100 (\$4,500.00 AND OTHER GOOD AND VALUABLE CONSIDERATION, in hand paid by **RSB Land Mark Properties LLC** ("GRANTEE") the receipt of which is hereby acknowledged and confessed, has conveyed and quitclaimed and by these presents do convey and quitclaim unto said grantee all right, title and interest of the TYLER INDEPENDENT SCHOOL DISTRICT, SMITH COUNTY, CITY OF TYLER AND TYLER JUNIOR COLLEGE, in the property herein conveyed, acquired by tax foreclosure sale heretofore held in Cause No. 20,424-A styled State of Texas, Tyler Independent School District vs. Charles H. Stephenson, Et Al said property being described as:

LOT 12A, 24 (NCB) 621, EARLE ADDITION #2, CITY OF TYLER, SMITH COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOFF, RECORDED IN VOLUME 116, PAGE 316, DEED RECORDS OF SMITH COUNTY, TEXAS (ACCT. #150000062100012010) SUBJECT TO ANY AND ALL CITY AND SMITH COUNTY LIENS RECORDED IN THE COUNTY CLERK RECORDS

This conveyance is made and accepted subject to the following matters to the extent that the same are in effect at this time: any and all rights of redemption, restrictions, covenants, conditions, easements, encumbrances and outstanding mineral interests, if any, relating to the hereinabove mentioned County and State, and to all zoning laws, regulations and ordinances of municipal and/or governmental authorities, if any but only to the extent that they are still in effect, relating to the hereinabove described property.

TO HAVE AND TO HOLD said premises, together with all and singular the rights, privileges and appurtenances thereto in any manner belonging unto the said **RSB Land Mark Properties LLC**, their heirs and assigns forever, so that neither TYLER INDEPENDENT SCHOOL DISTRICT, SMITH COUNTY, CITY OF TYLER AND TYLER JUNIOR COLLEGE, and any person claiming under it shall at any time hereafter have, claim or demand any right or title to the aforesaid premises or appurtenances, or any part thereof.

Grantee accepts the property in "AS IS" condition and subject to any environmental conditions that might have or still exist on said property.

Post judgment taxes and taxes for the current year are assumed by Grantee.

IN TESTIMONY WHEREOF CITY OF TYLER has caused these presents to be executed this _____ day of _____, 2020.

CITY OF TYLER

By: _____
Martin Heines
Mayor

STATE OF TEXAS §

COUNTY OF SMITH §

This instrument was acknowledged before me on this _____ day of _____, 2020, by Martin Heines, Mayor of the **CITY OF TYLER**.

Printed Name: _____
Notary Public, State of Texas
My Commission Expires: _____

EXHIBIT "A"
BID ANALYSIS

Cause Number: 20,424-A	Previous Owner: Charles H. Stephenson
Bid Amount: \$4,500.00	Judgment Value: \$10,900.00
Bidders Name: RSB Land Mark Properties	Opening Bid at Sale: \$
Bidders Address: 502 Woodland Hills Drive Tyler, Texas 75701	Date of Sale: October 7, 2008
	Date of Bid Submitted: April 29, 2019

Sale Recording Date: October 20, 2008
Redemption Expires: April 20, 2009

PROPERTY DESCRIPTION

LOT 12 (NCB) 621, EARLE ADDITION #2, CITY OF TYLER, SMITH COUNTY, TEXAS ACCORDING TO THE MAP OR PLAT THEREOF, RECORDED IN VOLUME 116, PAGE 316, DEED RECORDS OF SMITH COUNTY, TEXAS (ACCOUNT NUMBER 1-50000-0621-00-012010, CITY OF TYLER, TYLER INDEPENDENT SCHOOL DISTRICT, TYLER JUNIOR COLLEGE AND SMITH COUNTY)(SUBJECT TO ANY AND ALL CITY OF TYLER AND SMITH COUNTY LIENS RECORDED IN THE COUNTY CLERK RECORDS) 15000062100012010

SITUS OR LOCATION: 1600 E. Earle

JUDGMENT INFORMATION

<u>Tax Entity</u>	<u>Tax Years</u>	<u>Amount Due</u>
TYLER ISD	1999-2007	\$5,425.40
SMITH COUNTY	1999-2007	\$ 958.02
TYLER JUNIOR COLLEGE	1999-2007	\$ 468.42
CITY OF TYLER	1999-2007	\$ 957.35
	TOTAL:	\$7,809.19

COSTS

Court Costs	\$536.00
Sheriff's Fees:	\$170.00
Publication Fee:	\$ 57.12
Title Research:	\$175.00
Recording Fee:	\$ <u>62.00</u>
TOTAL:	\$1,000.12

