



PUBLIC NOTICE
City Council Regular Meeting
February 6, 2014, at 7:00 PM
City Hall - 665 Country Club Road

Notice is hereby given that a Regular Meeting of the City Council of the City of Lucas will be held on Thursday, February 6, 2014, at 7:00 PM at the Lucas City Hall, 665 Country Club Road, Lucas, Texas, at which time the following agenda will be discussed.

Agenda

Call to Order

Call to Order
Roll Call
Determination of Quorum
Reminder to turn off or silence cell phones
Pledge of Allegiance

Citizens' Input

At this time citizens who have pre-registered by filling out a "Request to Speak" sheet and have submitted the sheet to the City Secretary before the call to order will be allowed to speak on any matter other than personnel matters or matters under litigation, for a length of time not to exceed three minutes. No Council action or discussion may take place on a matter until such matter has been placed on a future agenda and posted in accordance with law.

1) Citizens' Input.

Community Interest

2) Items of Community Interest.

Regular Agenda

- 3) Discuss and Consider approval of the minutes from the January 16, 2014 Council and January 24, 2014 Special meetings. **[Wingo]**
- 4) Discuss and Consider the approval of **Ordinance # 2014-02-00773** of the City of Lucas, Texas, calling for a General Election to be held on May 10, 2014, for the purpose of electing two (2) City Councilmembers at large, Seats 1 and 2; by the qualified voters of the City of Lucas; providing for the publication and posting of notice of said election; providing for the appointment of a Deputy Early Voting Clerk; providing for Early Voting; establishing regular business hours of the City Secretary's Office; providing for a severability clause; and providing an effective date. **[Wingo]**
- 5) Discuss and Consider the approval of a preliminary plat for a tract of land situated in the James Lovelady Survey Abstract Number 538, Phase I of the Oakbrook Subdivision, 48.05 acres out of a total of a 92 +/- acre tract of land, consisting of twenty two lots, with a mixed zone of R-1.5 and R-2. **[Hilbourn]**
- 6) Discuss and Consider the approval of a Professional Services Agreement between the City of Lucas and BW2 Engineers, Inc. for the mapping portion of the 2014 Amendment to the Water Certificate of Convenience and Necessity (CCN) in an amount not to exceed \$14,000. **[Foerster]**
- 7) Discuss and Consider the approval of **Resolution # R-2014-02-00409** of the City Council of the City of Lucas, Texas, approving the Advanced Funding Agreement for Voluntary Local Government Contributions to Transportation Improvement Project with no required match; and providing an effective date. **[Foerster]**

8) Adjournment.

As authorized by Section 551.071 (2) of the Texas Government Code, the City Council may convene into closed Executive Session for the purpose of seeking confidential legal advice from the City Attorney regarding any item on the agenda at any time during the meeting.

Approval

Approved by: Mayor Rebecca Mark, January 31, 2014.

Certification

I hereby certify that the above notice of meeting was posted on the bulletin board at Lucas City Hall by 5:00 p.m. on or before Friday, January 31, 2014, as required in accordance with Government Code §551.041.

Kathy Wingo, TRMC, MMC
City Secretary

This building is wheelchair accessible. Any requests for sign interpretive services or other special requests for assistance of the hearing impaired must be made 48 hours in advance of the meeting. To make such arrangements, please call 972-727-8999 or email secretary@lucastexas.us.

LUCAS CITY COUNCIL

Meeting Date February 6, 2014

AGENDA ITEM:

- Call to Order

- Roll Call

Present

Absent

Mayor Rebecca Mark

Seat 1 CM Wayne Millsap

Seat 2 CM Jim Olk

Seat 3 CM Steve Duke

Seat 4 CM Philip Lawrence

Seat 5 CM Debbie Fisher

Seat 6 MPT Kathleen Peele

- Determination of Quorum
 - Reminder to silence cell phones
 - Pledge of Allegiance
-

Informational Purposes

Interim City Manager Dan Savage

City Secretary Kathy Wingo

Public Works Director Stanton Foerster

Finance Manager Liz Exum

Fire Chief Jim Kitchens

Development Services Director Joe Hilbourn

City Attorney Joe Gorfida, Jr.

Administrative Assistant Jennifer Faircloth



**City of Lucas
Council Agenda Request**

Council Meeting: February 6, 2014

Requestor: _____

Prepared by: Kathy Wingo

Account Code #: N/A

Date Prepared: _____

Budgeted Amount: \$ N/A

Exhibits: Yes No

AGENDA SUBJECT:

Citizen's Input.

RECOMMENDED ACTION:

SUMMARY:

MOTION:

No action necessary.

APPROVED BY: _____

Initial/Date

Department Director: _____ / _____
City Manager: _____ / _____



**City of Lucas
City Council Agenda
Request**

Council Meeting: February 6, 2014

Requestor: _____

Prepared by: Kathy Wingo

Account Code #: N/A

Date Prepared: _____

Budgeted Amount: \$ N/A

Exhibits: Yes No

AGENDA SUBJECT:

Items of Community Interest.

RECOMMENDED ACTION:

SUMMARY:

MOTION:

No action necessary.

APPROVED BY: _____

Initial/Date

Department Director: _____ / _____

City Manager: _____ / _____



**City of Lucas
Council Agenda Request**

Council Meeting: February 6, 2014

Requestor: Kathy Wingo

Prepared by: Kathy Wingo

Account Code #: N/A

Date Prepared: January 22, 2014

Budgeted Amount: \$ N/A

Exhibits: Yes No

AGENDA SUBJECT:

Discuss and Consider approval of the minutes from the January 16, 2014 Council and the January 24, 2014 Special meetings.

RECOMMENDED ACTION:

Approve as presented.

SUMMARY:

See attached.

MOTION:

I make a Motion to approve the minutes from the January 16, 2014 Council and the January 24, 2014 Special meetings as presented.

APPROVED BY: _____

Initial/Date

Department Director: _____ / _____

City Manager: _____ / _____



**City Council Regular Meeting
January 16, 2014, at 6:30 PM
City Hall - 665 Country Club Road**

Minutes

Call to Order

Mayor Rebecca Mark called the meeting to order at 6:30 p.m.

Present or (Absent):

Mayor Rebecca Mark
Councilmember Wayne Millsap
Councilmember Steve Duke
Councilmember Debbie Fisher

Mayor Pro Tem Kathleen Peele
Councilmember Jim Olk
Councilmember Philip Lawrence

Staff Present or (Absent):

Interim City Manager Dan Savage City Attorney Joe Gorfida
Public Works Director Stanton Foerster Code Enforcement Jim Hurley

It was determined that a Quorum was present.
Everyone was reminded to turn off or silence cell phones.
Councilmember Philip Lawrence led everyone in saying the Pledge of Allegiance.

Citizens' Input

1) Citizens' Input.

Brad King, 1195 Brockdale Park Road, Lucas, Texas came forward to speak to the Council in regards to Item # 3. There is nothing that can be done with the noise, etc. as progress continues with the new development. The citizens spoke last month and Council listened. Within days of last month's meeting, there was things changing. There was even a promise from the Collin County Sheriff's Deputy to increase his visibility in the area. Thank you. Mr. King shared some pictures of the destruction to the roadway.

Community Interest

2) Items of Community Interest.

Interim City Manager Dan Savage stated that the City Secretary and several members of staff were attending election training so as to prepare the City for the upcoming May elections.

Regular Agenda

- 3) Discuss and Consider a request from Hillwood Development to improve Brockdale Park Road. **[Savage]**

Interim City Manager Dan Savage stated that last month Council was given an update to the development located outside the city limits. There will be three phases to this development. Within the next two weeks, the developer will begin the first phase of the development, construction of the streets. There will be 100 lots each in the next two phases. The roadway is in poor condition currently and will continue to deteriorate as the development continues.

Hillwood Development is proposing the following:

- Phase I Interim Repairs – including but not limited to, patchwork and chip sealing may be done if needed, as determined by Hillwood/Brockdale, at Hillwood/Brockdale’s sole option and expense. This first phase of repairs would be done once the first phase of lots is completed. This is schedule for March 2014 timeframe, and will be funded 100% by Hillwood/Brockdale.
- Phase II Interim Repairs – including but not limited to, patchwork and chip sealing may be done if needed, as determined by Hillwood/Brockdale, at Hillwood/Brockdale’s sole option and expense. The second phase of repairs would be completed after the second phase of lots is delivered. Timing will be based upon home sales, but current projections show it to be first quarter of 2016. It will be funded 100% by Hillwood/Brockdale.
- Phase III Permanent Repairs – this would include the improvement described below:

Permanent Pavement Plan

- Full Depth Reclamation with Cement Stabilization (Sta. 0+00 to Sta. 50+00) - Use a pavement reclaimer to pulverize the existing pavement to a predetermined depth, the cement stabilize the pulverized material to optimum moisture, and then compact and grade the stabilized material to form a base or sub-base that is crowned.
- Additional Flex Base (Sta. 0+00 to Sta. 5+50) – This area will require an additional 4 inches of Flex Base mixed with Portland Cement.
- Remove Asphalt and then Add Flex Base (Sta. 20+00 to Sta. 30+00) – This area will require the haul off of 10 inches of surface material and then add 4 inches Flex Base mixed with Portland Cement.
- Final Overlay – Final surface will include a 2” HMAC overlay.

- Roadway Width – The ultimate pavement width will be 24 feet wide.
- Completion Date – The above-mentioned improvements shall be done on or before December 31, 2018, and at such time, shall be in good repair as approved by a third-party engineer. However, the work may be phased or completed by Brockdale at any time provided that the roadway meets the above mentioned specification on the completion date.
- Traffic Control – All work shall be done in accordance with a traffic control plan approved by the City of Lucas.

Miscellaneous

- Guard Rail Repair (Sta. 35+00 and Sta. 40+00) – Restore, replace, or abandon the guard rails between Sta. 35+00 and Sta. 40+00.
- Street Signage – Replace the street signs along Sta. 0+00 to Sta. 50+00 with ornamental signs. Hillwood acknowledges and agrees to take responsibility of maintenance of any ornamental sign that is installed along Brockdale Park Road.

Phase III Permanent Repairs will be funded by impact fees collected by the City from the Brockdale lots. Impact Fees will be \$2,200 per lot, and will be collected as building permits are issued. The City will use 100% of the Brockdale impact fee strictly for the Phase III Permanent Repairs.

The timing of construction of the Phase III Permanent Repairs will commence upon 75% of the impact fees collected within the Brockdale subdivision, provided there are sufficient funds to perform the work; however, the work shall begin prior to the 206th impact fee being collected.

Any excess funds left in the impact fee account once the permanent repairs are completed will be released back to Hillwood no later than 90 days after project completion. In the event there are additional homes to be permitted after the permanent repairs are completed, the City shall continue to collect those impact fees and refund Hillwood. A refund shall be made to Hillwood the sooner of as every 10th home is permitted or on any annual basis. In consideration of Hillwood's participation in this project, developer requests that the City be responsible for the remaining +/-3,000 linear feet of roadway from their entrance to the boat ramp for Lake Lavon (STA 50+00 to 80+00 on the attached exhibit). The developer would also ask the City to seek County participation for the portion of the roadway that they are improving in the current County right of way to be used towards the improvements from STA 50+00 to 80+00, which shall be improved in conjunction with the Phase III Permanent Repairs.

Interim City Manager Dan Savage went on to say if Council wishes to consider this then a Facilities Agreement will need to be drafted and the impact fee collected on each lot. The \$2,200 fee would have to be placed in a separate account and escrowed for the Phase III type work.

There will not be any type of property taxes collected by the City that would help with the maintenance of this road. It appears to be a fair deal, could there be a better deal, perhaps.

Mayor Pro Tem Kathleen Peele stated that Council has commitments already for roadway repairs in the City that would be placed on a higher priority than this road.

Mayor Rebecca Mark asked of the remaining 3,000 feet, how much is City and how much is County? Interim City Manager Dan Savage stated that the County could be responsible for up to 2,000 feet. The County would recognize that the roadway needs to be repaired.

Councilmember Philip Lawrence asked what impact on the City would there be if the timeframe of 2018 moved to 2016. This could be worked out in the Facilities Agreement, said Interim City Manager Dan Savage.

Councilmember Debbie Fisher stated that this road is too narrow. Does the City have right-of-way to widen it in any way? Interim City Manager Dan Savage that a 24 foot roadway in the existing right-of-way is feasible, but would take some shoulder reconstruction. There may not be a reason to make the last 3,000' 24 feet wide. The main reason for the 24 feet wide street is to allow for 2-lanes of traffic. Many streets in Lucas are not 24 feet and many residents drive down the center of the roadway which is not safe.

Councilmember Debbie Fisher asked if Staff could not bring forward a list of road work needing to be done as well as current budgeting available for said road work so that Council can review. This would allow for Council to have a firmer base on which to make their decision.

The City's challenge is how to generate a revenue stream to take care of the repairs and maintenance to this roadway.

Councilmember Jim Olk said that Phase I and Phase II is at the sole discretion of Hillwood/Brockdale, there is no protection for the Lucas citizens who are using the roadway in between those times. They will still have to live with the holes and disrepair of the roadway during the construction time. Interim City Manager Dan Savage stated that it was the City's responsibility to repair this roadway. If the City repaired the roadway now, it will be torn up pretty fast with the current construction traffic. Keep in the mind the road is narrow and there has not been the amount of traffic on this roadway in the past.

Mayor Rebecca Mark said it was reasonable to believe that the developer would begin soon (March 2014) with some of the repairs and improvements with the moving of the batch plant in to the development.

Councilmember Jim Olk asked why the developer could not make some of the repairs to the worst areas, continue to maintain the roadway (keeping them free of potholes and the like), and at the end of the development phase, do the final construction of the roadway.

Interim City Manager Dan Savage stated that if Council wants Staff can take this request back to the developer.

Mayor Rebecca Mark asked Public Works Director Stanton Foerster if this request was reasonable. Public Works Director Stanton Foerster said the roadway is in bad repair today, and over the next few weeks there will be many large trucks using the road. It will destroy the road.

In working with the developer, Public Works Director Stanton Foerster said that this was one of the better options to get the City through until 2018 to maintain the roadway using no city funds. This would give the City a roadway, at the end of the construction phases of the development that would last approximately 5 – 7 years.

Public Works Director Stanton Foerster suggested not asking any repairs be done to the roadway until all the batch plant/road work is done for Phase I.

Councilmember Wayne Millsap stated that the normal roadway impact fees in the City would be \$4,400 per lot. The developer is proposing \$2,200 per lot. The other issue is that the City is signing up to maintain a roadway used by 206 homes, which is not in the city, for the rest of our lives. Councilmember Wayne Millsap suggested that there be a maintenance fee annually that would be used to maintain the road be included in the Facilities Agreement. He asked that the utility district enter into an agreement paying an annual roadway maintenance fee to the City of Lucas.

The City Attorney, Joe Gorfida that the City would need to determine the mechanism to use whether it be an escrow account or a contract for services much like the fire services agreement.

Several Councilmember agree that no monies would be refunded to the developer, all funds would be kept for the maintenance for the roadway.

The City's obligation to complete the road improvement for the last 3,000 feet of Brockdale Park Road would be removed.

MOTION: Mayor Pro Tem Kathleen Peele made a Motion to direct Staff to negotiate a Facilities Agreement with Hillwood Development to improve Brockdale Park Road as follows: keep the first 5,000 feet of roadway somewhat maintained by filling pot holes, etc; take out the time frame for the City and County to have the 3,000 feet of road completed; no monies from the so called impact fees will be refunded and will remain as road impact fees for City use to maintain Brockdale Park Road; provide for an annual

facilities maintenance fee; and bring back to Council. Councilmember Philip Lawrence seconded the Motion. Motion carried. Vote: 7-0.

- 4) Discuss and Consider approval of the minutes from the December 19, 2013 Council; January 6, 2014 Special; January 8, 2014 Special; January 9, 2014 Special; and January 10, 2014 Special meetings. **[Wingo]**

MOTION: Mayor Pro Tem Kathleen Peele made a Motion to approve the minutes from the December 19, 2013 Council; January 6, 2014 Special; January 8, 2014 Special; January 9, 2014 Special; and January 10, 2014 Special meetings as presented. Councilmember Wayne Millsap seconded the Motion. Motion carried. Vote: 7-0.

Mayor Rebecca Mark recused herself from Item #5 due to proximity of her personal residence. Mayor Rebecca Mark will complete an Affidavit of Conflict of Interest which becomes a part of these minutes. Mayor Pro Tem Kathleen Peele led the discussion.

- 5) Discuss and Consider the approval of an agreement between the City of Lucas and Metropolitan Infrastructure, PLLC for professional services associated with Commission Minute Order # 113675 authorizing TxDOT to construct intersection improvements along FM 2170 and FM 2551 to East of FM 2551 in the City of Lucas, Collin County. **[Foerster]**

City Staff has been meeting with TxDOT, Collin County, and City of Allen to find a way to improve the eastern leg of the Estates Parkway/Angel Parkway intersection.

