



# AGENDA

## City of Lucas City Council Meeting July 6, 2017

**7:00 PM**

**City Hall – Council Chambers  
665 Country Club Road – Lucas, Texas**

Notice is hereby given that a City of Lucas meeting of the City Council will be held on Thursday, July 6, 2017 at 7:00 pm at Lucas City Hall, 665 Country Club Road, Lucas, Texas, 75002-7651 at which time the following agenda will be discussed. As authorized by Section 551.071 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 on any item on the agenda at any time during the meeting.

### Call to Order

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

### Citizen Input

The Citizens' Input portion of the agenda is an opportunity for the public to address the City Council on any subject. By completing a "Request to Speak" form and submitting it to the City Secretary, citizens have an opportunity to speak at the City Council meeting. However, in accordance with the Texas Open Meetings Act, the City Council cannot discuss issues raised or make any decisions but may refer items to City Staff for research and possible inclusion on a future agenda.

#### 1. Citizen Input (Mayor Jim Olk)

### Community Interest

Pursuant to Section 551.0415 of the Texas Government Code, the City Council may report on the following items: 1) expression of thanks, congratulations or condolences; 2) information about holiday schedules; 3) recognition of individuals; 4) reminders about upcoming City Council events; 5) information about community events; and 6) announcements involving imminent threat to public health and safety.

#### 2. Community Interest. (Mayor Jim Olk)

Announcement regarding the sale of 2017 Certificates of Obligation is rescheduled for the July 20, 2017 City Council meeting.

### **Consent Agenda**

All items listed under the consent agenda are considered routine and are recommend to the City Council for a single vote approval. If discussion is desired, an item may be removed from the consent agenda for a separate vote.

3. Approval of the minutes of the May 25, 2017 City Council Strategic Planning session. (City Secretary Stacy Henderson)
4. Approval of the minutes of the June 15, 2017 City Council special meeting. (City Secretary Stacy Henderson)

### **Public Hearing Agenda**

5. Public Hearing to consider adopting Ordinance 2017-07-00856 approving the request of Ryan and Jamie Sharp, property owners of 2250 E. Hendrix Avenue for a specific use permit to allow a kitchen and food preparation area in an accessory building with habitable space. (Development Services Director Joe Hilbourn)
  - A. Presentation by Development Services Director Joe Hilbourn
  - B. Conduct public hearing
  - C. Take action regarding the proposed specific use permit request
6. Public hearing to consider approval of Ordinance 2017-07-00857 approving a request by JBI Partners, Inc on behalf of Kenneth Prater to rezone Stinson Highlands Phase 3 from AO to R-1 consisting of 47.388 acres of 78.943 acres, and being part of the John Gray Survey, Abstract No. 349; George Gunnell Survey, Abstract No. 352; Ann S. Hurt Survey, Abstract No. 428; James Lovelady Survey; Abstract No. 538, and the Lewis P. Turner Survey; Abstract No. 901. (Development Services Director Joe Hilbourn)
  - A. Presentation by Development Services Director Joe Hilbourn
  - B. Conduct public hearing
  - C. Take action regarding proposed zoning request
7. Public hearing to consider adopting Ordinance 2017-07-00858 approving a request by JBI Partners, Inc on behalf of Kenneth Prater to rezone Stinson Highlands Phase 3 from R1.5 to R-2 consisting of 31.556 acres of 78.943 acres and being part of the John Gray Survey, Abstract No. 349; George Gunnell Survey, Abstract No. 352; Ann S. Hurt Survey, Abstract No. 428; James Lovelady Survey; Abstract No. 538, and the Lewis P. Turner Survey; Abstract No. 901. (Development Services Director Joe Hilbourn)
  - A. Presentation by Development Services Director Joe Hilbourn
  - B. Conduct public hearing
  - C. Take action regarding proposed zoning request
8. Public hearing to consider adopting Ordinance 2017-07-00859 approving amendments to the City's zoning use chart regarding the uses permitted by right, permitted by Specific Use Permit and prohibited within the City's zoning districts. (Development Services Director Joe Hilbourn)
  - A. Presentation by Development Services Director Joe Hilbourn
  - B. Conduct public hearing
  - C. Take action regarding proposed updates to the Zoning Use Chart

## Regular Agenda

9. Consider the provision of recycling related services including curbside residential recycling and give direction to City Manager as to the provision of recycling services. **(Councilmember Wayne Millsap)**
10. Discuss the Capex Consulting Group Water and Wastewater Rate Study and Five Year Financial Plan and set date for the public hearing. **(Jeff Snowden, Capex Consulting Group)**
11. Consider the provisions of law enforcement services for the City of Lucas and entering into an Interlocal Agreement for such services with Collin County or entering into an Interlocal Agreement for such services with the Town of Fairview, Texas. **(Mayor Jim Olk, City Manager Joni Clarke)**
12. Consider the purchase of a new fire-rescue apparatus to replace reserve apparatus Engine 862, a 1996 General Fire Engine and provide direction to staff. **(Fire Chief Ted Stephens and Vehicle Replacement Committee)**
13. Discuss the provisions of EMS and Fire Dispatch Services and provide direction to staff. **(Fire Chief Ted Stephens)**
14. Discuss the purchase of a VHF or UHF Repeater System for communication needs and provide direction to staff. **(Assistant Fire Chief/Emergency Management Coordinator Lance Gant)**
15. Consider authorizing the City Manager to enter into a contract with R&M Services for fire hydrant and valve maintenance utilizing an interlocal with the City of Garland, Texas in the amount not to exceed \$150,000. **(Public Works Director/City Engineer Stanton Foerster)**

## Executive Session

16. Executive Session: An Executive Session is not scheduled for this meeting.
17. Adjournment.

## Certification

*I hereby certify that the above notice was posted in accordance with the Texas Open Meetings Act on the bulletin board at Lucas City Hall, 665 Country Club Road, Lucas, TX 75002 and on the City's website at [www.lucastexas.us](http://www.lucastexas.us) on or before 5:00 p.m. on June 28, 2017.*

\_\_\_\_\_  
*Stacy Henderson, City Secretary*

*In compliance with the American with Disabilities Act, the City of Lucas will provide for reasonable accommodations for persons attending public meetings at City Hall. Requests for accommodations or interpretive services should be directed to Stacy Henderson at 972.912.1211 or by email at [shenderson@lucastexas.us](mailto:shenderson@lucastexas.us) at least 48 hours prior to the meeting.*



# City of Lucas City Council Agenda Request July 6, 2017

Item No. 01

Requester: Mayor Jim Olk

**Agenda Item:**

Citizens' Input

**Background Information:**

NA

**Attachments/Supporting Documentation:**

NA

**Budget/Financial Impact:**

NA

**Recommendation:**

NA

**Motion:**

NA





# City of Lucas Council Agenda Request July 6, 2017

Item No. 02

Requester: Mayor Jim Olk

## **Agenda Item:**

Items of Community Interest:

2. Announcement regarding the sale of 2017 Certificates of Obligation is rescheduled for the July 20, 2017 City Council meeting.

## **Background Information:**

NA

## **Attachments/Supporting Documentation:**

NA

## **Budget/Financial Impact:**

NA

## **Recommendation:**

NA

## **Motion:**

NA



# City of Lucas Council Agenda Request July 6, 2017

Item No. 03-04

Requester: City Secretary Stacy Henderson

## **Consent Agenda Items:**

3. Approval of the minutes of the May 25, 2017 City Council Strategic Planning session.
4. Approval of the minutes of the June 15, 2017 City Council special meeting

## **Background Information:**

NA

## **Attachments/Supporting Documentation:**

1. Minutes of the May 25, 2017 City Council Strategic Planning session.
2. Minutes of the June 15, 2017 City Council meeting.

## **Budget/Financial Impact:**

NA

## **Recommendation:**

City Staff recommends approval of the Consent Agenda.

## **Motion:**

I make a motion to approve the Consent Agenda as presented.



**City of Lucas  
City Council Special Meeting/  
Strategic Planning Session  
May 25, 2017  
7:00 P.M.**

**City Hall - 665 Country Club Road – Lucas Texas  
Minutes**

**Call to Order**

Mayor Olk called the meeting to order at 7:01 p.m.

**City Councilmembers Present:**

Mayor Jim Olk  
Mayor Pro Tem Kathleen Peele  
Councilmember Wayne Millsap  
Councilmember Tim Baney  
Councilmember Debbie Fisher

**Staff Present:**

City Manager Joni Clarke  
City Secretary Stacy Henderson

**City Councilmember Absent:**

Councilmember Steve Duke  
Councilmember Philip Lawrence

Mayor Olk determined that a quorum was present and everyone was reminded to turn off or silence their cell phones.

**Special Meeting/Strategic Planning Session**

Mayor Olk welcomed everyone and noted that the goal of the strategic planning session was to discuss planning goals and priorities for the future and to guide decisions towards the upcoming fiscal year 17-18 budget as well as future budgets.

Mayor Olk noted that they would be moving Agenda Item No. 6 to follow Agenda Item No. 2 on the agenda.

**1. Discuss transportation goals and review NCTCOG and Collin County Roadway Plans.**

Mayor Olk and the Council discussed the limited access roadways proposed in the Collin County 2040 Mobility Plan, in particular the north/south roadways. The Council discussed the limited access roadway that was proposed through Lucas but now removed and proposed down the peninsula. The Council also discussed the possibility of having to provide a 4-lane divided roadway between Fairview, Lucas and Allen. The Council discussed the possibility of Country Club Road, Rock Ridge Road or Angel Parkway as possible roadways for this project should it come to fruition.

Mayor Olk discussed his meeting with the Town of Fairview and the possibility of including Stacy Road as a consideration for a 4-lane divided roadway to be included as part of the County Mobility Plan. The Town of Fairview noted their opposition to using Stacy Road as a 4-lane divided roadway due to its proximity to Heritage Ranch.

**DIRECTION:** The City Council was in agreement that should a 4-lane roadway be required in Lucas as part of the Collin County Mobility Plan, that Rock Ridge Road be utilized and leave Country Club Road as is, no widening would occur.

## **2. Discuss public safety goals for Fire-Rescue and Law Enforcement.**

Mayor Olk and the Council discussed the proposed contract from the Collin County Sheriff's office that would cost approximately \$450,000 to fund three officers plus two additional vehicles per year. The Council's position was that the additional officers should be dedicated to the City of Lucas.

City Manager Joni Clarke discussed her conversation with the Town of Fairview regarding law enforcement services and a draft proposal that was discussed that provided funding for two officers to assist in patrolling the City of Lucas at an annual cost \$350,000. Ms. Clarke noted that municipal court details would have to be further defined if there was a partnership with the Town of Fairview.

The Council discussed the idea of partnering with the Town of Fairview and the quicker response time and better coverage that could be available.

**DIRECTION:** The City Council was in agreement to further pursue discussions with the Town of Fairview regarding law enforcement services.

Mayor Olk noted that they would be moving to Agenda Item No. 6 at this time.

## **6. Discuss staffing levels and staff retention related to the status of the Compensation Plan and staffing needs projected for 10 years.**

The City Council began with discussing staffing levels related to Fire-Rescue. City Manager Joni Clarke reviewed with the Council the status of the ten recommendations made in the Fire and Emergency Medical Services Operations Analysis report conducted in February of 2015. Ms. Clarke discussed sharing facilities with surrounding cities, long-term planning, the completed community risk assessment, expenses associated with volunteers and the difficulty maintaining volunteers, and the staffing recommendation made by the report of maintaining five personnel per shift. Ms. Clarke explained that the volunteer model was difficult to maintain and additional fire-rescue personnel was needed.

The Council discussed the average number of calls, noting that fire service calls were decreasing and EMS calls were increasing. The Council also discussed funds that could be saved moving away from a partial volunteer department and hiring full-time fire-rescue personnel.

Ms. Clarke noted that City staff was funded at mid-point and discussed staffing projections.

**DIRECTION:** There was no additional direction on this item.

Mayor Olk proceeded to Agenda Item No. 3.

**3. Discuss annexation plan for the City, including the impact of water rates based on Public Utility Commission annexation requirements.**

Mayor Olk and the Council discussed the possible changes to annexation requirements being proposed within the current legislative session related to enforcement of building codes in the City's ETJ areas as well as Public Utility Commission requirements.

Mayor Pro Tem Peele asked that staff review whether the City would be required to maintain any water features in any of the ETJ areas should they be annexed into the City, and to clarify if the ponds located in the Claremont Springs and Edgewood Estates subdivisions were located on private property.

**DIRECTION:** No further direction was given until clarification occurs on the items mentioned above and to follow progress on annexation items proposed in the current legislative session.

- 4. Discuss real property and development of various sites in the City that include:**
- a) City owned property located at 325 West Lucas Road**
  - b) City owned property located at the intersection of West Lucas Road and Country Club Road, north of the Fire Station**
  - c) Southview and West Lucas Road intersection**
  - d) Proactively seeking desirable commercial development**

The City Council discussed the old water tower site located at 325 West Lucas Road and the minimal value associated with this property. The City Council was in agreement with staff reaching out to nearby homeowners to gauge interest in buying the property.

The City Council discussed using the property at the intersection of West Lucas Road and County Club as additional parking for vehicles and equipment. The Council also discussed deed restricting the property and possibly leasing the property in the future. The Council agreed to review other uses and options for this property.

The Council also discussed economic development incentives in seeking desirable commercial development and agreed those would have to be considered on an as needed basis.

**DIRECTION:**

- a) City Staff would reach out to surrounding neighbors of 325 W. Lucas Road to gauge interest in buying the property.
- b) The Council would review other uses and options for this property.
- c) No further direction was given on this item.
- d) No further direction was given on this item.

**5. Discuss goals and develop a timeline to enhance and create trails and parks within the City, and further establish partnerships with the Army Corp of Engineers and the Blackland Prairie Raptor Center.**

City Manager Joni Clarke discussed with the Council the Trails Master Plan the Parks Board would be reviewing and also considering trail connectivity with the Town of Fairview. Ms. Clarke discussed budgeting funds for future trail improvements.

The Council discussed the Winningkoff Trailhead and connectivity to the trail as well as grants that could be applied for towards trail improvements.

**DIRECTION:** Review the Trails Master Plan and apply for grants as needed for trail improvements.

**7. Adjournment.**

**MOTION:** A motion was made by Councilmember Millsap, seconded by Mayor Pro Tem Peele to adjourn the meeting at 9:03 pm. The motion passed unanimously by a 5 to 0 vote.

APPROVED:

ATTEST:

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Jim Olk, Mayor

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Stacy Henderson, City Secretary



City of Lucas  
City Council Meeting  
June 15, 2017  
7:00 P.M.

City Hall - 665 Country Club Road – Lucas Texas  
**Minutes**

**Call to Order**

Mayor Pro Tem Peele called the meeting to order at 7:00 p.m.

**City Councilmembers Present:**

Mayor Pro Tem Kathleen Peele  
Councilmember Tim Baney  
Councilmember Steve Duke  
Councilmember Philip Lawrence  
Councilmember Debbie Fisher

**Staff Present:**

City Manager Joni Clarke  
City Secretary Stacy Henderson  
Development Services Director Joe Hilbourn  
Public Works Director/City Engineer Stanton Foerster  
Fire Chief Ted Stephens

**City Councilmember Absent:**

Mayor Jim Olk  
Councilmember Wayne Millsap

Mayor Pro Tem Peele determined that a quorum was present. Everyone was reminded to turn off or silence their cell phones and the Pledge of Allegiance was recited.

**Citizen Input**

**1. Citizen Input.**

Page Schreck, 29 White Rock Trail, stated that White Rock Trail was in poor condition, especially after the additional traffic on the roadway due to the detour of the Blondy Jhune Bridges project. Ms. Schreck asked that the City Council consider reconstructing the entire street and not just one section of the roadway.

**Community Interest**

**2. Community Interest.**

**Discuss pending legislation that is being considered by the 85<sup>th</sup> Legislature and provide guidance to City Staff and City Attorney.**

City Manager Joni Clarke stated that a special legislative session had been called that will begin July 18 with 20 items being considered. Ms. Clarke stated that staff would have this as a reoccurring item on the agenda as the special legislative session begins.

## Consent Agenda

3. **Approval of the minutes of the May 12, 2017 City Council special meeting.**
4. **Approval of the minutes of the June 1, 2017 City Council meeting.**

***MOTION:** A motion was made by Councilmember Baney, seconded by Councilmember Lawrence to approve the Consent Agenda as presented. The motion passed unanimously by a 5 to 0 vote.*

## Regular Agenda

5. **Consider contacting property owners adjacent to 325 West Lucas Road for the purpose of the City selling approximately .89 acres of land.**

Development Services Director Joe Hilbourn gave a presentation noting that the tract of land was .89 acres in size and zoned R-2. Mr. Hilbourn stated that water mains and a meter vault currently exist on site making the property too small to build upon and holding no real value to the City.

***MOTION:** A motion was made by Mayor Pro Tem Peele, seconded by Councilmember Baney to direct staff to contact adjoining property owners to gauge interest in buying a parcel of land owned by the City. The motion passed unanimously by a 5 to 0 vote.*

6. **Consider giving direction to the City Manager 1) to make repairs to various roadways and 2) enter into a contract with APAC/Oldcastle in an amount not to exceed \$200,000 for said roadways as part of the Street Maintenance for Summer 2017.**

Public Works Director/City Engineer Stanton Foerster explained that he had prioritized the street maintenance list based on the most amount of people that would be impacted by the project and the heaviest traveled roadways and recommended Stinson Road as a project to consider for repairs.

Mayor Pro Tem Peele noted that several of the streets listed had been considered for repairs for some time, and because they were smaller projects, the sustainability of the roadway would last longer and therefore suggested the following streets be considered for repairs in the amount of \$203,000:

- Blondy Jhune Road - \$45,000
- Horseman Drive - \$62,000
- Skyview Drive - \$45,000
- Daytona Avenue - \$31,000
- Hammerheads located at Estates Road, Edgefield Lane and Prado Verde Drive - \$20,000

The Council discussed the amount of development still occurring on Stinson Road along with the vehicle construction traffic on Stinson and suggested that improvements be delayed until construction was near completion.



**MOTION:** *A motion was made by Mayor Pro Tem Peele, seconded by Councilmember Baney to approve the following roadways and funds as part of street maintenance repairs for the summer of 2017. The motion passed unanimously by a 5 to 0 vote.*

- *Blondy Jhune Road - \$45,000*
- *Horseman Drive - \$62,000*
- *Skyview Drive - \$45,000*
- *Daytona Avenue - \$31,000*
- *Hammerheads located at Estates Road, Edgefield Lane and Prado Verde Drive - \$20,000*

**7. Consider the provisions of law enforcement services for the City of Lucas and entering into an Interlocal Agreement for such services with Collin County or entering into an Interlocal Agreement for such services with the Town of Fairview, Texas.**

City Manager Joni Clarke reviewed the proposed Collin County Sheriff's office draft contract with the Council. She noted that the contract was for a four-year period proposing three deputies, three patrol vehicles and vehicle expenses. Ms. Clarke noted that overtime and any increase in salary was not included in the proposal. Ms. Clarke explained that the contract also included services for dispatch, children's advocacy, traffic unit and municipal court services through JP3-1.

The Council discussed the coverage area the deputies would be responding to and the dedication to other Collin County communities as part of the Lucas contract that also did not include 24/7 coverage for the City of Lucas.

Ms. Clarke noted that she had not yet received a draft proposal from the Town of Fairview, but in speaking with the Police Chief and Town Manager, the contract was proposed for a five-year period, included funds for two patrol officers, one patrol vehicle and 24/7 coverage. Ms. Clarke stated that the contract did not include municipal court, children's advocacy, inmate boarding fees or additional funds for significant events.

This item was for discussion purposes only, no formal action was taken.

|                          |
|--------------------------|
| <b>Executive Session</b> |
|--------------------------|

**8. Executive Session.**

The City Council did not conduct an Executive Session at this meeting.

**9. Adjournment.**

**MOTION:** *A motion was made by Councilmember Duke, seconded by Councilmember Lawrence to adjourn the meeting at 7:25 pm. The motion passed unanimously by a 5 to 0 vote.*

APPROVED:

ATTEST:

\_\_\_\_\_  
Kathleen Peele, Mayor Pro Tem

\_\_\_\_\_  
Stacy Henderson, City Secretary



# City of Lucas City Council Agenda Request July 6, 2017

Requester: Development Services Director Joe Hilbourn

## **Agenda Item:**

Public Hearing to consider adopting Ordinance 2017-07-00856 approving the request of Ryan and Jamie Sharp, property owners of 2250 E. Hendrix Avenue for a specific use permit to allow a kitchen and food preparation area in an accessory building with habitable space.

- A. Presentation by Development Services Director Joe Hilbourn
- B. Conduct public hearing
- C. Take action regarding the proposed specific use permit request

## **Background Information:**

This lot is currently zoned R-2, and has a building permit to construct an accessory building with habitable space that meets the City's requirements. The owners would like to amend the approved building plans to allow a kitchen in the accessory building under construction.

Section 14.04.304 (a) of the City's Code of Ordinances requires that an addition of a kitchen/food preparation area requires a specific use permit in R-2 or AO zoning districts that contain a single-family home and states the following:

Kitchen, cooking or a food preparation area may be permitted on property with a specific use permit. The specific use permit may only be granted provided the owners of the property enact a deed restriction with the city as party to the deed restriction that prohibits the use of the habitable space to be used for lease/barter agreement other than that of the full-time domestic staff providing support to the property.

## **Attachments/Supporting Documentation:**

- 1. Public Notice
- 2. Site plan, elevations, and floor plan
- 3. Ordinance 2017-07-00856
- 4. Deed Restrictions

## **Budget/Financial Impact:**

NA

## **Recommendation:**

The Planning and Zoning Commission unanimously recommend approval of the request.



# City of Lucas City Council Agenda Request July 6, 2017

**Motion:**

I make a motion to approve/deny the request for a specific use permit to allow a kitchen and food preparation area in an accessory building with habitable space for the property located at 2250 E. Hendrix Avenue.



## NOTICE OF PUBLIC HEARINGS

NOTICE IS HEREBY GIVEN, that the Planning & Zoning Commission of the City of Lucas, Texas will conduct a public hearing on Thursday, June 8, 2017 at 7:00 p.m. and City Council will conduct a second public hearing on Thursday, July 6, 2017 at 7:00 p.m. at Lucas City Hall, 665 Country Club, Lucas, Texas to consider a Specific Use Permit (SUP) application to permit a kitchen and food preparation area more particularly described as follows:

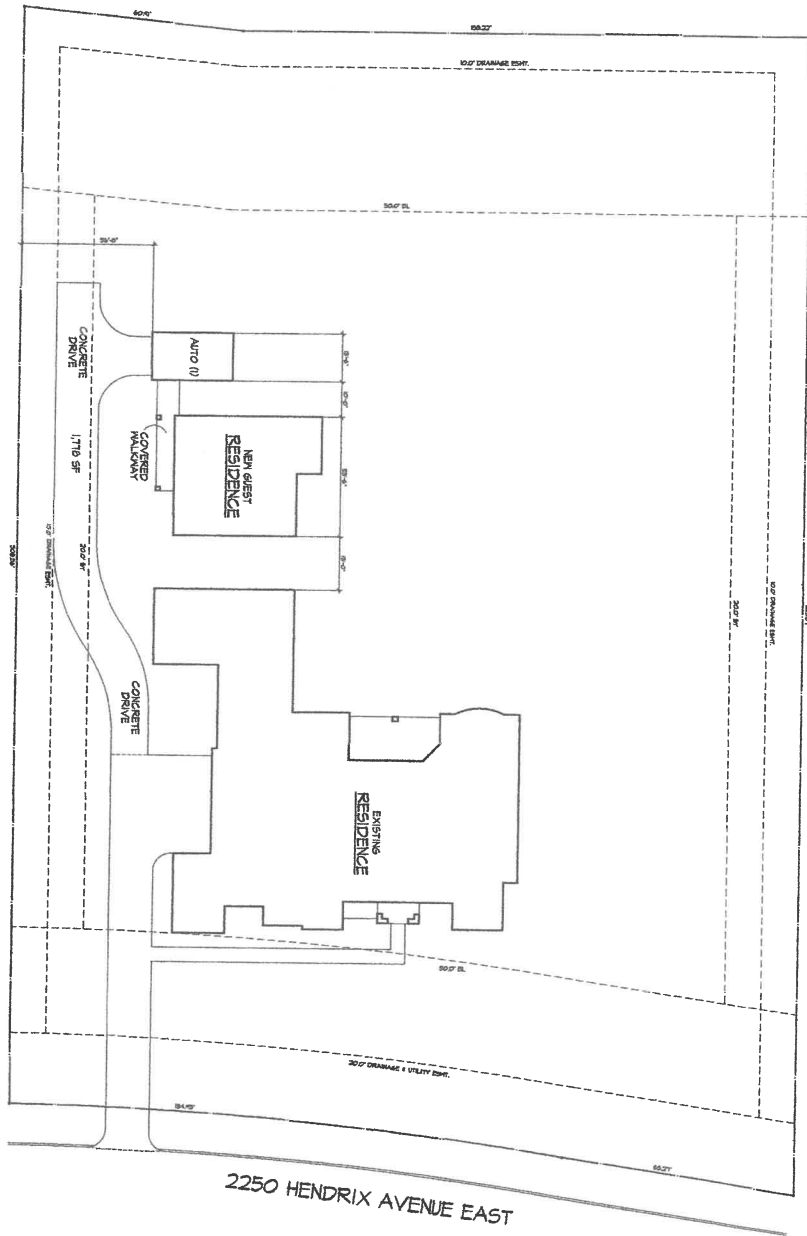
*The property owners Ryan and Tamie Sharp at 2250 E Hendrix Ave Block B, Lot 10 of Creekside Estates Lucas Texas 75002 has submitted an Application for an SUP to permit a Kitchen and Food preparation area in an accessory building with habitable space required by code section Sec. 14.04.304 General accessory buildings and structures regulations*

*i) In R-2 or AO zoning districts that contain a single-family home:*

*a. Kitchen, cooking or a food preparation area may be permitted on property with a specific use permit. The specific use permit may only be granted provided the owners of the property enact a deed restriction with the city as party to the deed restriction that prohibits the use of the habitable space to be used for lease/barter agreement other than that of the full-time domestic staff providing support to the property.*

Those wishing to speak FOR or AGAINST the above item are invited to attend. If you are unable to attend and have comments you may send them to City of Lucas, Attention: City Secretary, 665 Country Club Road, Lucas, Texas 75002, email [shenderson@lucastexas.us](mailto:shenderson@lucastexas.us) and it will be presented at the Hearing. If you have any questions about the above hearing you may contact [jhilbourn@lucastexas.us](mailto:jhilbourn@lucastexas.us).