PROPOSED DISTRIBUTION

Bid Amount:	\$4,500.00
Costs:	\$1,000.12
Net to Distribute:	\$3,499.88

<u>ENTITY</u>	<u>PERCENTAGE</u>	<u>AMOUNT TO DISBURSE</u>
TYLER ISD	69%	\$2,414.92
SMITH COUNTY	12%	\$ 419.99
TYLER JUNIOR COLLEGE	7%	\$ 244.99
CITY OF TYLER	12%	\$ 419.98
	TOTAL:	\$3,499.88

LINEBARGER GOGGAN BLAIR & SAMPSON, LLP

ATTORNEYS AT LAW
1517 W. FRONT ST., SUITE 202
TYLER, TX 75702

Telephone (903) 597-2897
FAX (903) 597-2402

November _____, 2019

Deborah G. Pullum, City Attorney
City of Tyler
212 N. Bonner
Tyler, Texas 75702

RE: Agenda Item(s): **SUIT NO. 20,424-A: SMITH COUNTY, ET AL VS. CHARLES H STEPHENSON, ET AL**

Dear Mrs. Pullum:

Enclosed for the earliest Tyler City Council meeting is a resolution authorizing the Mayor to approve the bid for the sale of the above Struck Off property. The bidder and the amount being bid is stated in the attached exhibit.

The taxing entities in Smith County became owners of this property by virtue of a tax foreclosure sale conducted by the Sheriff of Smith County, pursuant to an order of the court in this case.

When the scheduled meeting has been determined, please notify us by returning this letter with the date and time of the meeting.

FAX #: 903-597-2402

ATTN: Tammy Weaver:

Date: _____

Time: _____

Comments: _____

or e-mail to: Tammy.Weaver@lgbs.com

Very truly yours,

Tammy Weaver
Area Manager

TW/srm

cc: Gary B. Barber Tax Assessor-Collector
Smith County
1517 W. Front Street
Tyler, TX 75702

SUIT NO. 20,424-A: SMITH COUNTY, ET AL VS. CHARLES H STEPHENSON, ET AL P175

Property Detail

Account Number: **150000062100012010**

Tax Year: **2019** Change Year: **2019** ▼

[Tax History](#)

[Print This Page](#)

Ownership Information		Certified Values	
YEAR	2019	IMPROVEMENT VALUE	(+) \$0
PIN NUMBER	R057605	LAND VALUE	(+) <u>\$15,207</u>
ACCOUNT NUMBER	1-50000-0621-00-012010	MARKET VALUE	(=) \$15,207
OWNER	SMITH COUNTY TRUSTEE		
IN CARE OF			
ADDRESS	PO BOX 2011		
CITY	TYLER		
STATE	TX		
ZIP	75710-2011		
Jurisdictions		Estimated Tax Information*	
COUNTY	SMITH COUNTY	COUNTY	\$0.00
CITY	CITY OF TYLER	CITY	\$0.00
ISD	TYLER ISD	ISD	\$0.00
COLLEGE	TYLER JR. COLLEGE	COLLEGE	\$0.00
		TOTAL TAX	\$0.00
		* For Actual Tax Levy contact Gary Barber Tax Assessor/Collector at (903) 590-2920. Tax amounts shown are Estimates prepared by Smith County Appraisal District.	
Legal Information			
LOCATION	1600 E EARLE		
MAP NUMBER	C 50		
MAP GRID	I-17.2B		
SUBDIVISION	EARLE		
SECTION			
BLOCK/LOT/TRACT	BLOCK 621 LOT 12-A, 24		
ACRES	0.000		
Deed Information		Exemptions	
RECORDING DATE	10/20/2008	HOMESTEAD APPLICATION FORM	
INSTRUMENT	D 48796	TOTAL EXEMPTION	<input checked="" type="checkbox"/>
VOLUME NUMBER			
PAGE NUMBER			
Dwelling Information			



MAP SEARCH TOOLS Selected tool: Pan



Mahon Ave

E Earle St

Jean Ave

Church Of
308
Lord Of
Prophecy

World Of
P 1611
Ministries

50 m

200 ft

396



CITY OF TYLER CITY COUNCIL COMMUNICATION

Agenda Number: C-A-7

Date: May 13, 2020

Subject: Request that the City Council consider adopting a Resolution agreeing to the sale of certain tracts of land located at 1512 North Palace within the City of Tyler city limits and owned by taxing entities including the City of Tyler.

Page: Page 1 of

Item Reference:

The City of Tyler has contracts with Smith County to provide tax collection services for the City. Smith County also contracts with a private law firm to provide delinquent tax collection work for many Smith County taxing entities. One of the services provided by that law firm is to sell certain properties from time to time upon which a delinquent tax judgment has been entered. The purpose of such a sale is both to receive any money that might be obtained from a new buyer, but also to place the properties back on the tax rolls. Sometimes, however, there just is no bidder at such sales or the bid is so low that it is not in the taxing entities' interests to accept the bid.