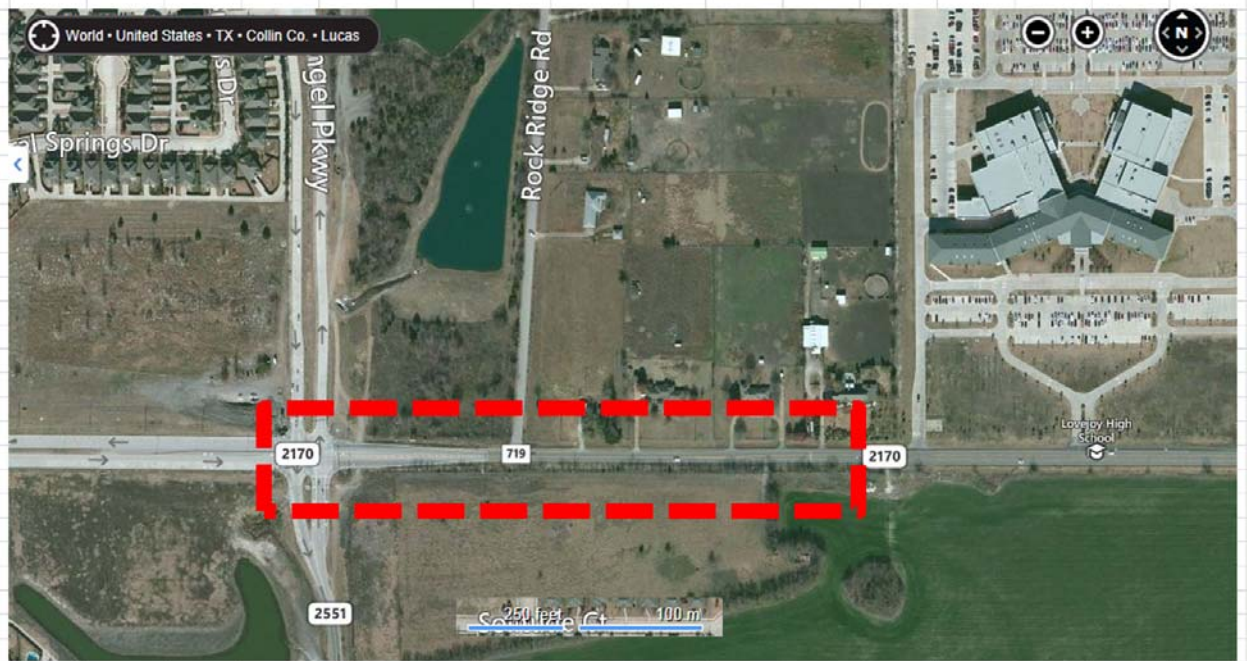
An Advanced Funding Agreement with TxDOT was approved by City Council on December 19, 2013.

Staff will continue to seek funding from Collin County and the City of Allen. To date, neither agency has committed funding to the project. Staff plans to include this project in the most recent county call for projects.

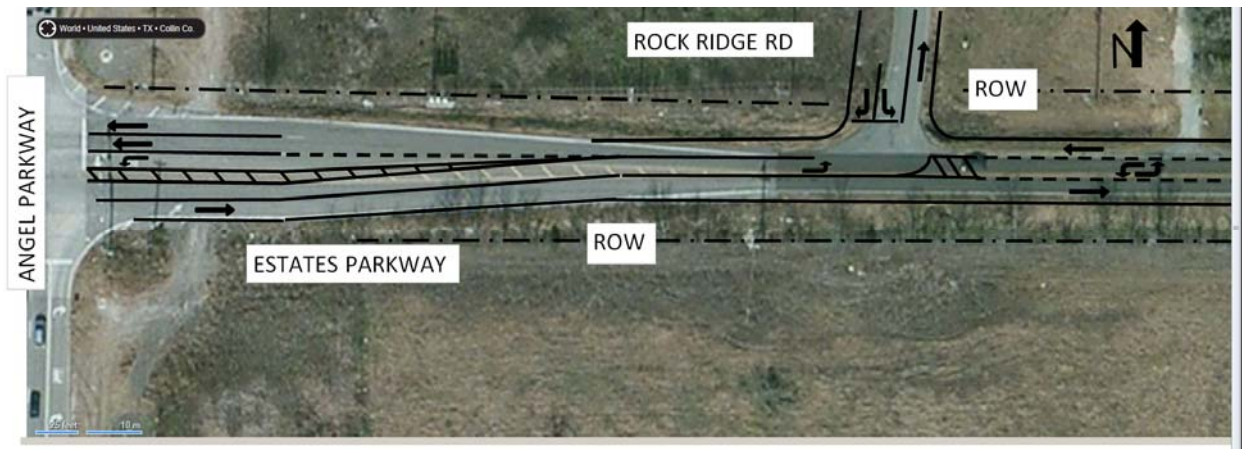
The engineering costs are based on the estimated construction cost and are estimated to be \$50,000 plus a \$20,000 allowance for dealing with TxDOT.

The estimated construction cost for this project is \$550,000.

Estates Parkway Project



Proposed construction layout:



MOTION: Councilmember Wayne Millsap made a Motion to approve the agreement between the City of Lucas and Metropolitan Infrastructure, PLLC for professional services in an amount not to exceed \$70,000 as associated with Commission Minute Order # 113675 authorizing TxDOT to construct intersection improvements along FM 2170 and FM 2551 to East of FM 2551 in the City of Lucas, Collin County. Councilmember Jim Olk seconded the Motion. Motion carried. Vote: 6-0.

Mayor Rebecca Mark rejoined the meeting.

While the Mayor was making her way back to the dais, Councilmember Jim Olk noted that there was a Cub Scout attending the meeting. Jerrod Grimes, Troup 1234, is attending the meeting to capture notes of a multi-sided issue of a City Council Meeting to earn his Communications Merit Badge.

- 6) Discuss and Consider the approval of a contract between the City of Lucas and BW2 Engineers, Inc. for professional services concerning the design of an 8" waterline along Shepherds Creek Drive and obtain necessary easements, contract amount not to exceed \$15,500. **[Foerster]**

This projects consists of a 750 foot 8" waterline along Shepherds Creek Drive with an estimated construction cost being \$60,000. The monies for this project would come from Water Impact Fees collected from Stinson Highlands Phase II.

There is one easement that would be required and estimated engineering cost would be \$5,500.

At this time, Staff is asking that Council consider the ratification of the BW2 Professional Services Agreement in the amount of \$5,500 and authorize Staff to pay for the necessary easement.

MOTION: Councilmember Jim Olk made a Motion to approve a contract between the City of Lucas and BW2 Engineers, Inc. for professional services concerning the design of an 8" waterline along Shepherds Creek Drive and obtain necessary easements and cover the repairs through the easement in an amount not to exceed \$15,500. Mayor Pro Tem Kathleen Peele seconded the Motion. Motion carried. Vote: 7-0.

- 7) Discuss and Consider the approval of a contract between the City of Lucas and THB Construction, LLC for the installation of 200 linear feet of a 6" waterline with fire hydrant along Lost Valley Drive, contract amount not to exceed \$12,975. **[Foerster]**

This project consists of a 200 foot 6" waterline with fire hydrant along Lost Valley Drive. The work was completed in December 2013 when it was discovered that the waterline was a 2" line and not a 6" as the City had thought. With the development of the Winding Creek Reserve subdivision going into this area a 6" waterline was necessary to increase the water pressure to the area as well as increasing the fire protection services.

The monies for the project will come from the Water Fund Reserves account in the amount of approximately \$12,975.

MOTION: Councilmember Debbie Fisher made a Motion to approve a contract between the City of Lucas and THB Construction, LLC for the installation of 200 linear feet of a 6" waterline with fire hydrant along Lost Valley Drive, contract amount not to exceed \$12,975 to come from the Water

Reserve Funds. Councilmember Steve Duke seconded the Motion. Motion carried. Vote: 7-0.

- 8) Discuss and Consider the basic schematic details for W. Lucas Road concerning location of turn lanes and lane use. **[Foerster]**

Public Works Director Stanton Foerster reviewed the previous discussions for W. Lucas Road. City Council previous approved an Advanced Funding Agreement with TxDOT, July 2013; an Interlocal Agreement with Collin County, September 2013; and a Professional Services Agreement with BW2 Engineers, Inc., November 2013.

The design update now includes a forty-six foot cross section with two through lanes, a painted 4 foot median, and shoulders.

Public Works Director Stanton Foerster stated that there is an option that is a bit more efficient and costs less. However, with Council's past conversations regarding this item, the proposed project is being brought to Council tonight for consideration.

The preliminary cost estimate for the two lane cross section with turn lanes is approximately \$1.8 M. There is approximately 6,000 feet of this road that is in the City of Parker and as of yet Parker has not offered any money for the project. The City of Parker does have access to some county monies that might be made available for this project. Staff will have a discussion with the City of Parker very soon.

The three lane cross section is more within the City's budget, being \$1.4 - \$1.5 M.

MOTION: Mayor Pro Tem Kathleen Peele made a Motion to accept the two lanes cross section with turn lanes option. Councilmember Debbie Fisher seconded the Motion. Motion carried. Vote: 7-0.

- 9) Discuss and Consider the parking regulations and 2009 Memorandum of Understanding for Lovejoy High School regarding stadium parking. **[Savage]**

In the approved 2009 Memorandum of Understanding the Lovejoy ISD and the City agree that when the high school facility was increased the next time that the parking spaces would increase by 466. The current estimate for one parking space is \$2,500. This would be a construction cost of approximately \$1.1M.

There have been conflicting reports of the parking situation during a football game.

In 2004-2005 the City's Code of Ordinances had a standard of 1 parking space for every 4 seats. The current ordinance, amended in 2011, has a standard of 1 parking space for every 3 seats.

No documentation has been found, but at some point in the past there may have been some off-site parking agreements. An off-site parking agreement could be

between a church and the school. If such an agreement were to be in place, then the City could be a bit more lax with the parking standards. This agreement would make sure that the church had ample parking on Sunday and the school could utilize the church parking lot for events at the stadium. There is some sort of verbal agreement to use the church parking lot currently.

There is a business in town that has excess parking. Perhaps the school could work out some sort of plan to utilize some of this parking during events.

In asking the City Attorney to review some of these things discussed, an unusual paragraph was included in the code. There is the possibility of appealing the parking requirements specified in the current ordinance. City Attorney Joe Gorfida said if this should happen the proper order would be that the City Council rescind the Memorandum of Understanding with Lovejoy ISD and then for the district make application with the Board of Adjustments for an appeal to the parking requirements.

What is being asked of the Council tonight: 1) Does the Council wish to consider relaxing the parking standards? and, 2) Is there a particular path Council wants to pursue, one being the Board of Adjustments application or two, modifying the current ordinance?

Councilmember Steve Duke stated that he had been approached about this subject by Lovejoy ISD Superintendent Ted Moore. After looking into the situation a bit, Councilmember Duke then brought it to the attention of Interim City Manager Dan Savage. Councilmember Duke went on to say that asking the school district to spend upwards of \$1.1M to provide additional parking that is only going to be used a few times a year is ludicrous. Councilmember Steve Duke said Council should consider changing the code or allow them to work out some sort of off-site parking agreement.

Councilmember Philip Lawrence said that the current Memorandum of Understanding is enforceable per the city attorney. The school district is showing good faith going to the church to ask to use their parking lot for additional parking during events. For a major game at the stadium, there will be overflow. Councilmember Lawrence feels that utilizing other resources around the city would be the best option at this time.

Councilmember Wayne Millsap said this issue came up a few years ago. The parking at Grace Church and Hart Elementary has worked well in the past. Councilmember Millsap went on to say that he would be in favor in changing the current requirements and not put an undue burden on the school asking for the additional parking spaces.

Mayor Pro Tem Kathleen Peele would be more comfortable knowing that the school has agreements in place to allow for their overflow parking to be at a church or

retailer. Council could require that the school have a copy of these agreements on file with the City of Lucas.

Councilmember Jim Olk stated that Lucas is a rural area and is opposed to placing concrete when not needed. Councilmember Olk went on to say he could support a reasonable accommodation. Council could rescind the MOU and let the school make application with the Board of Adjustments. The Board of Adjustments then could dictate as part of the variance what needs to be provided such as shared or overflow parking agreements. Or the other option, the Planning & Zoning Commission could look into amending the current ordinance. This situation will also come up with the construction of the new school, Lucas Christian. There are 3 or 4 times a year that parking is an issue at the stadium.

Councilmember Debbie Fisher is in agreement with all the comments made. It is incumbent upon the school to make sure of the safety of the event. Councilmember Fisher feels that Council needs to rescind the MOU and allow the school to go before the Board of Adjustments. Council needs to also ask the Planning & Zoning Commission to look to amend the current ordinance as Councilmember Olk stated the same issue will come up with Lucas Christian Academy and the future Wylie High School. There is also rumors that Plano will be building a school in the future. Councilmember Fisher recommends rescinding the current MOU and amending the current ordinance.

Councilmember Wayne Millsap said that rescinding the MOU might not be the best option. There is a fire lane around the stadium that is called out in the MOU.

Mayor Rebecca Mark recapped the conversation with Council would want to amend the MOU that removes the parking requirements and keep the fire lane reference.

Council agreed not to rescind the MOU until the current ordinance regarding parking requirements has been amended.

MOTION: Councilmember Jim Olk made a Motion to direct Planning & Zoning Commission to look at parking requirements for stadiums, include a definition of stadium, and direct the City Attorney to bring back an amendment to the current MOU between the City and Lovejoy ISD. Councilmember Debbie Fisher seconded the Motion. Motion carried. Vote: 7-0.

10) Discuss and Consider any direction from Council regarding street sanding for future ice storm events. **[Savage]**

The City of Lucas is not setup do sanding of the roadways during an ice storm event. If Council wishes to have the ability to sand the roadways there needs to be a plan and prioritizing of the roadways to be done. These events are few and far between and cities all over North Texas is determining what needs to be done.

Does Council want to direct Staff to develop a plan, prioritize roadways, and prepare a list of equipment to bring back for consideration? Equipment needs will be dependent upon the services provided.

If Council wishes to move forward with a program, then a suggestion to purchase a sand spreader during the mid-year budget adjustment was made by Interim City Manager Dan Savage.

Councilmember Debbie Fisher said there are school buses that travel our roads and she would support some sort of program to make the roadways safer.

Councilmember Jim Olk stated that Lucas is a rural community and some services are given up in such a community.

Councilmember Steve Duke said the number one job of Council is to keep the City safe. If this type program does that, Council needs to consider providing this service.

Mayor Pro Tem Kathleen Peele said that citizens choose to live here for a reason. Maybe we need to purchase more chainsaws. When the City starts sanding this street and not that one, a whole different situation begins.

Councilmember Philip Lawrence understands the rural setting, however, there are expectations of the services that should be provided. Councilmember Lawrence said to get out of his subdivision there is an incline prohibiting you from exiting the area in an ice storm. If there is an emergency people need to be able to get out of their neighborhood. From a public safety standpoint the City must have something available. Councilmember Lawrence suggests Staff come up with some options and bring it back to Council for consideration.

Councilmember Wayne Millsap said Council should look at adding a sand spreader attachment to a truck and only sand bridges and intersections, not all the streets in the City. There is no budget to do much more than that.

Mayor Rebecca Mark would like to have more facts prior to making a decision on this. Council could have Staff put together a package to include the cost of a spreader, some overtime, and cost of sand to be brought back to Council at a later time.

MOTION: Councilmember Jim Olk made a Motion to direct Staff to prepare a preliminary plan to include equipment, staffing needs, and provide for a mid-year budget adjustment. Councilmember Philip Lawrence seconded the Motion. Motion carried. Vote: 6-1, Mayor Pro Tem Kathleen Peele voting NAY.

- 11) Discuss and Consider a recommendation to annex Willow Springs Middle School to enable Fire Department to provide direct ambulance service to the property.
[Savage]

Interim City Manager Dan Savages states that sometime in March the Fire Department will begin providing the citizens of Lucas with advanced life support ambulance services. This is going to be a major accomplishment for the City of Lucas.

The City should take delivery of the new ambulance around the 1st of March and the state has approved the department for advance life support first responder capability. All the equipment has been acquired through the lease/purchase program, other than the ambulance being delivered. All the drugs, supplies, and minor equipment to outfit the ambulances has been purchased.

The middle school front parking lot is in the city limits. The sports field and the building are in the county. The City currently has a contract with East Texas Medical Services for ambulance service for the city. The County has a contract to cover certain portions of the county, including areas surrounding Lucas that are not in an incorporated city. Should the need arise today for ambulance service to the middle school, East Texas Medical Services would respond. Their closest ambulance is stationed at Wylie Fire Station on Country Club Road, some six miles away. The City's fire station is just across the street and could respond much quicker.

The school is surrounded by the city. While perhaps not all students are Lucas citizens, Interim City Manager Dan Savage feels that the city providing ambulance service to the school is the best option.

The school district would go along with the annexation should Council wish to move forward. There is a potential loss in water revenue of approximately \$8 - \$10K due to the water rates reverting to in-city rates with the annexation. This is just an approximation due to the school not going through a full year water cycle.

If Council chose not to consider the annexation then Interim City Manager Savage stated that a contract between the City of Lucas and Lovejoy ISD to provide ambulance service. Some cities are questioning whether to charge a resident and non-resident fee for this type services. For example, the City could charge \$600 for a resident and \$700 for non-resident. Other items that could be charged is supplies used, mileage, oxygen, and the like.

Staff is direction from Council at this time.

Councilmember Wayne Millsap said the right thing to do is provide ambulance service and we lose the water revenue. It is surrounding by the city on all sides and Council's goal over the past few months is to fill in those holes created by out-of-city property. The right thing to do is to annex the school.