X



**SITE PLAN**  
 SCALE: 1/8" = 1'-0"  
 LOT 19 BLOCK D  
 CHANDLER SUBDIVISION  
 LUCAS, TEXAS

2250 HENDRIX AVENUE EAST

REVIEW SET: NOT FOR CONSTRUCTION

A CUSTOM GUEST RESIDENCE FOR  
**RYAN & BARBARA SHARP**  
 2250 HENDRIX AVENUE  
 LUCAS, TEXAS

**COVERT + ASSOCIATES**  
 17810 DAVENPORT, SUITE 111, DALLAS, TX 75252  
 972-783-4660 GLCOVERT@HOTMAIL.COM

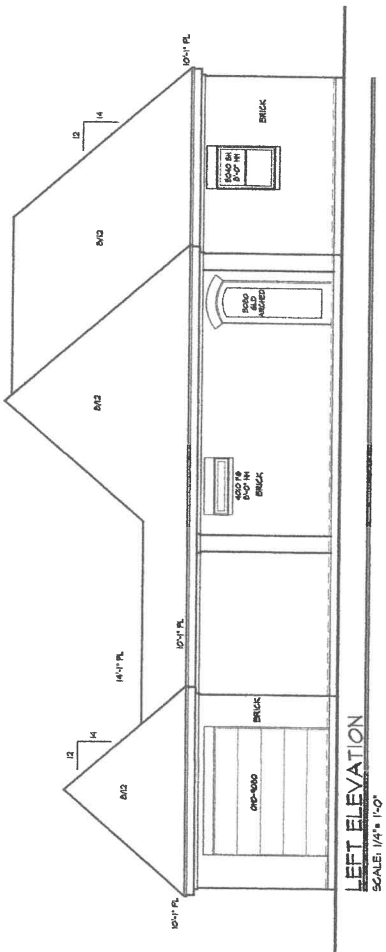
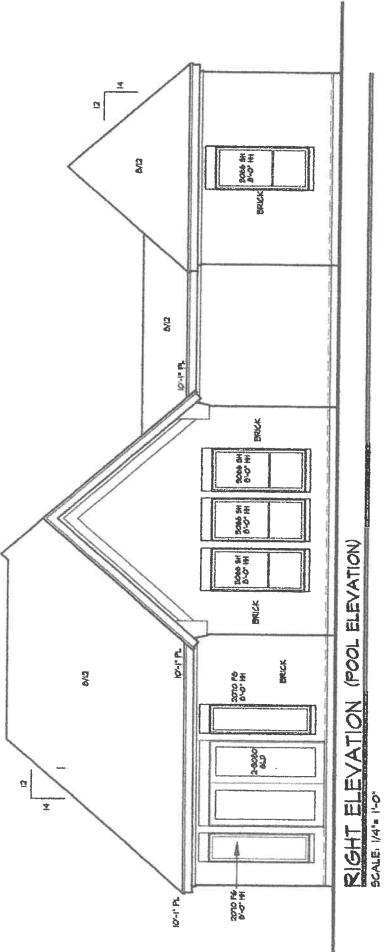
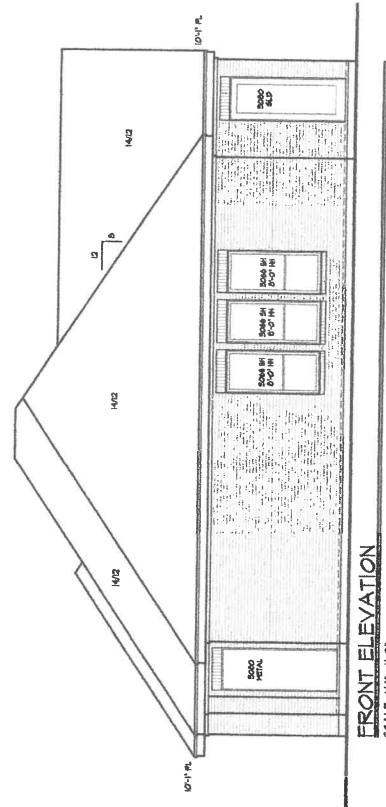
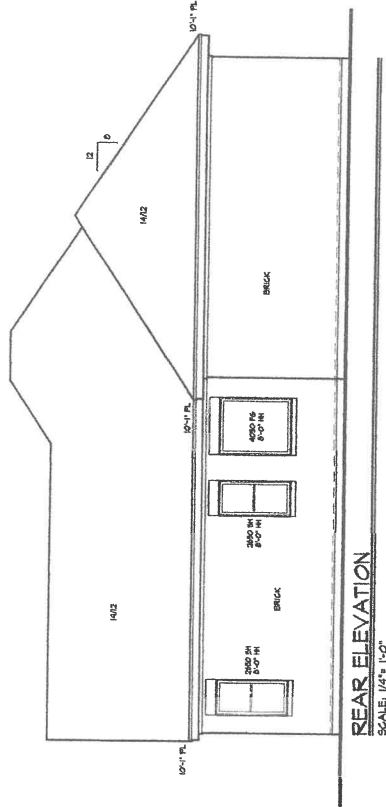
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09/02/16



REVIEW SET: NOT FOR CONSTRUCTION

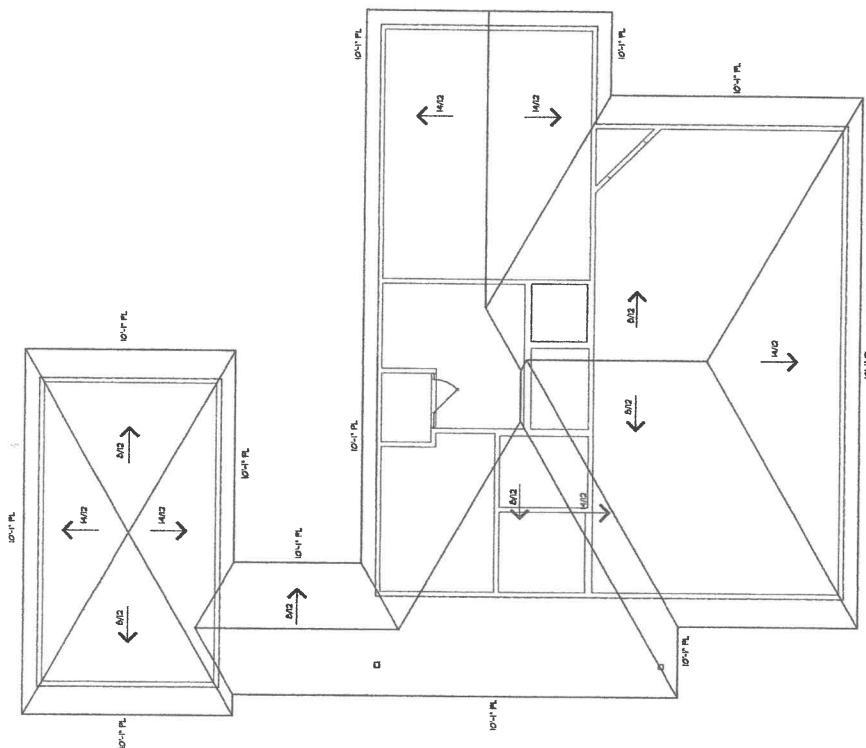
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X

REVIEW SET: NOT FOR CONSTRUCTION

09/02/16



**ROOF PLAN**

SCALE: 1/4" = 1'-0"

**ROOF NOTES:**

- 1) INDICATE DIRECTION DOWNWARD SLOPE OF ROOF # PITCH NOTED
- 2) OVERHANGS TO BE INDICATED BY DIMENSIONS TO BE NOTED.
- 3) EXTEND OVERHANGS # 8/12 PITCH AS NECESSARY TO ALIGN FACIAS # 1/2 ROOFS





## **ORDINANCE 2017-07-00856**

### **[Special Use Permit for Kitchen, Cooking and Food Preparation Area in an Accessory Building with Habitable Space]**

**AN ORDINANCE OF THE CITY OF LUCAS, TEXAS, AMENDING THE COMPREHENSIVE ZONING ORDINANCE AND MAP OF THE CITY OF LUCAS, TEXAS, AS HERETOFORE AMENDED, BY GRANTING A SPECIFIC USE PERMIT TO ALLOW FOR A KITCHEN, COOKING AND FOOD PREPARATION AREA IN AN ACCESSORY BUILDING WITH HABITABLE SPACE, LOCATED AT 2250 EAST HENDRIX, CITY OF LUCAS, COLLIN COUNTY, TEXAS (THE "PROPERTY"), AND BEING MORE PARTICULARLY DESCRIBED IN EXHIBIT "A" ATTACHED HERETO; PROVIDING FOR APPROVAL OF THE SITE PLAN ATTACHED HERETO AS EXHIBIT "B"; PROVIDING FOR APPROVAL OF THE ELEVATIONS PLAN ATTACHED HERETO AS EXHIBIT "C"; PROVIDING FOR THE APPROVAL OF THE FLOOR PLAN ATTACHED HERETO AS EXHIBIT "D"; PROVIDING FOR SPECIAL CONDITIONS; PROVIDING A CONFLICTS CLAUSE; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000.00) FOR EACH OFFENSE; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the City Planning and Zoning Commission of the City of Lucas, Texas, and the governing body of the City of Lucas in compliance with the laws of the State of Texas and the ordinances of the City of Lucas, have given requisite notice of publication and otherwise, and after holding due hearings and affording a full and fair hearing to all property owners generally and to all persons interested and situated in the affected area, and in the vicinity thereof, and in the exercise of its legislative discretion have concluded that the Comprehensive Zoning Ordinance and Map of the City of Lucas, Texas, as previously amended, should be amended.

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

**SECTION 1.** That the Comprehensive Zoning Ordinance and Map of the City of Lucas, Texas, as heretofore amended, be and the same are hereby amended, to grant a Special Use Permit to allow for a kitchen, cooking and food preparation area in an accessory building with habitable space, located at 2250 East Hendrix, City of Lucas, Collin County, Texas, and being more particularly described in Exhibit "A" attached hereto and made a part hereof for all purposes.

**SECTION 2.** That the above-described property shall be used only in the manner and for the purposes provided for by the Comprehensive Zoning Ordinance of the City of Lucas as heretofore amended, subject to the following special conditions:

- (1) The Property shall be developed in accordance with the Site Plan attached hereto as Exhibit “B”, the Elevations Plan attached hereto as Exhibit “C”, and the Floor Plan attached hereto as Exhibit “D”, and made a part hereof for all purposes.

**SECTION 3.** To the extent of any irreconcilable conflict with the provisions of this ordinance and other ordinances of the City of Lucas governing the use and development of the Property and which are not expressly amended by this ordinance, the provisions of this ordinance shall be controlling.

**SECTION 4.** That all ordinances of the City of Lucas in conflict with the provisions of this Ordinance shall be, and same are hereby, repealed, provided, however, that all other provisions of said Ordinances are not in conflict herewith shall remain in full force and effect.

**SECTION 5.** That should any word, sentence, paragraph, subdivision, clause, phrase or section of this Ordinance or of the City of Lucas Code of Ordinances, as amended hereby, be adjudged or held to be voided or unconstitutional, the same shall not affect the validity of the remaining portions of said Ordinances or the City of Lucas Code of Ordinances, as amended hereby, which shall remain in full force and effect.

**SECTION 6.** An offense committed before the effective date of the Ordinance is governed by prior law and the provisions of the City of Lucas Code of Ordinances in effect when the offense was committed and the former law is continued in effect for this purpose.

**SECTION 7.** That any person, firm or corporation violating any of the provisions or terms of this Ordinance shall be subject to the same penalty as provided for in the Code of Ordinances, as amended, and upon conviction in the municipal court shall be punished by a fine not to exceed the sum of Two Thousand Dollars (\$2,000.00) for each offense, and each and every day such violation shall continue shall be deemed to constitute a separate offense.

**SECTION 8.** That this Ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Charter of the City of Lucas, and it is accordingly so ordained

**DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF LUCAS, COLLIN COUNTY, TEXAS, ON THIS 6<sup>TH</sup> DAY OF JULY, 2017.**

APPROVED:

---

Jim Olk, Mayor

APPROVED AS TO FORM:

ATTEST:

---

Joseph J. Gorfida, Jr., City Attorney  
(05-17-2017/86341)

---

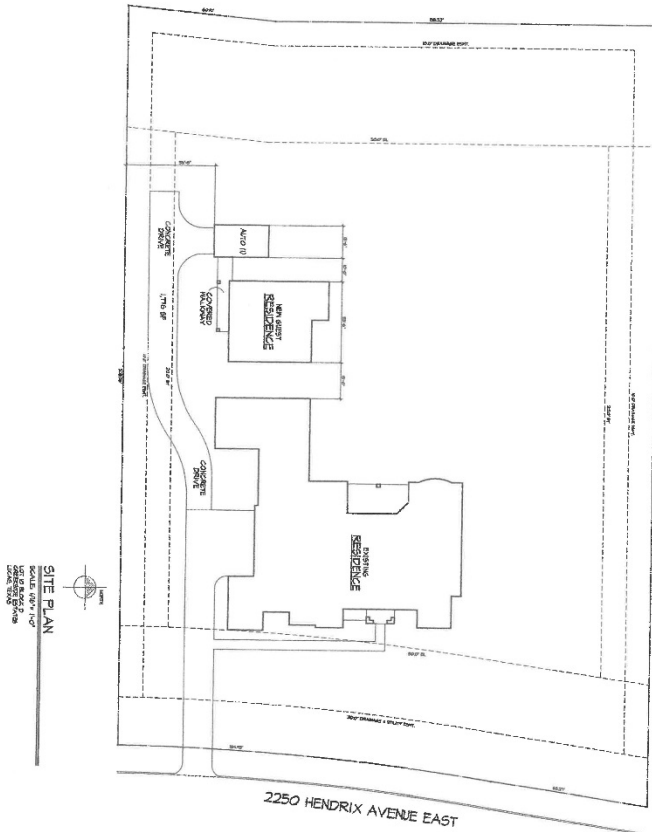
Stacy Henderson, City Secretary

**EXHIBIT "A"**  
**LEGAL DESCRIPTION**

Block B, Lot 10 of Creekside Estates, Lucas, Texas 75002

# EXHIBIT "B" SITE PLAN

X \_\_\_\_\_



9/1/20/60

REVIEW SET: NOT FOR CONSTRUCTION

A CLIENT'S DRAFT REFERENCE FOR  
**RYAN & BARBARA SHARP**  
 2150 HENDRIX AVENUE  
 LUCAS, TEXAS

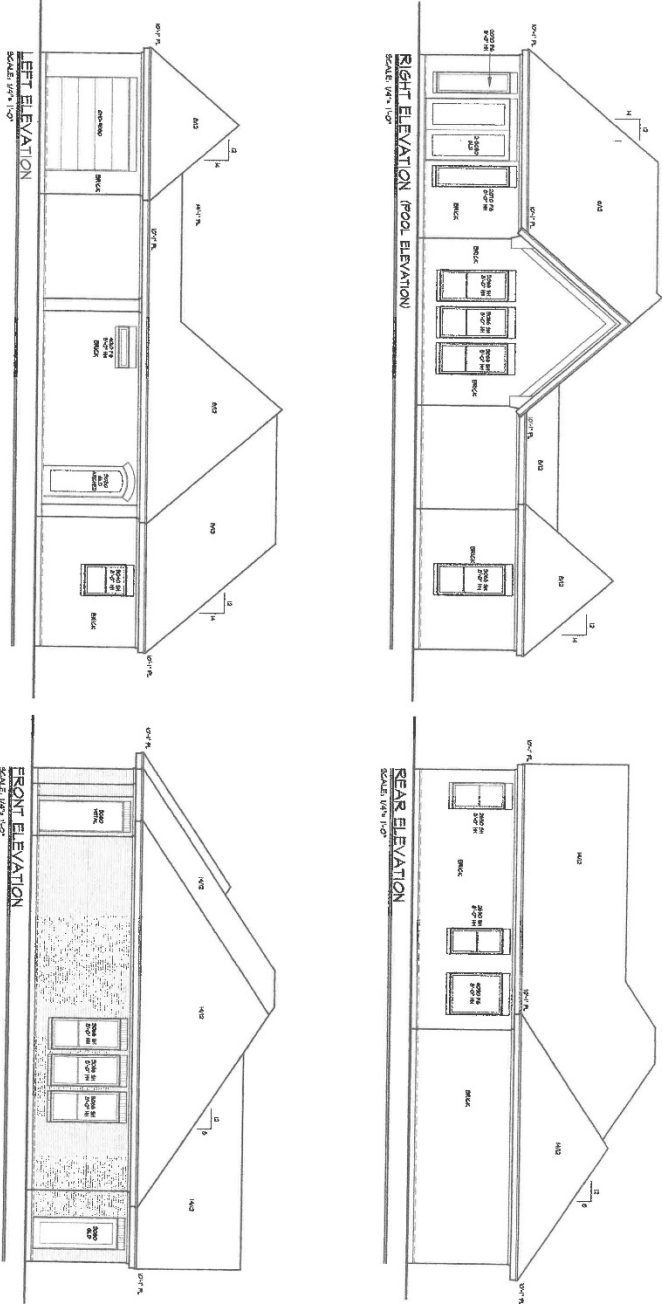
**COVERT + ASSOCIATES**  
 17810 DAVENPORT, SUITE 111, DALLAS, TX 75252  
 972-783-4660 BLECOVERT@HOTMAIL.COM

DATE: 9/1/20/60  
 TYPED BY: JCS  
 CHECKED BY: JCS

Exhibit "B"  
 City of Lucas  
 Ordinance 2017-07-00856  
 Approved: July 6, 2017

# EXHIBIT "C" ELEVATIONS PLAN

© 2011 Covert + Associates, Inc. All rights reserved. 10/22/10 REVISED 09/02/16 10/22/10 09/02/16



09/02/16

REVIEW SET: NOT FOR CONSTRUCTION

|  |   |   |  |
|--|---|---|--|
| <p style="font-size: x-small;">A CUSTOM CAREER ASSISTANCE FOR<br/><b>RYAN &amp; BARBARA SHARP</b><br/>7256 HEMLOCK AVENUE<br/>LUCAS, TEXAS</p> | <p><b>COVERT + ASSOCIATES</b><br/>17810 DAVENPORT, SUITE 111, DALLAS, TX 75252<br/>972-783-4660 GCOVERT@HOTMAIL.COM</p> | <p style="font-size: x-small;">SHEET<br/><b>3</b><br/>OF 4<br/>10/22/10</p> | <p style="font-size: x-small;">DATE<br/>10/22/10</p> |
|--|---|---|--|

Exhibit "C"  
City of Lucas  
Ordinance 2017-07-00856  
Approved: July 6, 2017

# EXHIBIT "D" FLOOR PLAN

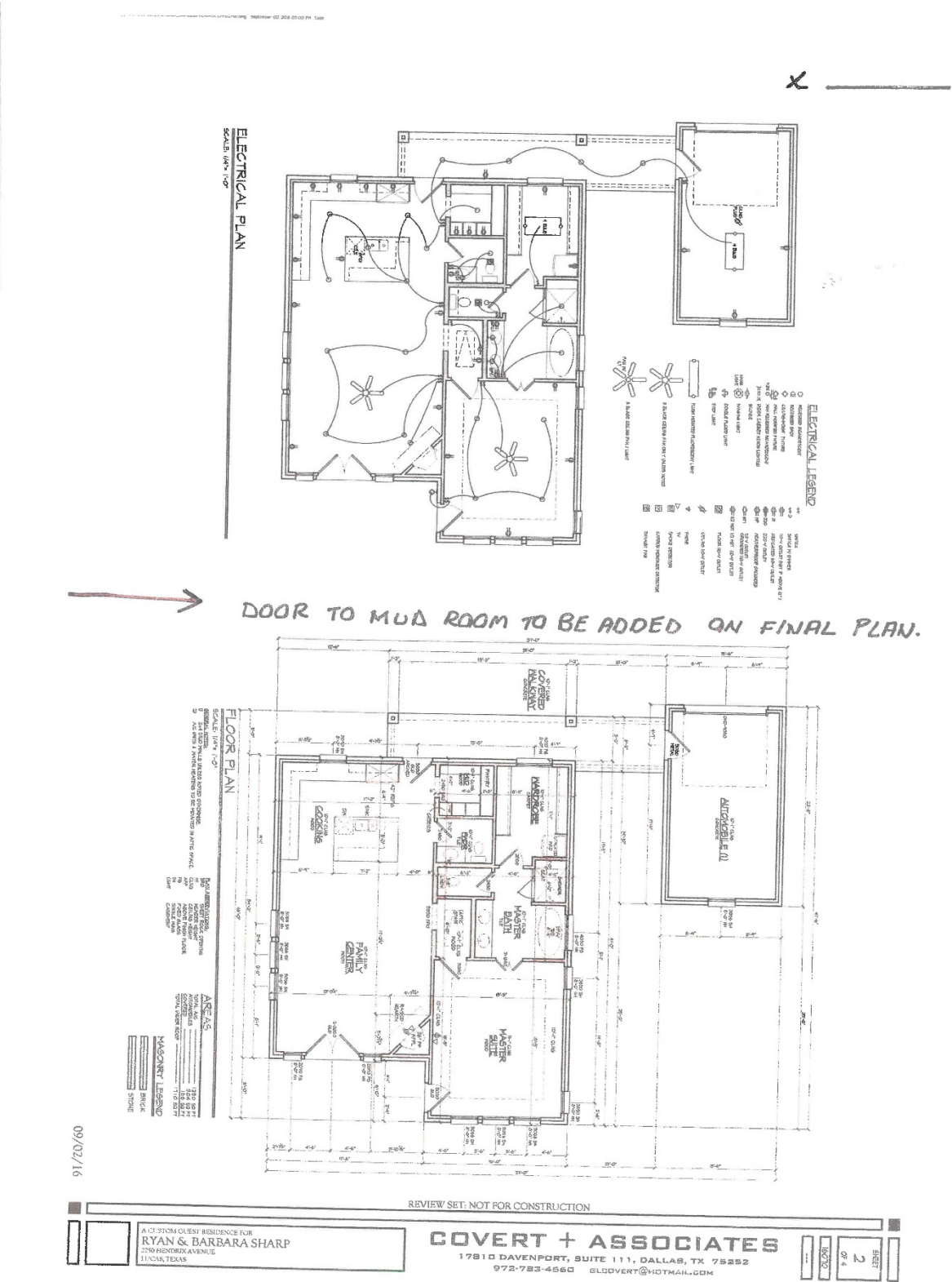


Exhibit "D"  
City of Lucas  
Ordinance 2017-07-00856  
Approved: July 6, 2017

**DEED RESTRICTION COVENANT REQUIRED FOR USE OF ACCESSORY STRUCTURE  
FOR FOOD PREPARATION FACILITIES IN RESIDENTIAL ACCESSORY BUILDING**

1. Attached is the Deed Restrictions form required by the City of Lucas under Section 14.04.304 of the City's Zoning Ordinance for approval of a Specific Use Permit ("SUP") for food preparation facilities in an accessory building. *See* Section 14.04.304 of the Zoning Ordinance.
2. All blanks on the attached form must be completed.
3. Three (3) originally signed copies of the attached form should be taken to Collin County Records Building located at Collin County Administration Building, 2300 Bloomdale Rd., Suite 2106, McKinney, Texas 75071, and filed. The owner should maintain a file-marked copy of the form.

A file-marked copy must be returned to the City of Lucas' Development Services, located at 665 Country Club Road, Lucas, Texas 75002-7651.

4. If you have further questions, please contact Joe Hilbourn, Development Services Director, City of Lucas; phone: (972) 912-1207; email: [jhilbourn@lucastexas.us](mailto:jhilbourn@lucastexas.us).



**DEED RESTRICTIONS**

**THE STATE OF TEXAS**

§

**KNOW ALL MEN BY THESE PRESENTS:**

**COUNTY OF COLLIN**

§

§

I.

The undersigned, \_\_\_\_\_ and \_\_\_\_\_ ("the Owner"), is the Owner of the following described property: Lot \_\_\_\_\_, Block, \_\_\_\_\_, an Addition to the City of Lucas ("City"), Collin County, Texas, and being that same tract of land conveyed to \_\_\_\_\_ by \_\_\_\_\_, by deed dated \_\_\_\_\_, and recorded in Volume \_\_\_\_\_, Page \_\_\_\_\_, in the Deed Records of Collin County, Texas, and being more commonly described as \_\_\_\_\_ (street address) (the "Property").

II.

In consideration of the granting of a Special Use Permit ("SUP") by the City to the Owner to construct, remodel, or make addition to a residential accessory building to provide kitchen, cooking or food preparation facilities, the Owner does hereby impress all of the Property with the following deed restrictions ("restrictions"), to wit:

The residential accessory building for which the Special Use Permit is issued shall not at any time be used for rental purposes or barter exchange and may be occupied only by immediate family members of the Owner and/or full time domestic servant or servants of the Owner. In case of a live-in servant family, all adult members must be employed by the Owner or occupant of the main residence.

III.

These restrictions shall continue in full force and effect from the date of execution until amended or terminated in the manner specified in this document.

IV.

These restrictions are not intended to restrict the right of the City Council of the City to exercise its legislative duties and powers insofar as zoning of the Property is concerned.

V.

The Owner agrees that these restrictions inure to the benefit of the City. The Owner hereby grants the City the right to enforce these restrictions by any lawful means, including filing an action in a court of competent jurisdiction, at law or in equity, against the person violating or attempting to violate these restrictions, either to prevent the violation or to require its correction. If the City substantially prevails in a legal proceeding to enforce these restrictions, the Owner agrees that the

City shall be entitled to recover damages, reasonable attorney's fees, and court costs. For further remedy, the Owner agrees that the City may withhold any permit, certificate of occupancy or final inspection necessary for the lawful use of the Property until these restrictions are complied with. The right of the City to enforce these restrictions shall not be waived, expressly or otherwise.

VI.

The Owner agrees to defend, indemnify, and hold harmless the City from and against all claims or liabilities arising out of or in connection with the provisions of this document.

VII.

The provisions of this document are hereby declared covenants running with the land and are binding on all successors, heirs, and assigns of the Owner who acquire any right, title, or interest in or to the Property, or any part thereof. Any person who acquires any right, title, or interest in or to the Property, or any part thereof, thereby agrees and covenants to abide by and fully perform the provisions of this document.

VIII.

Notwithstanding any provision hereof to the contrary, if the zoning ordinance of the City is amended to permit the use of the Property for rental or barter exchange, these restrictions shall be of no further force or effect and shall be released by the City upon request of the Owner.

IX.

The Owner understands and agrees that this document shall be governed by the laws of the State of Texas.

X.

The invalidation of any provision in this document by any court shall in no way affect any other provision, which shall remain in full force and effect, and to this end the provisions are declared to be severable.

*(signature page to follow)*

**EXECUTED** at the City of Lucas, Collin County, Texas, on this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**Owner**

By: \_\_\_\_\_  
Name: \_\_\_\_\_

**EXECUTED** at the City of Lucas, Collin County, Texas, on this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**Owner**

By: \_\_\_\_\_  
Name: \_\_\_\_\_

(ACKNOWLEDGEMENTS)

STATE OF TEXAS §

§

COUNTY OF COLLIN §

This instrument was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_ . (Owner)

(seal)

\_\_\_\_\_  
Notary Public, State of Texas  
My commission expires: \_\_\_\_\_

STATE OF TEXAS §

§

COUNTY OF COLLIN §

This instrument was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_ . (Owner)

(seal)

\_\_\_\_\_  
Notary Public, State of Texas  
My commission expires: \_\_\_\_\_



**City of Lucas**  
**City Council Agenda Request**  
**July 6, 2017**

Item No. 06

Requester: Development Services Director Joe Hilbourn

**Agenda Item:**

Public hearing to consider approval of Ordinance 2017-07-00857 approving a request by JBI Partners, Inc on behalf of Kenneth Prater to rezone Stinson Highlands Phase 3 from AO to R-1 consisting of 47.388 acres of 78.943 acres, and being part of the John Gray Survey, Abstract No. 349; George Gunnell Survey, Abstract No. 352; Ann S. Hurt Survey, Abstract No. 428; James Lovelady Survey; Abstract No. 538, and the Lewis P. Turner Survey; Abstract No. 901.

- A. Presentation by Development Services Director Joe Hilbourn
- B. Conduct public hearing
- C. Take action regarding proposed zoning request

**Background Information:**

This property is currently zoned A-O and has an approved Development Agreement. The request matches the final plat and approved concept plan.