This request is from the taxing entities' law firm, and it concerns tracts, which were previously offered at a tax sale, but became the property of the taxing entities because there were either no bids or insufficient bids. Since the date of the tax sale, potential buyers have come forward, and in order for such sale to be authorized, the governing bodies of all involved taxing entities must consent to the sale. This type of sale arrangement is permitted under Section 34.05 of the Texas Property Tax Code.

The properties involved in this request along with details on when Judgments were taken, Judgment amounts, and other costs, prior owners, current bids and bidders, are set out in Exhibit "A" of the Resolution.

The distribution of proceeds from such sales are governed by Sections 34.06 and 34.02 of the Property Tax Code and provide as follows:

"Section 34.02 Distribution of Proceeds.

- (a) The proceeds of a tax sale shall be applied first to the payment of costs. The remainder shall be distributed to all taxing units participating in the sale in satisfaction of the taxes, penalties, and interest due each.
- (b) If the proceeds are not sufficient to pay the costs and taxes, penalties, and interest due all

participants in the sale, each participant is entitled to a share of the proceeds after payment of costs in an amount equal to the proportion its taxes, penalties, and interest bear to the total amount of taxes, penalties, and interest due all participants in the sale.

(c) If the sale is pursuant to foreclosure of a tax lien, the officer conducting the sale shall pay any excess proceeds after payment of all costs and of all taxes, penalties, and interest due all participants in the sale to the clerk of the court issuing the order of sale.

(d) If the sale is pursuant to seizure of personal property, the officers conducting the sale shall distribute any excess of proceeds as provided by law for excess proceeds in the case of execution."

A representative of the law firm of Linebarger Goggan Blair & Sampson, LLP., of Tyler, Texas will be present to answer questions regarding this tax sale.

RECOMMENDATION:

It is recommended that the City Council adopt a Resolution authorizing the sale of certain tracts of land located at 1512 North Palace within the City of Tyler city limits and owned by taxing entities including the City of Tyler.

ATTACHMENTS:

[Resolution](#)

[Resale Deed](#)

[Bid Analysis](#)

[Correspondence with Linebarger Goggan Blair & Sampson, LLP](#)

[Property Detail](#)

[Property Map](#)

Drafted/Recommended By:

Department Leader

Deborah G. Pullum, City Attorney

Edited/Submitted By:

City Manager

RESOLUTION NO. R-2020-_____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS AGREEING TO THE SALE OF CERTAIN PROPERTY LOCATED WITHIN TYLER CITY LIMITS AND OWNED BY TAXING ENTITIES INCLUDING THE CITY OF TYLER AS THE RESULT OF A TAX SALE: AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, The taxing entities, including the City of Tyler, Smith County, Texas, have become the owners of certain real property by virtue of the foreclosure sale conducted by the Sheriff pursuant to an order of the District Court as set out in the attachments described below:
and

WHEREAS, all taxing entities involved in the below-referenced causes must consent to the sale of the described real property; and

WHEREAS, it is to the benefit of all taxing entities involved that the property be returned to its respective tax rolls;

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

PART 1: That the Mayor be and is hereby directed and authorized to execute the deed and any and all documents necessary to convey the real property referred to in a District Court Order in **CAUSE NO. 20,950-B: Being Lot 14, Block 404, City of Tyler, in the Edgefield Subdivision as described in a Warranty Deed dated August 3, 1984 recorded in Volume 2295, Page 626, Smith County (1-50000-0404-00-014000)** to the buyer for and in consideration of the cash bid; all as described in the attached Exhibit "A", said monies to be distributed pursuant to Section 34.05 of the Texas Property Tax Code.

PART 2: That this resolution shall take effect immediately upon adoption.

ADOPTED this 13th day of May, 2020.

MARTIN HEINES, MAYOR
OF THE CITY OF TYLER, TEXAS

A T T E S T:

APPROVED:

CASSANDRA BRAGER, CITY CLERK

DEBORAH G. PULLUM,
CITY ATTORNEY

EXHIBIT "A" TO RESOLUTION R-2020-_____

Cause No. **20,950-B**

Date of Tax Sale **October 3, 2006**

Taxes Due: **\$2,746.56 Tyler ISD**
 \$ 484.23 Smith County
 \$ 244.80 TJC
 \$ 706.34 City of Tyler

Adjudged Value **\$9,200.00**

Acct. No. **1-50000-0404-00-014000**

Present Bid **\$2,650.00**

Bidder **Timothy Jones**
 3948 Scenic Drive
 Tyler, Texas 75709

PROPERTY DESCRIPTION

Being Lot 14, Block 404, City of Tyler, in the Edgefield Subdivision as described in a Warranty Deed dated August 3, 1984 recorded in Volume 2295, Page 626, Smith County (1-50000-0404-00-014000).