Councilmember Philip Lawrence said he would hold comments for last.

Mayor Pro Tem Kathleen Peele would prefer to enter into an agreement for these services. Annexation of the school has no benefit for the city as they do not pay property taxes. The City would be better off with a contract that explicitly states the city's obligations.

Councilmember Steve Duke had no comments.

Councilmember Jim Olk said the water rates are set to cover the costs. To lose \$8-\$10K annually is not a great loss. Councilmember Olk said if his children were in this school and was waiting on an ambulance it should be from Lucas and not East Texas Medical Services. There have been some issues with response time and level of care and Councilmember Olk would rather see our first responders answering those calls. Councilmember Olk fully supports the annexation of the school.

Councilmember Debbie Fisher prefers an interlocal agreement and would not be opposed a contract amount for the water. The ambulance service is needed by the school. Councilmember Fisher wants to avoid a jurisdiction battle over who is responsible.

Mayor Rebecca Mark stated that Council all seems in agreement that the kids need to be protected the best way possible. It is cleaner to annex the school rather than enter into a long term agreement. It is easier to regulate an expansion of the school should they choose to do so in the future. Mayor Mark is not concerned at all with the loss of water revenue.

Councilmember Philip Lawrence feels the intention is to provide adequate ambulance service to the kids. Whether it be by contractual agreement or annexation this could be accomplished. Councilmember Lawrence would like to see an agreement to make sure that the children are covered for ambulance service. The loss of water revenue should not even be considered as part of the discussion of providing ambulance service to the school.

Councilmember Wayne Millsap said that Council had set a policy to close in and annex all the property inside the city limits of Lucas. There is a conflicting situation, the school is in our fire district and the fire department will answer a call to put out a fire in the building. But should one of the kids need an ambulance they have to wait for an ambulance to come from East Texas Medical Services when there is an ambulance across the street. The school will not pay the cost of the ambulance service, the patient will be responsible. It seems odd that Council wants other properties in the city to be annexed. Properties where the city is asked to put in roads, waterlines, etc. But when it comes to the school there is a question whether or not to annex. This is weird situation stated Councilmember Millsap. Councilmember Millsap asked if other cities exclude the schools from their city and

does not provide these type services. This seems to be contradictory to what the city has been trying to do.

Councilmember Philip Lawrence said he did not have all his questions answered about the annexation. The contract does not have to charge a fee to the school. The cost of the ambulance service would be the responsibility of the patient.

Mayor Pro Tem Kathleen Peele said the city annexes to control development. The school is developed already.

The City Attorney stated that the school district can come forward with an application for annexation.

MOTION: Councilmember Wayne Millsap made a Motion to proceed forward with the annexation of annex Willow Springs Middle School to enable Fire Department to provide direct ambulance service to the property. Councilmember Jim Olk seconded the Motion. **Motion failed.** Vote: 3-4, Councilmember(s) Debbie Fisher, Philip Lawrence, Steve Duke and Mayor Pro Tem Kathleen Peele voting NAY.

MOTION: Councilmember Debbie Fisher made a Motion to direct staff to proceed with a contract between the City of Lucas and Lovejoy ISD to provide direct ambulance and EMS services to Willow Springs Middle School. Councilmember Philip Lawrence seconded the Motion. Motion carried. Vote 4-3, Mayor Rebecca Mark, Councilmember(s) Jim Olk and Wayne Millsap voting NAY.

- 12) Discuss and Consider authorizing Wiginton Hooker Jeffrey P.C. to prepare construction documents for the Lucas Fire Station Expansion project. **[Savage]**

The architect is currently working on the schematic design and we do not have a revised cost estimate but should have this done by next week. Staff asks for Council to authorize Wiginton Hooker Jeffrey P.C. to prepare construction documents for the Lucas Fire Station Expansion project should the cost estimate remain within the budget of \$2.3M. If the revised estimate is higher, it will be brought back to Council for review.

MOTION: Councilmember Debbie Fisher made a Motion to authorize Wiginton Hooker Jeffrey P.C. to prepare construction documents for the Lucas Fire Station Expansion project upon approval by Interim City Manager, provided it stays within budget. Mayor Pro Tem Kathleen Peele seconded the Motion. Motion carried. Vote: 7-0.

City Attorney Joe Gorfida asked the Mayor and Council to go back and address Item # 11 further. Upon speaking with the school district there are some concerns that need to be addressed.

MOTION: Councilmember Jim Olk made a Motion to readdress Item # 11. Councilmember Wayne Millsap seconded the Motion. Motion carried. Vote: 7-0.

In speaking with the school district, City Attorney Joe Gorfida stated there is the possibility that the school might want to voluntarily annex into the City. The school board would to discuss this and make a decision.

More importantly, Lovejoy ISD has a contract with East Texas Medical Services via the County and might not be able to be released from this contract.

There a coalition of cities that contract with East Texas Medical Services. There is a meeting on the 23rd and it possibly could be discussed at that meeting. There may be a mutual aid situation that Lucas could enter into an agreement to provide first responder service to the school.

Executive Session

The City Council convened into Executive Session at 9:33 p.m.

- 13)The City Council pursuant to Section 551.074 of the Texas Government Code may convene into Executive Session to discuss the hiring and appointment of the City Manager.

Regular Agenda

The City Council convened into Regular Session at 11:40 p.m.

- 14)Take any action as necessary from the Executive Session.

MOTION: Councilmember Debbie Fisher made a Motion to authorize the Mayor to negotiate an employment contract between the City of Lucas and Joni Clarke. Councilmember Wayne Millsap seconded the Motion. Motion carried. Vote: 7-0.

- 15)Adjournment.

MOTION: Councilmember Wayne Millsap made a Motion to adjourn the meeting at 11:49 p.m. Councilmember Debbie Fisher seconded the Motion. Motion carried. Vote: 7-0.

These minutes were approved by a majority vote of the City Council on February 6, 2014.

Rebecca Mark
Mayor

ATTEST:

Kathy Wingo, TRMC, MMC
City Secretary



**City Council Special Meeting
January 24, 2014, at 8:00 AM
City Hall - 665 Country Club Road**

Minutes

Call to Order

Mayor Rebecca Mark called the meeting to order at 8:00 a.m.

Present or (Absent):

Mayor Rebecca Mark	Mayor Pro Tem Kathleen Peele
Councilmember Wayne Millsap	Councilmember Jim Olk
Councilmember Steve Duke (Absent)	Councilmember Philip Lawrence (Absent)
Councilmember Debbie Fisher (8:02)	

Staff Present:

City Secretary Kathy Wingo	City Attorney Joe Gorfida
----------------------------	---------------------------

It was determined that a Quorum was present.
Everyone was reminded to turn off or silence cell phones.

Regular Session

- 1) Discuss and Consider **Resolution # R-2014-01-00408** proposing the creation of the City of Lucas Fire Control, Prevention, and Emergency Services District and appointing a temporary seven member board which membership shall consist of the Mayor and six (6) councilmembers.

MOTION: Councilmember Jim Olk made a Motion to approve **Resolution # R-2014-01-00408** proposing the creation of the City of Lucas Fire Control, Prevention, and Emergency Services District and appointing a temporary seven member board which membership shall consist of the Mayor and six (6) councilmembers. Councilmember Wayne Millsap seconded the Motion. Motion carried. Vote: 5-0.

- 2) Discuss and Consider setting a date for the first meeting of the Board of Directors of the Lucas Fire Control, Prevention, and Emergency Services District.

City Attorney Joe Gorfida stated there were three things that the Board of Directors of the Lucas Fire Control, Prevention, and Emergency Services District must

consider at the meeting; 1) Set a Tax Rate; 2) Determine a Budget; and, 3) Decide whether or not to appoint the Mayor and six (6) Councilmembers as the permanent board. The Board of Directors of the Lucas Fire Control, Prevention, and Emergency Services District could call for the May 10, 2014 Special Election.

After some discussion of dates, it was determined that a meeting would be called on Thursday, February 6, 2014 at 6:00 p.m. And if necessary, a second meeting would be called for Thursday, February 20, 2014 at 6 p.m.

MOTION: Councilmember Wayne Millsap made a Motion to call a meeting of the Board of Directors of the Lucas Fire Control, Prevention, and Emergency Services District for Thursday, February 6, 2014, at 6 p.m. and a second meeting, if necessary, for Thursday, February 20, 2014, at 6 p.m. Councilmember Jim Olk seconded the Motion. Motion carried. Vote: 5-0.

3) Adjournment.

MOTION: Councilmember Wayne Millsap made a Motion to adjourn the meeting at 8:12 a.m. Councilmember Debbie Fisher seconded the Motion. Motion carried. Vote: 5-0.

These minutes were approved by a majority vote of the City Council on February 6, 2014.

Rebecca Mark
Mayor

ATTEST:

Kathy Wingo, TRMC, MMC
City Secretary



City of Lucas Council Agenda Request

Council Meeting: February 6, 2014

Requestor: Kathy Wingo

Prepared by: Kathy Wingo

Account Code #: 6110-445

Date Prepared: January 22, 2014

Budgeted Amount: \$ 6,000 approx.

Exhibits: Yes No

AGENDA SUBJECT:

Discuss and Consider the approval of **Ordinance # 2014-02-00773** of the City of Lucas, Texas, calling for a General Election to be held on May 10, 2014, for the purpose of electing two (2) City Councilmembers at large, Seats 1 and 2; by the qualified voters of the City of Lucas; providing for the publication and posting of notice of said election; providing for the appointment of a Deputy Early Voting Clerk; providing for Early Voting; establishing regular business hours of the City Secretary's Office; providing for a severability clause; and providing an effective date.

RECOMMENDED ACTION:

Approve as presented.

SUMMARY:

See attached.

Contract for elections services will be brought back to Council at a later date for action.

MOTION:

I make a Motion to approve **Ordinance # 2014-02-00773** of the City of Lucas, Texas, calling for a General Election to be held on May 10, 2014, for the purpose of electing two (2) City Councilmembers at large, Seats 1 and 2; by the qualified voters of the City of Lucas; providing for the publication and posting of notice of said election; providing for the appointment of a Deputy Early Voting Clerk; providing for Early Voting; establishing regular business hours of the City Secretary's Office; providing for a severability clause; and providing an effective date.

APPROVED BY: _____

Initial/Date

Department Director: _____ / _____

City Manager: _____ / _____

<input type="checkbox"/>	Annexation
<input type="checkbox"/>	Disannexation
<input type="checkbox"/>	Code of Ordinances
<input checked="" type="checkbox"/>	Other

ORDINANCE # 2014-02-00773
[Calling for May 10, 2014 General Election]

AN ORDINANCE OF THE CITY OF LUCAS, TEXAS, CALLING FOR A GENERAL ELECTION TO BE HELD ON MAY 10, 2014, FOR THE PURPOSE OF ELECTING TWO (2) CITY COUNCIL MEMBERS AT LARGE, SEATS 1 AND 2; BY THE QUALIFIED VOTERS OF THE CITY OF LUCAS; PROVIDING FOR THE PUBLICATION AND POSTING OF NOTICE OF SAID ELECTION; PROVIDING FOR THE APPOINTMENT OF A DEPUTY EARLY VOTING CLERK; PROVIDING FOR EARLY VOTING; ESTABLISHING REGULAR BUSINESS HOURS OF THE CITY SECRETARY'S OFFICE; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LUCAS:

SECTION 1. That a general (regular) municipal election is hereby ordered to be held on May 10, 2014, for the purpose of electing two (2) City Council Members at-large, Seats 1 and 2, for a three (3) year term.

SECTION 2. Notice of the election shall be posted on the bulletin board used to post notice of the City Council meetings no later than the twenty-first day before election day. The notice of the election shall also be published in a newspaper of general circulation in the City no earlier than the thirtieth day and no later than the tenth day before election day. The notice shall state the nature and date of the election, the wording of all ballot propositions, the location of each polling place, hours that the polls will be open, and any other early voting and election-related information required by law. The notice must be provided in both English and Spanish. A copy of the published notice that contains the name of the newspaper and the date of publication shall be retained as a record of such notice, and such person posting the notice shall make a record of the time of posting, starting date and the place of posting, and such person shall sign said record.

SECTION 3. The governing body is authorized to sign the Order and Notice of General Election that shall be published in accordance with the provisions of the Texas Election Code.

SECTION 4. The Office of the City Secretary shall perform all duties normally performed by the County Clerk in a general election with respect to early voting, giving notice of the election and preparing the official ballots and is hereby appointed as the Election Clerk.

SECTION 5. The City Secretary is expressly authorized to obtain election supplies and equipment required by law and necessary to conduct said election.

SECTION 6. The City Secretary is authorized to recruit qualified election workers and return to the City Council a Resolution approving the selected election workers.

SECTION 7. All qualified voters of the City of Lucas, shall be permitted to vote for two (2) Council Members at-large. In addition, the election materials as outlined in Section 272.005, Texas Election Code shall be printed in both English and Spanish for use at the polling place and for early voting of said election.

SECTION 8. All voting boxes shall be inspected and sealed by the City Secretary for all the public to witness on Friday, April 25, 2014, at 1:00 p.m. at Lucas City Hall, 665 Country Club Road, Lucas, Texas.

SECTION 9. The City Secretary's Office shall accept Candidate Applications for a place on the ballot beginning on January 29, 2014, and ending on February 28, 2014, by 5:00 p.m.

SECTION 10. On May 10, 2014, the voting for said election shall take place at 665 Country Club Road, Lucas, Texas. The polls shall be open from 7:00 a.m. to 7:00 p.m. Paper ballots, electronic voting systems, and hand counting shall be used for voting in the said election.

SECTION 11. The City Secretary shall receive applications, in person, at 665 Country Club Road, Lucas, Texas, for a ballot to be used for early voting by mail beginning on March 11, 2014, and ending May 1, 2014, at 5:00 p.m.

SECTION 12. Early voting shall be conducted by the Office of the City Secretary in the Lucas City Hall, 665 Country Club Road and electronic voting system as well as paper ballots shall be used for early voting by mail and direct personal appearance for the election shall commence on April 28, 2014, at 8:00 a.m. and end at 7:00 p.m. on May 6, 2014. Early voting by personal appearance shall be conducted during the regular business hours of the City Secretary's Office each business day from 8:00 a.m. until 5:00 p.m., except for the Tuesday, April 29, 2014, and May 6, 2014. On the Tuesdays specified, early voting by personal appearance, the City Secretary's regular business hours are hereby designated as 7:00 a.m. until 7:00 p.m. Temporary Deputy Early Voting Clerks are hereby designated to assist in the absence of the Early Voting Clerk (City Secretary) during the said election and early voting. Jeanine Harvell, Delta Moody, Jennifer Faircloth, Donna Bradshaw, Cheryl Meehan, Liz Exum, Alicia Gipson, and Linezka Maduro are duly appointed as Temporary Deputy Early Voting Clerks for the City of Lucas. Each shall serve in full capacity as the Early Voting Clerk in the absence of the Early Voting Clerk (City Secretary).

SECTION 13. The City Hall, located at 665 Country Club Road, Lucas, Texas, is hereby established as the Counting Station to receive and tabulate votes and ballots cast in said election. The following persons are hereby authorized and approved as persons employed and designated to handle the ballots, count the ballots, and to be present in the Central Counting Station:

- (a) Presiding Election Judge
- (b) Alternate Judge/Clerk
- (c) Clerks

- (d) Early Voting Clerk/City Secretary
- (e) Temporary Deputy Early Voting Clerks

The City Secretary shall present the election returns to the City of Lucas City Council at a City Council meeting for the canvassing of said election in accordance with the Texas Election Code. Each candidate for each of the elections ordered herein shall, in accordance with state law, appoint a watcher to be present at the Central Counting Station to observe the election counting process and the notice of such appointment shall be given to the City Secretary.

SECTION 14. Should any candidate in the general municipal election fail to receive a majority by virtue of a tie vote and such cannot be resolved in accordance with state law, then in that event the City Council hereby authorizes a run-off election to be held on June 14, 2014.

SECTION 15. Should any word, sentence, paragraph, subdivision, clause, phrase or section of this ordinance be adjudged or held to be void or unconstitutional, the same shall not affect the validity of the remaining portions of said ordinance, which shall remain in full force and effect.

SECTION 16. This ordinance shall take effect immediately from and after its passage.

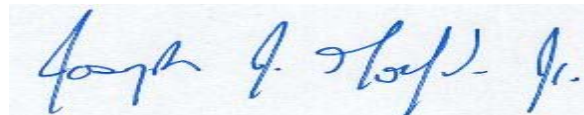
APPROVED AND ADOPTED by the City Council of the City of Lucas this 6th day of February, 2014.

Rebecca Mark, Mayor

ATTEST:

Kathy Wingo, TRMC, MMC, City Secretary

APPROVED AS TO FORM:



Joe Gorfida, City Attorney
(01-10-14/64303)

**ORDER AND NOTICE OF GENERAL ELECTION
(AVISO DE ELECCION GENERAL)**

To the Registered Voters of the City of Lucas, Texas;
Notice is hereby given that the polling places listed below will open from 7:00 a.m. to 7:00 p.m. on May 10, 2014, for voting general election to elect two (2) Councilmembers at-large.