**Attachments/Supporting Documentation:**

1. Depiction
2. Location map
3. Meets and Bounds
4. Public hearing notice
5. Ordinance 2017-07-00857

**Budget/Financial Impact:**

NA

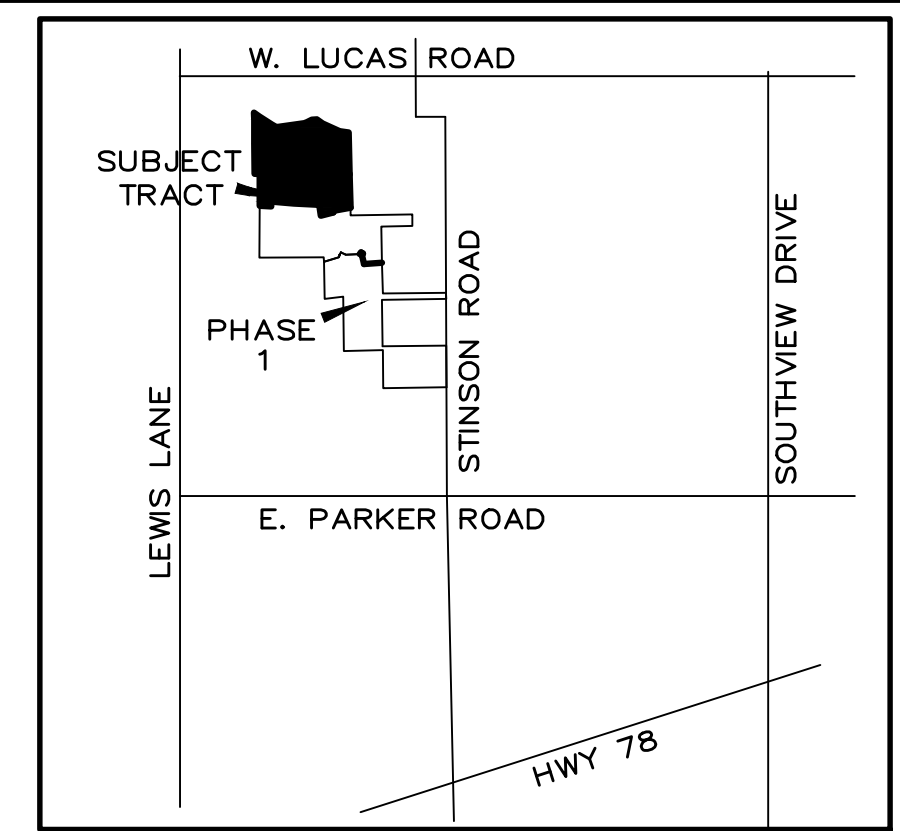
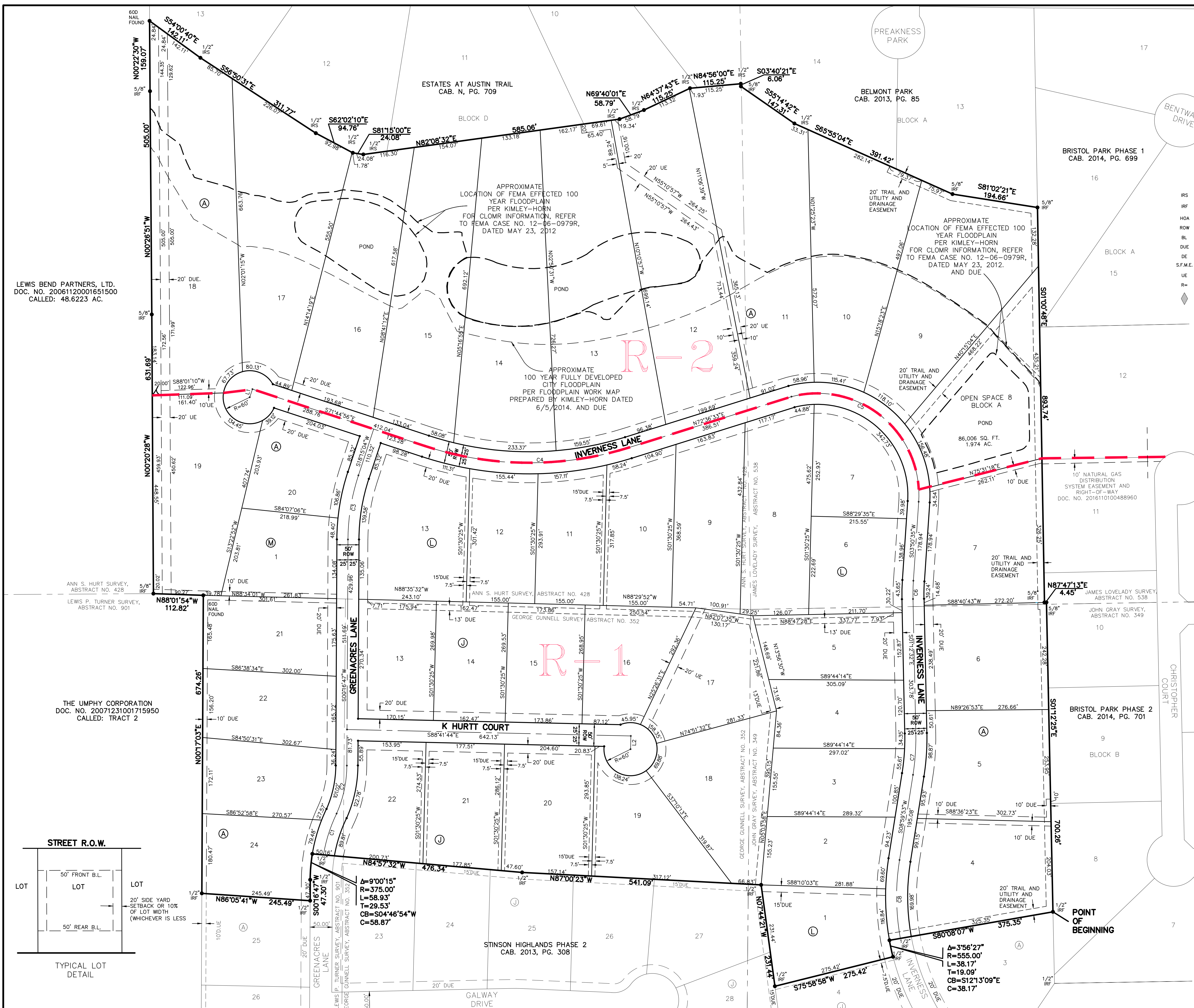
**Recommendation:**

The Planning and Zoning Commission unanimously recommended approval of the request.

**Motion:**

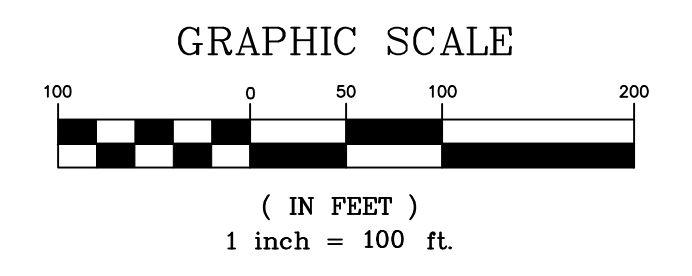
I make a motion to approval/denial Ordinance 2017-07-00857 approving a request to rezone Stinson Highlands Phase 3 from AO to R-1 consisting of 47.388 acres of 78.943 acres, and being part of the John Gray Survey, Abstract No. 349; George Gunnell Survey, Abstract No. 352; Ann S. Hurt Survey, Abstract No. 428; James Lovelady Survey; Abstract No. 538, and the Lewis P. Turner Survey; Abstract No. 901.





**LEGEND**

- IRS IRON ROD SET
- IRF IRON ROD FOUND
- HOA HOMEOWNER'S ASSOCIATION
- ROW RIGHT-OF-WAY
- BL BUILDING LINE
- DE DRAINAGE & UTILITY EASEMENT
- DEE DRAINAGE EASEMENT
- S.F.M.E. SCREENING FENCE MAINTENANCE EASEMENT
- UE UTILITY EASEMENT
- R RADIUS
- ◆ STREET NAME CHANGE



**LINE TABLE**

| LINE | BEARING     | LENGTH |
|------|-------------|--------|
| L1   | N18°15'04"E | 19.32' |
| L2   | S01°18'16"W | 30.00' |

**CURVE TABLE**

| CURVE | LENGTH  | RADIUS  | DELTA      | TANGENT | CHD. BEARING | CHORD   |
|-------|---------|---------|------------|---------|--------------|---------|
| C1    | 98.45'  | 350.00' | 16°06'58"  | 49.55'  | S17°38'44"W  | 98.12'  |
| C2    | 111.68' | 271.70' | 23°33'04"  | 56.64'  | N12°05'39"E  | 110.90' |
| C3    | 147.42' | 470.00' | 17°58'17"  | 74.32'  | S09°15'55"W  | 146.82' |
| C4    | 466.55' | 750.00' | 35°38'31"  | 241.10' | S89°34'12"E  | 459.06' |
| C5    | 435.53' | 230.00' | 108°29'44" | 319.46' | N50°24'16"W  | 373.31' |
| C6    | 41.44'  | 470.00' | 5°03'08"   | 20.73'  | S01°19'02"W  | 41.43'  |
| C7    | 94.42'  | 530.00' | 10°12'25"  | 47.33'  | N03°53'40"E  | 94.29'  |
| C8    | 178.21' | 530.00' | 19°15'54"  | 89.95'  | S00°38'04"E  | 177.37' |

- NOTES:**
- BENCHMARKS  
 A.) BM # 7655  
 SQUARE CUT ON TOP OF HEADWALL AT NORTHWEST CORNER OF STINSON ROAD AND JENNA WAY. ELEVATION=574.13'  
 B.) BM # 7656  
 SQUARE CUT ON TOP OF HEADWALL ON WEST SIDE OF STINSON ROAD AND 4,600 FEET NORTH OF JENNA WAY. ELEVATION=569.39'
  - NO 100 YEAR FLOOD PLAIN EXISTS ON THE SUBJECT PROPERTY ACCORDING TO FEMA FLOOD INSURANCE RATE MAP NO. 48085C0405J, DATED JUNE 02, 2009.
  - ALL ONE-HALF INCH IRON RODS SET HAVE A YELLOW CAP WITH A "JBI" STAMP UNLESS NOTED OTHERWISE.
  - PONDS ON LOTS 8, 12-17, BLOCK A ARE TO BE MAINTAINED BY THE HOA. THIS INCLUDES RIPRAP, SILTING AND ALL ELEMENTS NEEDED TO OPERATE PONDS. PONDS MAY NOT BE ALTERED WITHOUT WRITTEN APPROVAL BY THE CITY OF LUCAS. THE HOA SHALL MAINTAIN ALL DRAINAGE WITHIN AN EASEMENT OR RIGHT-OF-WAY.
  - THE HOA IS RESPONSIBLE FOR MAINTAINS OF ALL EASEMENTS.

**NOTICE:**  
 SELLING A PORTION OF THIS PROPERTY BY METES AND BOUNDS IS A VIOLATION OF CITY ORDINANCE AND STATE LAW AND IS SUBJECT TO FINES AND WITHHOLDING OF UTILITIES AND BUILDING PERMITS.

**ZONING EXHIBIT**

**STINSON HIGHLANDS, PHASE 3**  
 78.943 ACRES OUT OF THE JOHN GRAY SURVEY, ABSTRACT NO. 349; GEORGE GUNNELL SURVEY, ABSTRACT NO. 352; ANN S. HURT SURVEY, ABSTRACT NO. 428; JAMES LOVELADY SURVEY, ABSTRACT NO. 538; LEWIS P. TURNER SURVEY, ABSTRACT NO. 901; CITY OF LUCAS, COLLIN COUNTY, TEXAS  
 BLOCK A, LOTS 4-24, BLOCK J, LOTS 13-22, BLOCK L, 1-13, AND BLOCK M, LOT 1

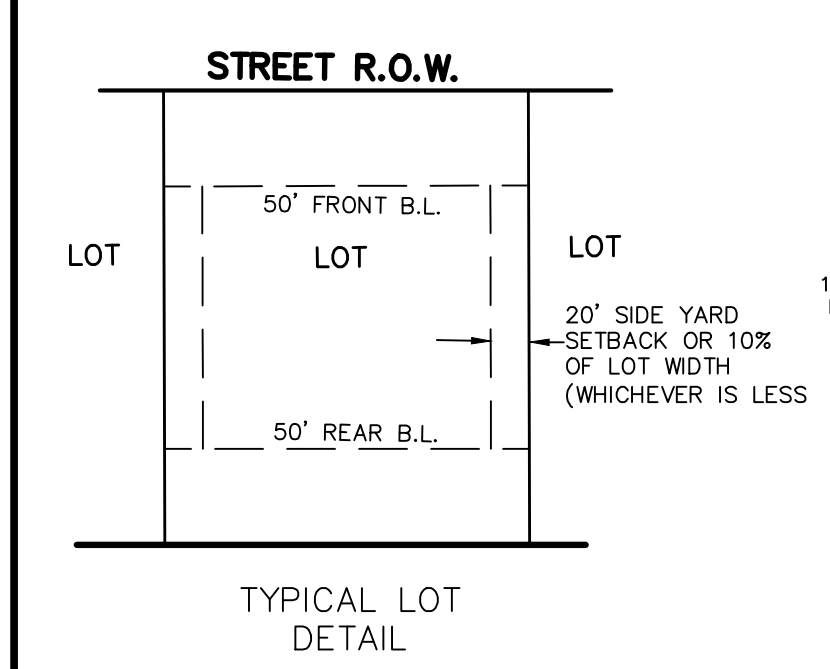
**MENTONE PARTNERS, LLC,** OWNER  
 4323 Gloster Road (214) 435-6251  
 Dallas, Texas 75220

**JB PARTNERS, INC.** SURVEYOR/ENGINEER  
 16301 Quorum Drive, Suite 200 B (972)248-7676  
 Addison, Texas 75001  
 TBPE NO. F-438 TPLS NO. 10076000

LEWIS BEND PARTNERS, LTD.  
 DOC. NO. 2006112001651500  
 CALLED: 48.6223 AC.

ANN S. HURT SURVEY, ABSTRACT NO. 428  
 LEWIS P. TURNER SURVEY, ABSTRACT NO. 901

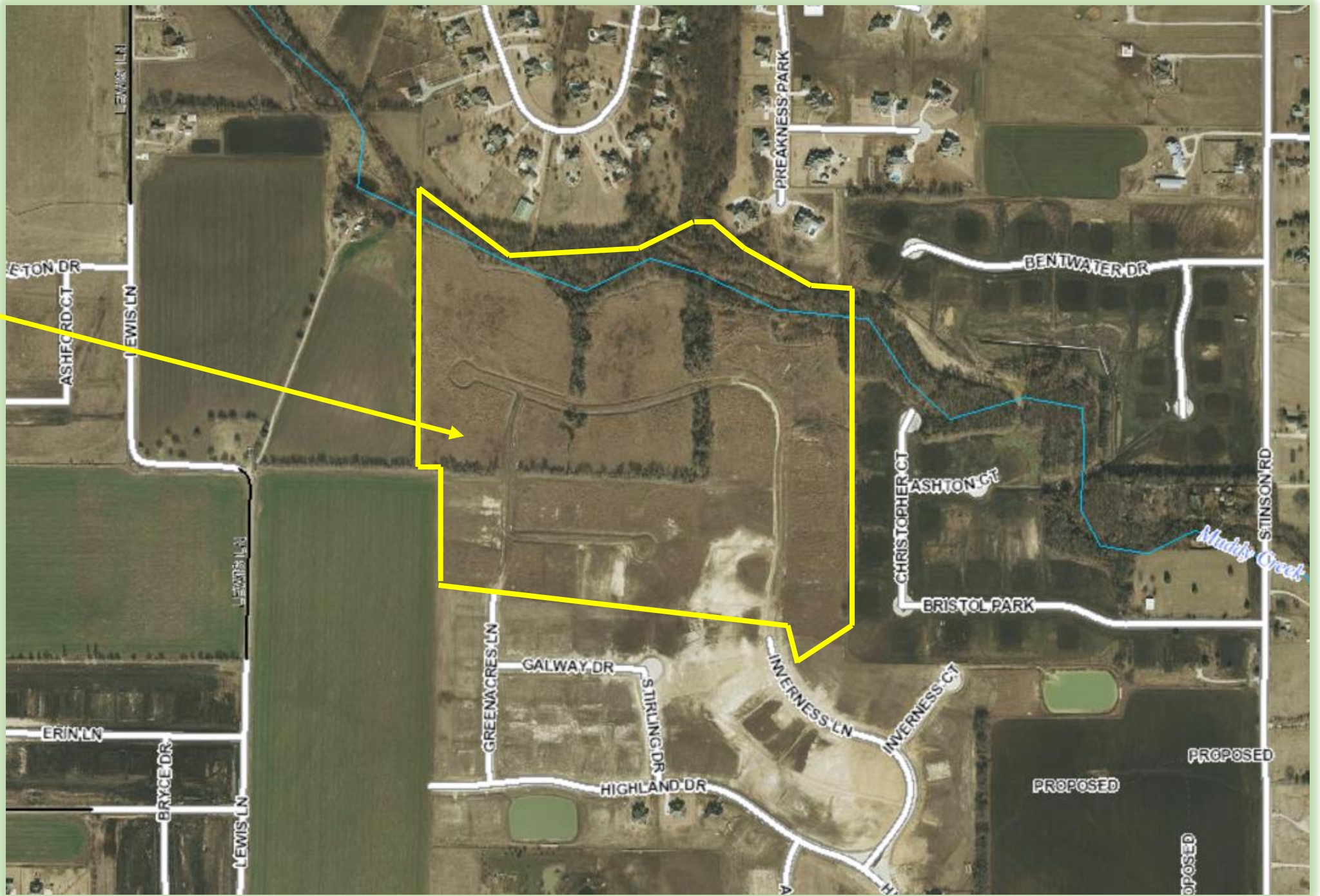
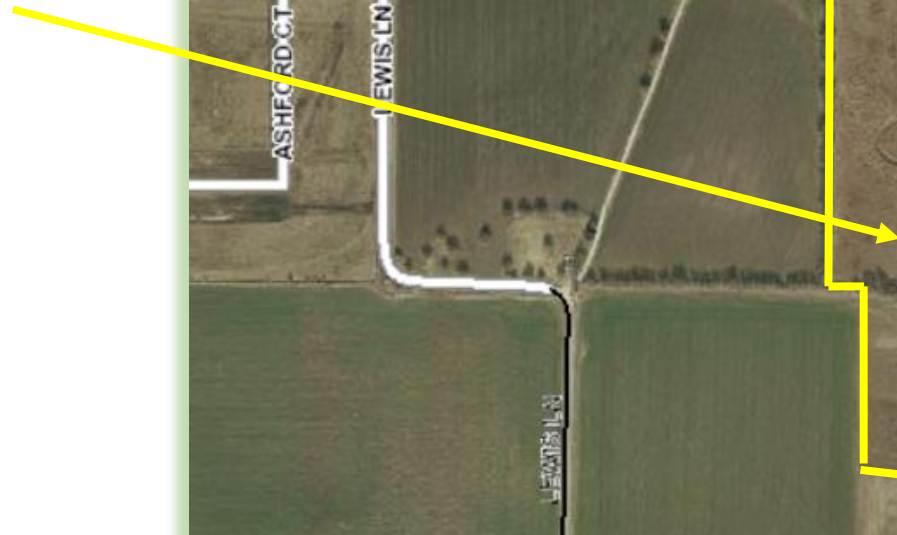
THE UMPHY CORPORATION  
 DOC. NO. 20071231001715950  
 CALLED: TRACT 2



Drawing: H:\Projects\HOE140\dwg\PHASE 3\XHOE140 ZONING EXHIBIT-PHASE 3.dwg Saved By: mdauidson Save Time: 3/9/2017 1:53 PM  
 Plotted by: mdauidson Plot Date: 3/9/2017 2:00 PM



**Stinson  
Highlands  
Phase 3**



**Meets and Bounds**  
**Legal Description**  
**R-1 Zone Stinson Highlands phase 3**

WHEREAS, MENTONE PARTNERS, LLC is the owner of that parcel of land located in the City of Lucas, Collin County, Texas, being a part of the John Gray Survey, Abstract Number 349, being a part of the George Gunnell Survey, Abstract No. 352, being a part of the Ann S. Hurt Survey, Abstract No. 428, being a part of the James Lovelady Survey, Abstract No. 538, being a part of the Lewis P. Turner Survey, Abstract No. 901, and being part of Stinson Highlands, Phase 3, an addition to the City of Lucas, as recorded in Volume 2017, Page 260, of the Plat Records of Collin County, Texas, (P.R.C.C.T.), and being further described as follows:

BEGINNING at a one-half inch iron rod found at the southeast corner of said Phase 3, said point being the northeast corner of Stinson Highlands, Phase 2, an addition to the City of Lucas as recorded in Volume 2013, Page 308, Plat Records of Collin County, Texas (P.R.C.C.T.), said point being in the west line of Bristol Park, Phase 2, an addition to the City of Lucas as recorded in Volume 2014, Page 701, (P.R.C.C.T);

THENCE along the south line of said Phase 3 and along the north line of said Phase 2 as follows:

South 80 degrees 08 minutes 07 seconds West, 375.35 feet to a one-half inch iron rod found for corner;

Southeasterly, 38.17 feet along a curve to the left which has a central angle of 03 degrees 56 minutes 27 seconds, a radius of 555.00 feet, a tangent of 19.09 feet, and whose chord bears South 12 degrees 13 minutes 09 seconds East, 38.16 feet to a one-half inch iron rod found for corner;

South 75 degrees 58 minutes 58 seconds West, 275.42 feet to a one-half inch iron rod found for corner;

North 07 degrees 44 minutes 21 seconds West, 231.44 feet to a one-half inch iron rod found for corner;

North 87 degrees 00 minutes 23 seconds West, 541.09 feet to a one-half inch iron rod found for corner;

North 84 degrees 57 minutes 32 seconds West, 476.34 feet to a one-half inch iron rod found for corner;

Southwesterly, 58.93 feet along a curve to the left which has a central angle of 09 degrees 00 minutes 15 seconds, a radius of 375.00 feet, a tangent of 29.53 feet, and whose chord bears South 04 degrees 46 minutes 54 seconds West, 58.87 feet to a one-half inch iron rod found for corner; South 00 degrees 16 minutes 47 seconds West, 47.30 feet to a one-half inch iron rod found for corner;

North 86 degrees 05 minutes 41 seconds West, 245.49 feet to a one-half inch iron rod found at the southwest corner of said Phase 3 and at the northwest corner of said Phase 2, said point being in the east line of that called Tract 2 as described in deed to The Umphy Corporation as recorded in Document No. 20071231001715950, (D.R.C.C.T.);

THENCE along the west line of said Phase 3 as follows.

North 00 degrees 17 minutes 03 seconds East, 674.26 feet to a 60d nail found for corner;



North 88 degrees 01 minutes 54 seconds West, 112.82 feet to a five-eighths inch iron rod found for corner;

North 00 degrees 20 minutes 28 seconds West, 448.55 feet to a one-half inch iron rod found for corner;

THENCE North 88 degrees 01 minutes 10 seconds East, 161.40 feet to a one-half inch iron rod found at the northeast corner of said Lot 19;

THENCE North 82 degrees 33 minutes 09 seconds East, 65.80 feet to an "X" found in the centerline of Inverness Lane (a fifty foot wide right-of-way) as recorded in said Phase 3;

THENCE along the centerline of Inverness Lane as follows:

South 71 degrees 44 minutes 56 seconds East, 412.04 feet to an "X" found;

Southeasterly, 466.55 feet along a curve to the left which has a central angle of 35 degrees 38 minutes 31 seconds, a radius of 750.00 feet, a tangent of 241.10 feet, and whose chord bears

South 89 degrees 34 minutes 12 seconds East, 459.06 feet to an "X" found;

North 72 degrees 36 minutes 33 seconds East, 386.51 feet to an "X" found;

Southeasterly, 409.05 feet along a curve to the right which has a central angle of 101 degrees 53 minutes 57 seconds, a radius of 230.00 feet, a tangent of 283.52 feet, and whose chord bears

South 53 degrees 42 minutes 10 seconds East, 357.23 feet to a point for corner;

THENCE North 75 degrees 31 minutes 18 seconds East, 287.59 feet to a one-half inch iron rod found at the northeast corner of Lot 7, said Block A, said point being in the west line of said Phase 3;

THENCE along the east line of said Phase 3 as follows:

South 01 degrees 00 minutes 48 seconds East, 326.24 feet to a five-eighths inch iron rod found for corner;

North 87 degrees 47 minutes 13 seconds East, 4.45 feet to a five-eighths inch iron rod found for corner;

South 01 degrees 12 minutes 25 seconds East, 700.26 feet to the POINT OF BEGINNING and containing 2,064,209 square feet or 47.388 acres of land.



## NOTICE OF PUBLIC HEARINGS

NOTICE IS HEREBY GIVEN that the Planning & Zoning Commission of the City of Lucas, Texas will conduct a Public Hearing on Thursday, June 8, 2017 at 7:00 p.m. and the City Council will conduct a second Public Hearing on Thursday, July 6, 2017 at 7:00 p.m. for a request to rezone a parcel of land from AO to R-1 at Lucas City Hall, 665 Country Club, Lucas, Texas to consider:

WHEREAS, MENTONE PARTNERS, LLC is the owner of that parcel of land located in the City of Lucas, Collin County, Texas, being a part of the John Gray Survey, Abstract Number 349, being a part of the George Gunnell Survey, Abstract No. 352, being a part of the Ann S. Hurt Survey, Abstract No. 428, being a part of the James Lovelady Survey, Abstract No. 538, being a part of the Lewis P. Turner Survey, Abstract No. 901, and being part of Stinson Highlands, Phase 3, an addition to the City of Lucas, as recorded in Volume 2017, Page 260, of the Plat Records of Collin County, Texas, (P.R.C.C.T.), and being further described as follows:

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Southeasterly, 38.17 feet along a curve to the left which has a central angle of 03 degrees 56 minutes 27 seconds, a radius of 555.00 feet, a tangent of 19.09 feet, and whose chord bears South 12 degrees 13 minutes 09 seconds East, 38.16 feet to a one-half inch iron rod found for corner;

South 75 degrees 58 minutes 58 seconds West, 275.42 feet to a one-half inch iron rod found for corner;

North 07 degrees 44 minutes 21 seconds West, 231.44 feet to a one-half inch iron rod found for corner;

North 87 degrees 00 minutes 23 seconds West, 541.09 feet to a one-half inch iron rod found for corner;

North 84 degrees 57 minutes 32 seconds West, 476.34 feet to a one-half inch iron rod found for corner;

Southwesterly, 58.93 feet along a curve to the left which has a central angle of 09 degrees 00 minutes 15 seconds, a radius of 375.00 feet, a tangent of 29.53 feet, and whose chord bears South 04 degrees 46 minutes 54 seconds West, 58.87 feet to a one-half inch iron rod found for corner;

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North 72 degrees 36 minutes 33 seconds East, 386.51 feet to an "X" found;

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THENCE along the east line of said Phase 3 as follows:

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North 87 degrees 47 minutes 13 seconds East, 4.45 feet to a five-eighths inch iron rod found for corner;

South 01 degrees 12 minutes 25 seconds East, 700.26 feet to the POINT OF BEGINNING and containing 2,064,209 square feet or 47.388 acres of land.

Those wishing to speak FOR or AGAINST the above item are invited to attend. If you are unable to attend and have comments you may send them to City of Lucas, Attention: City Secretary, 665 Country Club Road, Lucas Texas 75002, 972-727-8999, email shenderson@lucastexas.us and they will be presented at the hearing. If you have any questions please contact jhilbourn@lucastexas.us



**ORDINANCE 2017-07-00857  
(R1 ZONE/STINSON HIGHLANDS PHASE 3/±47.388-ACRE  
TRACT OF LAND)**

**AN ORDINANCE OF THE CITY OF LUCAS, TEXAS, AMENDING THE COMPREHENSIVE ZONING ORDINANCE AND MAP OF THE CITY OF LUCAS, AS HERETOFORE AMENDED, SO AS TO GRANT A CHANGE IN ZONING CLASSIFICATION FROM AGRICULTURE (“AO”) TO SINGLE FAMILY RESIDENTIAL, 1-ACRE LOTS (“R1”), ON AN APPROXIMATE 47.388-ACRE TRACT OF LAND, BEING MORE PARTICULARLY DESCRIBED IN EXHIBIT “A” AND DEPICTED ON EXHIBIT “B” ATTACHED HERETO; PROVIDING A CONFLICTS CLAUSE; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000.00) FOR EACH OFFENSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Planning and Zoning Commission of the City of Lucas, Texas and the City Council of the City of Lucas, Texas, in compliance with the laws of the State of Texas with reference to the granting of zoning classifications and changes, have given the requisite notices by publication and otherwise, and have held due hearings and afforded a full and fair hearing to all property owners generally and to all persons interested and situated in the affected area and in the vicinity thereof, and the City Council of the City of Lucas, Texas is of the opinion and finds that said zoning change should be granted and that the Comprehensive Zoning Ordinance and Map should be amended;

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

**Section 1.** The Comprehensive Zoning Ordinance and Map of the City of Lucas, Texas, are hereby amended to grant a change in zoning from Agriculture (“AO”) to Single Family Residential, 1-Acre Lots (“R1”), on an approximate 47.388-acre tract of land, being more particularly described in Exhibit “A” and depicted on Exhibit “B”, attached hereto and made part hereof for all purposes.