THE STATE OF TEXAS

§

RESALE DEED

COUNTY OF SMITH

§

KNOW ALL MEN BY THESE PRESENTS that TYLER INDEPENDENT SCHOOL DISTRICT, SMITH COUNTY, CITY OF TYLER AND TYLER JUNIOR COLLEGE each acting by and through its duly elected official ("GRANTOR") as authorized by Section 34.05, Texas Property Tax Code, for and in consideration of the sum of TWO THOUSAND SIX HUNDRED FIDTY DOLLARS AND 00/100 (\$2,650.00) AND OTHER GOOD AND VALUABLE CONSIDERATION, in hand paid by **Timothy Jones** ("GRANTEE") the receipt of which is hereby acknowledged and confessed, has conveyed and quitclaimed and by these presents do convey and quitclaim unto said grantee all right, title and interest of the TYLER INDEPENDENT SCHOOL DISTRICT, SMITH COUNTY, CITY OF TYLER AND TYLER JUNIOR COLLEGE, in the property herein conveyed, acquired by tax foreclosure sale heretofore held in Cause No. 20,950-B styled State of Texas, Tyler Independent School District vs. W. B. Clewis, said property being described as:

BEING LOT 14, BLOCK 404, CITY OF TYLER, EDGEFIELD ADDITION, AS DESCRIBED IN DEED DATED AUGUST 3, 1984, RECORDED IN VOLUME 2295, PAGE 652, DEED RECORDS OF SMITH COUNTY, TEXAS AND BEING FURTHER IDENTIFIED ON THE TAX ROLLS AND RECORDS OF SMITH COUNTY UNDER ACCOUNT NUMBER 150000040400014000.

This conveyance is made and accepted subject to the following matters to the extent that the same are in effect at this time: any and all rights of redemption, restrictions, covenants, conditions, easements, encumbrances and outstanding mineral interests, if any, relating to the hereinabove mentioned County and State, and to all zoning laws, regulations and ordinances of municipal and/or governmental authorities, if any but only to the extent that they are still in effect, relating to the hereinabove described property.

TO HAVE AND TO HOLD said premises, together with all and singular the rights, privileges and appurtenances thereto in any manner belonging unto the said **Timothy Jones**, their heirs and assigns forever, so that neither TYLER INDEPENDENT SCHOOL DISTRICT, SMITH COUNTY, CITY OF TYLER AND TYLER JUNIOR COLLEGE, and any person claiming under it shall at any time hereafter have, claim or demand any right or title to the aforesaid premises or appurtenances, or any part thereof.

Grantee accepts the property in "AS IS" condition and subject to any environmental conditions that might have or still exist on said property.

Post judgment taxes and taxes for the current year are assumed by Grantee.

IN TESTIMONY WHEREOF CITY OF TYLER has caused these presents to be executed this _____ day of _____, 2020.

CITY OF TYLER

By: _____
Martin Heines
Mayor

STATE OF TEXAS §

COUNTY OF SMITH §

This instrument was acknowledged before me on this _____ day of _____, 2020, by Martin Heines, Mayor of the **CITY OF TYLER**.

Printed Name: _____
Notary Public, State of Texas
My Commission Expires: _____

EXHIBIT "A"
BID ANALYSIS

Cause Number: 20,950-B	Previous Owner: W. B. Lewis Estate
Bid Amount: \$2,650.00	Judgment Value: \$9,200.00
Bidders Name: Timothy Jones	Opening Bid at Sale: \$
Bidders Address: 3948 Scenic Drive Tyler, Texas 75709	Date of Sale: October 3, 2006
	Date of Bid Submitted: July 30, 2019
Sale Recording Date: October 2, 2006	
Redemption Expires: April 2, 2007	

PROPERTY DESCRIPTION

Being Lot 14, Block 404, City of Tyler, in the Edgefield Subdivision as described in a Warranty Deed dated August 3, 1984 recorded in Volume 2295, Page 626, Smith County. (1-50000-0404-00-014000)

SITUS OR LOCATION: 1512 N. Palace

JUDGMENT INFORMATION

<u>Tax Entity</u>	<u>Tax Years</u>	<u>Amount Due</u>
TYLER ISD	1991-2005	\$2,746.56
SMITH COUNTY	1991-2005	\$ 484.23
TYLER JUNIOR COLLEGE	1991-2005	\$ 244.80
CITY OF TYLER	1991-2005	\$ 706.34
	TOTAL:	\$4,181.93

COSTS

Court Costs	\$353.50
Sheriff's Fees:	\$170.00
Publication Fee:	\$ 58.03
Title Research:	\$100.00
Recording Fee:	\$ <u>62.00</u>
TOTAL:	\$743.53