*(A los votantes registrados de la ciudad de Lucas, Texas:
Por la presente se notifica que las casillas electorales nombradas abajo se abriran desde las 7:00 a.m a 7 p.m. el 10 de Mayo, 2014. Para votar en la Eleccion General para elegir dos (2) Miembros de consejo).*

LOCATIONS OF POLLING PLACES
(Direccion (es) de las casillas electorales)

Location of Election Day Polling Places
Include Name of Building and Address
(Ubicación de las casillas electorales el Día de Elección)
(Incluir Nombre del Edificio y Dirección)

Lucas City Hall, 665 Country Club Road, Lucas, Texas 75002
(location) *(sitio)*
Precinct Number(s) 128, 41
(Número de precinto) 128, 41

For early voting, a voter may vote at any of the locations listed below:
(Para Votación temprana, los votantes podrán votar en cualquiera de las ubicaciones nombradas abajo.)

Location of Election Day Polling Places
Include Name of Building and Address
(Ubicación de las casillas electorales del Día de Elección)
(Incluir Nombre del Edificio y Dirección)

Lucas City Hall, 665 Country Club Road, Lucas, Texas 75002
(location) *(sitio)*
Precinct Number(s) 128, 41
(Número de precinto) 128, 41

Between the hours of 8:00 a.m. and 5:00 p.m. each weekday beginning on April 28, 2014, and ending on May 6, 2014. Tuesday Early Voting will be held April 29 and May 6, 2014 from 7:00 a.m. to 7:00 p.m.

Entre las horas de 8:00 a.m. a 5:00 p.m. cada día laborable que comienza el 28 de Abril, 2014 y se termina el 6 de Mayo, 2014. El martes la votación temprana será sostenida el 29 de Abril y el 6 de Mayo, 2014 desde las 7:00 a.m. a 5:00 p m

Applications for ballot by mail shall be mailed to:
(Las solicitudes para votacion por correo en caso de ausencia deberan enviarse a:)

Kathy Wingo
(Early Voting Clerk)
(Secretaria de la Votación)
665 Country Club
(Address) *(Dirección)*
Lucas 75002
(City) *(Ciudad)* (Zip Code) *(Código Postal)*

Applications for ballot by mail must be received no later than the close of business on: May 1, 2014.
(Las aplicaciones para votaciones por correo en caso de ausencia no deben ser recibidas a más tardar que al final del día laborable, 1 de mayo, 2014.)

Issued this the 6th day of February, 2014
(Emitada este día 6 de Febrero, 2014.)

Rebecca Mark, Mayor
(Alcalde)

Kathleen Peele, Mayor Pro Tem
(Alcalde Pro Tem)

Wayne Millsap, Councilmember
(Miembro de consejo)

Jim Olk, Councilmember
(Miembro de consejo)

Steve Duke, Councilmember
(Miembro de consejo)

Philip Lawrence, Councilmember
(Miembro de consejo)

Debbie Fisher, Councilmember
(Miembro de consejo)



**City of Lucas
City Council
Agenda Request**

Council Meeting: February 6, 2014

Requestor: Joe Hilbourn

Prepared by: Joe Hilbourn

Account Code #: _____

Date Prepared: 12/30/2013

Budgeted Amount: \$ _____

Exhibits: Yes No

AGENDA SUBJECT:

Discuss and Consider the approval of a preliminary plat for a tract of land situated in the James Lovelady Survey Abstract Number 538, Phase I of the Oakbrook Subdivision, 48.05 acres out of a total of a 92 +/- acre tract of land, consisting of twenty two lots, with a mixed zone of R-1.5 and R-2.

RECOMMENDED ACTION:

Recommend approval.

SUMMARY:

This parcel has an approved development agreement with an approved layout. This plat conforms to the city's subdivision regulations and the approved concept plan.

The Planning & Zoning Commission voted unanimously to recommend approval.

MOTION:

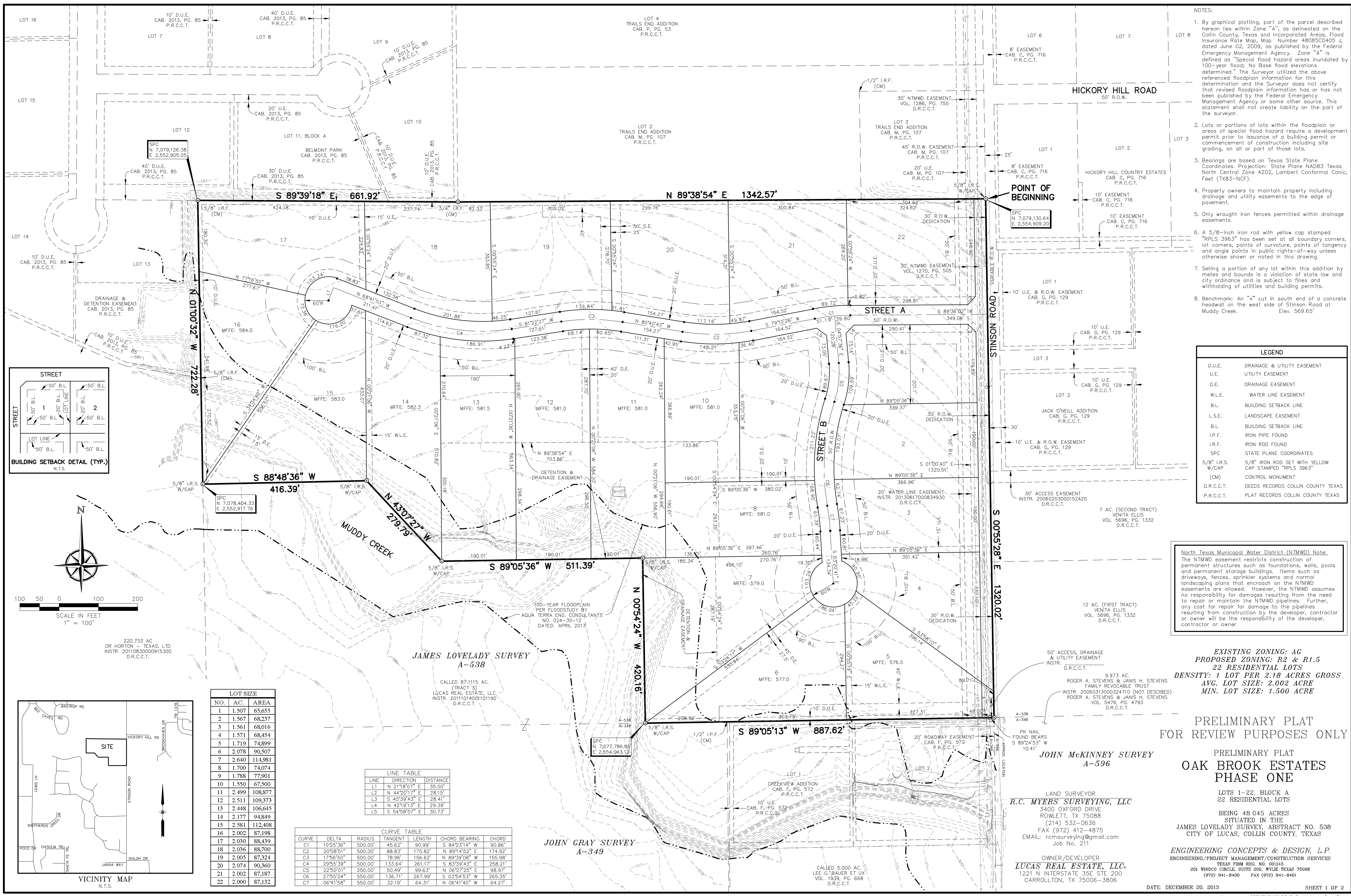
I make a Motion to approve the preliminary plat for a tract of land situated in the James Lovelady Survey Abstract Number 538, Phase I of the Oakbrook Subdivision.

APPROVED BY: _____

Initial/Date

Department Director: _____ / _____

City Manager: _____ / _____



- NOTES:
- By graphical plotting, part of the parcel described hereon lies within Zone "A" as delineated on the Collin County, Texas and Incorporated Areas, Flood Insurance Rate Map, Map Number 48085C0405 J, dated June 02, 2009, as published by the Federal Emergency Management Agency. Zone "A" is defined as "Special flood hazard areas inundated by 100-year floods; No Base flood elevations determined." The Surveyor utilized the above referenced floodplain information for this determination and the Surveyor does not certify that revised floodplain information has or has not been published by the Federal Emergency Management Agency or some other source. This statement shall not create liability on the part of the surveyor.
 - Lots or portions of lots within the floodplain or areas of special flood hazard require a development permit prior to issuance of a building permit or commencement of construction including site grading, on all or part of those lots.
 - Bearings are based on Texas State Plane Coordinates. Projection: State Plane NAD83 Texas North Central Zone 4202, Lambert Conformal Conic, Feet (TX83-NCF).
 - Property owners to maintain property including drainage and utility easements to the edge of pavement.
 - Only wrought iron fences permitted within drainage easements.
 - A 5/8-inch iron rod with yellow cap stamped "RPLS 3963" has been set at all boundary corners, lot corners, points of curvature, points of tangency and angle points in public rights-of-way unless otherwise shown or noted in this drawing.
 - Selling a portion of any lot within this addition by metes and bounds is a violation of state law and city ordinance and is subject to fines and withholding of utilities and building permits.
 - Benchmark: An "x" cut in south end of a concrete headwall on the west side of Stinson Road at Muddy Creek. Elev. 569.65'

LEGEND

D.U.E.	DRAINAGE & UTILITY EASEMENT
U.E.	UTILITY EASEMENT
D.E.	DRAINAGE EASEMENT
W.L.E.	WATER LINE EASEMENT
B.L.	BUILDING SETBACK LINE
L.S.E.	LANDSCAPE EASEMENT
B.L.	BUILDING SETBACK LINE
I.P.F.	IRON PIPE FOUND
I.R.F.	IRON ROD FOUND
SPC	STATE PLANE COORDINATES
5/8" I.R.S. W/CAP	5/8" IRON ROD SET WITH YELLOW CAP STAMPED "RPLS 3963"
(CM)	CONTROL MONUMENT
D.R.C.C.T.	DEEDS RECORDS COLLIN COUNTY TEXAS
P.R.C.C.T.	PLAT RECORDS COLLIN COUNTY TEXAS

North Texas Municipal Water District (NTMWD) Note:
 The NTMWD easement restricts construction of permanent structures such as foundations, walls, pools and permanent storage buildings. Items such as driveways, fences, sprinkler systems and normal landscaping plans that encroach on the NTMWD easements are allowed. However, the NTMWD assumes no responsibility for damages resulting from the need to repair or maintain the NTMWD pipelines. Further, any cost for repair for damage to the pipelines resulting from construction by the developer, contractor or owner will be the responsibility of the developer, contractor or owner.

EXISTING ZONING: AC
PROPOSED ZONING: R2 & R1.5
22 RESIDENTIAL LOTS
DENSITY: 1 LOT PER 2.18 ACRES GROSS
AVG. LOT SIZE: 2.002 ACRE
MIN. LOT SIZE: 1.500 ACRE

PRELIMINARY PLAT FOR REVIEW PURPOSES ONLY

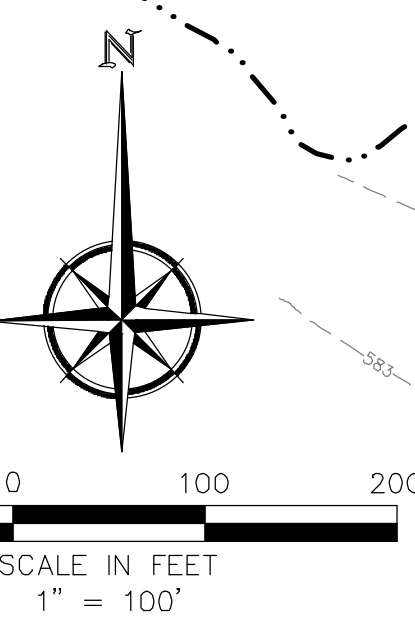
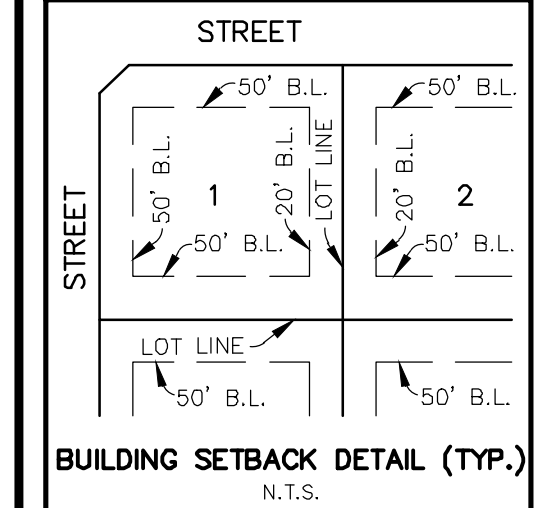
PRELIMINARY PLAT OAK BROOK ESTATES PHASE ONE

LOTS 1-22, BLOCK A
 22 RESIDENTIAL LOTS
 BEING 48.045 ACRES
 SITUATED IN THE
 JAMES LOVELADY SURVEY, ABSTRACT NO. 538
 CITY OF LUCAS, COLLIN COUNTY, TEXAS

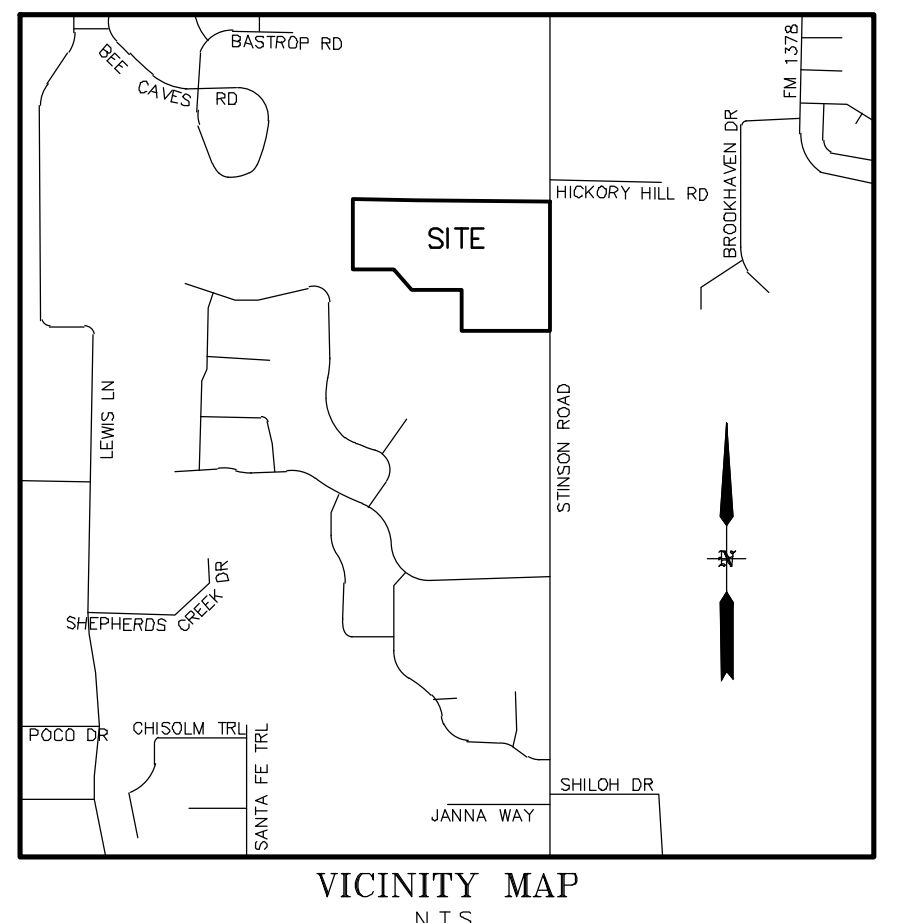
ENGINEERING CONCEPTS & DESIGN, L.P.
 ENGINEERING/PROJECT MANAGEMENT/CONSTRUCTION SERVICES
 TEXAS FIRM REG. NO. 001145
 201 WINCO CIRCLE, SUITE 200, WYLE, TEXAS 75098
 (972) 941-8400 FAX (972) 941-8401

LAND SURVEYOR
R.C. MYERS SURVEYING, LLC
 3400 OXFORD DRIVE
 ROWLETT, TX 75088
 (214) 532-0636
 FAX (972) 412-4875
 EMAIL: rcmysersurveying@gmail.com
 Job No. 211

OWNER/DEVELOPER
LUCAS REAL ESTATE, LLC.
 1221 N INTERSTATE 35E STE 200
 CARROLLTON, TX 75006-3806



220.733 AC
 DR HORTON - TEXAS, LTD
 INSTR. 20110830000915300
 D.R.C.C.T.



LOT SIZE

NO.	AC.	AREA
1	1.507	65,655
2	1.567	68,237
3	1.561	68,016
4	1.571	68,454
5	1.719	74,899
6	2.078	90,507
7	2.640	114,981
8	1.700	74,074
9	1.788	77,901
10	1.550	67,500
11	2.499	108,877
12	2.511	109,373
13	2.448	106,645
14	2.177	94,849
15	2.581	112,408
16	2.002	87,198
17	2.030	88,439
18	2.036	88,700
19	2.005	87,324
20	2.074	90,360
21	2.002	87,187
22	2.000	87,132

LINE TABLE

LINE	DIRECTION	DISTANCE
L1	N 21°18'07" E	35.00'
L2	N 44°20'17" E	28.15'
L3	S 45°39'43" E	28.41'
L4	N 42°19'13" E	29.39'
L5	S 54°58'57" E	30.73'

CURVE TABLE

CURVE	DELTA	RADIUS	TANGENT	LENGTH	CHORD BEARING	CHORD
C1	10°25'36"	500.00'	45.62'	90.99'	S 84°23'14" W	90.86'
C2	20°08'51"	500.00'	88.83'	175.82'	N 89°14'52" E	174.92'
C3	17°56'50"	500.00'	78.96'	156.62'	N 89°39'08" W	155.98'
C4	29°55'39"	500.00'	133.64'	261.17'	S 83°39'43" E	258.21'
C5	22°50'01"	250.00'	50.49'	99.63'	N 06°27'25" E	98.97'
C6	27°55'04"	550.00'	136.71'	267.99'	S 03°54'53" W	265.35'
C7	06°41'58"	550.00'	32.19'	64.31'	N 06°41'40" W	64.27'

JOHN GRAY SURVEY A-349

JAMES LOVELADY SURVEY A-538

87,111.5 AC. (TRACT 3)
 LUCAS REAL ESTATE, LLC
 INSTR. 2011101400101190
 D.R.C.C.T.