**Section 2.** To the extent of any irreconcilable conflict with the provisions of this ordinance and other ordinances of the City of Lucas governing the use and development of the Property and which are not expressly amended by this ordinance, the provisions of this ordinance shall be controlling.

**Section 3.** That all ordinances of the City of Lucas in conflict with the provisions of this Ordinance shall be, and same are hereby, repealed, provided, however, that all other provisions of said Ordinances are not in conflict herewith shall remain in full force and effect.

**Section 4.** That should any word, sentence, paragraph, subdivision, clause, phrase or section of this Ordinance or of the City of Lucas Code of Ordinances, as amended hereby, be adjudged or held to be voided or unconstitutional, the same shall not affect the validity of the remaining portions of said Ordinances or the City of Lucas Code of Ordinances, as amended hereby, which shall remain in full force and effect.

**Section 5.** An offense committed before the effective date of the Ordinance is governed by prior law and the provisions of the City of Lucas Code of Ordinances in effect when the offense was committed and the former law is continued in effect for this purpose.

**Section 6.** That any person, firm or corporation violating any of the provisions or terms of this Ordinance shall be subject to the same penalty as provided for in the Code of Ordinances, as amended, and upon conviction in the municipal court shall be punished by a fine not to exceed the sum of Two Thousand Dollars (\$2,000.00) for each offense, and each and every day such violation shall continue shall be deemed to constitute a separate offense.

**Section 7.** That this Ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Charter of the City of Lucas, and it is accordingly so ordained

**DULY PASSED AND APPROVED BY THE CITY COUNSEL OF THE CITY OF LUCAS, COLLIN COUNTY, TEXAS, ON THIS 6<sup>th</sup> DAY OF JULY, 2017.**

APPROVED:

\_\_\_\_\_  
Jim Olk, Mayor

APPROVED AS TO FORM:

ATTEST:

\_\_\_\_\_  
Joseph J. Gorfida, Jr.  
(06-14-2017/87096)

\_\_\_\_\_  
Stacy Henderson, City Secretary

**EXHIBIT "A"**  
**R-1 Zone/Stinson Highlands Phase 3**  
**Legal Description**

WHEREAS, MENTONE PARTNERS, LLC is the owner of that parcel of land located in the City of Lucas, Collin County, Texas, being a part of the John Gray Survey, Abstract Number 349, being a part of the George Gunnell Survey, Abstract No. 352, being a part of the Ann S. Hurt Survey, Abstract No. 428, being a part of the James Lovelady Survey, Abstract No. 538, being a part of the Lewis P. Turner Survey, Abstract No. 901, and being part of Stinson Highlands, Phase 3, an addition to the City of Lucas, as recorded in Volume 2017, Page 260, of the Plat Records of Collin County, Texas, (P.R.C.C.T.), and being further described as follows:

BEGINNING at a one-half inch iron rod found at the southeast corner of said Phase 3, said point being the northeast corner of Stinson Highlands, Phase 2, an addition to the City of Lucas as recorded in Volume 2013, Page 308, Plat Records of Collin County, Texas (P.R.C.C.T.), said point being in the west line of Bristol Park, Phase 2, an addition to the City of Lucas as recorded in Volume 2014, Page 701, (P.R.C.C.T);

THENCE along the south line of said Phase 3 and along the north line of said Phase 2 as follows:

South 80 degrees 08 minutes 07 seconds West, 375.35 feet to a one-half inch iron rod found for corner;

Southeasterly, 38.17 feet along a curve to the left which has a central angle of 03 degrees 56 minutes 27 seconds, a radius of 555.00 feet, a tangent of 19.09 feet, and whose chord bears South 12 degrees 13 minutes 09 seconds East, 38.16 feet to a one-half inch iron rod found for corner;

South 75 degrees 58 minutes 58 seconds West, 275.42 feet to a one-half inch iron rod found for corner;

North 07 degrees 44 minutes 21 seconds West, 231.44 feet to a one-half inch iron rod found for corner;

North 87 degrees 00 minutes 23 seconds West, 541.09 feet to a one-half inch iron rod found for corner;

North 84 degrees 57 minutes 32 seconds West, 476.34 feet to a one-half inch iron rod found for corner;

Southwesterly, 58.93 feet along a curve to the left which has a central angle of 09 degrees 00 minutes 15 seconds, a radius of 375.00 feet, a tangent of 29.53 feet, and whose chord bears South 04 degrees 46 minutes 54 seconds West, 58.87 feet to a one-half inch iron rod found for corner; South 00 degrees 16 minutes 47 seconds West, 47.30 feet to a one-half inch iron rod found for corner;

North 86 degrees 05 minutes 41 seconds West, 245.49 feet to a one-half inch iron rod found at the southwest corner of said Phase 3 and at the northwest corner of said Phase 2, said point being in the east line of that called Tract 2 as described in deed to The Umphy Corporation as recorded in Document No. 20071231001715950, (D.R.C.C.T.);

THENCE along the west line of said Phase 3 as follows.

North 00 degrees 17 minutes 03 seconds East, 674.26 feet to a 60d nail found for corner;

**EXHIBIT "A"**  
**R-1 Zone/Stinson Highlands Phase 3**

## Legal Description

88 degrees 01 minutes 54 seconds West, 112.82 feet to a five-eighths inch iron rod found for corner;

North 00 degrees 20 minutes 28 seconds West, 448.55 feet to a one-half inch iron rod found for corner;

THENCE North 88 degrees 01 minutes 10 seconds East, 161.40 feet to a one-half inch iron rod found at the northeast corner of said Lot 19;

THENCE North 82 degrees 33 minutes 09 seconds East, 65.80 feet to an "X" found in the centerline of Inverness Lane (a fifty foot wide right-of-way) as recorded in said Phase 3;

THENCE along the centerline of Inverness Lane as follows:

South 71 degrees 44 minutes 56 seconds East, 412.04 feet to an "X" found;

Southeasterly, 466.55 feet along a curve to the left which has a central angle of 35 degrees 38 minutes 31 seconds, a radius of 750.00 feet, a tangent of 241.10 feet, and whose chord bears

South 89 degrees 34 minutes 12 seconds East, 459.06 feet to an "X" found;

North 72 degrees 36 minutes 33 seconds East, 386.51 feet to an "X" found;

Southeasterly, 409.05 feet along a curve to the right which has a central angle of 101 degrees 53 minutes 57 seconds, a radius of 230.00 feet, a tangent of 283.52 feet, and whose chord bears

South 53 degrees 42 minutes 10 seconds East, 357.23 feet to a point for corner;

THENCE North 75 degrees 31 minutes 18 seconds East, 287.59 feet to a one-half inch iron rod found at the northeast corner of Lot 7, said Block A, said point being in the west line of said Phase 3;

THENCE along the east line of said Phase 3 as follows:

South 01 degrees 00 minutes 48 seconds East, 326.24 feet to a five-eighths inch iron rod found for corner;

North 87 degrees 47 minutes 13 seconds East, 4.45 feet to a five-eighths inch iron rod found for corner;

South 01 degrees 12 minutes 25 seconds East, 700.26 feet to the POINT OF BEGINNING and containing 2,064,209 square feet or 47.388 acres of land.



# EXHIBIT "B"

## R-1 Zone/Stinson Highlands Phase 3 Depiction

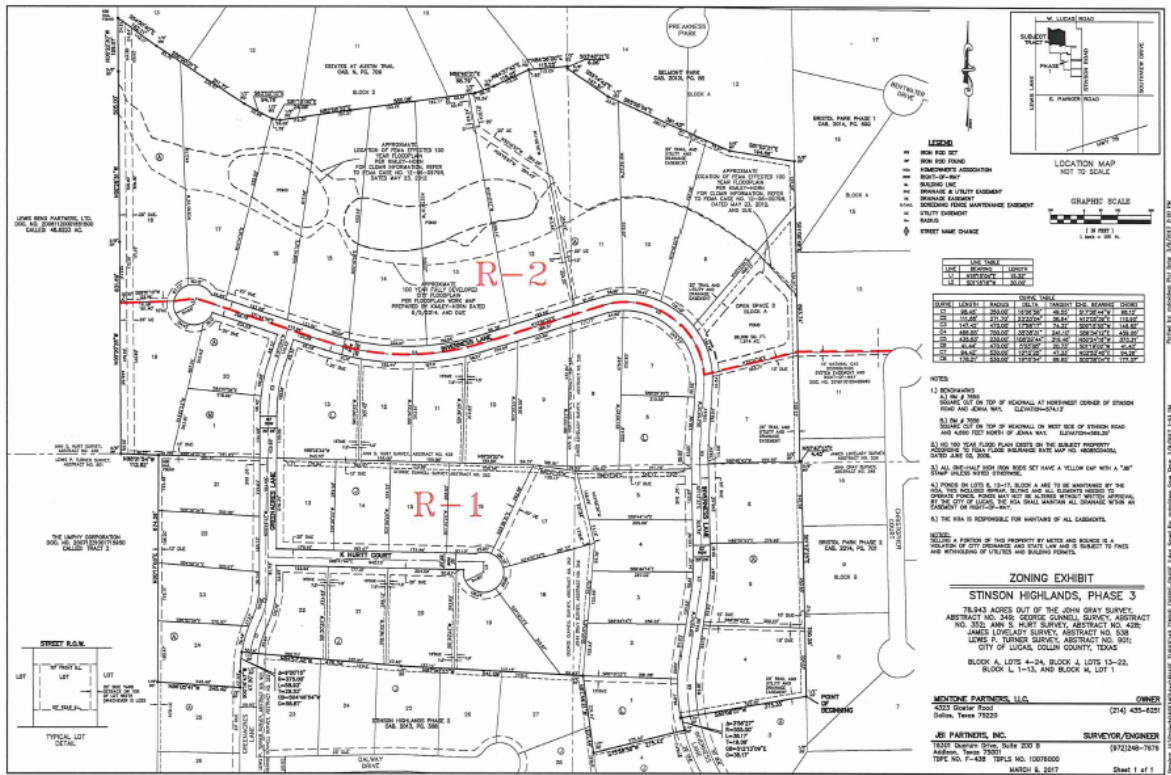


Exhibit "B"  
 City of Lucas  
 Ordinance 2017-07-00857 (R1 Zone/Stinson Highlands Phase Three/47.388 Acres)  
 Approved: July 6, 2017



**City of Lucas  
City Council Agenda Request  
July 6, 2017**

Item No. 07

Requester: Development Services Director Joe Hilbourn

**Agenda Item:**

Public hearing to consider adopting Ordinance 2017-07-00858 approving a request by JBI Partners, Inc on behalf of Kenneth Prater to rezone Stinson Highlands Phase 3 from R1.5 to R-2 consisting of 31.556 acres of 78.943 acres and being part of the John Gray Survey, Abstract No. 349; George Gunnell Survey, Abstract No. 352; Ann S. Hurt Survey, Abstract No. 428; James Lovelady Survey; Abstract No. 538, and the Lewis P. Turner Survey; Abstract No. 901.

- A. Presentation by Development Services Director Joe Hilbourn
- B. Conduct public hearing
- C. Take action regarding proposed zoning request

**Background Information:**

This property is currently zoned R-1.5 and has an approved Development Agreement. The request matches the final plat and approved concept plan.

**Attachments/Supporting Documentation:**

1. Depiction
2. Location map
3. Meets and Bounds
4. Public hearing notice
5. Ordinance 2017-07-00858

**Budget/Financial Impact:**

N/A

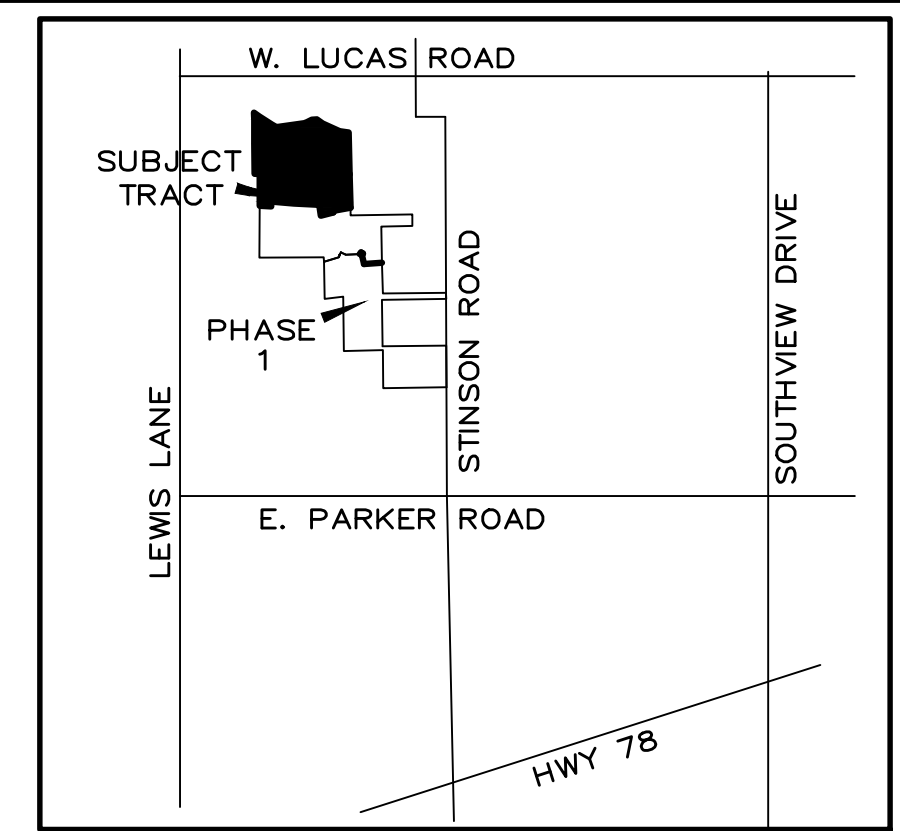
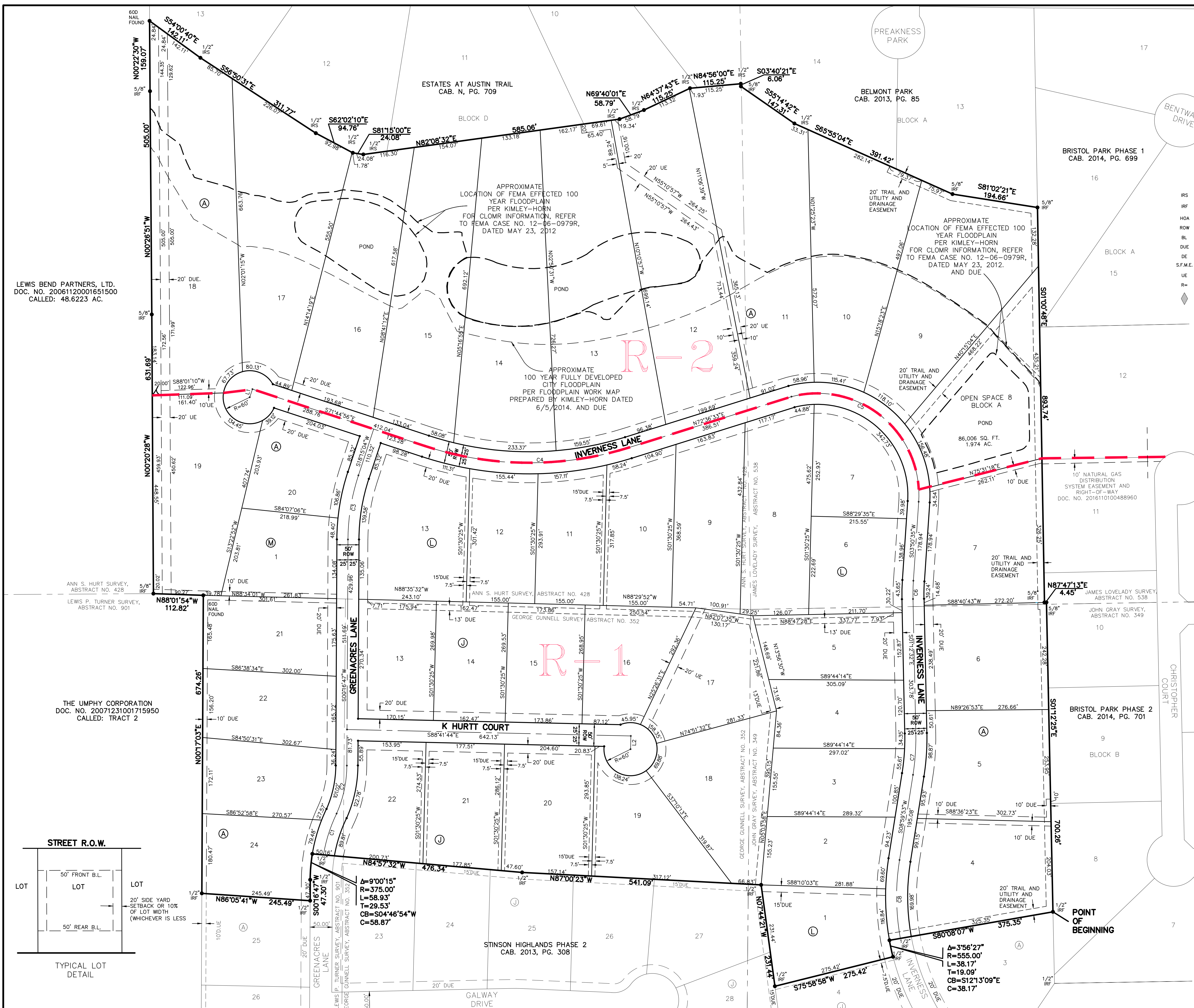
**Recommendation:**

The Planning and Zoning Commission unanimously recommended approval of the request.

**Motion:**

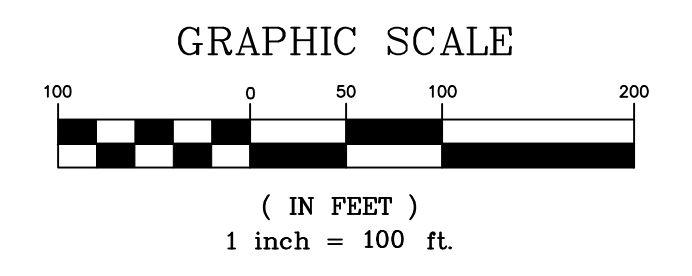
I make a motion to approval/denial adopting Ordinance 2017-07-00858 approving the rezoning of Stinson Highlands Phase 3 from R1.5 to R-2 consisting of 31.556 acres of 78.943 acres and being part of the John Gray Survey, Abstract No. 349; George Gunnell Survey, Abstract No. 352; Ann S. Hurt Survey, Abstract No. 428; James Lovelady Survey; Abstract No. 538, and the Lewis P. Turner Survey; Abstract No. 901.





**LEGEND**

- IRS IRON ROD SET
- IRF IRON ROD FOUND
- HOA HOMEOWNER'S ASSOCIATION
- ROW RIGHT-OF-WAY
- BL BUILDING LINE
- DE DRAINAGE & UTILITY EASEMENT
- DEE DRAINAGE EASEMENT
- S.F.M.E. SCREENING FENCE MAINTENANCE EASEMENT
- UE UTILITY EASEMENT
- R RADIUS
- ◆ STREET NAME CHANGE



**LINE TABLE**

| LINE | BEARING     | LENGTH |
|------|-------------|--------|
| L1   | N18°15'04"E | 19.32' |
| L2   | S01°18'16"W | 30.00' |

**CURVE TABLE**

| CURVE | LENGTH  | RADIUS  | DELTA      | TANGENT | CHD. BEARING | CHORD   |
|-------|---------|---------|------------|---------|--------------|---------|
| C1    | 98.45'  | 350.00' | 16°06'58"  | 49.55'  | S17°38'44"W  | 98.12'  |
| C2    | 111.68' | 271.70' | 23°33'04"  | 56.64'  | N12°05'39"E  | 110.90' |
| C3    | 147.42' | 470.00' | 17°58'17"  | 74.32'  | S09°15'55"W  | 146.82' |
| C4    | 466.55' | 750.00' | 35°38'31"  | 241.10' | S89°34'12"E  | 459.06' |
| C5    | 435.53' | 230.00' | 108°29'44" | 319.46' | N50°24'16"W  | 373.31' |
| C6    | 41.44'  | 470.00' | 5°03'08"   | 20.73'  | S01°19'02"W  | 41.43'  |
| C7    | 94.42'  | 530.00' | 10°12'25"  | 47.33'  | N03°53'40"E  | 94.29'  |
| C8    | 178.21' | 530.00' | 19°15'54"  | 89.95'  | S00°38'04"E  | 177.37' |

- NOTES:**
- BENCHMARKS  
 A.) BM # 7655  
 SQUARE CUT ON TOP OF HEADWALL AT NORTHWEST CORNER OF STINSON ROAD AND JENNA WAY. ELEVATION=574.13'  
 B.) BM # 7656  
 SQUARE CUT ON TOP OF HEADWALL ON WEST SIDE OF STINSON ROAD AND 4,600 FEET NORTH OF JENNA WAY. ELEVATION=569.39'
  - NO 100 YEAR FLOOD PLAIN EXISTS ON THE SUBJECT PROPERTY ACCORDING TO FEMA FLOOD INSURANCE RATE MAP NO. 48085C0405J, DATED JUNE 02, 2009.
  - ALL ONE-HALF INCH IRON RODS SET HAVE A YELLOW CAP WITH A "JBI" STAMP UNLESS NOTED OTHERWISE.
  - PONDS ON LOTS 8, 12-17, BLOCK A ARE TO BE MAINTAINED BY THE HOA. THIS INCLUDES RIPRAP, SILTING AND ALL ELEMENTS NEEDED TO OPERATE PONDS. PONDS MAY NOT BE ALTERED WITHOUT WRITTEN APPROVAL BY THE CITY OF LUCAS. THE HOA SHALL MAINTAIN ALL DRAINAGE WITHIN AN EASEMENT OR RIGHT-OF-WAY.
  - THE HOA IS RESPONSIBLE FOR MAINTAINS OF ALL EASEMENTS.

**NOTICE:**  
 SELLING A PORTION OF THIS PROPERTY BY METES AND BOUNDS IS A VIOLATION OF CITY ORDINANCE AND STATE LAW AND IS SUBJECT TO FINES AND WITHHOLDING OF UTILITIES AND BUILDING PERMITS.

**ZONING EXHIBIT**

**STINSON HIGHLANDS, PHASE 3**  
 78.943 ACRES OUT OF THE JOHN GRAY SURVEY, ABSTRACT NO. 349; GEORGE GUNNELL SURVEY, ABSTRACT NO. 352; ANN S. HURT SURVEY, ABSTRACT NO. 428; JAMES LOVELADY SURVEY, ABSTRACT NO. 538; LEWIS P. TURNER SURVEY, ABSTRACT NO. 901; CITY OF LUCAS, COLLIN COUNTY, TEXAS  
 BLOCK A, LOTS 4-24, BLOCK J, LOTS 13-22, BLOCK L, 1-13, AND BLOCK M, LOT 1

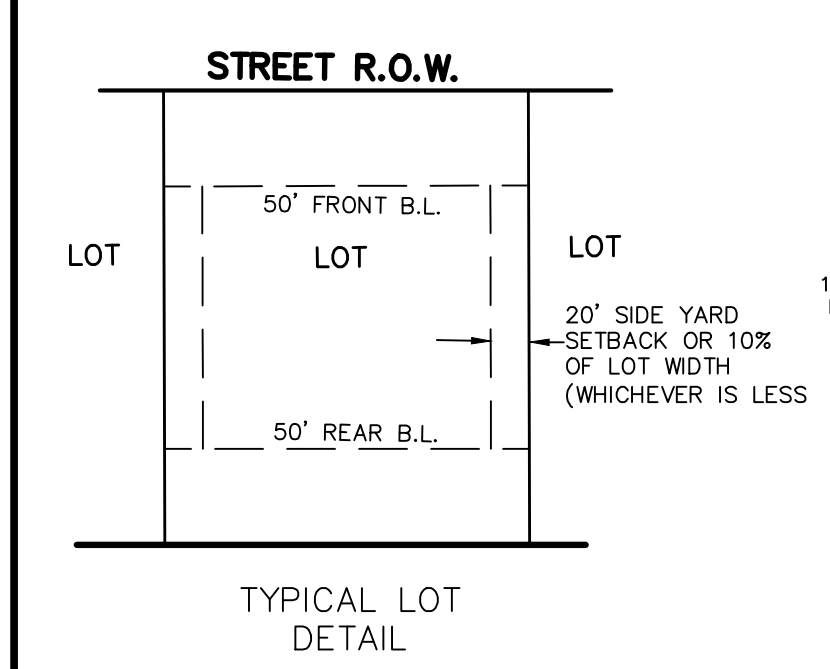
**MENTONE PARTNERS, LLC,** OWNER  
 4323 Gloster Road  
 Dallas, Texas 75220 (214) 435-6251

**JB PARTNERS, INC.** SURVEYOR/ENGINEER  
 16301 Quorum Drive, Suite 200 B  
 Addison, Texas 75001 (972)248-7676  
 TBPE NO. F-438 TPLS NO. 10076000

LEWIS BEND PARTNERS, LTD.  
 DOC. NO. 2006112001651500  
 CALLED: 48.6223 AC.