PROPOSED DISTRIBUTION

Bid Amount:	\$2,650.00
Costs:	\$ 743.53
Net to Distribute:	\$1,906.47

<u>ENTITY</u>	<u>PERCENTAGE</u>	<u>AMOUNT TO DISBURSE</u>
TYLER ISD	66%	\$1,258.27
SMITH COUNTY	12%	\$ 228.78
TYLER JUNIOR COLLEGE	6%	\$ 114.39
CITY OF TYLER	16%	\$ 305.03
	TOTAL:	\$1,906.47

LINEBARGER GOGGAN BLAIR & SAMPSON, LLP

ATTORNEYS AT LAW
1517 W. FRONT ST., SUITE 202
TYLER, TX 75702

Telephone (903) 597-2897
FAX (903) 597-2402

November _____, 2019

Deborah G. Pullum, City Attorney
City of Tyler
212 N. Bonner
Tyler, Texas 75702

RE: Agenda Item(s): **SUIT NO. 20,950-B: TYLER INDEPENDENT SCHOOL DISTRICT VS. W. B. CLEWIS**

Dear Mrs. Pullum:

Enclosed for the earliest Tyler City Council meeting is a resolution authorizing the Mayor to approve the bid for the sale of the above Struck Off property. The bidder and the amount being bid is stated in the attached exhibit.

The taxing entities in Smith County became owners of this property by virtue of a tax foreclosure sale conducted by the Sheriff of Smith County, pursuant to an order of the court in this case.

When the scheduled meeting has been determined, please notify us by returning this letter with the date and time of the meeting.

FAX #: 903-597-2402

ATTN: Tammy Weaver:

Date: _____

Time: _____

Comments: _____

or e-mail to: Tammy.Weaver@lgbs.com

Very truly yours,

Tammy Weaver
Area Manager

TW/srm

cc: Gary B. Barber Tax Assessor-Collector
Smith County
1517 W. Front Street
Tyler, TX 75702

SUIT NO. 20,950-B: TYLER INDEPENDENT SCHOOL DISTRICT VS. W. B. CLEWIS P97

Property Detail

Account Number: **150000040400014000**

Tax Year: **2019** Change Year: **2019** ▼

[Tax History](#)

[Print This Page](#)

Ownership Information		Certified Values								
YEAR	2019	IMPROVEMENT VALUE	(+) \$10,022							
PIN NUMBER	R054870	LAND VALUE	(+) \$3,780							
ACCOUNT NUMBER	1-50000-0404-00-014000	MARKET VALUE	(-) \$13,802							
OWNER	SMITH COUNTY TRUSTEE									
IN CARE OF										
ADDRESS	PO BOX 2011									
CITY	TYLER									
STATE	TX									
ZIP	75710-2011									
Jurisdictions		Estimated Tax Information*								
COUNTY	SMITH COUNTY	COUNTY	\$0.00							
CITY	CITY OF TYLER	CITY	\$0.00							
ISD	TYLER ISD	ISD	\$0.00							
COLLEGE	TYLER JR. COLLEGE	COLLEGE	\$0.00							
		TOTAL TAX	\$0.00							
* For Actual Tax Levy contact Gary Barber Tax Assessor/Collector at (903) 590-2920. Tax amounts shown are Estimates prepared by Smith County Appraisal District.										
Legal Information										
LOCATION	1512 N PALACE									
MAP NUMBER	C 16									
MAP GRID	I-16.1A									
SUBDIVISION	EDGEFIELD									
SECTION										
BLOCK/LOT/TRACT	BLOCK 404 LOT 14									
ACRES	0.000									
Deed Information		Exemptions								
RECORDING DATE	10/12/2006	HOMESTEAD APPLICATION FORM								
INSTRUMENT	D 50636	TOTAL EXEMPTION	<input checked="" type="checkbox"/>							
VOLUME NUMBER										
PAGE NUMBER										
Dwelling Information										
#	DESCRIPTION	YEAR	CONDITION	SQFT	CONSTRUCTION	BATHS	FIREPLACE	MH LABEL	MH SERIAL NUM	HVAC
1	RESIDENCE (PRI)	1935	FAIR	576	WOOD FRAME	1				N/CNTRL

Smith CAD

Available Maps: Home Property Search Development & Zoning Elevation & Flood Data Parks & Rec



406



CITY OF TYLER CITY COUNCIL COMMUNICATION

Agenda Number: C-A-8

Date: May 13, 2020

Subject: Request that the City Council consider adopting a Resolution agreeing to the sale of certain tracts of land located at 413 Parker within the City of Tyler city limits and owned by taxing entities including the City of Tyler.