100-YEAR FLOODPLAIN
 PER FLOODSTUDY BY
 AQUA TERRA ENG. CONSULTANTS
 NO. 024-30-12
 DATED: APRIL 2013

JOHN McKINNEY SURVEY A-596

JOHN McKINNEY SURVEY A-596

9,973 AC.
 ROGER A. STEVENS & JANIS H. STEVENS
 FAMILY REVOCABLE TRUST
 INSTR. 20060313000324710 (NOT DESCRIBED)
 ROGER A. STEVENS & JANIS H. STEVENS
 VOL. 5476, PG. 4793
 D.R.C.C.T.

12 AC. (FIRST TRACT)
 VENITA ELLIS
 VOL. 5696, PG. 1332
 D.R.C.C.T.

7 AC. (SECOND TRACT)
 VENITA ELLIS
 VOL. 5696, PG. 1332
 D.R.C.C.T.

POINT OF BEGINNING
 SPC
 N 7,079,130.64
 E 2,554,909.20

SPC
 N 7,079,126.38
 E 2,552,905.05

SPC
 N 7,078,404.33
 E 2,552,917.76

LOT 4
 TRAILS END ADDITION
 CAB. P. PG. 53
 P.R.C.C.T.

LOT 2
 TRAILS END ADDITION
 CAB. M. PG. 107
 P.R.C.C.T.

LOT 3
 TRAILS END ADDITION
 CAB. M. PG. 107
 P.R.C.C.T.

LOT 3
 TRAILS END ADDITION
 CAB. M. PG. 107
 P.R.C.C.T.

LOT 3
 TRAILS END ADDITION
 CAB. M. PG. 107
 P.R.C.C.T.

LOT 3
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 CAB. M. PG. 107
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LOT 3
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 CAB. M. PG. 107
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LOT 3
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 CAB. M. PG. 107
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LOT 3
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 CAB. M. PG. 107
 P.R.C.C.T.

LOT 3
 TRAILS END ADDITION
 CAB. M. PG. 107
 P.R.C.C.T.

LOT 3
 TRAILS END ADDITION
 CAB. M. PG. 107
 P.R.C.C.T.

OWNER'S CERTIFICATE & DEDICATION

STATE OF TEXAS
COUNTY OF COLLIN

WHEREAS, LUCAS REAL ESTATE, LLC., BEING the owner of a 48.045 acre tract of land situated in the James Lovelady Survey, Abstract No. 538, City of Lucas, Collin County, State of Texas, and being part of that certain 87.1115 acre tract of land (Tract 3) described in deed to Lucas Real Estate, LLC, as recorded in Instrument 20111014001101190, Deed Records, Collin County, Texas, said 48.045 acre tract being more particularly described by metes and bounds as follows:

BEGINNING at a 5/8-inch iron rod with yellow cap stamped "RPLS 3963" set for the northeast corner of said 87.1115 acre tract and the southeast corner of Lot 3, Trails End Addition, an addition to the City of Lucas, as recorded in Cabinet M, Page 107, Plat Records, Collin County, Texas, said corner being in the centerline of Stinson Road, a variable width right-of-way;

THENCE South 00 degrees 55 minutes 28 seconds East, with the east boundary line of said 47.1115 acre tract and the centerline of said Stinson Road, a distance of 1320.02 feet to an exterior ell corner of said 87.1115 acre tract from which a PK Nail found bears South 89 degrees 24 minutes 53 seconds West, a distance of 10.41 feet;

THENCE South 89 degrees 05 minutes 13 seconds West, with a south boundary line of said 47.1115 acre tract, passing a 1/2-inch iron pipe found for an interior ell corner of said 87.1115 acre tract at a distance of 679.10 feet and continuing a total distance of 887.62 feet to a 5/8-inch iron rod with yellow cap stamped "RPLS 3963" set for corner;

THENCE North 00 degrees 54 minutes 24 seconds West, a distance of 420.16 feet to a 5/8-inch iron rod with yellow cap stamped "RPLS 3963" set for corner;

THENCE South 89 degrees 05 minutes 36 seconds West, a distance of 511.39 feet to a 5/8-inch iron rod with yellow cap stamped "RPLS 3963" set for corner;

THENCE North 43 degrees 07 minutes 27 seconds West, a distance of 279.79 feet to a 5/8-inch iron rod with yellow cap stamped "RPLS 3963" set for corner;

THENCE South 88 degrees 48 minutes 36 seconds West, a distance of 416.39 feet to a 5/8-inch iron rod with yellow cap stamped "RPLS 3963" set for corner in the common boundary line of a 59.030 acre tract and a 86.548 acre tract described in a boundary line agreement, as recorded in Instrument 20061020001510100 of said Deed Records;

THENCE North 01 degrees 00 minutes 32 seconds West, with the common agreed boundary line of last mentioned tracts, passing a 5/8-inch iron rod found at the southeast corner of Lot 13, Block A of The Belmont Addition to the City of Lucas as recorded in Cabinet 2013, Page 85 of said Plat Records, Collin County, Texas, and the southeast corner of same addition, at a distance of 270.52 feet, and continuing with the common boundary line of said Lot 13, said addition, and said 87.1115 acre tract, a total distance of 722.28 feet to a 5/8-inch iron rod found for the northwest corner of said 87.115 acre tract, and the northeast corner of said Lot 13, at an interior ell corner of said Belmont Addition and being in the south line of Lot 12 Block A of same;

THENCE South 89 degrees 39 minutes 18 seconds East, with the common boundary line of said 87.1115 acre tract and said Lot 12 and Lot 11 and 10, Block A of said addition, respectively, a distance of 661.92 feet to a 3/4-inch iron rod found for an exterior ell corner of said addition and the southeast corner of said Lot 10, said point also being the southwest corner of Lot 2 of the aforementioned Trails End Addition;

THENCE North 89 degrees 38 minutes 54 seconds East, with the common boundary line of said Lots 2 and 3 of Trails End Addition and said 87.1115 acre tract, a distance of 1342.57 feet to the POINT OF BEGINNING AND CONTAINING 2,092,827 square feet or 48.045 acres of land.

NOW THEREFORE KNOW ALL MEN BY THESE PRESENTS:

THAT, LUCAS REAL ESTATE, LLC., does hereby adopt this plat designating the herein described property as STINSON ROAD ADDITION, an addition to the City of Lucas, Texas, and does hereby dedicate to the public use forever, the streets and alleys shown thereon. The streets and alleys are dedicated for street purposes. The Easements and public use areas, as shown, are dedicated, for the public use forever, for the purposes indicated on this plat. No buildings, fences, trees, shrubs or other improvements or growths shall be constructed or placed upon, over or across the Easements as shown. In addition, Utility Easements may also be used for the mutual use and accommodation of all public utilities desiring to use or using the same unless the easement limits the use to particular utilities, said use by public utilities being subordinate to the Public's and City of Lucas's use thereof. The City of Lucas and public utility entities shall have the right to remove and keep removed all or parts of any buildings, fences, trees, shrubs or other improvements or growths which may in any way endanger or interfere with the systems in said Easements. The City of Lucas and public utility entities shall at all times have the full right of Ingress and Egress to or from their respective easements for the purpose of constructing, reconstructing, inspecting, patrolling, maintaining, and adding to or removing all or parts of their respective systems without the necessity at any time procuring the permission from anyone.

This plat approved subject to all platting ordinances, rules, regulations and resolution of the City of Lucas, Texas.

FOR: LUCAS REAL ESTATE, LLC.

BY: BRADFORD PHILLIPS

STATE OF TEXAS
COUNTY OF COLLIN

Before me, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared Bradford Phillips, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and considerations therein expressed.

Given under my hand and seal of office, this ___ day of _____, 2013.

Notary Public in and for the State of Texas
My Commission Expires: _____

CITY APPROVAL CERTIFICATE

This plat is hereby approved by the Planning and Zoning Commission of the City of Lucas, Texas.

Chairman, Planning and Zoning Commission Date

ATTEST:

Signature Date

Name Date

The The Director of Public Works of the City of Lucas, Texas hereby certifies that to the best of his/her knowledge or belief, this subdivision plat conforms to all requirements of the Code of Ordinances and with engineering construction standards and processes adopted by the City of Lucas, Texas as to which his/her approval is required.

Director of Public Works Date

The Director of Planning and Community Development of the City of Lucas, Texas hereby certifies that to the best of his/her knowledge or belief, this subdivision plat conforms to all requirements of the Code of Ordinances, or as may have been amended or modified, as allowed, by the Planning and Zoning Commission as to which his/her approval is required.

Director of Planning and Community Development Date

SURVEYOR'S CERTIFICATION

KNOW ALL MEN BY THESE PRESENTS:

That I, Robert C. Myers, hereby certify, that I prepared this plat was made from an actual on the ground survey of the land as described and that the corner monuments shown thereon were properly placed under my personal supervision in accordance with the Platting Rules and Regulations of the City of Lucas Planning and Zoning Commission

Preliminary, this document shall not be recorded for any purpose.

ROBERT C. MYERS
REGISTERED PROFESSIONAL LAND SURVEYOR
STATE OF TEXAS NO. 3963

STATE OF TEXAS
COUNTY OF COLLIN

Before me, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared Robert C. Myers, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purpose and considerations therein expressed.

Given under my hand and seal of office, this ____ day of _____, 2013.

Notary Public in and for the State of Texas
My Commission Expires: 02/14/2015

HEALTH DEPARTMENT CERTIFICATION:

I hereby certify that the on-site sewage facilities described on this plat conform to the applicable OSSF laws of the State of Texas, that site evaluations have been submitted representing the site conditions in the area in which on-site sewage facilities are planned to be used.

Registered Sanitarian or Designated Representative
Collin County Development Services

On-Site Sewage Facilities (OSSF) Notes:

- 1. All lots must utilize alternative type On-Site Sewage Facilities.
2. All lots must maintain state-mandated setback of all On-Site Sewage Facility components from any/all easements and drainage areas, water distribution lines, sharp breaks and/or creeks/rivers/ponds, etc. (Per State regulations).
3. A portion of lots 5-8 and 10-16 are located within the 100-year flood plain:
- Any OSSF that is located within the 100-year flood plain is subject to special planning requirements.
- All electrical/mechanical appurtenances located within the 100-year flood plain must be elevated at least 1' above base flood elevation.
- A certificate of elevation establishing base flood elevation and proving that the finished floor will be at least 2' above base flood elevation must accompany any permit application for a structure that is proposed to be located within the curvilinear line of the 100-year flood plain.
4. Tree removal and/or grading for OSSF may be required on individual lots.
5. Individual site evaluations and OSSF design plans (meeting all State and County requirements) must be submitted to and approved by Collin County for each lot prior to construction of any OSSF system.

PRELIMINARY PLAT
FOR REVIEW PURPOSES ONLY

PRELIMINARY PLAT
OAK BROOK ESTATES
PHASE ONE

LAND SURVEYOR
R.C. MYERS SURVEYING, LLC
3400 OXFORD DRIVE
ROWLETT, TX 75088
(214) 532-0636
FAX (972) 412-4875
EMAIL: rcmsurveying@gmail.com
Job No. 211

LOTS 1-22, BLOCK A
22 RESIDENTIAL LOTS
BEING 48.045 ACRES
SITUATED IN THE
JAMES LOVELADY SURVEY, ABSTRACT NO. 538
CITY OF LUCAS, COLLIN COUNTY, TEXAS

OWNER/DEVELOPER
LUCAS REAL ESTATE, LLC
1221 N INTERSTATE 35E STE 200
CARROLLTON, TX 75006-3806

ENGINEERING CONCEPTS & DESIGN, L.P.
ENGINEERING/PROJECT MANAGEMENT/CONSTRUCTION SERVICES
TEXAS FIRM REG. NO. 001146
201 WINDCO CIRCLE, SUITE 200, WYLE, TEXAS 75098
(972) 941-8400 FAX (972) 941-8401



<h2 style="text-align: center;">City of Lucas Council Agenda Request</h2>

Council Meeting: February 6, 2014

Requestor: Stanton Foerster, PE

Account Code #: 6400-309

Date Prepared: 01/13/14

Budgeted Amount: \$40,000

Exhibits: Yes No

AGENDA SUBJECT:

Discuss and Consider the approval of a Professional Services Agreement between the City of Lucas and BW2 Engineers, Inc. for the mapping portion of the 2014 Amendment to the Water Certificate of Convenience and Necessity (CCN) in an amount not to exceed \$14,000.

RECOMMENDED ACTION:

Approval

SUMMARY:

The City of Lucas Water CCN is several years out of date and does not currently reflect the area served by Lucas waterworks. In November 2013, the services of the Russell & Rodriguez, LLP were retained to handle the legal side of the amendment. The largest portion of the application is the mapping. There are seven areas being amended on the existing CCN: 1) Wal-Mart, 2) Forest Grove Road, 3) Orr Road, 4) Ford property, 5) E Lucas Road, 6) Osage Lane, and 7) Lewis Lane.

MOTION:

I make a motion to approve the Professional Services Agreement between the City of Lucas and BW2 Engineers, Inc. for the mapping portion of the 2014 Amendment to the Water Certificate of Convenience and Necessity (CCN) in an amount not to exceed \$14,000.

APPROVED BY: _____

Initial/Date

Department Director: SWF / 01/13/14

City Manager: /

STATE OF TEXAS §
 § **AGREEMENT FOR PROFESSIONAL SERVICES**
COUNTY OF DALLAS §

This agreement (“Agreement”) is made by and between the City of Lucas, Texas (“City”) and BW2 Engineers, Inc. (“Professional”) (each a “Party” and collectively the “Parties”), acting by and through their authorized representatives.

Recitals:

WHEREAS, City desires to engage the services of Professional as an independent contractor and not as an employee in accordance with the terms and conditions set forth in this Agreement; and

WHEREAS, Professional desires to render professional services for the City by providing new mapping of the Water Certificate of Convenience and Necessity (CCN) update during 2014, in accordance with the terms and conditions set forth in this Agreement;

NOW THEREFORE, in exchange for the mutual covenants set forth herein and other valuable consideration, the sufficiency and receipt of which is hereby acknowledged, the Parties agree as follows:

Article I
Term

1.1 This term of this Agreement shall begin on the last date of execution hereof (the “Effective Date”) and continue until completion of the services provided herein.

1.2 Either Party may terminate this Agreement by giving thirty (30) days prior written notice to the other Party. In the event of such termination, Professional shall be entitled to compensation for any services completed to the reasonable satisfaction of the City in accordance with this Agreement prior to such termination.

Article II
Scope of Services

2.1 Professional shall provide the services specifically set forth in Exhibit “A.”

2.2 The Parties acknowledge and agree that any and all opinions provided by Professional represent the best judgment of Professional.

2.3 Topographic Survey documents, including those in electronic form, prepared by Professional and its consultants, agents, representatives and/or employees in connection with the Project are intended for the use and benefit of the City. Professional and its consultants, agents, representatives and/or employees shall be deemed the authors of their respective part of said

Project documents. Notwithstanding, City shall own, have, keep and retain all rights, title and interest in and to all Project documents, including all ownership, common law, statutory and other reserved rights, including copyrights, in and to all such Project documents, whether in draft form or final form, which are produced at its request and in furtherance of this Agreement or the Project. City shall have full authority to authorize its contractors and sub-contractors, City consultants and material or equipment suppliers to reproduce applicable portions of the Project documents to and for use in their execution of the work or for any other purpose. All materials and reports prepared by Professional in connection with this Agreement are “works for hire” and shall be the property of the City. City shall have the right to publish, disclose, distribute and otherwise use such materials and reports in accordance with the Engineering Practice Act of the State of Texas. Professional shall, upon completion of the services, or earlier termination, provide City with reproductions of all materials reports, and exhibits prepared by Professional pursuant to this Agreement, and in electronic format if requested by the City.

Article III Schedule of Work

Professional agrees to commence services upon written direction from the City and to complete the required services in accordance with a work schedule established by the City (the “Work Schedule”).

Article IV Compensation and Method of Payment

4.1 City shall compensate Professional for the services by payment of a fee not to exceed \$12,000.

4.2 City shall compensate Professional for services provided pursuant to this Agreement and, as set forth in this Article, within thirty (30) days after receiving Professional’s invoice, provided there are no errors or discrepancies and that all work noted on the invoice has been completed.