ANN S. HURT SURVEY, ABSTRACT NO. 428  
 LEWIS P. TURNER SURVEY, ABSTRACT NO. 901

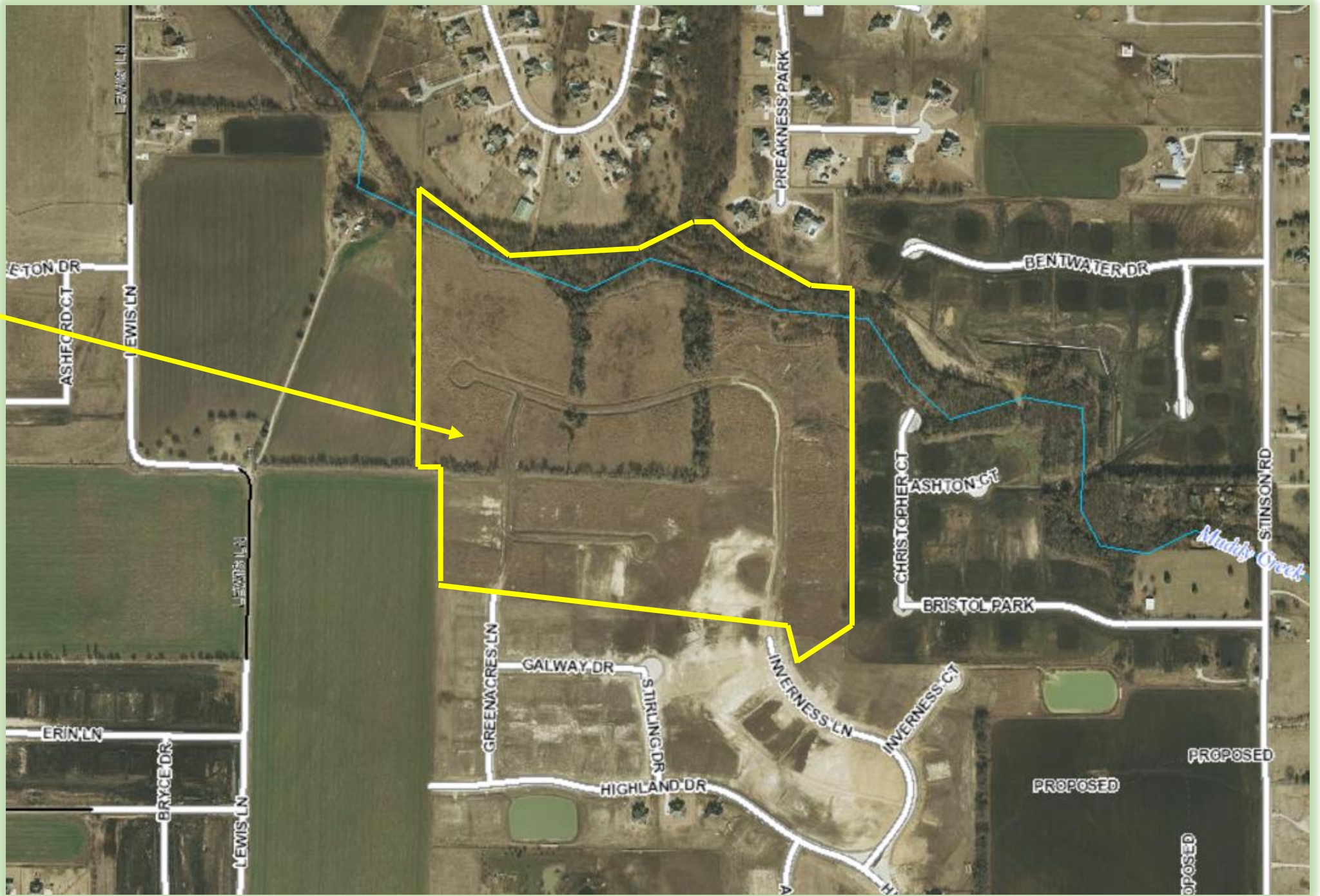
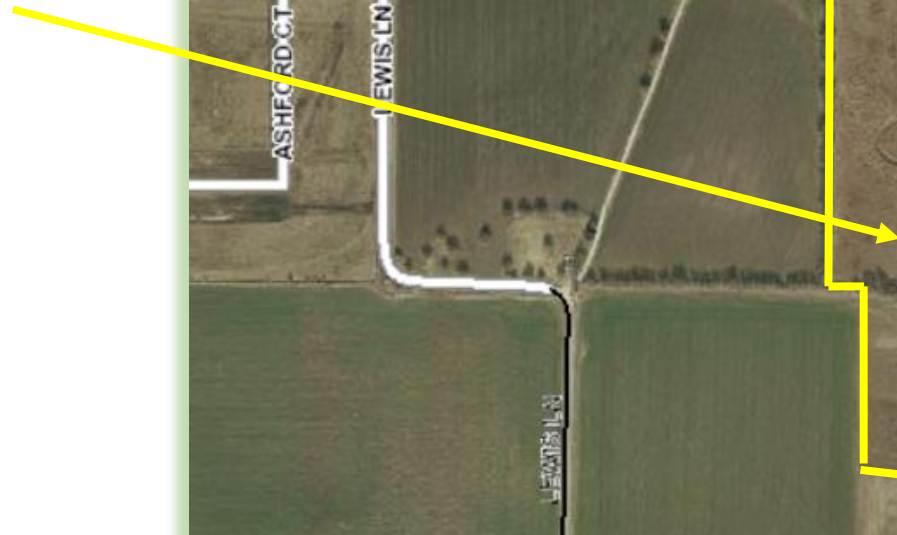
THE UMPHY CORPORATION  
 DOC. NO. 20071231001715950  
 CALLED: TRACT 2



Drawing: H:\Projects\HOE140\dwg\PHASE 3\XHOE140 ZONING EXHIBIT-PHASE 3.dwg Saved By: mdauidson Save Time: 3/9/2017 1:53 PM  
 Plotted by: mdauidson Plot Date: 3/9/2017 2:00 PM



**Stinson  
Highlands  
Phase 3**



**Meets and Bounds  
Legal Description  
Stinson Highlands Phase 3 R-2 section**

WHEREAS, MENTONE PARTNERS, LLC is the owner of that parcel of land located in the City of Lucas, Collin County, Texas, being a part of the John Gray Survey, Abstract Number 349, being a part of the George Gunnell Survey, Abstract No. 352, being a part of the Ann S. Hurt Survey, Abstract No. 428, being a part of the James Lovelady Survey, Abstract No. 538, being a part of the Lewis P. Turner Survey, Abstract No. 901, and being part of Stinson Highlands, Phase 3, an addition to the City of Lucas, as recorded in Volume 2017, Page 260, of the Plat Records of Collin County, Texas, (P.R.C.C.T.), and being further described as follows:

BEGINNING at a 60d nail found at the northwest corner of said Phase 3, said point being in the south line of the Estates at Austin Trail, an addition to the City of Lucas as recorded in Cabinet N, Page 709, (P.R.C.C.T);

THENCE along the north line of said Phase 3 and along the south line of said Estates at Austin Trail as follows:

South 54 degrees 00 minutes 40 seconds East, 142.11 feet to a one-half inch iron rod found for corner;

South 56 degrees 50 minutes 31 seconds East, 311.77 feet to a one-half inch iron rod found for corner;

South 62 degrees 02 minutes 10 seconds East, 94.76 feet to a one-half inch iron rod found for corner;

South 81 degrees 15 minutes 00 seconds East, 24.08 feet to a one-half inch iron rod found for corner;

North 82 degrees 08 minutes 32 seconds East, 585.06 feet to a one-half inch iron rod found for corner;

North 69 degrees 40 minutes 01 seconds East, 58.79 feet to a one-half inch iron rod found for corner;

North 64 degrees 37 minutes 43 seconds East, 115.25 feet to a one-half inch iron rod found for corner;

North 84 degrees 56 minutes 00 seconds East, 115.25 feet to a one-half inch iron rod found at the southeast corner of said Estates at Austin Trail, said point being in the west line of Belmont Park, an addition to the City of Lucas as recorded in Volume 2013, Page 85, (P.R.C.C.T);

South 03 degrees 40 minutes 21 seconds East, 6.06 feet to a five-eighths inch iron rod found at the southwest corner of said Belmont Park;

THENCE along the north line of said Phase 3 and along the south line of said Belmont Park as follows:

South 55 degrees 14 minutes 42 seconds East, 147.31 feet to a one-half inch iron rod found for corner;

South 65 degrees 55 minutes 04 seconds East, 391.42 feet to a five-eighths inch iron rod found for corner;

South 81 degrees 02 minutes 21 seconds East, 194.66 feet to a five-eighths inch iron rod found for corner in the east line of said Phase 3, said point being in the west line of Bristol Park, Phase 1, an addition to the City of Lucas as recorded in Volume 2014, Page 699, (P.R.C.C.T);

THENCE South 01 degrees 00 minutes 48 seconds East, 567.49 feet along the east line of said Phase 3 and along the west line of said Bristol Park to a one-half inch iron rod found at the northeast corner of Lot 7, Block A, said Phase 3;

THENCE South 75 degrees 31 minutes 18 seconds West, 287.59 feet to a point for corner in the centerline of Inverness Lane (a fifty-foot-wide right-of-way) as recorded in said Phase 3;

THENCE along the centerline of Inverness Lane as follows:

Northwesterly, 409.05 feet along a non-tangent curve to the left which has a central angle of 101 degrees 53 minutes 57 seconds, a radius of 230.00 feet, a tangent of 283.52 feet, and whose chord bears North 53 degrees 42 minutes 10 seconds West, 357.23 feet to an "X" found;

South 72 degrees 36 minutes 33 seconds West, 386.51 feet to an "X" found;

Northwesterly, 466.55 feet along a curve to the right which has a central angle of 35 degrees 38 minutes 31 seconds, a radius of 750.00 feet, a tangent of 241.10 feet, and whose chord bears North 89 degrees 34 minutes 12 seconds West, 459.06 feet to an "X" found; North 71 degrees 44 minutes 56 seconds West, 412.04 feet to an "X" found;

THENCE South 82 degrees 33 minutes 09 seconds West, 65.80 feet to a one-half inch iron rod found at the northeast corner of Lot 19, Block A, said Phase 3;

THENCE South 88 degrees 01 minutes 10 seconds West, 161.40 feet to a one-half inch iron rod found at the northwest corner of said Lot 19;

THENCE along the west line of said Phase 3 as follows:

North 00 degrees 20 minutes 28 seconds West, 183.14 feet to a five-eighths inch iron rod found for corner;

North 00 degrees 26 minutes 51 seconds West, 505.00 feet to a five-eighths inch iron rod found for corner;

North 00 degrees 22 minutes 30 seconds West, 159.07 feet to the POINT OF BEGINNING and containing 1,374,584 square feet or 31.556 acres of land.



## NOTICE OF PUBLIC HEARINGS

NOTICE IS HEREBY GIVEN that the Planning & Zoning Commission of the City of Lucas, Texas will conduct a Public Hearing on Thursday, June 8, 2017 at 7:00 p.m. and the City Council will conduct a second Public Hearing on Thursday, July 6, 2017 at 7:00 p.m. for a request to rezone a parcel of land from R-1.5 to R-2 at Lucas City Hall, 665 Country Club, Lucas, Texas to consider:

WHEREAS, MENTONE PARTNERS, LLC is the owner of that parcel of land located in the City of Lucas, Collin County, Texas, being a part of the John Gray Survey, Abstract Number 349, being a part of the George Gunnell Survey, Abstract No. 352, being a part of the Ann S. Hurt Survey, Abstract No. 428, being a part of the James Lovelady Survey, Abstract No. 538, being a part of the Lewis P. Turner Survey, Abstract No. 901, and being part of Stinson Highlands, Phase 3, an addition to the City of Lucas, as recorded in Volume 2017, Page 260, of the Plat Records of Collin County, Texas, (P.R.C.C.T.), and being further described as follows:

BEGINNING at a 60d nail found at the northwest corner of said Phase 3, said point being in the south line of the Estates at Austin Trail, an addition to the City of Lucas as recorded in Cabinet N, Page 709, (P.R.C.C.T);

THENCE along the north line of said Phase 3 and along the south line of said Estates at Austin Trail as follows:

South 54 degrees 00 minutes 40 seconds East, 142.11 feet to a one-half inch iron rod found for corner;

South 56 degrees 50 minutes 31 seconds East, 311.77 feet to a one-half inch iron rod found for corner;

South 62 degrees 02 minutes 10 seconds East, 94.76 feet to a one-half inch iron rod found for corner;

South 81 degrees 15 minutes 00 seconds East, 24.08 feet to a one-half inch iron rod found for corner;

North 82 degrees 08 minutes 32 seconds East, 585.06 feet to a one-half inch iron rod found for corner;

North 69 degrees 40 minutes 01 seconds East, 58.79 feet to a one-half inch iron rod found for corner;

North 64 degrees 37 minutes 43 seconds East, 115.25 feet to a one-half inch iron rod found for corner;

North 84 degrees 56 minutes 00 seconds East, 115.25 feet to a one-half inch iron rod found at the southeast corner of said Estates at Austin Trail, said point being in the west

line of Belmont Park, an addition to the City of Lucas as recorded in Volume 2013, Page 85, (P.R.C.C.T);

South 03 degrees 40 minutes 21 seconds East, 6.06 feet to a five-eighths inch iron rod found at the southwest corner of said Belmont Park;

THENCE along the north line of said Phase 3 and along the south line of said Belmont Park as follows:

South 55 degrees 14 minutes 42 seconds East, 147.31 feet to a one-half inch iron rod found for corner;

South 65 degrees 55 minutes 04 seconds East, 391.42 feet to a five-eighths inch iron rod found for corner;

South 81 degrees 02 minutes 21 seconds East, 194.66 feet to a five-eighths inch iron rod found for corner in the east line of said Phase 3, said point being in the west line of Bristol Park, Phase 1, an addition to the City of Lucas as recorded in Volume 2014, Page 699, (P.R.C.C.T);

THENCE South 01 degrees 00 minutes 48 seconds East, 567.49 feet along the east line of said

Phase 3 and along the west line of said Bristol Park to a one-half inch iron rod found at the northeast corner of Lot 7, Block A, said Phase 3;

THENCE South 75 degrees 31 minutes 18 seconds West, 287.59 feet to a point for corner in the

centerline of Inverness Lane (a fifty-foot-wide right-of-way) as recorded in said Phase 3;

THENCE along the centerline of Inverness Lane as follows:

Northwesterly, 409.05 feet along a non-tangent curve to the left which has a central angle of 101 degrees 53 minutes 57 seconds, a radius of 230.00 feet, a tangent of 283.52 feet, and whose chord bears North 53 degrees 42 minutes 10 seconds West, 357.23 feet to an "X" found;

South 72 degrees 36 minutes 33 seconds West, 386.51 feet to an "X" found;

Northwesterly, 466.55 feet along a curve to the right which has a central angle of 35 degrees 38 minutes 31 seconds, a radius of 750.00 feet, a tangent of 241.10 feet, and whose chord bears North 89 degrees 34 minutes 12 seconds West, 459.06 feet to an "X" found; North 71 degrees 44 minutes 56 seconds West, 412.04 feet to an "X" found;

THENCE South 82 degrees 33 minutes 09 seconds West, 65.80 feet to a one-half inch iron rod found at the northeast corner of Lot 19, Block A, said Phase 3;

THENCE South 88 degrees 01 minutes 10 seconds West, 161.40 feet to a one-half inch iron rod found at the northwest corner of said Lot 19;

THENCE along the west line of said Phase 3 as follows:

North 00 degrees 20 minutes 28 seconds West, 183.14 feet to a five-eighths inch iron rod found for corner;



North 00 degrees 26 minutes 51 seconds West, 505.00 feet to a five-eighths inch iron rod found for corner;  
North 00 degrees 22 minutes 30 seconds West, 159.07 feet to the POINT OF BEGINNING and containing 1,374,584 square feet or 31.556 acres of land.

Otherwise known as Stinson Highlands 3.

Those wishing to speak FOR or AGAINST the above item are invited to attend. If you are unable to attend and have comments you may send them to City of Lucas, Attention: City Secretary, 665 Country Club Road, Lucas Texas 75002, 972-727-8999, email [shenderson@lucastexas.us](mailto:shenderson@lucastexas.us) and they will be presented at the hearing. If you have any questions please contact [jhilbourn@lucastexas.us](mailto:jhilbourn@lucastexas.us)



**ORDINANCE 2017-07-00858**  
**[R2 ZONE/STINSON HIGHLANDS PHASE 3/±31.556-ACRE**  
**TRACT OF LAND)]**

**AN ORDINANCE OF THE CITY OF LUCAS, TEXAS, AMENDING THE COMPREHENSIVE ZONING ORDINANCE AND MAP OF THE CITY OF LUCAS, AS HERETOFORE AMENDED, SO AS TO GRANT A CHANGE IN ZONING CLASSIFICATION FROM SINGLE-FAMILY, RESIDENTIAL, 1.5-ACRE LOTS (“R1.5”) TO SINGLE FAMILY RESIDENTIAL, 2-ACRE LOTS (“R2”), ON AN APPROXIMATE 31.556-ACRE TRACT OF LAND, BEING MORE PARTICULARLY DESCRIBED IN EXHIBIT “A” AND DEPICTED ON EXHIBIT “B” ATTACHED HERETO; PROVIDING A CONFLICTS CLAUSE; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000.00) FOR EACH OFFENSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Planning and Zoning Commission of the City of Lucas, Texas and the City Council of the City of Lucas, Texas, in compliance with the laws of the State of Texas with reference to the granting of zoning classifications and changes, have given the requisite notices by publication and otherwise, and have held due hearings and afforded a full and fair hearing to all property owners generally and to all persons interested and situated in the affected area and in the vicinity thereof, and the City Council of the City of Lucas, Texas is of the opinion and finds that said zoning change should be granted and that the Comprehensive Zoning Ordinance and Map should be amended;

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

**Section 1.** The Comprehensive Zoning Ordinance and Map of the City of Lucas, Texas, are hereby amended to grant a change in zoning from Single Family Residential, 1.5-Acre Lots (“R1.5”) to Single Family Residential, 2-Acre Lots (“R2”), on an approximate 31.556-acre tract of land, being more particularly described in Exhibit “A” and depicted on Exhibit “B”, attached hereto and made part hereof for all purposes.

**Section 2.** To the extent of any irreconcilable conflict with the provisions of this ordinance and other ordinances of the City of Lucas governing the use and development of the Property and which are not expressly amended by this ordinance, the provisions of this ordinance shall be controlling.

**Section 3.** That all ordinances of the City of Lucas in conflict with the provisions of this Ordinance shall be, and same are hereby, repealed, provided, however, that all other provisions of said Ordinances are not in conflict herewith shall remain in full force and effect.

**Section 4.** That should any word, sentence, paragraph, subdivision, clause, phrase or section of this Ordinance or of the City of Lucas Code of Ordinances, as amended hereby, be adjudged or held to be voided or unconstitutional, the same shall not affect the validity of the remaining

portions of said Ordinances or the City of Lucas Code of Ordinances, as amended hereby, which shall remain in full force and effect.

**Section 5.** An offense committed before the effective date of the Ordinance is governed by prior law and the provisions of the City of Lucas Code of Ordinances in effect when the offense was committed and the former law is continued in effect for this purpose.

**Section 6.** That any person, firm or corporation violating any of the provisions or terms of this Ordinance shall be subject to the same penalty as provided for in the Code of Ordinances, as amended, and upon conviction in the municipal court shall be punished by a fine not to exceed the sum of Two Thousand Dollars (\$2,000.00) for each offense, and each and every day such violation shall continue shall be deemed to constitute a separate offense.

**Section 7.** That this Ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Charter of the City of Lucas, and it is accordingly so ordained

**DULY PASSED AND APPROVED BY THE CITY COUNSEL OF THE CITY OF LUCAS, COLLIN COUNTY, TEXAS, ON THIS 6<sup>th</sup> DAY OF JULY, 2017.**

APPROVED:

\_\_\_\_\_  
Jim Olk, Mayor

APPROVED AS TO FORM:

ATTEST:

\_\_\_\_\_  
Joseph J. Gorfida, Jr.  
(06-14-2017/87077)

\_\_\_\_\_  
Stacy Henderson, City Secretary

**EXHIBIT "A"**  
**R2 Zone/Stinson Highlands Phase 3**  
**Legal Description**

WHEREAS, MENTONE PARTNERS, LLC is the owner of that parcel of land located in the City of Lucas, Collin County, Texas, being a part of the John Gray Survey, Abstract Number 349, being a part of the George Gunnell Survey, Abstract No. 352, being a part of the Ann S. Hurt Survey, Abstract No. 428, being a part of the James Lovelady Survey, Abstract No. 538, being a part of the Lewis P. Turner Survey, Abstract No. 901, and being part of Stinson Highlands, Phase 3, an addition to the City of Lucas, as recorded in Volume 2017, Page 260, of the Plat Records of Collin County, Texas, (P.R.C.C.T.), and being further described as follows:

BEGINNING at a 60d nail found at the northwest corner of said Phase 3, said point being in the south line of the Estates at Austin Trail, an addition to the City of Lucas as recorded in Cabinet N, Page 709, (P.R.C.C.T);

THENCE along the north line of said Phase 3 and along the south line of said Estates at Austin Trail as follows:

South 54 degrees 00 minutes 40 seconds East, 142.11 feet to a one-half inch iron rod found for corner;

South 56 degrees 50 minutes 31 seconds East, 311.77 feet to a one-half inch iron rod found for corner;

South 62 degrees 02 minutes 10 seconds East, 94.76 feet to a one-half inch iron rod found for corner;

South 81 degrees 15 minutes 00 seconds East, 24.08 feet to a one-half inch iron rod found for corner;

North 82 degrees 08 minutes 32 seconds East, 585.06 feet to a one-half inch iron rod found for corner;

North 69 degrees 40 minutes 01 seconds East, 58.79 feet to a one-half inch iron rod found for corner;

North 64 degrees 37 minutes 43 seconds East, 115.25 feet to a one-half inch iron rod found for corner;

North 84 degrees 56 minutes 00 seconds East, 115.25 feet to a one-half inch iron rod found at the southeast corner of said Estates at Austin Trail, said point being in the west line of Belmont Park, an addition to the City of Lucas as recorded in Volume 2013, Page 85, (P.R.C.C.T);

South 03 degrees 40 minutes 21 seconds East, 6.06 feet to a five-eighths inch iron rod found at the southwest corner of said Belmont Park;

THENCE along the north line of said Phase 3 and along the south line of said Belmont Park as follows:

South 55 degrees 14 minutes 42 seconds East, 147.31 feet to a one-half inch iron rod found for corner;

**EXHIBIT "A"**  
**R2 Zone/Stinson Highlands Phase 3**  
**Legal Description**

South 65 degrees 55 minutes 04 seconds East, 391.42 feet to a five-eighths inch iron rod found for corner;

South 81 degrees 02 minutes 21 seconds East, 194.66 feet to a five-eighths inch iron rod found for corner in the east line of said Phase 3, said point being in the west line of Bristol Park, Phase 1, an addition to the City of Lucas as recorded in Volume 2014, Page 699, (P.R.C.C.T);

THENCE South 01 degrees 00 minutes 48 seconds East, 567.49 feet along the east line of said Phase 3 and along the west line of said Bristol Park to a one-half inch iron rod found at the northeast corner of Lot 7, Block A, said Phase 3;

THENCE South 75 degrees 31 minutes 18 seconds West, 287.59 feet to a point for corner in the centerline of Inverness Lane (a fifty-foot-wide right-of-way) as recorded in said Phase 3;

THENCE along the centerline of Inverness Lane as follows:

Northwesterly, 409.05 feet along a non-tangent curve to the left which has a central angle of 101 degrees 53 minutes 57 seconds, a radius of 230.00 feet, a tangent of 283.52 feet, and whose chord bears North 53 degrees 42 minutes 10 seconds West, 357.23 feet to an "X" found;

South 72 degrees 36 minutes 33 seconds West, 386.51 feet to an "X" found;

Northwesterly, 466.55 feet along a curve to the right which has a central angle of 35 degrees 38 minutes 31 seconds, a radius of 750.00 feet, a tangent of 241.10 feet, and whose chord bears North 89 degrees 34 minutes 12 seconds West, 459.06 feet to an "X" found; North 71 degrees 44 minutes 56 seconds West, 412.04 feet to an "X" found;

THENCE South 82 degrees 33 minutes 09 seconds West, 65.80 feet to a one-half inch iron rod found at the northeast corner of Lot 19, Block A, said Phase 3;

THENCE South 88 degrees 01 minutes 10 seconds West, 161.40 feet to a one-half inch iron rod found at the northwest corner of said Lot 19;

THENCE along the west line of said Phase 3 as follows:

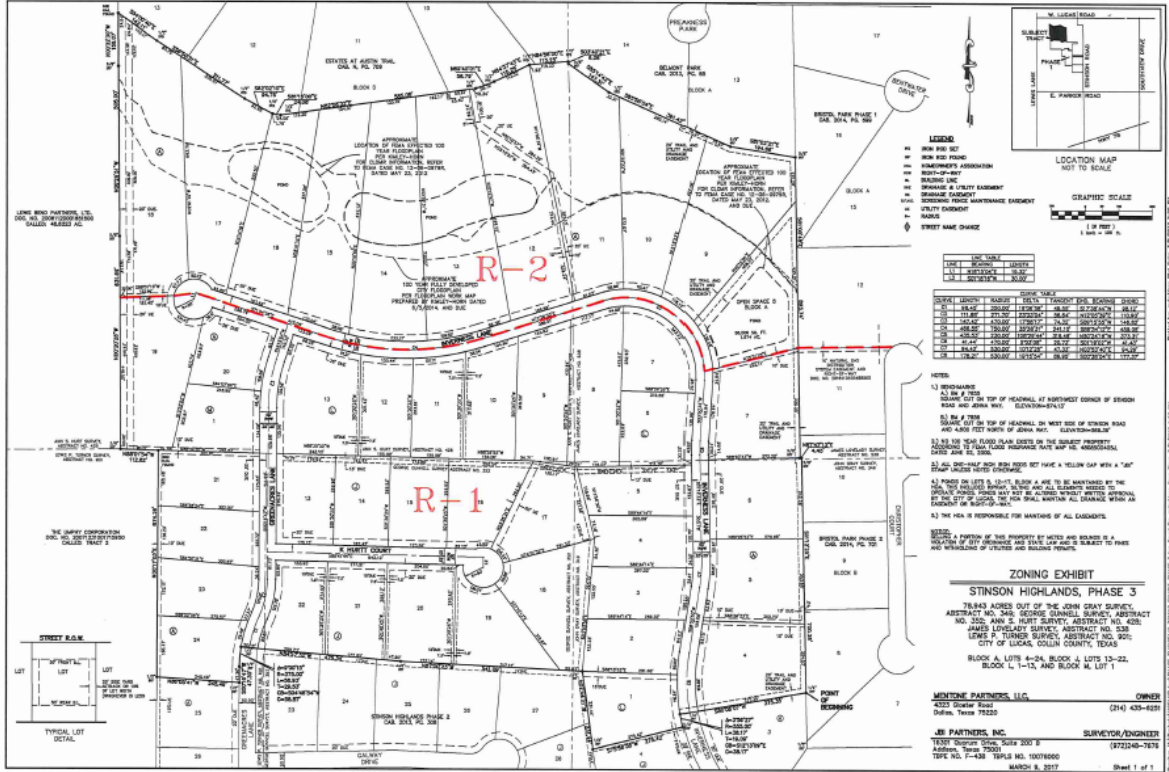
North 00 degrees 20 minutes 28 seconds West, 183.14 feet to a five-eighths inch iron rod found for corner;

North 00 degrees 26 minutes 51 seconds West, 505.00 feet to a five-eighths inch iron rod found for corner;

North 00 degrees 22 minutes 30 seconds West, 159.07 feet to the POINT OF BEGINNING and containing 1,374,584 square feet or 31.556 acres of land.

# EXHIBIT "B"

## R2 Zone/Stinson Highlands Phase 3 Depiction





# City of Lucas City Council Agenda Request July 6, 2017

Item No. 08

Requester: Development Services Director Joe Hilbourn

## **Agenda Item:**

Public hearing to consider adopting Ordinance 2017-07-00859 approving amendments to the City's zoning use chart regarding the uses permitted by right, permitted by Specific Use Permit and prohibited within the City's zoning districts.

- A. Presentation by Development Services Director Joe Hilbourn
- B. Conduct public hearing
- C. Take action regarding proposed updates to the Zoning Use Chart

## **Background Information:**

The Planning and Zoning Commission reviewed the zoning use chart at their May 11, 2017 meeting. Recommendations were made to staff regarding proposed changes, and those updates have been incorporated into the attached draft Zoning Use Chart.

## **Attachments/Supporting Documentation:**

1. Amended draft Zoning Use Chart
2. Ordinance 2017-07-00859

## **Budget/Financial Impact:**

NA

## **Recommendation:**

The Planning and Zoning Commission made recommended changes that have been highlighted and included in the attached Zoning Use Chart.

## **Motion:**

I make a motion to adopt Ordinance 2017-07-00859 approving amendments to the City's zoning use chart regarding the uses permitted by right, permitted by Specific Use Permit and prohibited within the City's zoning districts.