Page: Page 1 of

Item Reference:

The City of Tyler has contracts with Smith County to provide tax collection services for the City. Smith County also contracts with a private law firm to provide delinquent tax collection work for many Smith County taxing entities. One of the services provided by that law firm is to sell certain properties from time to time upon which a delinquent tax judgment has been entered. The purpose of such a sale is both to receive any money that might be obtained from a new buyer, but also to place the properties back on the tax rolls. Sometimes, however, there just is no bidder at such sales or the bid is so low that it is not in the taxing entities' interests to accept the bid.

This request is from the taxing entities' law firm, and it concerns tracts, which were previously offered at a tax sale, but became the property of the taxing entities because there were either no bids or insufficient bids. Since the date of the tax sale, potential buyers have come forward, and in order for such sale to be authorized, the governing bodies of all involved taxing entities must consent to the sale. This type of sale arrangement is permitted under Section 34.05 of the Texas Property Tax Code.

The properties involved in this request along with details on when Judgments were taken, Judgment amounts, and other costs, prior owners, current bids and bidders, are set out in Exhibit "A" of the Resolution.

The distribution of proceeds from such sales are governed by Sections 34.06 and 34.02 of the Property Tax Code and provide as follows:

"Section 34.02 Distribution of Proceeds.

- (a) The proceeds of a tax sale shall be applied first to the payment of costs. The remainder shall be distributed to all taxing units participating in the sale in satisfaction of the taxes, penalties, and interest due each.
- (b) If the proceeds are not sufficient to pay the costs and taxes, penalties, and interest due all

participants in the sale, each participant is entitled to a share of the proceeds after payment of costs in an amount equal to the proportion its taxes, penalties, and interest bear to the total amount of taxes, penalties, and interest due all participants in the sale.

(c) If the sale is pursuant to foreclosure of a tax lien, the officer conducting the sale shall pay any excess proceeds after payment of all costs and of all taxes, penalties, and interest due all participants in the sale to the clerk of the court issuing the order of sale.

(d) If the sale is pursuant to seizure of personal property, the officers conducting the sale shall distribute any excess of proceeds as provided by law for excess proceeds in the case of execution."

A representative of the law firm of Linebarger Goggan Blair & Sampson, LLP., of Tyler, Texas will be present to answer questions regarding this tax sale.

RECOMMENDATION:

It is recommended that the City Council adopt a Resolution authorizing the sale of certain tracts of land located at 413 Parker within the City of Tyler city limits and owned by taxing entities including the City of Tyler.

ATTACHMENTS:

[Resolution](#)

[Resale Deed](#)

[Bid Analysis](#)

[Correspondence with Linebarger Goggan Blair & Sampson, LLP](#)

[Property Detail](#)

[Property Map](#)

Drafted/Recommended By:

Department Leader

Deborah G. Pullum, City Attorney

Edited/Submitted By:

City Manager

RESOLUTION NO. R-2020-_____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS AGREEING TO THE SALE OF CERTAIN PROPERTY LOCATED WITHIN TYLER CITY LIMITS AND OWNED BY TAXING ENTITIES INCLUDING THE CITY OF TYLER AS THE RESULT OF A TAX SALE: AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, The taxing entities, including the City of Tyler, Smith County, Texas, have become the owners of certain real property by virtue of the foreclosure sale conducted by the Sheriff pursuant to an order of the District Court as set out in the attachments described below: and

WHEREAS, all taxing entities involved in the below-referenced causes must consent to the sale of the described real property; and

WHEREAS, it is to the benefit of all taxing entities involved that the property be returned to its respective tax rolls;

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

PART 1: That the Mayor be and is hereby directed and authorized to execute the deed and any and all documents necessary to convey the real property referred to in a District Court Order in **CAUSE NO. 24,214-C: Being Lot 19, 21, New City Block 130, as described in a deed from J.B. Parker to Jesse Woodrow Henry recorded in Volume 492, Page 575, and in Affidavit of Heirship recorded in Volume 2460, Page 750, filed October 3, 1985, Deed Records of Smith County, Texas (150000013000019000)** to the buyer for and in consideration of the cash bid; all as described in the attached Exhibit "A", said monies to be distributed pursuant to Section 34.05 of the Texas Property Tax Code.

PART 2: That this resolution shall take effect immediately upon adoption.

ADOPTED this 13th day of May, 2020.