4.3 Professional shall be responsible for all expenses related to the services provided pursuant to this Agreement including, but not limited to, travel, copying and facsimile charges, reproduction charges, and telephone, internet and e-mail charges.

Article V Devotion of Time; Personnel; and Equipment

5.1 Professional shall devote such time as reasonably necessary for the satisfactory performance of the work under this Agreement. Should City require additional services not included under this Agreement, Professional shall make reasonable efforts to provide such additional services at mutually agreed charges or rates, and within the time schedule prescribed by the City, and without decreasing the effectiveness of the performance of services required under this Agreement.

5.2 To the extent reasonably necessary for Professional to perform the services under this Agreement, Professional shall be authorized to engage the services of any agents, assistants, persons, or corporations that Professional may deem proper to aid or assist in the performance of the services under this Agreement. The cost of such personnel and assistance shall be borne exclusively by Professional.

5.3 Professional shall furnish the facilities, equipment, telephones, facsimile machines, email facilities and personnel necessary to perform the services required under this Agreement, unless otherwise provided herein.

Article VI Relationship of Parties

It is understood and agreed by and between the Parties that in satisfying the conditions of this Agreement, Professional is acting independently, and that City assumes no responsibility or liabilities to any third party in connection with these actions. All services to be performed by Professional pursuant to this Agreement shall be in the capacity of an independent contractor, and not as an agent or employee of City. Professional shall supervise the performance of its services and shall be entitled to control the manner and means by which its services are to be performed, subject to the terms of this Agreement. As such, City shall not: train Professional, require Professional to complete regular oral or written reports, require that Professional devote his full-time services to City or dictate Professional's sequence of work or location at which Professional performs his work.

Article VII Miscellaneous

7.1 Entire Agreement. This Agreement constitutes the sole and only agreement between the parties and supersedes any prior understandings written or oral agreements between the parties with respect to this subject matter.

7.2 Assignment. Professional may not assign this Agreement in whole or in part without the prior written consent of City. In the event of an assignment by Professional to which City has consented, the assignee shall agree in writing with City to personally assume, perform, and be bound by all the covenants, and obligations contained in this Agreement.

7.3 Successors and Assigns. Subject to the provisions regarding assignment, this Agreement shall be binding on and inure to the benefit of the parties to it and their respective heirs, executors, administrators, legal representatives, successors and assigns.

7.4 Governing Law. The laws of the State of Texas shall govern this Agreement; and venue for any action concerning this Agreement shall be in the State District Court of Collin County, Texas. The parties agree to submit to the personal and subject matter jurisdiction of said court.

7.5 Amendments. This Agreement may be amended by the mutual written agreement of the parties.

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

7.7 Independent Contractor. It is understood and agreed by and between the parties that Professional, in satisfying the conditions of this Agreement, is acting independently, and that City assumes no responsibility or liabilities to any third party in connection with these actions. All services to be performed by Professional pursuant to this Agreement shall be in the capacity of an independent contractor, and not as an agent or employee of City. Professional shall supervise the performance of its services and shall be entitled to control the manner and means by which its services are to be performed, subject to the terms of this Agreement.

7.8 Notice. Any notice required or permitted to be delivered hereunder may be sent by first class mail, overnight courier or by confirmed telefax or facsimile to the address specified below, or to such other party or address as either party may designate in writing, and shall be deemed received three (3) days after delivery set forth herein:

If intended for City:
Attn: City Manager
City of Lucas
665 Country Club Road
Lucas, Texas 75002-7651

With Copy to:
Joe Gorfida, Jr.
Nichols, Jackson, Dillard, Hager & Smith, L.L.P.
1800 Lincoln Plaza
500 North Akard
Dallas, Texas 75201

If intended for Professional:
Michael Burge
Project Manager
BW2 Engineers, Inc.
1919 S Shiloh Road, Suite 500, LB 27
Garland, Texas 75042

7.9 Counterparts. This Agreement may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute one and the same instrument. Each counterpart may consist of any number of copies hereof each signed by less than all, but together signed by all of the parties hereto.

7.10 Exhibits. The exhibits attached hereto are incorporated herein and made a part hereof for all purposes.

7.11 Indemnification.

- (A) **PROFESSIONAL SHALL RELEASE, DEFEND, INDEMNIFY AND HOLD HARMLESS CITY AND ITS OFFICERS, AGENTS AND EMPLOYEES FROM AND AGAINST ALL DAMAGES, INJURIES (INCLUDING DEATH), CLAIMS, PROPERTY DAMAGES (INCLUDING LOSS OF USE), LOSSES, DEMANDS, SUITS, JUDGMENTS AND COSTS, INCLUDING REASONABLE ATTORNEY’S FEES AND EXPENSES, IN ANY WAY ARISING OUT OF, RELATED TO, OR RESULTING FROM THE SERVICES PROVIDED BY PROFESSIONAL AND TO THE EXTENT CAUSED BY THE NEGLIGENT ACT OR OMISSION OR INTENTIONAL WRONGFUL ACT OR OMISSION OF PROFESSIONAL, ITS OFFICERS, AGENTS, EMPLOYEES, SUBCONTRACTORS, LICENSEES; INVITEES OR ANY OTHER THIRD PARTIES FOR WHOM PROFESSIONAL IS LEGALLY RESPONSIBLE (HEREINAFTER “CLAIMS”). PROFESSIONAL IS EXPRESSLY REQUIRED TO DEFEND CITY AGAINST ALL SUCH CLAIMS.**
- (b) **IN ITS SOLE DISCRETION, CITY SHALL HAVE THE RIGHT TO APPROVE DEFENSE COUNSEL TO BE RETAINED BY PROFESSIONAL IN FULFILLING ITS OBLIGATION HEREUNDER TO DEFEND AND INDEMNIFY CITY, UNLESS SUCH RIGHT IS EXPRESSLY WAIVED BY CITY IN WRITING. CITY RESERVES THE RIGHT TO PROVIDE A PORTION OF ALL ITS OWN DEFENSE; HOWEVER, CITY IS UNDER NO OBLIGATION TO DO SO. ANY SUCH ACTION BY CITY IS NOT TO BE CONSTRUED AS A WAIVER OF PROFESSIONAL’S OBLIGATION TO DEFEND CITY OR AS A WAIVER OF PROFESSIONAL’S OBLIGATION TO INDEMNIFY CITY PURSUANT TO THIS AGREEMENT. PROFESSIONAL SHALL RETAIN CITY APPROVED DEFENSE COUNSEL WITHIN SEVEN (7) BUSINESS DAYS OF CITY’S WRITTEN NOTICE THAT CITY IS INVOKING ITS RIGHT TO INDEMNIFICATION UNDER THIS AGREEMENT. IF PROFESSIONAL FAILS TO RETAIN COUNSEL WITHIN SUCH TIME PERIOD, CITY SHALL HAVE THE RIGHT TO RETAIN DEFENSE COUNSEL ON ITS OWN BEHALF, AND PROFESSIONAL SHALL BE LIABLE FOR ALL COSTS INCURRED BY CITY.**

7.12 Audits and Records. Professional agrees that during the term hereof, City and its representatives may, during normal business hours and as often as deemed necessary, inspect, audit, examine and reproduce any and all of Professional’s records relating to the services provided pursuant to this Agreement for a period of one year following the date of completion of services as determined by City or date of termination if sooner.

7.13 Conflicts of Interests. Professional represents that no official or employee of City has any direct or indirect pecuniary interest in this Agreement.

7.14 Insurance.

- (a) Professional shall during the term hereof maintain in full force and effect the following insurance: (1) a policy of insurance for bodily injury, death and property damage insuring against all claims, demands or actions relating to Professional's performance of services pursuant to this Agreement with a minimum combined single limit of not less than \$1,000,000 Dollars per occurrence for injury to persons (including death), and for property damage; (2) policy of automobile liability insurance covering any vehicles owned and/or operated by Professional, its officers, agents, and employees, and used in the performance of this Agreement; and (3) statutory Worker's Compensation Insurance covering all of Professional's employees involved in the provision of services under this Agreement.

- (b) All insurance and certificate(s) of insurance shall contain the following provisions: (1) name City, its officers, agents and employees as additional insureds as to all applicable coverage with the exception of Workers Compensation Insurance; (2) provide for at least thirty (30) days prior written notice to City for cancellation, non-renewal, or material change of the insurance; (3) provide for a waiver of subrogation against City for injuries, including death, property damage, or any other loss to the extent the same is covered by the proceeds of insurance.

- (c) All insurance companies providing the required insurance shall either be authorized to transact business in Texas and rated at least "B" by AM Best or other equivalent rating service, or approved by the City Risk Manager. (d) A certificate of insurance evidencing the required insurance shall be submitted to the City prior to commencement of services.

[Signature Page to Follow]

EXECUTED this 6th day of February, 2014.

City of Lucas, Texas

By: _____
Dan Savage
Interim City Manager

Approved as to form:



By: _____
Joe Gorfida, Jr., City Attorney
(JIG/61815)

EXECUTED this _____ day of _____, 2014.

Professional

By: _____
Name: _____
Title: _____

EXHIBIT "A"
SCOPE OF WORK



BW2 ENGINEERS, INC.

January 15, 2014

Mr. Stanton Foerster, P.E.
Public Works Director
City of Lucas
665 Country Club Road
Lucas, Texas 75002

Re: 2014 Application to Amend Water CCN
Proposal for Professional Services

Dear Stanton:

BW2 Engineers, Inc. (BW2) is pleased to provide this Letter Proposal to the City of Lucas (City) for the provision of services required to assist the City with a current application to the TCEQ associated with amending the City's Water Certificate of Convenience and Necessity (CCN).

Scope of Services

The scope of services to be provided by BW2 for this project includes the following. This scope of services applies to the preparation of the mapping required for the application for the initial submittal to the TCEQ. Any services required beyond the initial submittal shall be addressed in a subsequent proposal.

- Participate in meetings with the City's staff as related to the application.
- Prepare a legal description and a set of maps, which will depict the area to be added to the City's current water CCN. This description and these maps will be provided to the City for inclusion in their application to TCEQ for amending the City's CCN, which is being prepared by others who are following the TCEQ procedures as outlined in their TCEQ-10362 (current edition) for "Application to Obtain or Amend a Water or Sewer Certificate of Convenience and Necessity (CCN)".
- Prepare other legal descriptions and sets of maps to depict other areas to be added to the City's current Water CCN (as determined and specified by the City). These descriptions and maps will be provided to the City for inclusion in their application to TCEQ for amending the City's CCN.

Fees

BW2 will perform the services identified in the Scope of Services shown above for a fixed fee of \$14,000 for the eight areas that the City would like to add to the City's water CCN (see attached map), based on a set of maps being prepared for each area. If it is acceptable to combine all of the areas on to one set of maps, the fee can be reduced to \$8,000.

Assumptions

The following assumptions have been made in preparing this proposal:

- The City will provide any original documents that are needed to fulfill the requirements of the CCN application.
- Any legal judgments regarding the City's CCN application will be made by the City's attorney and/or any attorney retained by the City to assist with this application.
- Provision of financial records and other City records required as a part of the application will be the responsibility of the City.

Terms and Conditions

This agreement is based on the following conditions:

- The services to be performed by BW2 are intended solely for the benefit of the City. Nothing contained herein will confer any rights upon, or create any duties on the part of BW2 toward any contractor, subcontractor, supplier, or the agents, officers, employees, insurers, or sureties of these parties.
- Unless otherwise stated, BW2 will have access to the site for activities necessary for the performance of the services.
- Any claims or disputes made during the project between the City and BW2 will be submitted to nonbinding mediation. City and BW2 agree to include a similar mediation agreement with all contractors, subcontractors, subconsultants, suppliers and fabricators, thereby providing for mediation as the primary method for dispute resolution among all parties.
- The City will, to the fullest extent permitted by law, indemnify and hold harmless BW2, his or her officers, directors, employees, agents and subconsultants from and against all damage, liability and cost, including reasonable attorneys' fees and defense costs, arising out of or in any way connected with the performance by any of the parties above named of the services under this agreement, excepting only those damages, liabilities or costs attributable to the sole negligence or willful misconduct of BW2.
- BW2 will, to the fullest extent permitted by law, indemnify and hold harmless the City of Lucas, his or her officers, directors, employees, agents and subconsultants from and against all damage, liability and cost, including reasonable attorneys' fees and defense costs, arising out of or in any way connected with the performance by any of the parties above named of the services under this agreement, excepting only those damages, liabilities or costs attributable to the sole negligence or willful misconduct of the City of Lucas.
- BW2 will not be required to execute any document that would result in its certifying, guaranteeing or warranting the existence of conditions whose existence BW2 cannot ascertain.
- BW2 assumes full responsibility for the damages, claims, losses or expenses which may in any way arise out of or result from the performance by BW2 of the professional services under this Agreement, or which may result from any error, omission or act of BW2 or any person employed by or under contract with BW2, including the damages, claims, losses and expenses of BW2. The City agrees to limit the total liability of BW2 under this Agreement to an amount no greater than two times the Compensation identified within this Agreement and the City agrees to indemnify BW2 for any and all liability beyond this limit.
- Either party may terminate this Contract upon written notice to the other party at least ten days prior to the date of termination. Upon receipt of termination notice, BW2 will initiate efforts to stop all work in progress. All finished or unfinished project documents prepared by BW2 will be delivered to City and shall become the property of City upon final payment to BW2. City shall pay BW2 for all work performed in accordance with the provisions of this Agreement prior to the date of termination.

Mr. Stanton Foerster, P.E.
January 15, 2014
Page 3

Please acknowledge your acceptance of this proposal by signing in the spaces provided below and returning a copy to this office. Execution of this proposal will provide the formal agreement for the services and receipt of such signed copy will be considered authorization for BW2 to proceed with the services.

Very truly yours,

RECOMMENDED FOR APPROVAL:

M: M R. Burge

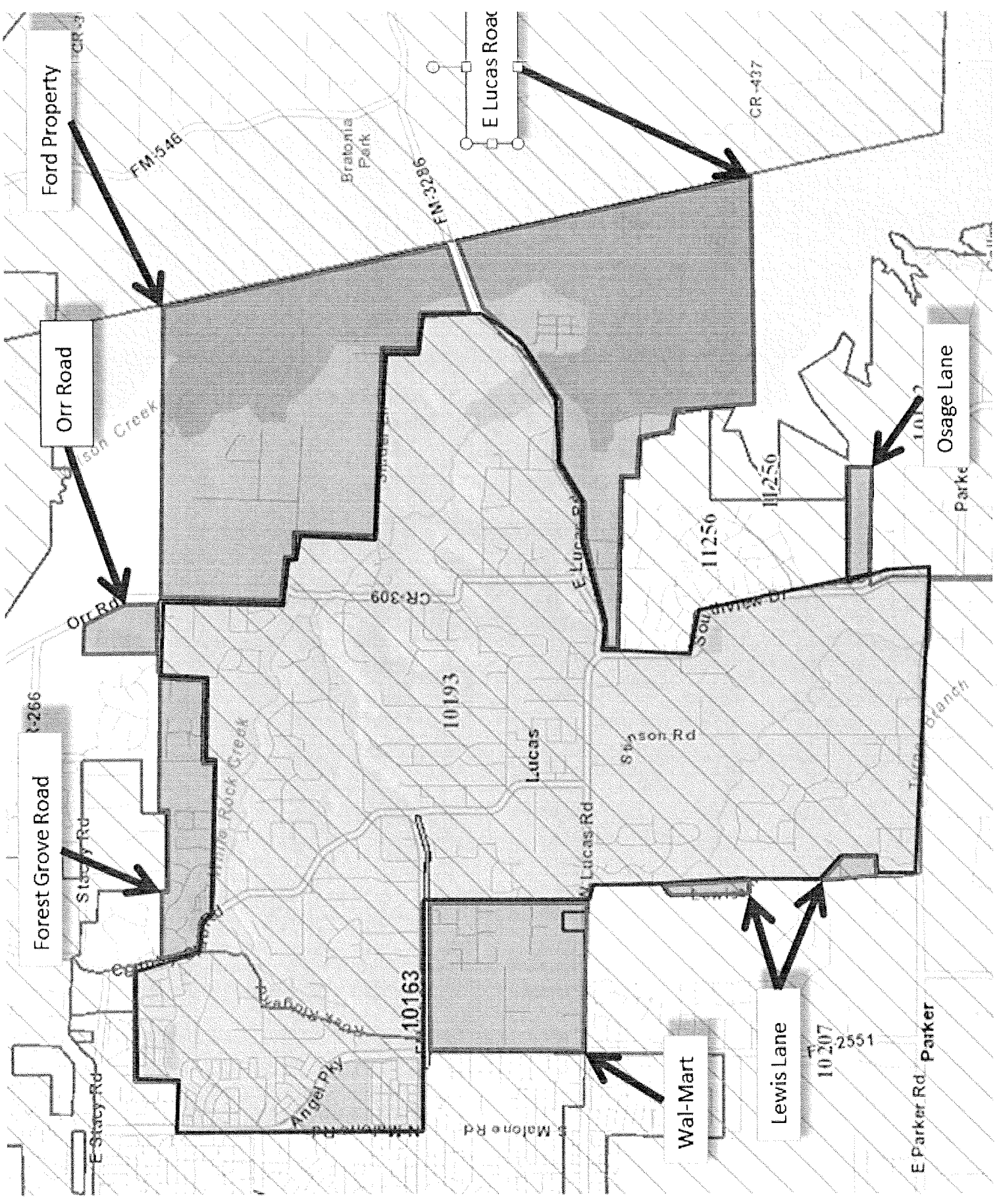
Michael R. Burge, P.E.
Project Manager

Stanton Foerster, P.E. Date
Public Works Director

APPROVED:

Dan Savage Date
Interim City Manager

MRB:maw



Ford Property

FM-546

Bratonia Park

E Lucas Road

CR-437

Orr Road

Osage Lane

Forest Grove Road

Wal-Mart

Lewis Lane

E Parker Rd. Parker

CR-266

Orr Rd

CR-309

10193

Lucas

Sanson Rd

11256

11256

10163

10207
2551

Stacy Rd

CR-266

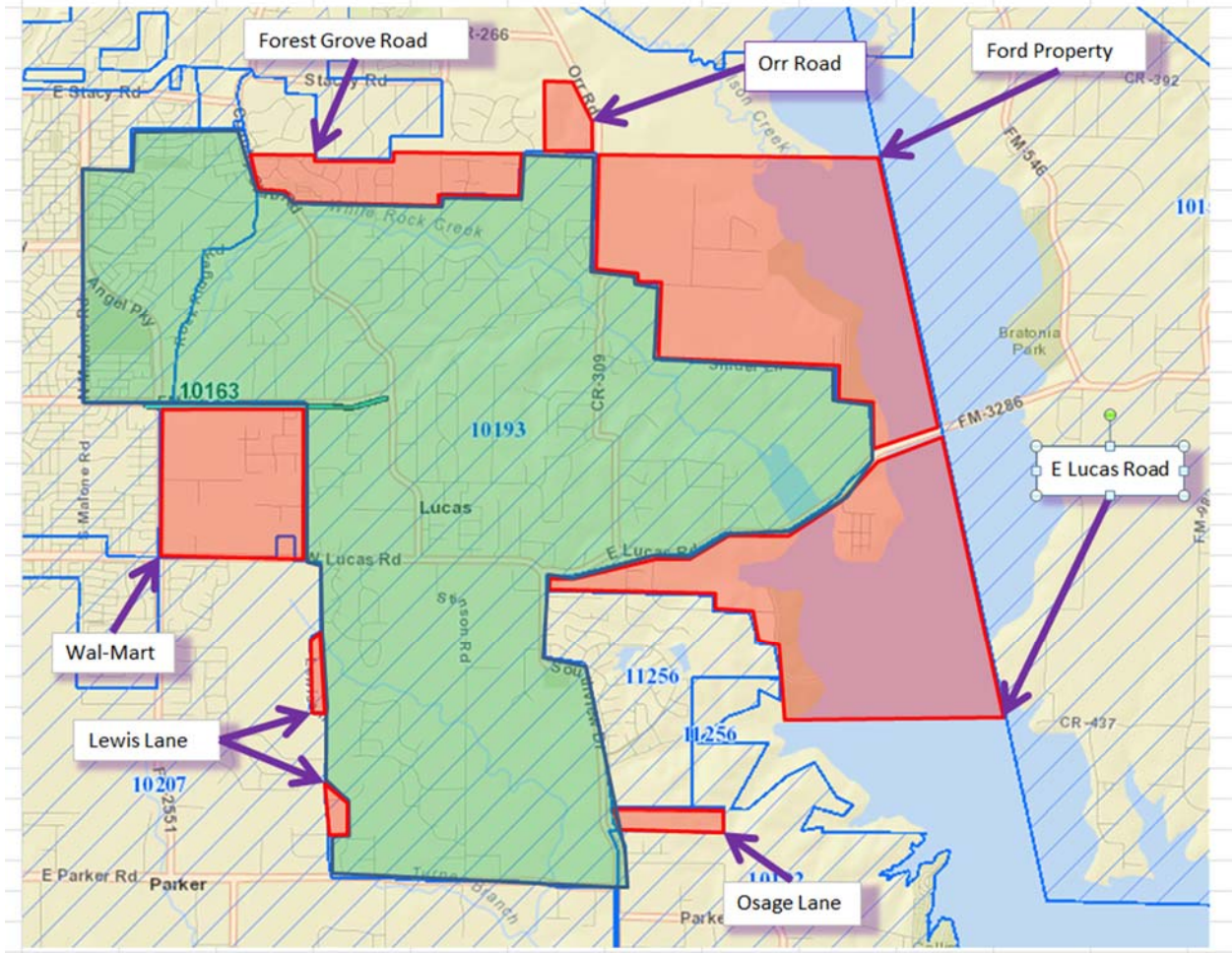
White Rock Creek

Angel Pky

Malene Rd

Parker

branch



Water CCN Map with Amendment Areas

February 6, 2014



City of Lucas Council Agenda Request

Council Meeting: February 6, 2014

Requestor: Stanton Foerster, PE

Account Code #: Roadway Impact Fees

Date Prepared: 1/28/14

Budgeted Amount: None

Exhibits: Yes No

AGENDA SUBJECT:

Discuss and Consider the approval of **Resolution # R-2014-02-00409** of the City Council of the City of Lucas, Texas, approving the Advanced Funding Agreement for Voluntary Local Government Contributions to Transportation Improvement Project with no required match; and providing an effective date.

RECOMMENDED ACTION:

Approve.

SUMMARY:

In December 2013, the Lucas City Council approved an AFA for the above project. When staff notified the State of the Council's actions, the State requested that approval come in the form of a resolution and sent staff a new agreement. There is not material difference in the two agreements, but a resolution is a required part of the AFA.

The City's total payment to the State remains \$0.00 as shown in Attachment C.

Commission Minute Order Number 113675 authorizes the State to undertake and complete a highway improvement generally described as the construction of intersection improvements along FM 2170 from FM 2551 to East of FM 2551 in the City of Lucas, Collin County.

TxDOT will be doing incurring \$111,600 in direct and \$48,300 indirect costs. To make all the number work out to satisfaction of TxDOT, the city shows the cost of the Project to be \$1,000,000. This was done to make sure TxDOT budgeted enough for their direct and indirect costs.

MOTION:

I make a Motion to rescind the agreement that was approved at the January 16, 2014 City Council Meeting and approve **Resolution # R-2014-02-00409** of the City Council of the City of Lucas, Texas, approving the Advanced Funding Agreement for Voluntary Local Government Contributions to Transportation Improvement Project with no required match; and providing an effective date.

APPROVED BY: _____

Initial/Date

Department Director: SWF / 12/9/13

City Manager: /

RESOLUTION NO. # R-2014-02-00409

[Approving Advance Funding Agreement for a Local Government Contribution to a Transportation Improvement Project]

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LUCAS, TEXAS, APPROVING THE ADVANCE FUNDING AGREEMENT FOR VOLUNTARY LOCAL GOVERNMENT CONTRIBUTIONS TO TRANSPORTATION IMPROVEMENT PROJECTS WITH NO REQUIRED MATCH; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, federal law establishes federally funded programs for transportation improvements to implement its public purposes; and

WHEREAS, the Texas Transportation Code, Sections 201.103 and 222.052, establish that the State shall design, construct and operate a system of highways in cooperation with local governments; and

WHEREAS, the Texas Transportation Commission passed Minute Order Number 113675, authorizing the State to undertake and complete a highway improvement generally described as the construction of intersection improvements along FM 2170 from FM 2551 to East of FM 2551 in the City of Lucas, Collin County, Texas (the "Project"); and

WHEREAS, the City Council of the City of Lucas, Texas, desires to enter into an Advance Funding Agreement for a Local Government Contribution to a Transportation Improvement Project (the "Agreement") between the Texas Department of Transportation and the City for the Project;

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

SECTION 1. The City Manager is hereby authorized to execute the Agreement, attached hereto as Exhibit "A," with Texas Department of Transportation for the Project.

SECTION 2. This Resolution shall take immediately upon its passage.

DULY PASSED by the City Council of the City of Lucas, Texas, on the 6th day of February, 2014.

APPROVED:

Rebecca Mark, Mayor

ATTEST:

Kathy Wingo, TRMC, MMC, City Secretary

APPROVED AS TO FORM:

A handwritten signature in blue ink, appearing to read "Joe Gorfida, Jr.", is written on a light blue rectangular background.

Joe Gorfida, City Attorney
(01-24-14/64489)

EXHIBIT "A"
**Advance Funding Agreement for a Local Government Contribution to a Transportation
Improvement Project (Revised 03/29/2013)**

CSJ #: 2461-01-008
District #: 18-Dallas
Code Chart 64 #: 25670
Project: FM 2170
Limits: From FM 2551 to East of FM 2551
County: Collin

STATE OF TEXAS §

COUNTY OF TRAVIS §

**ADVANCE FUNDING AGREEMENT
For A
LOCAL GOVERNMENT CONTRIBUTION
TO A TRANSPORTATION IMPROVEMENT PROJECT
ON SYSTEM**

THIS AGREEMENT is made by and between the State of Texas, acting by and through the Texas Department of Transportation called the "State", and the City of Lucas, acting by and through its duly authorized officials, called the "Local Government."

WITNESSETH

WHEREAS, federal law establishes federally funded programs for transportation improvements to implement its public purposes; and

WHEREAS, the Texas Transportation Code, Sections 201.103 and 222.052 establish that the State shall design, construct and operate a system of highways in cooperation with local governments; and

WHEREAS, federal and state laws require local governments to meet certain contract standards relating to the management and administration of State and federal funds; and

WHEREAS, the Texas Transportation Commission passed Minute Order Number 113675, authorizing the State to undertake and complete a highway improvement generally described as the construction of intersection improvements along FM 2170 from FM 2551 to East of FM 2551 in the City of Lucas, Collin County, called the "Project"; and,

WHEREAS, the Governing Body of the Local Government has approved entering into this agreement by resolution or ordinance dated _____, 20____, which is attached to and made a part of this agreement as Attachment "A" for the improvement covered by this agreement. A map showing the Project location appears in Attachment "B," which is attached to and made a part of this agreement.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and agreements of the parties, to be by them respectively kept and performed as set forth in this agreement, it is agreed as follows:

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AGREEMENT

1. Period of the Agreement

This agreement becomes effective when signed by the last party whose signing makes the agreement fully executed. This agreement shall remain in effect until the Project is completed or unless terminated as provided below.

2. Scope of Work

The design and construction of intersection improvements along FM 2170 from FM 2551 to East of FM 2551 in the City of Lucas, Collin County as shown on Attachment "B", Location Map.

3. Local Project Sources and Uses of Funds

- A.** The total estimated cost of the Project is shown in the Project Budget – Attachment “C”, which is attached to and made a part of this agreement. The expected cash contributions from the Federal or State government, the Local Governments, or other parties is shown in Attachment “C”. The State will pay for only those project costs that have been approved by the Texas Transportation Commission. The State and the Federal Government will not reimburse the Local Government for any work performed before the federal spending authority is formally obligated to the Project by the Federal Highway Administration. After federal funds have been obligated, the State will send to the Local Government a copy of the formal documentation showing the obligation of funds including federal award information. The Local Government is responsible for 100% of the cost of any work performed under its direction or control before the federal spending authority is formally obligated.
- B.** If the Local Government will perform any work under this contract for which reimbursement will be provided by or through the State, the Local Government must complete training before federal spending authority is obligated. Training is complete when at least one individual who is working actively and directly on the Project successfully completes and receives a certificate for the course entitled *Local Government Project Procedures Qualification for the Texas Department of Transportation*. The Local Government shall provide the certificate of qualification to the State. The individual who receives the training certificate may be an employee of the Local Government or an employee of a firm that has been contracted by the Local Government to perform oversight of the Project. The State in its discretion may deny reimbursement if the Local Government has not designated a qualified individual to oversee the Project.
- C.** This Project cost estimate shows how necessary resources for completing the Project will be provided by major cost categories. These categories may include but are not limited to: (1) costs of real property; (2) costs of utility work; (3) costs of environmental assessment and remediation; (4) cost of preliminary engineering and design; (5) cost of construction and construction management; and (6) any other local project costs.
- D.** The State will be responsible for securing the Federal and State share of the funding required for the development and construction of the local Project. If the Local

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Government is due funds for expenses incurred, these funds will be reimbursed to the Local Government on a cost basis.

- E.** The Local Government will be responsible for all non-federal or non-state participation costs associated with the Project, including any overruns in excess of the approved local project budget unless otherwise provided for in this agreement or approved otherwise in an amendment to this agreement.
- F.** Prior to the performance of any engineering review work by the State, the Local Government will pay to the State the amount specified in Attachment C. At a minimum, this amount shall equal the Local Government's funding share for the estimated cost of preliminary engineering for the Project. At least sixty (60) days prior to the date set for receipt of the construction bids, the Local Government shall remit its remaining financial share for the State's estimated construction oversight and construction cost.
- G.** In the event that the State determines that additional funding by the Local Government is required at any time during the Project, the State will notify the Local Government in writing. The Local Government shall make payment to the State within thirty (30) days from receipt of the State's written notification.
- H.** Whenever funds are paid by the Local Government to the State under this agreement, the Local Government shall remit a check or warrant made payable to the "Texas Department of Transportation Trust Fund." The check or warrant shall be deposited by the State in an escrow account to be managed by the State. Funds in the escrow account may only be applied to the State Project.
- I.** Upon completion of the Project, the State will perform an audit of the Project costs. Any funds due by the Local Government, the State, or the Federal government will be promptly paid by the owing party. If, after final Project accounting, excess funds remain in the escrow account, those funds may be applied by the State to the Local Government's contractual obligations to the State under another advance funding agreement with approval by appropriate personnel of the Local Government.
- J.** The State will not pay interest on any funds provided by the Local Government.
- K.** If a waiver has been granted, the State will not charge the Local Government for the indirect costs the State incurs on the local Project, unless this agreement is terminated at the request of the Local Government prior to completion of the Project.
- L.** If the Project has been approved for a "fixed price" or an "incremental payment" non-standard funding or payment arrangement under 43 TAC §15.52, the budget in Attachment C will clearly state the amount of the fixed price or the incremental payment schedule.
- M.** If the Local government is an Economically Disadvantaged County and if the State has approved adjustments to the standard financing arrangement, this agreement reflects those adjustments.
- N.** The state auditor may conduct an audit or investigation of any entity receiving funds from the State directly under this contract or indirectly through a subcontract under this contract. Acceptance of funds directly under this contract or indirectly through a subcontract under this contract acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. An entity that is the subject of an audit or investigation must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit.

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- O. Payment under this contract beyond the end of the current fiscal biennium is subject to availability of appropriated funds. If funds are not appropriated, this contract shall be terminated immediately with no liability to either party.
- P. The Local Government is authorized to submit requests for reimbursement by submitting the original of an itemized invoice in a form and containing all items required by the State no more frequently than monthly, and no later than ninety (90) days after costs are incurred. If the Local Government submits invoices more than ninety (90) days after the costs are incurred, and if federal funding is reduced as a result, the State shall have no responsibility to reimburse the Local Government for those costs.
- Q. The State will not execute the contract for the construction of the Project until the required funding has been made available by the Local Government in accordance with this agreement.

4. Termination of this Agreement

This agreement shall remain in effect until the project is completed and accepted by all parties, unless:

- A. The agreement is terminated in writing with the mutual consent of the parties;
- B. The agreement is terminated by one party because of a breach, in which case any cost incurred because of the breach shall be paid by the breaching party;
- C. The Local Government elects not to provide funding after the completion of preliminary engineering, specifications, and estimates (PS&E) and the Project does not proceed because of insufficient funds, in which case the Local Government agrees to reimburse the State for its reasonable actual costs incurred during the Project; or
- D. The Project is inactive for thirty-six (36) months or longer and no expenditures have been charged against federal funds, in which case the State may in its discretion terminate this agreement.

5. Amendments

Amendments to this agreement due to changes in the character of the work, terms of the agreement, or responsibilities of the parties relating to the Project may be enacted through a mutually agreed upon, written amendment.

6. Remedies

This agreement shall not be considered as specifying the exclusive remedy for any agreement default, but all remedies existing at law and in equity may be availed of by either party to this agreement and shall be cumulative.

7. Utilities

The Local Government shall be responsible for the adjustment, removal, or relocation of utility facilities in accordance with applicable State laws, regulations, rules, policies, and procedures, including any cost to the State of a delay resulting from the Local Government's failure to ensure that utility facilities are adjusted, removed, or relocated before the scheduled beginning of construction. The Local Government will not be reimbursed with federal or state funds for the cost of required utility work. The Local Government must obtain advance approval for any variance from established procedures. Before a construction contract is let, the Local Government shall provide, at the State's request, a certification stating that the Local

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Government has completed the adjustment of all utilities that must be adjusted before construction is completed.

8. Environmental Assessment and Mitigation

Development of a transportation project must comply with the National Environmental Policy Act and the National Historic Preservation Act of 1966, which require environmental clearance of federal-aid projects.

- A.** The Local Government is responsible for the identification and assessment of any environmental problems associated with the development of a local project governed by this agreement.
- B.** The Local Government is responsible for the cost of any environmental problem's mitigation and remediation.
- C.** The Local Government is responsible for providing any public meetings or public hearings required for development of the environmental assessment. Public hearings will not be held prior to the approval of project schematic.
- D.** The Local Government is responsible for the preparation of the NEPA documents required for the environmental clearance of this Project.
- E.** Before the advertisement for bids, the Local Government shall provide to the State written documentation from the appropriate regulatory agency or agencies that all environmental clearances have been obtained.