Use noted is Deleted =  Change =  Addition =

| <b>Residential uses</b>                                    | <b>AO</b> | <b>R2</b> | <b>R1.5</b> | <b>R1</b> | <b>VC</b> | <b>CB</b> | <b>OS</b> | <b>MH</b> | <b>LI</b> | <b>ED</b> |
|--|-----------|-----------|-------------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|
| Accessory buildings  | X         | X         | X           | X         | S         |           | X         | X         |           | X         |
| Accessory buildings with habitable space                   | X         | X         | X           | X         |           |           |           |           |           |           |
| Caretaker/guard residence                                  | X         |           |             |           |           | S         |           |           | X         |           |
| Community home   | X         | X         | X           | X         |           |           |           |           |           |           |
| Home occupation  | X         | X         | X           | X         |           |           |           | X         |           | X         |
| Mobile home on individual lot                              |           |           |             |           |           |           |           | X         |           |           |
| Mobile home park   |           |           |             |           |           |           |           | X         |           |           |
| Multifamily residence                                      |           |           |             |           |           |           |           | X         |           |           |
| Registered family home                                     | S         | S         | S           | S         |           |           |           |           |           |           |
| Single-family dwelling (detached)                          | X         | X         | X           | X         |           | X         | X         |           |           | X         |
| Temporary field construction office                        | X         | X         | X           | X         | X         | X         |           |           | X         | X         |
| <b>Educational, institutional, public and special uses</b> |           |           |             |           |           |           |           |           |           |           |
| Athletic stadium or field (not with public school)         | S         | S         | S           | S         | S         | S         |           |           | S         |           |
| Adult, child care or day care center                       | S         |           |             |           | S         | X         |           | S         | X         | S         |
| Church including church related activities                 | X         | X         | X           | X         | X         | X         | X         | X         | X         | X         |
| College, university or private boarding school             | S         |           |             |           | S         | X         |           | S         | X         |           |
| Community center (public)                                  | X         | X         | X           | X         | X         | X         | X         | X         | X         |           |
| Pet Day Care   |           |           |             |           |           | S         |           |           | S         |           |
| Equestrian facilities                                      | X         | S         |             |           | X         | X         | X         |           | X         |           |
| Equestrian boarding  | X         | X         |             |           | X         | X         | X         |           | X         |           |
| Farm, ranch, garden or orchard                             | X         | X         | X           | X         | S         | X         | X         | X         | X         |           |
| Fire or police station                                     | X         | X         | X           | X         | X         | X         |           | X         | X         |           |
| Amateur communications antenna                             | X         | X         | X           | X         |           |           |           | X         |           |           |
| Government offices (federal, state, county, city)          | X         | X         | X           | X         | X         | X         | X         | X         | X         |           |
| Halfway house  |           |           |             |           |           |           |           | S         | X         |           |
| Hospital   |           |           |             |           |           | S         |           |           | X         |           |



Use noted is Deleted =  Change =  Addition =

| Use  | AO | R2 | R1.5 | R1 | VC | CB | OS | MH | LI | ED |
|--|----|----|------|----|----|----|----|----|----|----|
| Clinic   |    |    |      |    | S  | X  |    |    | X  |    |
| Library (public)                                   | X  | X  | X    | X  | X  | X  |    | X  | X  |    |
| Movie theater                                      |    |    |      |    |    | X  |    |    | X  |    |
| Municipal uses operated by the city                | X  | X  | X    | X  | X  | X  | X  | X  | X  |    |
| Museum   | X  | S  | S    | S  | X  | X  |    | X  | X  |    |
| Nursing home                                       |    |    |      |    | S  | S  |    |    | S  |    |
| Public park or playground                          | X  | X  | X    | X  | X  | X  | X  | X  | X  |    |
| Radio, TV antenna or tower                         |    |    |      |    | S  | S  |    |    | S  |    |
| Recreation area                                    |    |    |      |    | S  | X  |    |    | X  |    |
| Religious or philanthropic institutions not listed |    |    |      |    | S  | X  |    |    | X  |    |
| Retirement home/senior independent living facility |    |    |      |    | S  | S  |    |    | S  |    |
| School (private)                                   | S  | S  | S    | S  | S  | X  |    | S  | X  |    |
| School (public)                                    | X  | X  | X    | X  | X  | X  | X  | X  | X  | X  |
| School, trade or commercial                        | S  |    |      |    | S  | S  |    |    | X  |    |
| Trade days/periodic or seasonal open market        | S  |    |      |    |    | S  |    |    | X  |    |
| <b>Office and Professional</b>                     |    |    |      |    |    |    |    |    |    |    |
| General professional office                        |    |    |      |    | X  | X  |    |    | X  |    |
| Bank or credit union                               |    |    |      |    | X  | X  |    |    | X  |    |
| Medical/dental clinic                              |    |    |      |    | X  | X  |    |    | X  |    |
| Medical laboratory                                 |    |    |      |    | S  | S  |    |    | X  |    |
| Medical minor emergency clinic                     |    |    |      |    | S  | S  |    |    | X  |    |
| Radio broadcasting without tower                   |    |    |      |    | S  | X  |    |    | X  |    |
| Real estate sales office (permanent)               |    |    |      |    | X  | X  |    |    | X  |    |
| <b>Retail and Related Uses</b>                     |    |    |      |    |    |    |    |    |    |    |
| Antique shop                                       |    |    |      |    | X  | X  |    |    | X  |    |

Use noted is Deleted =  Change =  Addition =

| Use  | AO | R2 | R1.5 | R1 | VC | CB | OS | MH | LI | ED |
|--|----|----|------|----|----|----|----|----|----|----|
| Art and craft supply store                     |    |    |      |    | X  | X  |    |    | X  |    |
| Bakery (retail)                                |    |    |      |    | X  | X  |    |    | X  |    |
| Barber shop or beauty salon                    |    |    |      |    | X  | X  |    |    | X  |    |
| Bicycle, lawnmower sales,<br>repair enclosed   |    |    |      |    | S  | X  |    |    | X  |    |
| Bookstore                                      |    |    |      |    | X  | X  |    |    | X  |    |
| Building materials and<br>hardware (inside)    |    |    |      |    | X  | X  |    |    | X  |    |
| Camera store                                   |    |    |      |    | X  | X  |    |    | X  |    |
| Ceramics store                                 |    |    |      |    | X  | X  |    |    | X  |    |
| Clothing, apparel or shoe store<br>(new)       |    |    |      |    | X  | X  |    |    | X  |    |
| Coffee house                                   |    |    |      |    | S  | X  |    |    | X  |    |
| Computer sales and repair<br>(new and used)    |    |    |      |    | X  | X  |    |    | X  |    |
| Convenience store with<br>refueling station    |    |    |      |    | S  | S  |    |    | X  |    |
| Convenience store without<br>refueling station |    |    |      |    | X  | X  |    |    | X  |    |
| Dance studio or gymnastics                     |    |    |      |    | S  | X  |    |    | X  |    |
| Department store (retail)                      |    |    |      |    | S  | S  |    |    | S  |    |
| Donut shop                                     |    |    |      |    | X  | X  |    |    | X  |    |
| Driving school                                 |    |    |      |    | X  | X  |    |    | X  |    |
| Dry cleaning/laundry (no plant<br>on site)     |    |    |      |    | X  | X  |    |    | X  |    |
| Dry cleaning plant                             |    |    |      |    |    |    |    |    | X  |    |
| Fabric store                                   |    |    |      |    | X  | X  |    |    | X  |    |
| Farmer's market                                |    | S  |      |    | S  | S  |    |    | X  |    |
| Feed store                                     |    |    |      |    | X  | X  |    |    | X  |    |
| Fish and tackle store                          |    |    |      |    | S  | X  |    |    | X  |    |
| Florist  |    |    |      |    | X  | X  |    |    | X  |    |
| Funeral home                                   |    |    |      |    | S  | X  |    |    | X  |    |
| Furniture store, home<br>furnishings           |    |    |      |    | X  | X  |    |    | X  |    |
| Gift shop (new merchandise)                    |    |    |      |    | X  | X  |    |    | X  |    |
| Grocery store                                  |    |    |      |    | X  | X  |    |    | X  |    |

Use noted is Deleted =  Change =  Addition =

| Use  | AO | R2 | R1.5 | R1 | VC | CB | OS | MH | LI | ED |
|--|----|----|------|----|----|----|----|----|----|----|
| Gunsmith   |    |    |      |    | S  | S  |    |    | S  |    |
| Hobby or toy store                                       |    |    |      |    | X  | X  |    |    | X  |    |
| Ice cream or frozen yogurt sales                         |    |    |      |    | X  | X  |    |    | X  |    |
| Kennels  | S  |    |      |    |    |    |    |    | S  |    |
| Key shop or locksmith                                    |    |    |      |    | X  | X  |    |    | X  |    |
| Laundromat (self-service)                                |    |    |      |    |    |    |    | S  |    |    |
| Meat market (retail)                                     |    |    |      |    | X  | X  |    |    | X  |    |
| Medical aids and equipment                               |    |    |      |    | X  | X  |    |    | X  |    |
| Musical instrument sales and repair                      |    |    |      |    | X  | X  |    |    | X  |    |
| Nursery (retail)   |    |    |      |    | S  | X  |    |    | X  |    |
| Outside display of merchandise                           | S  |    |      |    | S  | S  |    |    | S  |    |
| Optical store  |    |    |      |    | X  | X  |    |    | X  |    |
| Paint store  |    |    |      |    | S  | S  |    |    | X  |    |
| Pet shop   |    |    |      |    | S  | S  |    |    | S  |    |
| Pharmacist or drug store (without drive thru)            |    |    |      |    | X  | X  |    |    | X  |    |
| Pharmacist or drug store (with a drive thru)             |    |    |      |    | S  | S  |    |    | S  |    |
| Printing shop  |    |    |      |    | S  | X  |    |    | X  |    |
| Produce stand (including wood and seasonal items)        | S  |    |      |    | S  | X  |    |    | X  |    |
| Recycling collection center                              |    |    |      |    |    | X  |    |    | X  |    |
| Refueling station  |    |    |      |    | S  | S  |    |    | X  |    |
| Restaurant, cafe or cafeteria (excluding smoked on site) |    |    |      |    | X  | X  |    |    | X  |    |
| Restaurant drive in                                      |    |    |      |    | S  | S  |    |    | X  |    |
| Restaurant (food smoked on site)                         |    |    |      |    | S  | S  |    |    | X  |    |
| Self-storage   |    |    |      |    | X  | S  |    |    | S  |    |
| Sporting goods   |    |    |      |    | X  | X  |    |    | X  |    |
| Tack and saddle shop                                     | S  | S  |      |    | X  | X  |    |    | X  |    |
| Therapeutic massage                                      |    |    |      |    | S  | S  |    |    | S  |    |
| Used clothing store                                      |    |    |      |    | S  | S  |    |    | S  |    |

Use noted is Deleted =  Change =  Addition =

| Use  | AO        | R2        | R1.5        | R1        | VC        | CB        | OS        | MH        | LI        | ED        |
|--|-----------|-----------|-------------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|
| Veterinarian office (with outside pens)                                    | S         |           |             |           | S         | S         |           |           | X         |           |
| Veterinarian office (without outside pens)                                 | X         |           |             |           | X         | X         |           |           | X         |           |
| Wallpaper, flooring and carpet supply                                      |           |           |             |           | S         | X         |           |           | X         |           |
| <b>Automobile, Transportation, Utility, Communication and Related Uses</b> | <b>AO</b> | <b>R2</b> | <b>R1.5</b> | <b>R1</b> | <b>VC</b> | <b>CB</b> | <b>OS</b> | <b>MH</b> | <b>LI</b> | <b>ED</b> |
| Auto paint (in building)   |           |           |             |           |           | S         |           |           | S         |           |
| Auto Parts Store   |           |           |             |           |           | X         |           |           | X         |           |
| Automotive repair minor  |           |           |             |           |           | S         |           |           | S         |           |
| Automobile sales (new)   |           |           |             |           |           | S         |           |           | X         |           |
| Automobile sales (used)  |           |           |             |           |           | S         |           |           | X         |           |
| Boat sales (new or used)   |           |           |             |           |           | S         |           |           | X         |           |
| Communication towers   |           |           |             |           |           | S         |           |           | S         |           |
| Electrical substation  | S         | S         | S           | S         | S         | S         | S         | S         | S         |           |
| Manufacturing (light industrial - enclosed only)                           |           |           |             |           |           |           |           |           | X         |           |
| Mobile home sales (new or used)  |           |           |             |           |           |           |           |           | S         |           |
| Motorcycle repair/paint (enclosed)   |           |           |             |           |           | S         |           |           | X         |           |
| Recreation vehicle sales (new or used)                                     |           |           |             |           |           |           |           |           | X         |           |
| Telephone exchange   | S         | S         | S           | S         | S         | S         | S         | S         | S         |           |
| Truck sales (new)  |           |           |             |           |           |           |           |           | X         |           |
| Truck sales (used)   |           |           |             |           |           |           |           |           | X         |           |
| Truck rental, leasing  |           |           |             |           |           |           |           |           | X         |           |
| Trailer rental/sales   |           |           |             |           |           |           |           |           | X         |           |
| Tractor sales (new or used)  |           |           |             |           |           |           |           |           | X         |           |
| Vehicle leasing or rental  |           |           |             |           |           | S         |           |           | X         |           |
| Vehicle wash   |           |           |             |           |           | S         |           |           | X         |           |
| Water utilities  | X         | X         | X           | X         | X         | X         | X         | X         | X         |           |

Use noted is Deleted =  Change =  Addition =

| <b>Other uses</b>  | <b>AO</b> | <b>R2</b> | <b>R1.5</b> | <b>R1</b> | <b>VC</b> | <b>CB</b> | <b>OS</b> | <b>MH</b> | <b>LI</b> | <b>ED</b> |
|--|-----------|-----------|-------------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|
| Forestry   | S         |           |             |           |           |           |           |           |           |           |
| Mining   | S         |           |             |           |           |           |           |           |           |           |
|  |           |           |             |           |           |           |           |           |           |           |
| <b>Other uses</b>  |           |           |             |           |           |           |           |           |           |           |
| RV, boat, motorized or non-motorized vehicles, (inside or outside storage) |           |           |             |           |           |           |           |           | S         |           |
| Temporary real estate sales office   |           | X         | X           | X         | X         |           |           |           |           |           |



**ORDINANCE 2017-07-00859**  
**[ORDINANCE AMENDING ZONING SCHEDULE OF USES CHART]**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LUCAS, COLLIN COUNTY, TEXAS, AMENDING THE LUCAS CODE OF ORDINANCES BY AMENDING CHAPTER 14 TITLED “ZONING” BY AMENDING ARTICLE 14.03 TITLED “DISTRICTS” BY AMENDING DIVISION 15 TITLED “SCHEDULE OF USES” BY AMENDING SECTION 14.03.801 TITLED “USE DESIGNATIONS” BY AMENDING SUBSECTION (e) TITLED “SCHEDULE OF USES CHART” TO PROVIDE UPDATED REGULATIONS FOR THE USES PERMITTED BY RIGHT, PERMITTED BY SPECIAL USE PERMIT AND PROHIBITED WITHIN THE CITY’S ZONING DISTRICTS; PROVIDING A CONFLICTS CLAUSE; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000) FOR EACH OFFENSE; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Planning and Zoning Commission of the City of Lucas, Texas and the City Council of the City of Lucas, Texas, in compliance with the laws of the State of Texas with reference to the granting of zoning classifications and changes, have given the requisite notices by publication and otherwise, and have held due hearings and afforded a full and fair hearing to all property owners generally and to all persons interested and situated in the affected area and in the vicinity thereof, and the City Council of the City of Lucas, Texas is of the opinion and finds that said zoning change should be granted and that the Comprehensive Zoning Ordinance and Map should be amended;

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

**Section 1.** The Code of Ordinances of the City of Lucas, Texas, is hereby amended by amending Chapter 14 titled “Zoning” by amending Article 14.03 titled “Districts” by amending Division 15 titled “Schedule of Uses” by amending Section 14.03.801 titled “Use designations” by amending Subsection (e) titled “Schedule of uses chart”, to read as follows:

**“CHAPTER 14**

**ZONING**

...

**ARTICLE 14.03 DISTRICTS**

...

**Division 15. Schedule of uses**

**Sec. 14.03.801 Use designations**

...

| Use  | AO | R2 | R1.5 | R1 | VC | CB | OS | MH | L1 | ED |
|--|----|----|------|----|----|----|----|----|----|----|
| <b>Residential Uses</b>                                    |    |    |      |    |    |    |    |    |    |    |
| Accessory buildings  | X  | X  | X    | X  |    |    | X  | X  |    | X  |
| ...  |    |    |      |    |    |    |    |    |    |    |
| Caretaker/guard residence                                  | X  |    |      |    |    | S  |    |    | X  |    |
| ...  |    |    |      |    |    |    |    |    |    |    |
| Mobile home on individual lot                              |    |    |      |    |    |    |    | X  |    |    |
| ...  |    |    |      |    |    |    |    |    |    |    |
| Single-family dwelling (detached)                          | X  | X  | X    | X  |    |    |    |    |    | X  |
| ...  |    |    |      |    |    |    |    |    |    |    |
| <b>Educational, Institutional, Public and Special Uses</b> |    |    |      |    |    |    |    |    |    |    |
| Adult, child care or day care center                       | S  |    |      |    |    | X  |    | S  |    | S  |
| Amateur communications antenna                             | X  | X  | X    | X  |    |    |    | X  |    |    |
| Athletic stadium or field (not with public school)         | S  | S  | S    | S  |    | S  |    |    | S  |    |
| Church including church related activities                 | X  | X  | X    | X  | X  | X  | X  | X  | X  | X  |
| Community center (public)                                  | X  | X  | X    | X  | X  | X  |    | X  | X  |    |
| Equestrian facilities                                      | X  | S  |      |    |    | X  | X  |    | X  |    |
| Equestrian boarding  | X  | X  |      |    |    | X  | X  |    | X  |    |
| Farm, ranch, garden or orchard                             | X  | X  | X    | X  |    | X  | X  | X  | X  |    |
| ...  |    |    |      |    |    |    |    |    |    |    |
| Halfway house  |    |    |      |    |    |    |    |    | X  |    |
| ...  |    |    |      |    |    |    |    |    |    |    |
| Museum   |    |    |      |    | X  | X  |    |    | X  |    |
| ...  |    |    |      |    |    |    |    |    |    |    |
| Pet day care   |    |    |      |    |    | S  |    |    | S  |    |

| Use  | AO | R2 | R1.5 | R1 | VC | CB | OS | MH | L1 | ED |
|--|----|----|------|----|----|----|----|----|----|----|
| Philanthropic institutions                           |    |    |      |    | S  | X  |    |    | X  |    |
| Radio, TV antenna or tower                           |    |    |      |    |    | S  |    |    | S  |    |
| ...  |    |    |      |    |    |    |    |    |    |    |
| School (public)                                      | X  | X  | X    | X  | X  | X  | X  | X  | X  | X  |
| ...  |    |    |      |    |    |    |    |    |    |    |
| <b>Retail and Related Uses</b>                       |    |    |      |    |    |    |    |    |    |    |
| ...  |    |    |      |    |    |    |    |    |    |    |
| Bicycle, lawnmower sales,<br>repair enclosed         |    |    |      |    |    | X  |    |    | X  |    |
| ...  |    |    |      |    |    |    |    |    |    |    |
| Building materials and<br>hardware (inside)          |    |    |      |    |    | X  |    |    | X  |    |
| ...  |    |    |      |    |    |    |    |    |    |    |
| Ceramics store                                       |    |    |      |    |    | X  |    |    | X  |    |
| ...  |    |    |      |    |    |    |    |    |    |    |
| Convenience store with<br>refueling station          |    |    |      |    |    | S  |    |    | X  |    |
| ...  |    |    |      |    |    |    |    |    |    |    |
| Driving school                                       |    |    |      |    |    | X  |    |    | X  |    |
| ...  |    |    |      |    |    |    |    |    |    |    |
| Farmer's market                                      | S  |    |      |    | S  | S  |    |    | X  |    |
| Feed store   |    |    |      |    |    | X  |    |    | X  |    |
| ...  |    |    |      |    |    |    |    |    |    |    |
| Funeral home   |    |    |      |    |    | X  |    |    | X  |    |
| ...  |    |    |      |    |    |    |    |    |    |    |
| Gunsmith   |    |    |      |    |    | S  |    |    | S  |    |
| ...  |    |    |      |    |    |    |    |    |    |    |
| Nursery (retail)                                     |    |    |      |    |    | X  |    |    | X  |    |
| Outside display of merchandise                       | S  |    |      |    |    | S  |    |    | S  |    |
| ...  |    |    |      |    |    |    |    |    |    |    |
| Paint store  |    |    |      |    |    | S  |    |    | X  |    |
| ...  |    |    |      |    |    |    |    |    |    |    |
| Printing shop  |    |    |      |    |    | X  |    |    | X  |    |
| Produce stand (including wood<br>and seasonal items) | S  |    |      |    | S  | X  |    |    | X  |    |
| ...  |    |    |      |    |    |    |    |    |    |    |
| Refueling station                                    |    |    |      |    |    | S  |    |    | X  |    |
| ...  |    |    |      |    |    |    |    |    |    |    |
| Self-storage   |    |    |      |    |    | S  |    |    | S  |    |
| ...  |    |    |      |    |    |    |    |    |    |    |
| Tack and saddle shop                                 | S  |    |      |    | X  | X  |    |    | X  |    |



| Use  | AO | R2 | R1.5 | R1 | VC | CB | OS | MH | L1 | ED |
|--|----|----|------|----|----|----|----|----|----|----|
| Veterinarian office (with outside pens)                                    |    |    |      |    |    | S  |    |    | X  |    |
| Veterinarian office (without outside pens)                                 |    |    |      |    |    | X  |    |    | X  |    |
| Wallpaper, flooring and carpet supply                                      |    |    |      |    |    | X  |    |    | X  |    |
| <b>Automobile, Transportation, Utility, Communication and Related Uses</b> |    |    |      |    |    |    |    |    |    |    |
| ...  |    |    |      |    |    |    |    |    |    |    |
| Auto parts store   |    |    |      |    |    | X  |    |    | X  |    |
| ...  |    |    |      |    |    |    |    |    |    |    |
| Electrical substation  | S  | S  | S    | S  |    | S  | S  | S  | S  |    |
| ...  |    |    |      |    |    |    |    |    |    |    |
| Telephone exchange   | S  | S  | S    | S  |    | S  | S  | S  | S  |    |
| ...  |    |    |      |    |    |    |    |    |    |    |
| <b>Other Uses</b>  |    |    |      |    |    |    |    |    |    |    |
| Forestry   | S  |    |      |    |    |    |    |    |    |    |
| Mining   | S  |    |      |    |    |    |    |    |    |    |
| ..."   |    |    |      |    |    |    |    |    |    |    |

**Section 2.** To the extent of any irreconcilable conflict with the provisions of this ordinance and other ordinances of the City of Lucas governing the use and development of the Property and which are not expressly amended by this ordinance, the provisions of this ordinance shall be controlling.

**Section 3.** That all ordinances of the City of Lucas in conflict with the provisions of this Ordinance shall be, and same are hereby, repealed, provided, however, that all other provisions of said Ordinances are not in conflict herewith shall remain in full force and effect.

**Section 4.** That should any word, sentence, paragraph, subdivision, clause, phrase or section of this Ordinance of the City of Lucas Code of Ordinances, as amended hereby, be adjudged or held to be voided or unconstitutional, the same shall not affect the validity of the remaining portions of said Ordinances or the City of Lucas Code of Ordinances, as amended hereby, which shall remain in full force and effect.

**Section 5.** An offense committed before the effective date of the Ordinance is governed by prior law and the provisions of the City of Lucas Code of Ordinances in effect when the offense was committed and the former law is continued in effect for this purpose.

**Section 6.** That any person, firm or corporation violating any of the provisions or terms of this Ordinance shall be subject to the same penalty as provided for in the Code of Ordinances, as amended, and upon conviction in the municipal court shall be punished by a fine not to exceed the sum of Two Thousand Dollars (\$2,000.00) for each offense, and each and every day such violation shall continue shall be deemed to constitute a separate offense.

**Section 7.** That this Ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Charter of the City of Lucas, and it is accordingly so ordained

**DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF LUCAS, COLLIN COUNTY, TEXAS, ON THIS 6<sup>TH</sup> DAY OF JULY, 2017.**

APPROVED:

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Jim Olk, Mayor

APPROVED AS TO FORM:

ATTEST:

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Joseph J. Gorfida, Jr., City Attorney  
(06-23-2017/87341)

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Stacy Henderson, City Secretary



# City of Lucas Council Agenda Request July 6, 2017

Item No. 09

Requester: Councilmember Wayne Millsap

## **Agenda Item:**

Consider the provision of recycling related services including curbside residential recycling and give direction to City Manager as to the provision of recycling services.

## **Background Information:**

The current City of Lucas contract with Barnes Waste Disposal Services for solid waste collection/disposal and recycling services expires on September 30, 2017 with an option for two, one-year renewals. Mr. Norman Barnes of Barnes Waste Disposal Service came before the City Council on January 19, 2017 indicated that the recycling program was having logistical and financial difficulties. This situation occurred because the facility they used for processing recycling in Garland, Texas had closed in December 2016 and Barnes had to take the collected recycling to Arlington. Mr. Barnes indicated that alternative facility to take collected recyclable material was located in McKinney but the rates were significantly higher. Mr. Barnes indicated that the recycling program was losing approximately \$2,000 per month and a rate increase would be necessary. According to Mr. Barnes, the City of Lucas currently has 774 customers that participate in the voluntary recycling program of the 2,152 households. The City Council requested that Mr. Barnes bring back a proposal for the recycling program for City Council consideration.

At the May 4, 2017 Lucas City Council meeting, a new contract was approved with Barnes Waste Disposal Services for solid waste collection/disposal services. This contract becomes effective October 1, 2017 and terminates September 30, 2022. This contract did not include curbside recycling services, but provides for a staffed drop off collection truck once a month to be manned at City Hall for a minimum of four hours per month. Barnes will bill the City \$500 per month for this service.

On January 23, 2017, the City Manager received an email from Norman Barnes indicating that Barnes Waste Disposal Services would continue to provide recycling services in accordance with the provisions of the existing contract, but would discontinue the recycling program as of October 1, 2017. Barnes Waste Disposal Services is interested in continuing to provide solid waste collection and disposal services for the City of Lucas under a new contract.

It is important to note that the City Council has flexibility in selecting a vendor to provide these types of services, as these services are exempt from the competitive bidding process. In consultation with City Attorney Joe Gorfida, Chapter 252 of the Texas Local Government Code provides exceptions to competitive bidding. These exceptions include purchases that are necessary to protect the public health or safety of the city residents. Although Chapter 252 of the Texas Local Government Code does not define or give examples of what constitutes a



# City of Lucas Council Agenda Request July 6, 2017

Item No. 09

purchase that is “necessary to preserve or protect the public health or safety of residents”; the collection, hauling and disposal of solid waste is one of those exceptions. Additionally, recycling includes the collection and disposal of solid waste and the fact that it is “recycling” the exemption still applies.

## **Attachments/Supporting Documentation:**

1. New Barnes Waste Disposal contract beginning October 1, 2017
2. Recycling Survey dated January 2017
3. Recycling Survey dated June 2017

## **Budget/Financial Impact:**

In the current fiscal year 2016/2017 budget, the City has trash service revenue (line item 51-4478) projected at \$456,000 with the associated expense (line item 51-6400-237) \$415,000. The City receives an 8% administrative fee and a 7% franchise fee.

The City of Lucas bills for trash collection and disposal services in conjunction with its monthly water billing invoice which is outsourced to DataProse (line item 51-6400-304) in the amount of \$25,500. Barnes Waste Disposal Services provides billing services for the volunteer recycling program.

## **Recommendation:**

NA

## **Motion:**

NA

STATE OF TEXAS           §  
  §  
  §       **SOLID WASTE COLLECTION AND**  
  §       **DISPOSAL AGREEMENT**  
COUNTY OF COLLIN     §

This Contract ("Contract") is entered into by and between the City of Lucas, Texas, ("City") and Barnes Waste Disposal, Inc. ("Contractor"), (each a "Party" and collectively the "Parties"), acting by and through their authorized representatives.

**RECITALS:**

**WHEREAS**, City desires to engage the services of Contractor as an independent contractor and not as an employee to provide services on the terms and conditions provided in this Agreement; and

**WHEREAS**, Contractor desires to render services for garbage collection and disposal, and collection of yard waste for delivery to permitted and/or approved waste facilities from all single-family dwellings and City facilities under the terms and conditions provided in this Agreement;

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

**Article I**  
**Definitions**

Wherever used in this Agreement, the following terms shall have the meanings ascribed to them:

*City* shall mean the City of Lucas.

*Contractor* shall mean any person, corporation, partnership or similar entity that contract for valuable consideration to pick up or collect municipal solid waste on a regular basis from any collection point within the corporate or service limits of the City of Lucas. As used herein, "Contractor" refers specifically to Barnes Waste Disposal, Inc.

*Municipal solid waste* shall mean solid waste resulting from or incidental to municipal, community (residential), household and recreational activities including garbage, rubbish, ashes and other solid waste other than industrial solid waste as defined by state or federal law.

**Article II**  
**Term**

2.1 The Initial Term of this Agreement shall be five (5) years, commencing on October 1, 2017 ("Commencement Date"), and terminating on September 30, 2022.

2.2 Upon expiration of the Initial Term, City shall have the option to renew this Agreement for two (2) additional terms of one (1) year each (each a "Renewal Term").

### **Article III Scope of Services**

3.1 Contractor is hereby granted the privilege and duty within the territorial jurisdiction of City, and agrees to furnish all personnel, labor, equipment, trucks, and other items necessary to provide solid waste collection and disposal for residential customers in accordance with this Contract and to perform all of the work called for and described in the contract documents. Contractor agrees to at all times insure that its waste collection franchise is current and in compliance with all applicable regulations of the State of Texas, and ordinances of the City of Lucas, Texas. It is understood that this franchise is non-exclusive.