MARTIN HEINES, MAYOR
OF THE CITY OF TYLER, TEXAS

A T T E S T:

APPROVED:

CASSANDRA BRAGER, CITY CLERK

DEBORAH G. PULLUM,
CITY ATTORNEY

EXHIBIT "A" TO RESOLUTION R-2020-_____

Cause No. **24,214-C**

Date of Tax Sale **June 2, 2014**

Taxes Due: **\$4,263.17 Tyler ISD**
 \$ 818.46 Smith County
 \$ 412.94 TJC
 \$ 757.34 City of Tyler

Adjudged Value **\$7,825.00**

Acct. No. **150000013000019000**

Present Bid **\$4,000.00**

Bidder **Rose City Holding, LLC**
 13097 State Highway 31W
 Tyler, Texas 75709

PROPERTY DESCRIPTION

Being Lot 19, 21, New City Block 130, as described in a deed from J.B. Parker to Jesse Woodrow Henry recorded in Volume 492, Page 575, and in Affidavit of Heirship recorded in Volume 2460, Page 750, filed October 3, 1985, Deed Records of Smith County, Texas (150000013000019000).

THE STATE OF TEXAS

§

RESALE DEED

COUNTY OF SMITH

§

KNOW ALL MEN BY THESE PRESENTS that TYLER INDEPENDENT SCHOOL DISTRICT, SMITH COUNTY, CITY OF TYLER AND TYLER JUNIOR COLLEGE each acting by and through its duly elected official ("GRANTOR") as authorized by Section 34.05, Texas Property Tax Code, for and in consideration of the sum of FOUR THOUSAND DOLLARS AND 00/100 (\$4,000.00) AND OTHER GOOD AND VALUABLE CONSIDERATION, in hand paid by **Rose City Holding LLC** ("GRANTEE") the receipt of which is hereby acknowledged and confessed, has conveyed and quitclaimed and by these presents do convey and quitclaim unto said grantee all right, title and interest of the TYLER INDEPENDENT SCHOOL DISTRICT, SMITH COUNTY, CITY OF TYLER AND TYLER JUNIOR COLLEGE, in the property herein conveyed, acquired by tax foreclosure sale heretofore held in Cause No. 24,214-C styled State of Texas, Tyler Independent School District vs. Marvin C. Henry, Deceased, Et Al said property being described as:

BEING LOT19, 21, NEW CITY BLOCK 130, AS DESCRIBED IN A DEED FROM J. B. PARKER TO JESSE WOODROW HENRY, RECORDED IN VOLUME 492, PAGE 575, AND IN AFFIDAVIT OF HEIRSHIP RECORDED IN VOLUME 2460, PAGE 750, FILED OCTOBER 3, 1985, DEED RECORDS OF SMITH COUNTY, TEXAS, AND BEING FURTHER IDENTIFIED ON THE TAX ROLL AND RECORDS OF TYLER INDEPENDENT SCHOOL DISTRICT UNDER ACCOUNT NUMBER 150000013000019000.

This conveyance is made and accepted subject to the following matters to the extent that the same are in effect at this time: any and all rights of redemption, restrictions, covenants, conditions, easements, encumbrances and outstanding mineral interests, if any, relating to the hereinabove mentioned County and State, and to all zoning laws, regulations and ordinances of municipal and/or governmental authorities, if any but only to the extent that they are still in effect, relating to the hereinabove described property.

TO HAVE AND TO HOLD said premises, together with all and singular the rights, privileges and appurtenances thereto in any manner belonging unto the said **Rose City Holding LLC**, their heirs and assigns forever, so that neither TYLER INDEPENDENT SCHOOL DISTRICT, SMITH COUNTY, CITY OF TYLER AND TYLER JUNIOR COLLEGE, and any person claiming under it shall at any time hereafter have, claim or demand any right or title to the aforesaid premises or appurtenances, or any part thereof.

Grantee accepts the property in "AS IS" condition and subject to any environmental conditions that might have or still exist on said property.

Post judgment taxes and taxes for the current year are assumed by Grantee.

IN TESTIMONY WHEREOF CITY OF TYLER has caused these presents to be executed this _____ day of _____, 2020.

CITY OF TYLER

By: _____
Martin Heines
Mayor

STATE OF TEXAS §

COUNTY OF SMITH §

This instrument was acknowledged before me on this _____ day of _____, 2020, by Martin Heines, Mayor of the **CITY OF TYLER**.

Printed Name: _____
Notary Public, State of Texas
My Commission Expires: _____

EXHIBIT "A"
BID ANALYSIS

Cause Number: 24,214-C	Previous Owner: Marvin C. Henry
Bid Amount: \$4,000.00	Judgment Value: \$7,825.00
Bidders Name: Rose City Holding LLC	Opening Bid at Sale: \$
Bidders Address: 13097 State Highway 31W Tyler, Texas 75709	Date of Sale: June 2, 2014
	Date of Bid Submitted: March 28, 2019

Sale Recording Date: June 11, 2014
Redemption Expires: December 11, 2014

PROPERTY DESCRIPTION

Being Lot 19, 21, New City Block 130, as described in a deed from J.B. Parker to Jesse Woodrow Henry recorded in Volume 492, Page 575, and in Affidavit of Heirship recorded in Volume 2460, Page 750, filed October 3, 1985, Deed Records of Smith County, Texas (150000013000019000)

SITUS OR LOCATION: 413 Parker Ave.