9. Compliance with Texas Accessibility Standards and ADA

All parties to this agreement shall ensure that the plans for and the construction of all projects subject to this agreement are in compliance with the Texas Accessibility Standards (TAS) issued by the Texas Department of Licensing and Regulation, under the Architectural Barriers Act, Article 9102, Texas Civil Statutes. The TAS establishes minimum accessibility requirements to be consistent with minimum accessibility requirements of the Americans with Disabilities Act (P.L. 101-336) (ADA).

10. Architectural and Engineering Services

The Local Government has responsibility for the performance of architectural and engineering services. The engineering plans shall be developed in accordance with the applicable *State's Standard Specifications for Construction and Maintenance of Highways, Streets and Bridges* and the special specifications and special provisions related to it. For projects on the state highway system, the design shall, at a minimum conform to applicable State manuals. For projects not on the state highway system, the design shall, at a minimum, conform to applicable *American Association of State Highway and Transportation Officials* design standards. In procuring professional services, the parties to this agreement must comply with federal requirements cited in 23 CFR Part 172 if the project is federally funded and with Texas Government Code 2254, Subchapter A, in all cases. Professional contracts for federally funded projects must conform to federal requirements, specifically including the provision for participation by Disadvantaged Business Enterprises (DBEs), ADA, and environmental matters.

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11. Construction Responsibilities

- A. The Local Government shall advertise for construction bids, issue bid proposals, receive and tabulate the bids, and award and administer the contract for construction of the Project. Administration of the contract includes the responsibility for construction engineering and for issuance of any change orders, supplemental agreements, amendments, or additional work orders that may become necessary subsequent to the award of the construction contract. In order to ensure federal funding eligibility, projects must be authorized by the State prior to advertising for construction.
- B. The Local Government will use the State’s approved contract letting and award procedures to let and award the construction contract.
- C. Prior to their execution, the State will be given the opportunity to review contract change orders that will result in an increase in cost to the State.
- D. Upon completion of the Project, the party constructing the Project will issue and sign a “Notification of Completion” acknowledging the Project’s construction completion.
- E. For federally funded contracts, the parties to this agreement will comply with federal construction requirements cited in 23 CFR Part 635 and with requirements cited in 23 CFR Part 633, and shall include the latest version of Form “FHWA-1273” in the contract bidding documents. If force account work will be performed, a finding of cost effectiveness shall be made in compliance with 23 CFR 635, Subpart B.

12. Project Maintenance

The Local Government shall be responsible for maintenance of locally owned roads after completion of the work and the State shall be responsible for maintenance of state highway system after completion of the work if the work was on the state highway system, unless otherwise provided for in existing maintenance agreements with the Local Government.

13. Right of Way and Real Property

The State is responsible for the provision and acquisition of any needed right of way or real property.

14. Notices

All notices to either party shall be delivered personally or sent by certified or U.S. mail, postage prepaid, addressed to that party at the following address:

Local Government:	State:
Director of Public Works City of Lucas 665 Country Club Road Lucas, Texas 75002-7651	Director of Contract Services Office Texas Department of Transportation 125 E. 11 th Street Austin, Texas 78701

All notices shall be deemed given on the date delivered in person or deposited in the mail, unless otherwise provided by this agreement. Either party may change the above address by sending written notice of the change to the other party. Either party may request in writing that

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notices shall be delivered personally or by certified U.S. mail, and that request shall be carried out by the other party.

15. Legal Construction

If one or more of the provisions contained in this agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions and this agreement shall be construed as if it did not contain the invalid, illegal, or unenforceable provision.

16. Responsibilities of the Parties

The State and the Local Government agree that neither party is an agent, servant, or employee of the other party and each party agrees it is responsible for its individual acts and deeds as well as the acts and deeds of its contractors, employees, representatives, and agents.

17. Ownership of Documents

Upon completion or termination of this agreement, all documents prepared by the State shall remain the property of the State. All data prepared under this agreement shall be made available to the State without restriction or limitation on their further use. All documents produced or approved or otherwise created by the Local Government shall be transmitted to the State in the form of photocopy reproduction on a monthly basis as required by the State. The originals shall remain the property of the Local Government. At the request of the State, the Local Government shall submit any information required by the State in the format directed by the State.

18. Compliance with Laws

The parties shall comply with all federal, state, and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts or administrative bodies or tribunals in any manner affecting the performance of this agreement. When required, the Local Government shall furnish the State with satisfactory proof of this compliance.

19. Sole Agreement

This agreement constitutes the sole and only agreement between the parties and supersedes any prior understandings or written or oral agreements respecting the agreement's subject matter.

20. Cost Principles

In order to be reimbursed with federal funds, the parties shall comply with the Cost Principles established in OMB Circular A-87 that specify that all reimbursed costs are allowable, reasonable, and allocable to the Project.

21. Procurement and Property Management Standards

The parties shall adhere to the procurement standards established in Title 49 CFR §18.36 and with the property management standard established in Title 49 CFR §18.32.

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22. Inspection of Books and Records

The parties to this agreement shall maintain all books, documents, papers, accounting records, and other documentation relating to costs incurred under this agreement and shall make such materials available to the State, the Local Government, and, if federally funded, the Federal Highway Administration (FHWA), and the U.S. Office of the Inspector General, or their duly authorized representatives for review and inspection at its office during the contract period and for four (4) years from the date of completion of work defined under this contract or until any impending litigation, or claims are resolved. Additionally, the State, the Local Government, and the FHWA and their duly authorized representatives shall have access to all the governmental records that are directly applicable to this agreement for the purpose of making audits, examinations, excerpts, and transcriptions.

23. Civil Rights Compliance

The Local Government shall comply with the regulations of the United States Department of Transportation as they relate to non-discrimination (49 CFR Part 21 and 23 CFR Part 200), and Executive Order 11246 titled "Equal Employment Opportunity," as amended by Executive Order 11375 and supplemented in the Department of Labor Regulations (41 CFR Part 60).

24. Disadvantaged Business Enterprise (DBE) Program Requirements

- A.** The parties shall comply with the Disadvantaged Business Enterprise Program requirements established in 49 CFR Part 26.
- B.** The Local Government shall adopt, in its totality, the State's federally approved DBE program.
- C.** The Local Government shall set an appropriate DBE goal consistent with the State's DBE guidelines and in consideration of the local market, project size, and nature of the goods or services to be acquired. The Local Government shall have final decision-making authority regarding the DBE goal and shall be responsible for documenting its actions.
- D.** The Local Government shall follow all other parts of the State's DBE program referenced in TxDOT Form 2395, Memorandum of Understanding Regarding the Adoption of the Texas Department of Transportation's Federally-Approved Disadvantaged Business Enterprise by Entity, and attachments found at web address http://ftp.dot.state.tx.us/pub/txdot-info/bop/dbe/mou/mou_attachments.pdf.
- E.** The Local Government shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any U.S. Department of Transportation (DOT)-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The Local Government shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure non-discrimination in award and administration of DOT-assisted contracts. The State's DBE program, as required by 49 CFR Part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the Local Government of its failure to carry out its approved program, the State may impose sanctions as provided for under 49 CFR Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

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- F. Each contract the Local Government signs with a contractor (and each subcontract the prime contractor signs with a sub-contractor) must include the following assurance: *The contractor, sub-recipient, or sub-contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this agreement, which may result in the termination of this agreement or such other remedy as the recipient deems appropriate.*

25. Debarment Certifications

The parties are prohibited from making any award at any tier to any party that is debarred or suspended or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549, "Debarment and Suspension." By executing this agreement, the Local Government certifies that it is not currently debarred, suspended, or otherwise excluded from or ineligible for participation in Federal Programs under Executive Order 12549 and further certifies that it will not do business with any party that is currently debarred, suspended, or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549. The parties to this contract shall require any party to a subcontract or purchase order awarded under this contract to certify its eligibility to receive federal funds and, when requested by the State, to furnish a copy of the certification.

26. Lobbying Certification

In executing this agreement, each signatory certifies to the best of that signatory's knowledge and belief, that:

- A. No federal appropriated funds have been paid or will be paid by or on behalf of the parties to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- B. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with federal contracts, grants, loans, or cooperative agreements, the signatory for the Local Government shall complete and submit the Federal Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- C. The parties shall require that the language of this certification shall be included in the award documents for all sub-awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and all sub-recipients shall certify and disclose accordingly. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Title 31 U.S.C. §1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

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27. Insurance

If this agreement authorizes the Local Government or its contractor to perform any work on State right of way, before beginning work the entity performing the work shall provide the State with a fully executed copy of the State's Form 1560 Certificate of Insurance verifying the existence of coverage in the amounts and types specified on the Certificate of Insurance for all persons and entities working on State right of way. This coverage shall be maintained until all work on the State right of way is complete. If coverage is not maintained, all work on State right of way shall cease immediately, and the State may recover damages and all costs of completing the work.

28. Federal Funding Accountability and Transparency Act Requirements

- A. Any recipient of funds under this agreement agrees to comply with the Federal Funding Accountability and Transparency Act (FFATA) and implementing regulations at 2 CFR Part 170, including Appendix A. This agreement is subject to the following award terms:
<http://www.gpo.gov/fdsys/pkg/FR-2010-09-14/pdf/2010-22705.pdf> and
<http://www.gpo.gov/fdsys/pkg/FR-2010-09-14/pdf/2010-22706.pdf>.
- B. The Local Government agrees that it shall:
1. Obtain and provide to the State a Central Contracting Registry (CCR) number (Federal Acquisition Regulation, Part 4, Sub-part 4.1100) if this award provides more than \$25,000 in Federal funding. The CCR number may be obtained by visiting the CCR website whose address is: <https://www.sam.gov/portal/public/SAM/>;
 2. Obtain and provide to the State a Data Universal Numbering System (DUNS) number, a unique nine-character number that allows Federal government to track the distribution of federal money. The DUNS may be requested free of charge for all businesses and entities required to do so by visiting the Dun & Bradstreet (D&B) on-line registration website <http://fedgov.dnb.com/webform>; and
 3. Report the total compensation and names of its top five (5) executives to the State if:
 - i. More than 80% of annual gross revenues are from the Federal government, and those revenues are greater than \$25,000,000; and
 - ii. The compensation information is not already available through reporting to the U.S. Securities and Exchange Commission.

29. Single Audit Report

- A. The parties shall comply with the requirements of the Single Audit Act of 1984, P.L. 98-502, ensuring that the single audit report includes the coverage stipulated in OMB Circular A-133.
- B. If threshold expenditures of \$500,000 or more are met during the Local Government's fiscal year, the Local Government must submit a Single Audit Report and Management Letter (if applicable) to TxDOT's Audit Office, 125 E. 11th Street, Austin, TX 78701 or contact TxDOT's Audit Office at <http://www.txdot.gov/inside-txdot/office/audit/contact.html>.
- C. If expenditures are less than \$500,000 during the Local Government's fiscal year, the Local Government must submit a statement to TxDOT's Audit Office as follows: "We did not

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Project: FM 2170
Limits: From FM 2551 to East of FM 2551
County: Collin

meet the \$500,000 expenditure threshold and therefore, are not required to have a single audit performed for FY _____."

- D. For each year the project remains open for federal funding expenditures, the Local Government will be responsible for filing a report or statement as described above. The required annual filing shall extend throughout the life of the agreement, unless otherwise amended or the project has been formally closed out and no charges have been incurred within the current fiscal year.

30. Signatory Warranty

Each signatory warrants that the signatory has necessary authority to execute this agreement on behalf of the entity represented.

THIS AGREEMENT IS EXECUTED by the State and the Local Government in duplicate.

THE LOCAL GOVERNMENT – CITY OF LUCAS

By: _____
Dan Savage
Interim City Manager

Date: _____

THE STATE OF TEXAS

By: _____
Janice Mullenix
Director of Contract Services
Texas Department of Transportation

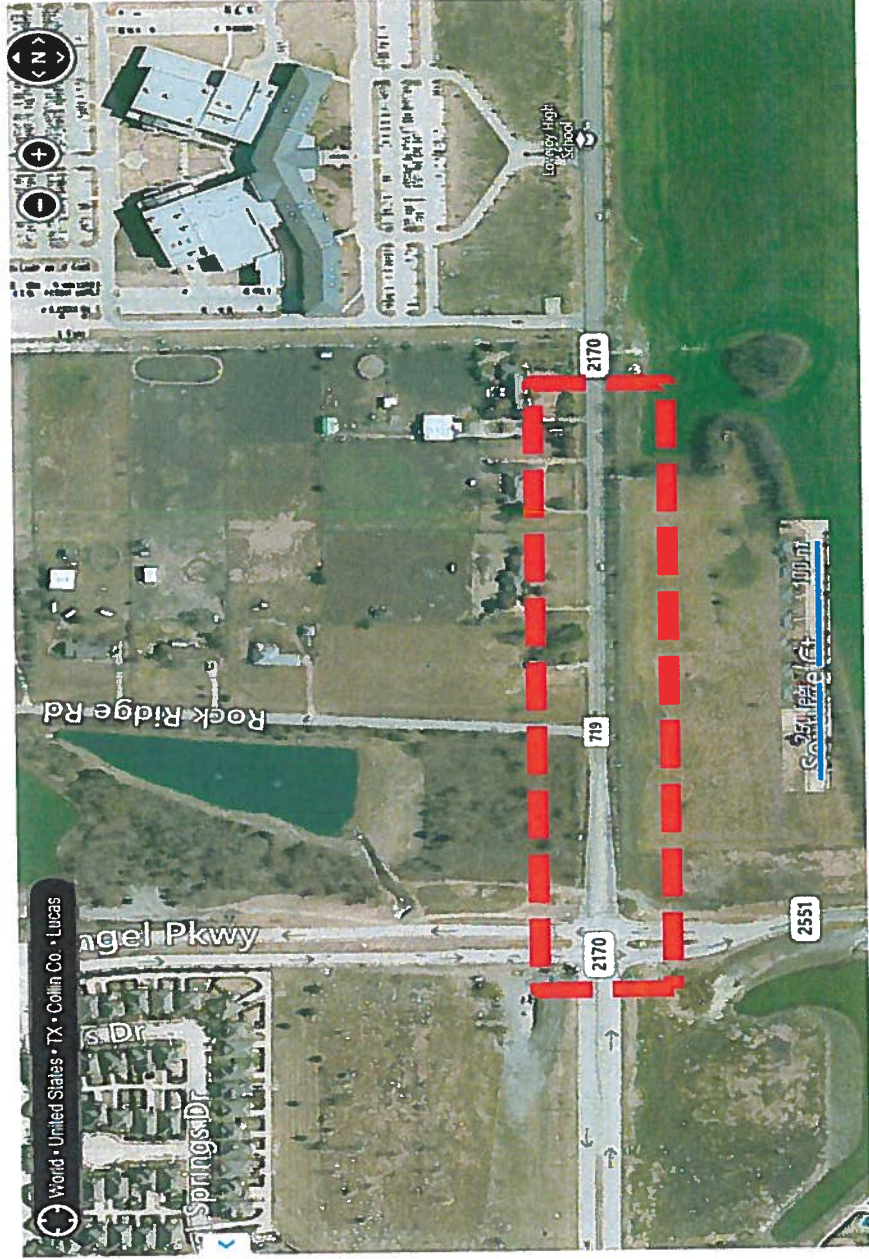
Date: _____

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Project: FM 2170
Limits: From FM 2551 to East of FM 2551
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ATTACHMENT A
RESOLUTION OR ORDINANCE

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ATTACHMENT B LOCATION MAP SHOWING PROJECT



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ATTACHMENT C PROJECT BUDGET

The Local Government will be responsible for 100% of the cost for the preparation of plans, specifications and estimate (PS&E) and the construction of intersection improvements along FM 2170 from FM 2551 to East of FM 2551 in the City of Lucas, Collin County. The Project cost is to be as follows:

Description	Total Estimate Cost	Federal Participation		State Participation		Local Participation	
		%	Cost	%	Cost	%	Cost
Engineering (by Local)	\$200,000	0%	\$0	0%	\$0	100%	\$200,000
Construction (by Local)	\$800,000	0%	\$0	0%	\$0	100%	\$800,000
Direct State Cost - Eng. @ 2%	\$4,000	0%	\$0	100%	\$4,000	0%	\$0
Direct State Cost – Cst. @13.45%	\$107,600	0%	\$0	100%	\$107,600	0%	\$0
Indirect State Cost @ 4.83%	\$48,300	0%	\$0	100%	\$48,300	0%	\$0
TOTAL	\$1,159,900		\$0		\$159,900		\$1,000,000

Estimated Total Local Government Participation (100%) = \$1,000,000

Total Payment by the Local Government to the State upon full execution of this Agreement = \$0

This is an estimate. The Local Government is 100% responsible for cost overruns.



**City of Lucas
Council Agenda Request**

Council Meeting: February 6, 2014

Requestor: _____

Prepared by: Kathy Wingo

Account Code #: N/A

Date Prepared: _____

Budgeted Amount: \$ N/A

Exhibits: Yes No

AGENDA SUBJECT:

Adjournment.

RECOMMENDED ACTION:

SUMMARY:

MOTION:

I make a Motion to adjourn the meeting at _____ p.m.

APPROVED BY: _____ Initial/Date

Department Director: _____ / _____

City Manager: _____ / _____