3.2 Contractor shall at all times be duly licensed or permitted to deposit municipal solid waste at or in a land fill regulated and approved by the Texas Natural Resource Conservation Commission and any other appropriate state or federal authorities.

3.3 Recycling services shall be provided as set forth in the Recycle Addendum attached hereto as Exhibit "A" and incorporated herein by reference.

3.4 Contractor agrees that the City shall retain the right to place limitations on the collection, including prohibiting collection trucks on certain streets where heavy trucks will damage the street.

### **Article IV Schedule of Work**

Contractor agrees to commence services on the Commencement Date and to complete the required services as set forth in herein.

### **Article V Rates and Services**

5.1 Contractor shall provide the following services:

- (a) Residential refuse collections at curbside or, if qualified (disabled or elderly), house side, in response to the individual customer's request, all other "house side" collection is subject to Contractor approval. All trash, garbage and refuse must be bagged and placed in an appropriate container. Contractor shall have no obligation to pick up or otherwise collect motor vehicle tires, oil, batteries, hazardous chemicals or items containing refrigerants. Contractor shall perform collection service no less frequently than once per week.
- (b) Collect unbundled brush (cut not greater than 4 feet in length) and bulky items in a volume of (2) cubic yards [6'x3'x3'], no less frequently than twice per month.

Unbundled brush and bulky items shall be and placed curbside for collection. As used herein, a "bulky item" shall refer to appliances (not containing refrigerants) water tanks, yard maintenance machines, furniture and waste materials other than dead animals or hazardous waste.

- (c) Collect unlimited bundled brush (cut not greater than 4 feet in length) and not heavier than 40 pounds per bundle, and placed curbside for collection.
- (d) At the request of the customer, Contactor will collect 10 cubic yards of brush curbside twice per year per household at no additional cost to the customer. This service must be scheduled with the Contactor and shall be collected on a first come first basis.
- (e) Contractor shall have no obligation to collect or dispose of construction, remodel, or landscape/brush debris if generated by a business, individual or entity providing such services to the property owner.
- (f) The resident should call Contractor for household hazardous waste collection for special pick up instructions. Collection of these materials may require extra charges negotiated by Contractor and the individual resident.
- (g) Excessive amounts, as determined by Contractor, may require extra charges negotiated by Contractor and the individual resident.
- (h) Refrigeration appliances not certified and tagged by an HVAC technician may be subject to a \$35.00 disposal fee that shall be billed to the individual resident by Contractor.
- (i) Contractor shall host, with the help of City staff, one (1) annual clean-up event for each year of the Agreement. The event shall be scheduled on a Saturday agreed to by the Contractor and the City at a location provided by the City.
- (j) Manure or stable matter shall be negotiated by Contractor and the individual resident per 95-gal container and billed directly to the resident. Resident must purchase containers for manure/stable matter.

5.1 Containers. Customers shall use approved receptacles for collections consisting of 95-gallon polycarts. Contractor shall provide all Customers with one (1) polycart, at the option of each Customer at no charge. For expanded service, as defined herein, Contractor shall provide additional polycarts per household at no charge at customer's request. If additional containers are desired, the Customer may request them from Contractor or provide their own container for excess refuse. In the event any Customer's complimentary polycart is lost, stolen or destroyed such that its use is rendered impractical or unsanitary, Contractor shall replace one (1) container per Customer during the term of this Contract, exclusive of any additional terms or extensions hereof. In the event any Customer shall request replacement of a second polycart after having received on

prior replacement, Contractor shall negotiate a fair and reasonable price with each such Customer and shall charge each such Customer directly.

5.3 Pricing Structure. Monthly rates, per Customer, shall be as follows: (rates reflect the addition of sales tax and the combined franchise/right-of-way use fee and administrative fee):

|                        |   |         |
|------------------------|---|---------|
| Basic Service:         | Monthly rates for Basic Service   | \$21.57 |
| Expanded Service:      | Monthly rates for Expanded Service  | \$26.50 |
| Expanded Plus Service: | Monthly rates for Expanded Plus Service   | \$31.43 |
| Additional Service:    | Monthly rates for each additional 120 gallons of refuse or polycart collected above the Expanded Plus Service | \$ 4.93 |

“Basic” service consists of collection of one (1) 95-gallon polycart or [up to 120 gallons] of refuse disposed of each week. “Expanded” service consists of the use of any approved container in addition to the approved container(s) used for basic service [up to 240 gallons]. “Expanded Plus” service consists of the use of any approved container in addition to the approved container(s) used for basic service [up to 360 gallons], “Additional” service consists of the use of any approved container in addition to the approved container(s) used for “Expanded Plus” service [billed in multiples of 120 gallons], without change to collection frequencies or collection of brush and bulky items. Additional approved containers for “Expanded” service shall consist of either one (1) 95-gallon polycart or equivalent size containers totaling 240 gallons. Additional approved containers for “Expanded Plus” service shall consist of either two (2) 95-gallon polycart or equivalent size containers totaling 360 gallons. Customers shall inform the City or Contractor, of their request for “Expanded”, “Expanded Plus”, or “Additional” service. Contractor shall have no obligation to collect or dispose of refuse in excess of either service amount chosen by the customer.

## **Article VI Contractor Duties**

6.1 Contractor shall at all times maintain in a current and valid status, all permits required by any other governmental agency or political subdivision having jurisdiction over Contractor's operations, including but not limited to the Texas Natural Resource Conservation Commission.

6.2 Contractor shall not allow any municipal solid waste to spill or fall from the Contractor's equipment within the corporate limits of the City. In the event that spillage should occur, the Contractor shall completely remove such spillage.

6.3 Contractor shall insure that any of its trucks and equipment used for collection within the City, and under this franchise meets the approval of the City. Contractor agrees to only use trucks and equipment that will prevent spillage and damage to the streets and ways used by such trucks and equipment. Contractor shall also abide by any City regulations with regard to the placement of collection containers if it becomes necessary to establish such regulations. Unless such regulations become necessary, the Contractor shall establish such locations.



6.4 Contractor shall clearly mark all of its collection vehicles with the Contractor's name, address and telephone number. The trucks used by Contractor to collect waste within the City shall be no larger than a "single axle" type, and shall not exceed 26,000 pounds in weight.

6.5 Contractor shall comply with all additional terms and conditions set forth herein.

## **Article VII Restoration of Public Ways**

Contractor shall not cause damage, beyond normal wear and tear, to any street or roadway within the City. In the event the Contractor causes damage to any street or roadway within the City, the Contractor shall be given written notice to immediately cause such damage to be repaired under the supervision of the City. If such damage is not repaired within the time stated, the City may terminate this Agreement for cause pursuant to Article XI.

## **Article VIII Availability of Funds**

If monies are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal period, this Agreement shall be canceled and Contractor may only be reimbursed for the reasonable value of any non-recurring costs incurred but not amortized in the price of services delivered under this Agreement or which are otherwise not recoverable. The cost of cancellation may be paid from any appropriations for such purposes.

## **Article IX Insurance**

9.1 Contractor shall during the term hereof maintain in full force and effect insurance with complies with the Specifications set forth in herein and contains, at a minimum: (1) a policy of insurance for bodily injury, death and property damage insuring against all claims, demands or actions relating to Contractor's performance of services pursuant to this Agreement with a minimum combined single limit of not less than \$1,000,000 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 Contractor, its officers, agents, and employees, and used in the performance of this Agreement; and (3) statutory Worker's Compensation Insurance or equivalent covering all of Contractor's employees involved in the provision of services under this Agreement.

9.2 All insurance and certificate(s) of insurance shall contain the following provisions: (1) name the 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 the City for cancellation, non-renewal, or material change of the insurance; (3) provide for a waiver of subrogation against the City for injuries, including death, property damage, or any other loss to the extent the same is covered by the proceeds of insurance.

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

## **Article X Indemnification**

10.1 **CONTRACTOR IS SOLELY RESPONSIBLE FOR AND SHALL DEFEND, INDEMNIFY, AND HOLD CITY (OR ANY OF CITY'S REPRESENTATIVES OR EMPLOYEES), FREE AND HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS, LIABILITIES, DEMANDS, LOSSES, DAMAGES, COSTS OR EXPENSE TO ALL PERSONS (INCLUDING BUT NOT LIMITED TO REASONABLE ATTORNEYS' FEES) ARISING OUT OF RESULTING FROM OR OCCURRING IN CONNECTION WITH THE PERFORMANCE OF THE WORK THAT IS (I) ATTRIBUTABLE TO ANY BODILY OR PERSONAL INJURY, SICKNESS, DISEASES OR DEATH OF ANY PERSON OR ANY DAMAGE OR INJURY TO OR DESTRUCTION OF REAL OR PERSONAL PROPERTY (OTHER THAN THE WORK ITSELF) INCLUDING THE LOSS OF USE THEREOF, AND (II) CAUSED IN WHOLE OR IN PART BY ANY NEGLIGENT, STRICT LIABILITY OR OTHER ACT OR OMISSION OF CONTRACTOR, ANY SUBCONTRACTOR OR SUPPLIER, THEIR RESPECTIVE AGENTS OR EMPLOYEES OR ANY OTHER PARTY FOR WHOM ANY OF THEM MAY BE LIABLE REGARDLESS OF WHETHER SUCH IS CAUSED IN PART BY THE NEGLIGENT, STRICT LIABILITY OR OTHER ACT OR OMISSION OF A PARTY OR PARTIES INDEMNIFIED HEREUNDER.**

10.2 **SAID INDEMNITY AND HOLD HARMLESS AGREEMENT SHALL ALSO APPLY TO CLAIMS ARISING FROM ACCIDENTS TO CONTRACTOR, ITS AGENTS OR EMPLOYEES, WHETHER OCCASIONED BY CONTRACTOR OR ITS EMPLOYEES, THE CITY OR ITS EMPLOYEES, OR BY ANY OTHER PERSON OR PERSONS.**

10.3 **IN THE EVENT OF JOINT OR CONCURRENT NEGLIGENCE OF BOTH CONTRACTOR AND THE CITY, RESPONSIBILITY, IF ANY, SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO CONTRACTOR OR THE CITY UNDER TEXAS LAW. THE CITY SHALL BE RESPONSIBLE FOR ITS NEGLIGENCE AND CONTRACTOR SHALL HAVE NO INDEMNIFICATION OBLIGATIONS UNDER THIS AGREEMENT TO THE EXTENT OF THE CITY'S NEGLIGENCE.**

10.4 **THE INDEMNIFICATION OBLIGATION SHALL NOT BE LIMITED IN ANY WAY BY ANY LIMITATION ON THE AMOUNT OR TYPE OF DAMAGES, COMPENSATION OR BENEFITS PAYABLE UNDER THE WORKERS' OR WORKMEN'S COMPENSATION ACTS, DISABILITY ACTS OR OTHER EMPLOYEE BENEFIT ACTS.**

## **Article XI Termination**

11.1 City may terminate this Agreement, or any portion thereof, at any time with or without cause, by serving a notice of termination on Contractor by registered or certified mail addressed to Contractor at the address set forth herein. If termination is for cause, the notice shall state the specific reasons in support of City's claim that Contractor has failed to perform its obligations (and/or cure any material breach) under this Agreement. Contractor shall be allowed a thirty (30) day period from the date of receipt of said notice from City to remedy any failure to perform. Should City deem the failure to perform remedied, no hearing shall be held. If City terminates this Agreement without cause, Contractor shall be paid for work performed up to the time of termination. In no event shall Contractor be entitled to lost or anticipated profits in the event this Agreement is terminated without cause.

11.2 Should Contractor fail to remedy its performance, after a hearing described herein, City may terminate this Agreement and the rights and privileges granted to Contractor herein. A notice shall be sent to Contractor no earlier than ten (10) days before a hearing is scheduled. The notice shall specify the time and place of the hearing and shall include the specific reasons in support of City's claim that Contractor has substantially breached the terms and provisions of this Agreement. Should City still deem Contractor to have failed in its performance, said hearing shall be conducted in public by the City Council and Contractor shall be allowed to be present and shall be given full opportunity to answer such claims as are set out against it in the aforesaid notice. If, after said public hearing, the City Council makes a finding that Contractor has failed to provide adequate refuse collection service for City, or has otherwise substantially failed to perform its duties hereunder, the City Council may terminate this Agreement.

## **Article XII Miscellaneous**

12.1 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.

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

12.3 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.

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

12.5 Amendments. This Agreement may be amended by the mutual written agreement of the Parties.

12.6 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 affect any other provisions, and the Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in it.

12.7 Independent Contractor. All services to be performed by Contractor pursuant to this Agreement shall be in the capacity of an independent contractor, and not as an agent or employee of the City. Contractor 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.

12.8 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 Rd.  
Lucas, Texas 75002  
Phone: (972) 727-8999

With Copy to:

Joseph J. Gorfida, Jr.  
Nichols, Jackson, Dillard, Hager & Smith, L.L.P.  
1800 Lincoln Plaza  
500 North Akard  
Dallas, Texas 75201  
Phone: (214) 965-9900

If intended for Contractor:

Barnes Waste Disposal, Inc.  
P.O. Box 245  
Princeton, Texas 75407  
Phone: (972) 396-1139

12.9 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.

12.10 Inspection of Books and Records. City, or any duly authorized representative of City, may at all reasonable times inspect and examine the books and records of Contractor for the purpose of (a) checking the salary costs and other expenses described and/or contemplated in this Agreement or (b) otherwise confirming Contractor's compliance with the terms of the Agreement.

Contractor shall maintain said books and records and other evidence pertaining to costs, and shall make such materials available at its office, during the term of this Agreement and for the period of three (3) years after the date of final payment thereunder.

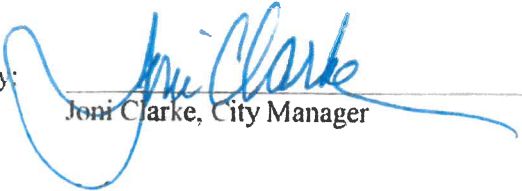
12.11 Compliance with Federal, State & Local Laws. Contractor shall comply in performance of services under the terms of this Agreement with all applicable laws, ordinances and regulations, judicial decrees or administrative orders, ordinances, and codes of federal, state and local governments, including all applicable federal clauses.

12.12 Force Majeure. No Party will be liable for any default or delay in the performance of its obligations under this Agreement if and to the extent such default or delay is caused, directly or indirectly, by a Disaster, riots, civil disorders, acts of terrorism or any similar cause beyond the reasonable control of such Party, provided that the non-performing Party is without fault in causing such default or delay. The non-performing Party agrees to use commercially reasonable efforts to recommence performance as soon as possible.

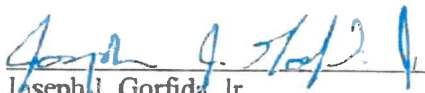
*(signature page to follow)*

EXECUTED this 8<sup>th</sup> day of May, 2017.

City of Lucas, Texas

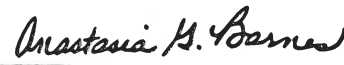
By:   
Joni Clarke, City Manager

Approved as to form:

By:   
Joseph J. Gorfida, Jr.  
(04-17-2017/85354)

EXECUTED this 8<sup>th</sup> day of May, 2017.

Barnes Waste Disposal, Inc.

By:   
Name: Anastasia G. Barnes  
Title: President

## **Recycle Addendum**

### Recycle Service and Rate

Service Requirements: Contractor will provide a staffed drop off collection truck at a location provided by the City. Collection of recycling at the drop off location will occur no less than once per month. Contractor will man the drop off location a minimum of four (4) hours per month. It is the sole discretion of the Contractor to determine what items will be acceptable for recycle collection, and the Contractor has no obligation to accept or dispose of items the Contractor determine to be unacceptable.

Rate: Contractor will bill the City for this service at a rate of \$500 per month.

Service Cancellation: City may terminate the Recycle Addendum, or any portion thereof, at any time with or without cause, by serving a notice of termination on Contractor by registered or certified mail addressed to Contractor at the address set forth herein. Contractor may terminate the Recycle Addendum, or any portion thereof, at any time with or without cause, by serving a notice of termination on City by registered or certified mail addressed to City at the address set forth herein. If City terminates this Recycle Addendum without cause, Contactor shall be paid for work performed up to the time of termination. In no event shall Contractor be entitled to lost or anticipated profits in the event this Recycle Addendum is terminated without cause. If Contractor terminates this Recycle Addendum without cause, Contactor shall complete all work for which Contractor has been paid up to the time of termination.

Recycling Survey

January 2017

|  | Lucas  | Parker  | Fairview  | Murphy   | Wylie  | Princeton   | Farmersville   | City of Allen  | City of McKinney   |
|--|--|---|---|--|--|---|--|--|--|
| Does your city offer recycling?  | Yes  | Yes   | Yes   | Yes  | Yes  | Yes   | Yes  | Yes  | Yes  |
| Do you provide curbside pickup?  | Yes  | Yes   | Yes   | Yes  | Yes  | Yes   | Yes  | Yes  | Yes  |
| Is a polycart provided?  | Yes, for a fee   | Yes   | Yes   | Yes  | Yes  | Yes   | Yes  | Yes  | Yes  |
| Vendor   | Barnes Waste Disposal  | Republic/Allied Waste   | Republic/Allied Waste   | Progressive Waste  | CWD  | Waste Connections (Progressive Waste Solutions)   | Trash - Sanitation Solutions<br>Recycle - CWD  | CWD  | Progressive Waste  |
| What is the monthly cost to residents?   | Trash \$17<br>Recycling \$5<br><br>Recycling is optional.  | \$19.71<br>Trash and recycling combined                                       | Trash \$17.70<br>Recycling \$3.95<br><br>Recycling is optional.               | \$12.62<br>Trash and recycling combined  | \$11.89<br>Trash and recycling combined                            | Trash 9.04<br>Recycling \$1.60<br><br>Recycling is <u>not</u> optional but is billed as a separate line item. | \$13.40 Trash<br>\$6.89 Recycling<br><br>Recycling is <u>not</u> optional but is billed as a separate line item due to services being provided by different companies. | \$15.02<br>Trash and recycling combined  | \$15.36<br>Trash and recycling combined  |
| Is cost included in monthly water/trash bill, or billed separately?                      | Billed by vendor   | Included in water bill  | Included in water bill  | Included in water bill   | Included in water bill   | Included in water bill  | Included in water bill   | Included in water bill   | Included in water bill   |
| Is the cost billed to all residents, or only to individuals using the recycling service? | No, only to residents who sign up  | All residents   | All residents   | All residents  | All residents  | All residents   | All residents  | All residents  | All residents  |
| Does the city provide brush pick up? (tree limbs, yard waste, etc.)                      | Yes<br>(see notes below)   | Handled as bulk pickup  | Handled as bulk pickup  | Large brown bags of leaves are picked up separately, but all other yard waste is handled as bulk pickup. | Handled as bulk pickup   | Handled as bulk pickup  | Handled as bulk pickup   | Large brown bags of leaves are picked up separately, but all other yard waste is handled as bulk pickup. | Large brown bags of leaves are picked up separately, but all other yard waste is handled as bulk pickup. |
| Does your city offer bulk pick up?   | Yes, limited to 2 cubic yards 2x per month. Additional pickups can be scheduled with Barnes for an additional fee. | Yes - 1 per month. Additional pickups can be scheduled for an additional fee. | Yes - 1 per month. Additional pickups can be scheduled for an additional fee. | Yes - weekly, up to 4 cubic yards. Over 4 cubic yards is billed at a higher rate.                        | No, but residents can call CWD directly to arrange a bulk pick up. | Yes. Pick is every other month. Cost is included as a line item on the water bill - \$0.95 monthly.           | Yes. Pick is arranged by resident on an as needed basis. Cost is calculated based on amount of bulk, and is included in the water bill.                                | Yes. Every other week; must be scheduled in advance.   | Yes - 1 free bulk pickup monthly. Additional pickups can be scheduled for an additional fee.             |

City of Lucas Notes

- Brush pickup: Lawn clippings should be contained in the proper bags (paper/green plastic), and no heavier than 35 lbs. per bag.
- Brush pickup: Tree limbs and brush must be bundled, 48" or less in length, in bundles no larger than 4 inches in diameter, and no heavier than 35 lbs. per bundle.
- Brush pickup: Barnes WDS will removed excessive or non-bundled brush for an extra charge. Residents must call to make arrangements.

Recycling for the City of Lucas is billed separately through Barnes at a rate of \$5/month.  
The City of Lucas bills a monthly rate \$17.00 for basic trash service, \$19.45 for Expanded service, and \$25.50 for Expanded Plus.



Recycling Survey

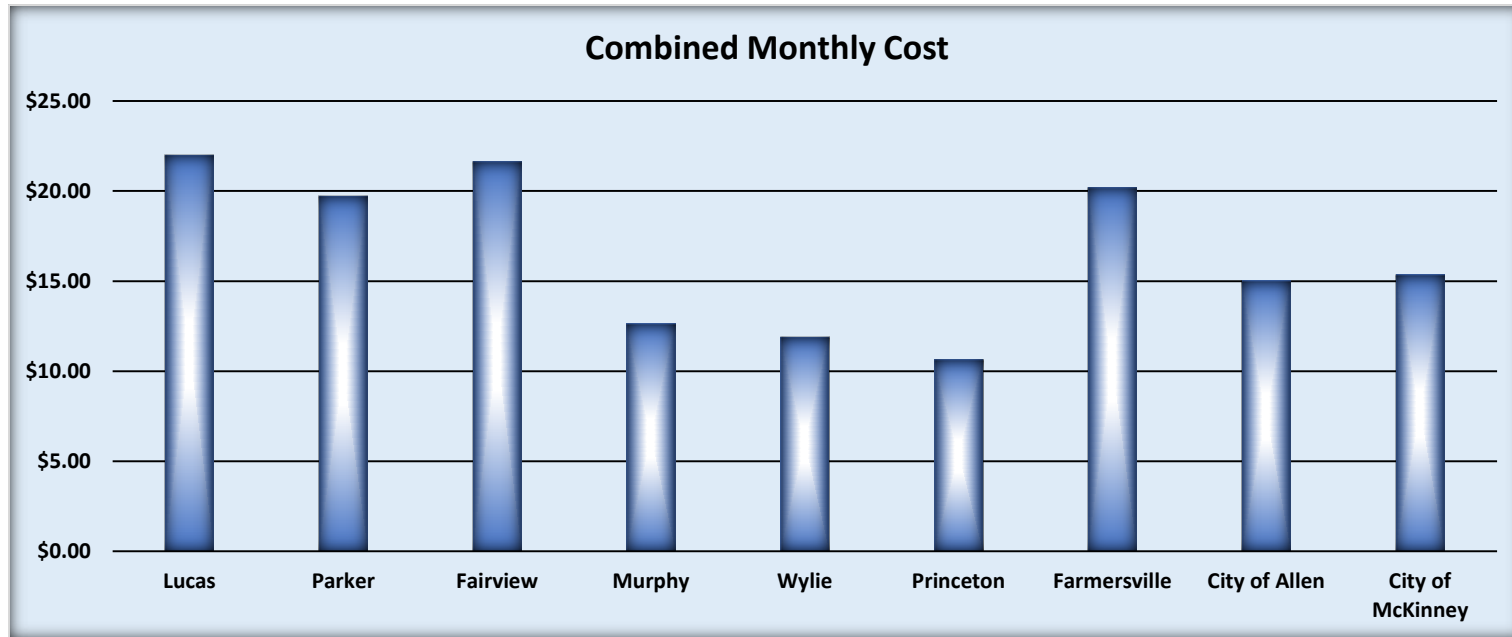
January 2017, revised for new Barnes agmt June 2017

|  | Lucas  | Parker  | Fairview  | Murphy   | Wylie  | Princeton   | Farmersville   | City of Allen  | City of McKinney   |
|--|--|---|---|--|--|---|--|--|--|
| Does your city offer recycling?  | No   | Yes   | Yes   | Yes  | Yes  | Yes   | Yes  | Yes  | Yes  |
| Do you provide curbside pickup?  | No   | Yes   | Yes   | Yes  | Yes  | Yes   | Yes  | Yes  | Yes  |
| Is a polycart provided?  | No   | Yes   | Yes   | Yes  | Yes  | Yes   | Yes  | Yes  | Yes  |
| Vendor   | Barnes Waste Disposal (trash only)                           | Republic/Allied Waste   | Republic/Allied Waste   | Progressive Waste  | CWD  | Waste Connections (Progressive Waste Solutions)   | Trash - Sanitation Solutions<br>Recycle - CWD  | CWD  | Progressive Waste  |
| What is the monthly cost to residents?   | Trash \$21.57<br>Recycling - N/A<br><br>No Recycling offered | \$19.71<br>Trash and recycling combined                                       | \$19.16<br>Trash and recycling combined<br><br>Also offer:<br>Senior Rate \$17.81<br>Special carryout/backdoor pickup \$30.53 | \$12.62<br>Trash and recycling combined  | \$11.89<br>Trash and recycling combined                            | Trash 9.04<br>Recycling \$1.60<br><br>Recycling is <u>not</u> optional but is billed as a separate line item. | \$13.40 Trash<br>\$6.89 Recycling<br><br>Recycling is <u>not</u> optional but is billed as a separate line item. Services are provided by different companies. | \$15.02<br>Trash and recycling combined  | \$15.36<br>Trash and recycling combined  |
| \$30)  | \$21.57 (no recycle)   | \$19.71   | \$19.16   | \$12.62  | \$11.89  | \$10.64   | \$20.20  | \$15.02  | \$15.36  |
| Is cost included in monthly water/trash bill, or billed separately?                      | N/A  | Included in water bill  | Included in water bill  | Included in water bill   | Included in water bill   | Included in water bill  | Included in water bill   | Included in water bill   | Included in water bill   |
| Is the cost billed to all residents, or only to individuals using the recycling service? | N/A  | All residents   | All residents   | All residents  | All residents  | All residents   | All residents  | All residents  | All residents  |
| Does the city provide brush pick up? (tree limbs, yard waste, etc.)                      | Yes (see notes below)  | Handled as bulk pickup  | Handled as bulk pickup  | Large brown bags of leaves are picked up separately, but all other yard waste is handled as bulk pickup. | Handled as bulk pickup   | Handled as bulk pickup  | Handled as bulk pickup   | Large brown bags of leaves are picked up separately, but all other yard waste is handled as bulk pickup. | Large brown bags of leaves are picked up separately, but all other yard waste is handled as bulk pickup. |
| Does your city offer bulk pick up?   | Yes - 2 cubic yards 2x per month and 10 yds 2x per year.     | Yes - 1 per month. Additional pickups can be scheduled for an additional fee. | Yes - 1 per month. Additional pickups can be scheduled for an additional fee.   | Yes - weekly, up to 4 cubic yards. Over 4 cubic yards is billed at a higher rate.                        | No, but residents can call CWD directly to arrange a bulk pick up. | Yes. Pick is every other month. Cost is included as a line item on the water bill - \$0.95 monthly.           | Yes. Pick is arranged by resident on an as needed basis. Cost is calculated based on amount of bulk, and is included in the water bill.                        | Yes. Every other week; must be scheduled in advance.   | Yes - 1 free bulk pickup monthly. Additional pickups can be scheduled for an additional fee.             |

# Recycling

January 2017

|                              | Lucas   | Parker  | Fairview | Murphy  | Wylie   | Princeton | Farmersville | City of Allen | City of McKinney |
|------------------------------|---------|---------|----------|---------|---------|-----------|--------------|---------------|------------------|
| <b>Combined Monthly Cost</b> | \$22.00 | \$19.71 | \$21.65  | \$12.62 | \$11.89 | \$10.64   | \$20.20      | \$15.02       | \$15.36          |





# City of Lucas Council Agenda Request July 6, 2017

Item No. 10

Requester: Jeff Snowden – Capex Consulting Group

## **Agenda Item:**

Discuss the Capex Consulting Group Water and Wastewater Rate Study and Five Year Financial Plan and set date for the public hearing.

## **Background Information:**

Staff contracted with Capex Consulting Group to complete an updated water and wastewater rate study for Fiscal Year 2017-2018 and for a forecast period of five years. The purpose of this study will be to design and implement a rate plan that will enable the water fund to meet operating and capital expenditure requirements for a five year period beginning in Fiscal Year 2017-2018. This study will also include the 2017 debt issuance to fund needed system capital improvements. The rate assigned to each customer class must be just and reasonable and must reflect national and industry standards for utility ratemaking. Preliminary results were presented at the April 20, 2017 City Council meeting and staff was given the following direction:

- Increase the residential water rate structure by five percent.
- Increase the commercial water and wastewater rate structure by ten percent.
- Maintain the current rate structure of 1.5 minimum usage for out of city customers.