JUDGMENT INFORMATION

<u>Tax Entity</u>	<u>Tax Years</u>	<u>Amount Due</u>
TYLER ISD	1997, 1999-2013	\$4,263.17
SMITH COUNTY	1997-2013	\$ 818.46
TYLER JUNIOR COLLEGE	1997-2013	\$ 412.94
CITY OF TYLER	1997-2013	\$ 757.34
	TOTAL:	\$6,251.91

COSTS

Court Costs	\$708.00
Sheriff's Fees:	\$170.00
Publication Fee:	\$ 53.21
Title Research:	\$200.00
Recording Fee:	\$ <u>66.00</u>
TOTAL:	\$1,197.21

PROPOSED DISTRIBUTION

Bid Amount:	\$4,000.00
Costs:	\$1,197.21
Net to Distribute:	\$2,802.79

<u>ENTITY</u>	<u>PERCENTAGE</u>	<u>AMOUNT TO DISBURSE</u>
TYLER ISD	68%	\$1,905.90
SMITH COUNTY	13%	\$ 364.36
TYLER JUNIOR COLLEGE	7%	\$ 196.20
CITY OF TYLER	12%	\$ 336.33
	TOTAL:	\$2,802.79

LINEBARGER GOGGAN BLAIR & SAMPSON, LLP

ATTORNEYS AT LAW
1517 W. FRONT ST., SUITE 202
TYLER, TX 75702

Telephone (903) 597-2897
FAX (903) 597-2402

November _____, 2019

Deborah G. Pullum, City Attorney
City of Tyler
212 N. Bonner
Tyler, Texas 75702

RE: Agenda Item(s): SUIT NO. 24,214-C: TYLER INDEPENDENT SCHOOL DISTRICT VS. MARVIN C HENRY, DECEASED, ET AL

Dear Mrs. Pullum:

Enclosed for the earliest Tyler City Council meeting is a resolution authorizing the Mayor to approve the bid for the sale of the above Struck Off property. The bidder and the amount being bid is stated in the attached exhibit.

The taxing entities in Smith County became owners of this property by virtue of a tax foreclosure sale conducted by the Sheriff of Smith County, pursuant to an order of the court in this case.

When the scheduled meeting has been determined, please notify us by returning this letter with the date and time of the meeting.

FAX #: 903-597-2402

ATTN: Tammy Weaver:
Date: _____
Time: _____
Comments: _____

or e-mail to: Tammy.Weaver@lgbs.com

Very truly yours,

Tammy Weaver
Area Manager

TW/srm

cc: Gary B. Barber Tax Assessor-Collector
Smith County
1517 W. Front Street
Tyler, TX 75702

SUIT NO. 24,214-C: TYLER INDEPENDENT SCHOOL DISTRICT VS. MARVIN C HENRY, DECEASED, ET AL P372

Property Detail

Account Number: **150000013000019000**

Tax Year: **2019** Change Year: **2019** ▼

[Tax History](#)

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Ownership Information		Certified Values	
YEAR	2019	IMPROVEMENT VALUE	(+) \$0
PIN NUMBER	R050867	LAND VALUE	(+) <u>\$3,220</u>
ACCOUNT NUMBER	1-50000-0130-00-019000	MARKET VALUE	(=) \$3,220
OWNER	SMITH COUNTY TRUSTEE		
IN CARE OF			
ADDRESS	PO BOX 2011		
CITY	TYLER		
STATE	TX		
ZIP	75710-2011		
Jurisdictions		Estimated Tax Information*	
COUNTY	SMITH COUNTY	COUNTY	\$0.00
CITY	CITY OF TYLER	CITY	\$0.00
ISD	TYLER ISD	ISD	\$0.00
COLLEGE	TYLER JR. COLLEGE	COLLEGE	\$0.00
		TOTAL TAX	\$0.00
		* For Actual Tax Levy contact Gary Barber Tax Assessor/Collector at (903) 590-2920. Tax amounts shown are Estimates prepared by Smith County Appraisal District.	
Legal Information			
LOCATION	413 PARKER AVE		
MAP NUMBER	C 34		
MAP GRID	I-16.4A		
SUBDIVISION	WIMBERLY DOUGLAS		
SECTION			
BLOCK/LOT/TRACT	BLOCK 130 LOT 19,21		
ACRES	0.000		
Deed Information		Exemptions	
RECORDING DATE	6/11/2014	HOMESTEAD APPLICATION FORM	
INSTRUMENT	SD 23432	TOTAL EXEMPTION	<input checked="" type="checkbox"/>
VOLUME NUMBER			
PAGE NUMBER			
Dwelling Information			