Section 10.03, Regulation of Rates in the City of Lucas Home Rule Charter, calls for a public hearing for consideration of any change to rates. The following dates are listed below for needed time requirements:

- |  |               |
|--|---------------|
| • Water and Wastewater Rate Study and Five Year Financial Plan | July 6, 2017  |
| • Place newspaper ad in Allen American                         | July 13, 2017 |
| • Hold public hearing for adjusting Water and Wastewater Rates | Aug. 3, 2017  |
| • Adopt Ordinance for Water and Wastewater Rates               | Aug. 17, 2017 |

Councilmember Millsap had some additional questions regarding the water rate study and asked for the presentation to be tabled so that he could review and work on the rate study with Capex Consultant Jeff Snowden. On June 21, 2017, Councilmembers Wayne Millsap, Debbie Fisher, City Manager Joni Clarke, and Finance Director Liz Exum met with Capex Consultant Jeff Snowden to discuss the water rate study and direction was provided to the consultant regarding the distribution of costs.



# City of Lucas Council Agenda Request July 6, 2017

## **Attachments/Supporting Documentation:**

1. Water and Wastewater Rate Study and Five Year Financial Plan (will be provided at meeting).
2. Water and Wastewater Rate Tables (will be provided at meeting).

## **Budget/Financial Impact:**

Varies according to usage

## **Recommendation:**

Staff recommends approval of the Water and Wastewater Rate Study and Five Year Financial Plan.

## **Motion:**

I make a motion to approve the results of the Water and Wastewater Rate Study and Five Year Financial Plan and schedule the public hearing for August 3, 2017.



# City of Lucas Council Agenda Request July 6, 2017

Requester: Mayor Jim Olk  
City Manager Joni Clarke

## **Agenda Item:**

Consider the provisions of law enforcement services for the City of Lucas and entering into an Interlocal Agreement for such services with Collin County or entering into an Interlocal Agreement for such services with the Town of Fairview, Texas.

## **Background Information:**

The City of Lucas and Collin County Sheriff's Office have enjoyed a mutually beneficial relationship since the two entities entered into an interlocal agreement for law enforcement services 13 years ago. Sheriff Skinner appeared before the City Council on March 16, 2017 to discuss the staffing needs and the challenges associated with providing law enforcement services to the citizens of Collin County. The Lucas City Council is evaluating options for the provision of law enforcement services. The City's current agreement with Collin County expires on September 30, 2017. At the City Council meeting on June 1, 2017, the City Council directed the City Manager to draft a proposed agreement with the Town of Fairview for law enforcement services. On June 6, 2017, the City received a proposed agreement for law enforcement services from Collin County and reviewed the proposed agreement at the June 15, 2017 City Council meeting. As directed by City Council, the City of Lucas sent a draft interlocal for review to the Town of Fairview and the Town Manager and Chief of Police reviewed said agreement and received feedback from the Fairview City Council and their City Attorney.

## **Attachments/Supporting Documentation:**

1. Current Interlocal Cooperation Agreement for Law Enforcement Services with Collin County ending on September 30, 2017.
2. Proposed REVISED Interlocal Cooperation Agreement for Law Enforcement Services with Collin County commencing on October 1, 2017 for a four-year term.
3. Draft Interlocal Cooperation Agreement for Law Enforcement Services with the Town of Fairview commencing on October 1, 2017 for a three-year term with two, one-year options for renewal.

## **Budget/Financial Impact:**

The City of Lucas included in the City's fiscal year 16/17 budget \$97,700 for the dedicated deputy plus \$13,000 for extra patrol hours for a total of \$110,700.



# City of Lucas Council Agenda Request July 6, 2017

Collin County is requesting \$281,565 in funding for year one consisting of two deputies and one additional patrol vehicles for a total of two. Collin County is proposing quarterly payments in the amount of \$70,391.25.

### Collin County Sheriff's Office

| Item              | Year 1           | Year 2           | Year 3           | Year 4           |
|-------------------|------------------|------------------|------------------|------------------|
| 2 Deputies        | 183,578          | 183,578          | 183,578          | 183,578          |
| 2 Patrol Vehicles | 83,987           | -                | 83,987           | -                |
| Vehicle Expense   | 14,000           | 14,000           | 14,000           | 14,000           |
| Inmate Boarding   | -                | -                | -                | -                |
| Dispatch Fees     | -                | -                | -                | -                |
| <b>TOTAL</b>      | <b>\$281,565</b> | <b>\$197,578</b> | <b>\$281,565</b> | <b>\$197,578</b> |

Does not include:

- Vehicle insurance
- Body cameras
- Overtime
- Potential increases in salary & benefits
- Cost of vehicle in year 3 is using current cost projections



# City of Lucas Council Agenda Request July 6, 2017

Item No. 11

The Town of Fairview is requesting \$400,292 in funding for year one consisting of two police officers and one patrol vehicle.

### Town of Fairview

| Item                    | Year 1           | Year 2           | Year 3           |
|-------------------------|------------------|------------------|------------------|
| 2 Patrol Officers       | 203,635          | 178,286          | 184,946          |
| 1 Patrol Vehicle        | 97,182           | 0                | 0                |
| Vehicle Expense         | 15,454           | 15,454           | 15,454           |
| Inmate Boarding         | 750              | 750              | 750              |
| Dispatch Fees           | 40,771           | 40,771           | 40,771           |
| Indirect Overhead Costs | 42,500           | 43,563           | 44,650           |
| <b>TOTAL</b>            | <b>\$400,292</b> | <b>\$278,824</b> | <b>\$286,571</b> |

Does not include:

- Children's Advocacy Center
- Inmate Boarding Fees – City of Lucas has contract and this is a potential cost that will occur for both County and Town
- Significant events may have additional cost

**Recommendation:**

NA

**Motion:**

I move that the City of Lucas enter into an Interlocal Agreement for law enforcement services with Collin County through the Collin County Sheriff's Office –**OR**– the Town of Fairview, Texas through its Police Department and authorize the Mayor to execute the Interlocal Cooperation Agreement for Law Enforcement Services commencing on October 1, 2017.

**STATE OF TEXAS**

COUNTY OF COLLIN

**INTERLOCAL COOPERATION AGREEMENT  
FOR LAW ENFORCEMENT SERVICES**

This Interlocal Cooperation Agreement for Law Enforcement Services (hereinafter referred to as the "Agreement") is made by and between Collin County (hereinafter referred to as "County"), and the City of Lucas, a municipal corporation (hereinafter referred to as "City").

WHEREAS, City desires to contract with County for law enforcement services to be provided by the Collin County Sheriff's Office ("Sheriff's Office"), as specified herein; and

WHEREAS, County is willing to provide such services subject to and in accordance with this Agreement, and

WHEREAS, City and County mutually desire to be subject to the provisions of the Interlocal Cooperation Act of the V.T.C.A. Government Code, 791; and

NOW THEREFORE, City and County, for the mutual consideration hereinafter stated, the receipt and sufficiency of which is hereby acknowledged, agree as follows:

1. TERM. This Agreement is effective as of October 1, 2013 (the "Effective Date"), and will continue for a period of four (4) years from the Effective Date



2. COUNTY'S OBLIGATIONS.

2.1 County will, through the Sheriff's Office, provide City with law enforcement services to the same extent provided to County and in accordance with the Sheriff's Office policies and procedures and local, state and federal law. Such law enforcement services include generalized preventive patrol, answering calls for police assistance, investigations, traffic control and enforcement, and any other service generally related to law enforcement and the protection of the citizens of City.

2.2 The planning, organizing, assignment, allocation, direction and supervision of County law enforcement personnel under this Agreement will be determined by County. The rendition of service, the standard of performance, the discipline of officers, and other matters incident to the performance of such services and the control of personnel so employed will be the responsibility of County.

2.3 County will give prompt consideration to all requests from City received through the Liaison Officer or the Sheriff's Office's communications division ("Dispatch") regarding the delivery of law enforcement services under this Agreement. County will make every effort to comply with these requests to the extent such requests are: (1) consistent with the terms of this Agreement; (2) consistent with the policies and procedures of the Sheriff's Office; and (3) consistent with local, state and federal law.

2.4 The Sheriff's Office will submit written reports of any and all activity within the City; to the extent such reports are consistent with the policies and procedures of the Sheriff's Office, by the 15<sup>th</sup> day of each calendar month for the services provided during the immediately preceding month.

2.5 During the term of this Agreement, the County will provide a patrol vehicle to City ("Patrol Vehicle"), the maintenance and insurance of which will be the sole responsibility of the County.

2.6 Patrol vehicle used under this agreement shall be replaced either, (whichever occurs first):

a. whenever the vehicle is deemed by County to be in need of replacement based upon County's standard vehicle replacement schedule; or,

b. at the end of the four (4) year term of agreement.

In any instance, the City agrees to bear the replacement cost of any vehicle that is taken out of service and replaced. It is agreed between the City and County that the City, at the termination of this agreement, would have reimbursed the county for all expenses associated with the agreed service. Reimbursement will have been as follows: \$45,300.00 for cost of vehicle less police equipment and accessories, \$7,000.00 for operating and maintenance, and \$77,827.00 for deputy salary in the first year, October 1, 2013 through and including September 30, 2014. Successive years' reimbursement amounts shall be negotiated and mutually agreed by both parties.

Accordingly, at the agreement end term, the City, having reimbursed/paid the county the full cost of the vehicle, then the City may claim possession of the paid vehicle and shall cover any associated costs for administrative and transfer fees. This agreement complies with Government Code 791 and Local Government Code 263.152.

2.7 County will designate the Major of Operations of the Sheriff's Office to act on behalf of County as "Liaison Officer" to City. The Liaison Officer will act on behalf of the County on matters concerning the delivery of law enforcement services to City pursuant to this Agreement. City will observe and utilize the Liaison Officer as the proper contact official and agent for County regarding this Agreement. The Liaison Officer will devote sufficient time and attention to the execution of said duties on behalf of County and will provide immediate and direct supervision of the employees, agents, contractors, sub-contractors, and/or laborers, if any, in furtherance of the purposes, terms and conditions of this Agreement for the mutual benefit of Collin County and City.

2.8 County will provide law enforcement services under this Agreement during the days and times set forth in Exhibit "A", attached hereto and incorporated herein by reference. During times not specified in the attached Exhibit "A", County will continue to provide law enforcement services at the level currently provided and comparable to that provided to other populated unincorporated areas of the County. During the times therein specified, County shall provide one (1) duly sworn uniformed peace officer who shall devote full time and attention to the provision of law enforcement services for City.

3. CITY'S OBLIGATIONS.

3.1 Year one (1), October 1, 2013 through and including September 30, 2014, City will pay to County the sum specified in Exhibit "B", which shall be paid in four equal, quarterly installments beginning on October 1, 2013.

Deputy salary, purchase cost of the vehicle, less police equipment and accessories, and annual maintenance and operations costs (Fuel & Maintenance) of \$7,000.00 are included in arriving at the total amount to be paid by the City. Successive years' reimbursement amount to be paid by City, shall be negotiated and mutually agreed upon by both parties in writing prior to October 1 of each year per Exhibit "B" and shall be paid in four equal, quarterly installments beginning October 1 of each year. During the term of this agreement, in the event the annual maintenance and operational costs exceed the agreed upon amount by more than 10% for that year period, the City shall reimburse County in full for these additional charges. County shall provide documentation, upon request for these additional costs.

3.2 City shall obtain a written opinion from competent legal counsel regarding legality and status of each of the ordinances of City. City shall provide to County on or before October 1, 2013, a copy of the opinion of counsel, as necessary.

3.3 Any Class C misdemeanor violations occurring in City's corporate or territorial limits will be, to the extent allowed by law, filed in and handled by the Municipal Court of City. City shall have the sole and exclusive right to any and all court costs, fines and fees generated by any enforcement action (including, but not limited to, court fines and fees, forfeitures, and costs) to the extent allowed by law.

3.4 The City Manager of the City of Lucas will serve as Liaison to act on behalf of City, and to serve as "Liaison Officer" for City. The Liaison Officer will devote sufficient time and attention to the execution of said

duties on behalf of City and will provide immediate and direct supervision of city employees, agent's contractors, and/or laborers, if any, in the furtherance of the purpose, terms and conditions of this Agreement for the mutual benefit of County and City.

3.5 City will continuously provide County with accurate and current maps of the territorial limits and extraterritorial jurisdiction of City.

3.6 City shall provide County a non-exclusive or exclusive office space for use by Sheriff's Office personnel performing law enforcement services pursuant to this Agreement. Such space shall contain a computer with word processing and internet capabilities, and will be utilized for administrative tasks, including, but not limited to, writing reports, making or returning phone calls and other tasks related to the obligations hereunder.

3.7 City shall provide and maintain a secure location wherein the Patrol Vehicle may be stored when not in use as contemplated by this Agreement or the Patrol vehicle shall be stored as determined by Sheriff's Office when not in use.

#### 4. SUSPENSION OF SERVICES.

4.1 If City fails to make a payment to the County as required in Section 3.1 within thirty (30) days after the due date, the County, at its discretion, may suspend service until payment is received or may terminate this Agreement pursuant to Section 5.

4.2 If it becomes necessary for County to suspend services to City for non-payment of any monies required hereunder or for any other cause whatsoever, County will notify the City Liaison Officer by telephone and in writing of the date service will be suspended.

4.3 If the services provided by County are suspended and are not resumed within fifteen (15) days of the date of suspension, the suspension shall be considered a termination.

5. TERMINATION.

5.1 This Agreement may be terminated at any time with or without cause by either party by giving ninety (90) days written notice to the other.

5.2 City may terminate this Agreement immediately upon a breach of this Agreement by County.

5.3 County may terminate this Agreement immediately upon a breach of this Agreement by City.

5.4 In the event this Agreement is terminated by either party for any reason, County shall receive any payments due and owing under this Agreement on a pro rata basis, together with any reimbursable expenses then due and as authorized by this Agreement. Additionally, in the event this Agreement is terminated prior to expiration date, the Patrol Vehicle and all related equipment shall be returned immediately to County, and City forfeits any claim to vehicle.

6. RECOURSE. City's sole recourse for failure of County to furnish law enforcement services under this Agreement or any other breach by County will

be the right to make a proportionate reduction in the fee owed to County under this Agreement. The proportionate reduction will be determined by mutual agreement of the parties.

7.        LIABILITY.        This Agreement is made for the express purpose of County providing law enforcement services to City. Both parties acknowledge and agree that the provision of law enforcement services is a governmental function. In no event shall any provision of this Agreement be construed as a waiver of City's or County's sovereign immunity.

County shall indemnify, hold harmless and defend City from and against any and all demands, claims, causes of action, damages, losses and liabilities that arise directly or indirectly from County's performance of the terms of this Agreement to the extent such performance relates to or arises from (1) the enforcement of the laws of the State of Texas or Collin County or (2) any act in furtherance of a policy or procedure promulgated by County; provided, County shall not indemnify City for its own negligence, gross negligence or willful conduct or that of City's employees, agents, or representatives. City shall indemnify, hold harmless and defend County from and against any and all demands, claims, causes of action, damages, losses and liabilities that arise directly or indirectly from City's performance of the terms of this Agreement and County's performance of the terms of this Agreement to the extent County's performance relates to or arises from (1) the enforcement of the ordinances of City or (2) other act or omission in furtherance of a policy or procedure promulgated by City. This Agreement and the indemnity provided herein is not

the indemnity provided herein is not intended to and shall not create any cause of action for the benefit of third parties or any person not a party to this Agreement.

8. NOTICES. Any notice required by this Agreement shall be sent via the United States Postal Service, Certified Mail, Return Receipt Requested to the following:

If to City:  
City Manager  
City of Lucas  
151 Country Club Road  
Lucas, Texas 75002

If to Collin County:  
Collin County Sheriff's Office  
Major of Operations  
4300 Community Blvd.  
McKinney, Texas 75071

With copy to:  
Collin County Purchasing Agent  
2300 Bloomdale Road, Ste. 3160  
McKinney, Texas 75071

AGREED TO:

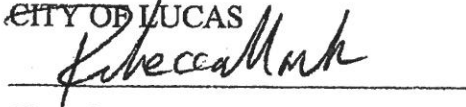
COLLIN COUNTY

  
\_\_\_\_\_  
Judge Keith Self

Date

2300 Bloomdale Road  
McKinney, TX 75071

CITY OF LUCAS

  
\_\_\_\_\_  
City of Lucas

Date

151 Country Club Road  
Lucas, TX 75002



EXHIBIT "A"  
TO INTERLOCAL COOPERATION AGREEMENT  
FOR LAW ENFORCEMENT SERVICES

This Exhibit "A" is incorporated into the Interlocal Cooperation Agreement for Law Enforcement Services between Collin County ("County") and the City of Lucas ("City") dated \_\_\_\_\_ (the "Agreement"), and has the same force and effect as if originally written into the text of the Agreement.

1. **Hours of Service.** Pursuant to the Agreement, County will provide law enforcement service to City during the following dates and times:

Eight (8) hours/day, Five (5) days/week

Schedule to be determined except as noted below

2. **Vacation, Compensation, Personal and Sick Time.** The law enforcement officer assigned to provide the services in accordance with the Agreement may, during the term of the Agreement, use vacation, compensation ("comp"), personal and sick time accrued or allowed pursuant to the policies and procedures of the Collin County Sheriff's Office ("Time Off"). City acknowledges and agrees that County will not provide alternate personnel during the Time Off period, and such Time Off does not alter in any way City's obligations under this Agreement. County agrees to notify City of any Time Off in advance when possible.

3. **Overtime.** In the event overtime pay is due to the law enforcement officer performing services under the Agreement because of a request by City for the officer to work more than the hours described herein, City shall reimburse the County for such pay.

The terms and provision contained in this Exhibit will be evaluated by the parties each calendar quarter, and may be changed from time to time upon agreement by the parties.

EXHIBIT "B"  
TO INTERLOCAL COOPERATION AGREEMENT  
FOR LAW ENFORCEMENT SERVICES

This Exhibit "B" is incorporated into the Interlocal Cooperation Agreement for Law Enforcement Services between Collin County ("County") and the City of Lucas ("City") dated \_\_\_\_\_ (the "Agreement"), and has the same force and effect as if originally written into the text of the Agreement.

1. Total reimbursement cost for year one (1), commencing October 1, 2013 through and including September 30, 2014 shall be at the total cost of \$130,127.00, to include \$77,827.00 for deputy salary, \$45,300.00 for vehicle cost less police equipment and accessories, and \$7,000.00 for operating and maintenance of vehicle. Payment shall be paid in four equal, quarterly installments beginning October 1, 2013. In the event the annual maintenance and operational costs exceed the agreed upon amount by more than 10% for that year period, the City shall reimburse County in full for these additional charges. County shall provide documentation, upon request from the City, for these additional costs.
2. Total reimbursement cost for year two (2), commencing October 1, 2014 through and including September 30, 2015, shall be negotiated and mutually agreed upon in writing prior to October 1, 2014, to include deputy salary and vehicle operating and maintenance cost. Payment shall be paid in four equal, quarterly installments beginning October 1, 2014. In the event the annual maintenance and operational costs exceed the agreed upon amount by more than 10% for that year period, the City shall reimburse County in full for these additional charges. County shall provide documentation, upon request from the City, for these additional costs.
3. Total reimbursement cost for year three (3), commencing October 1, 2015 through and including September 30, 2016, shall be negotiated and mutually agreed upon in writing prior to October 1, 2015, to include deputy salary and vehicle operating and maintenance cost. Payment shall be paid in four equal, quarterly installments beginning October 1, 2015. In the event the annual maintenance and operational costs exceed the agreed upon amount by more than 10% for that year period, the City shall reimburse County in full for these additional charges. County shall provide documentation, upon request from the City, for these additional costs.
4. Total reimbursement cost for year four (4), commencing October 1, 2016 through and including September 30, 2017, shall be negotiated and mutually agreed upon in writing prior to October 1, 2016, to include deputy salary and vehicle operating and maintenance cost. Payment shall be paid in four equal, quarterly installments beginning October 1, 2016. In

the event the annual maintenance and operational costs exceed the agreed upon amount by more than 10% for that year period, the City shall reimburse County in full for these additional charges. County shall provide documentation, upon request from the City, for these additional costs.

# STATE OF TEXAS

COUNTY OF COLLIN

## INTERLOCAL COOPERATION AGREEMENT FOR LAW-ENFORCEMENT SERVICES

This Interlocal Cooperation Agreement for Law-Enforcement Services (the Agreement) is made by and between Collin County (County), and the City of Lucas, a municipal corporation (City).

WHEREAS, City desires to contract with County for law-enforcement services to be provided by the Collin County Sheriff's Office, as specified; and

WHEREAS, County is willing to provide such services under this Agreement, and

WHEREAS, City and County desire to use their authority under the Interlocal Cooperation Act of the Texas Government Code, chapter 791; and

NOW THEREFORE, City and County, for mutual consideration, agree as follows:

1. TERM. This Agreement is effective as of October 1, 2017 (the Effective Date), and its term will continue for four years from the Effective Date to the Expiration Date. *See* Gov't Code, § 791.011(i). Contract Year 1 will run from October 1, 2017, to September 30, 2018. Contract Years 2, 3, and 4 will start on October 1 of each successive year.

2. COUNTY'S OBLIGATIONS.

2.1 **Law-Enforcement Services.** County will, through the Sheriff's Office, provide City with law-enforcement services as described in paragraph 2.5(a) and Exhibit A, in accordance with the Sheriff's Office's policies and procedures and local,

state, and federal law. These services will include general preventive patrol, answering calls for police assistance, investigations, traffic control and enforcement, and any other services related to law enforcement and the protection of the citizens of City. County will not perform services ordinarily performed by City's Code Enforcement Department, such as enforcement of chapter 6 of the City of Lucas Code of Ordinances (Health & Sanitation).

2.2 **Planning and Supervision.** County will plan, organize, and supervise all tasks and matters that are part of its provision of law-enforcement services and County's performance under this Agreement. County will assign, allocate, direct, supervise, and discipline County personnel.

2.3 **City Requests.** County will promptly consider all requests from City received through the Liaison Officer or the Sheriff's Office's communications division (Dispatch) for law-enforcement services. County will make every reasonable effort to comply with these requests consistent with: (1) this Agreement, (2) the Sheriff's Office's policies and procedures, and (3) local, state, and federal law.

2.4 **County's Liaison Officer.** City may confer with County's Liaison Officer—the Commander of Operations in the Sheriff's Office—about County's performance under this Agreement. The Commander will oversee County's performance and devote sufficient time and attention to reasonably ensure County's proper performance. The Commander and the chain of command will supervise deputies, officers, and employees who provide County's performance. The Commander and the chain of command will also communicate and coordinate with any

deputies, officers, or employees of other sheriff's offices, police departments, or other agencies or entities, who may also provide services along with County.

2.5 **Deputies.**

a. **General.** County will dedicate two deputies to provide services to City. These deputies will cover more shifts per week in the city than the one deputy provided under past versions of this Agreement. But no more than one deputy will ordinarily patrol in the city in one shift. County will select and structure shifts and work hours to best serve City, in light of City's requests and the history and pattern of service calls, reports or occurrences of crime, and other law-enforcement or emergency circumstances. County will generally provide law-enforcement services inside City's geographic or jurisdictional boundaries during the days and times set forth in **Exhibit A**. During these times, County will provide at least one uniformed deputy, who will use reasonable efforts to devote full time and attention to serving City and patrolling within City's limits. This deputy, however, may leave the city limits only to respond to emergency calls for service or to respond to calls to assist other deputies or officers. In addition, other deputies or officers may assist the dedicated deputy as needed, without adding to County's ordinary obligations under this Agreement. During times not specified in Exhibit A, County will continue to provide law-enforcement services in the manner and at the level currently provided to other, similarly populated, unincorporated areas in Collin County.

b. **Body-Worn Cameras.** In 2015, the legislature passed a body-worn-camera program. *See* Occupations Code, §§ 1701.651–1701.663. If and when the Sheriff's Office implements a policy to equip patrol deputies generally with body-worn cameras,

then the deputies dedicated to providing services to City will be equipped with the same cameras and supporting equipment and software. City agrees to negotiate and agree to reasonable terms, including price and payment terms, to reimburse County for the costs of the equipment, software, and licenses, as well as costs of integrating the dedicated deputies into the Sheriff's Office's body-worn-camera system. These costs include costs of statutorily required deputy training and the cost of obtaining services under a program established or approved by, or registered with, the Texas Department of Information Services. *See* Occupations Code, § 1701.654.

County will be responsible for complying with state body-worn-camera law, including the provisions related to deputy training, policy, data retention, release of recordings or other information, and reporting. In an incident involving City, County will provide City's officials and City's attorneys and experts with reasonable viewing of any relevant recordings—including those made by in-vehicle or body-worn cameras—consistent with investigative, law-enforcement, or criminal- or civil-defense requirements, including those in section 1701.660 of the Occupations Code. The Sheriff alone will make all decisions about public or other release of records, including decisions under sections 1701.661–1701.663 of the Occupations Code or the Public Information Act, Texas Gov't Code, chapter 552.

At this Agreement's end or termination and if City has paid all reimbursement amounts under this paragraph, County will transfer the cameras, equipment, software, licenses, and other rights and property associated with the two dedicated deputies' integration into the Sheriff's Office's body-worn-camera program to City—except where the law or a contract prohibits such transfer. If City has not paid all

reimbursement amounts, then County will retain all the equipment, property, and other rights and will not refund reimbursement payments. In other words, City will have the option to complete all reimbursement payments and obtain the equipment and other property and rights or forfeit all claim to them.

2.6 **Reports of Services.** The Sheriff's Office will provide City with written reports of all law-enforcement activity within the City, in form and content that are consistent with the Sheriff's Office's policies and procedures.

2.7 PATROL VEHICLES.

a. **Two Patrol Vehicles.** County will initially provide two Patrol Vehicles to provide law-enforcement services to City. The parties expect to have at least two Patrol Vehicles in service during this Agreement's term. But City may increase or reduce the number of vehicles in service under paragraphs 2.8 and 3.1(f), below.

**Patrol Vehicle 1** will be unit #55255, which is the same vehicle as has been in service under the parties' Interlocal Cooperation Agreement for Law-Enforcement Services (October 1, 2013–September 30, 2017). County believes that Patrol Vehicle 1 has a remaining useful life for patrol purposes of approximately two years after April 26, 2017.

A "**replacement Patrol Vehicle**" is a Patrol Vehicle that is purchased or put into service under this Agreement to replace Patrol Vehicle 1 or 2, or an earlier replacement Patrol Vehicle or a new Patrol Vehicle. A "**new Patrol Vehicle**" is a Patrol Vehicle that is bought and put into service under this Agreement and whose addition results in more than two vehicles being dedicated to provide services to City.



County will purchase **Patrol Vehicle 2**. City prefers SUVs. In the cases of Patrol Vehicle 2, a replacement Patrol Vehicle, and a new Patrol Vehicle, "Patrol Vehicle" means the made ready vehicle together with the installed equipment, including the radio, computer, in-car camera system, technology for internet connectivity, all software and updates, and emergency equipment, accessories and decals. County may include radar, in which case the radar will become part of the Patrol Vehicle.

b. **Warranties.** County may purchase and maintain available, reasonably priced, warranty or similar third-party protection packages on Patrol Vehicle 2 and a replacement or new Patrol Vehicle, if any, including the equipment, software, and updates, while each vehicle is in service under this Agreement.

The warranties, if any, that apply to Patrol Vehicle 1 will continue according to their terms. County has no duty to obtain a new warranty or other protection for Patrol Vehicle 1 or to buy or extend a warranty or other protection for Patrol Vehicle 1. If County has the opportunity to purchase or extend protection for Patrol Vehicle 1, then County will confer with City and City may elect to have County purchase the protection or extension and reimburse County for its actual costs.

c. **Insurance.** During the time when a Patrol Vehicle is in service under this Agreement and County has the title to the Patrol Vehicle, or the title is in County's name, County will provide insurance for that vehicle. City will have the related reimbursement obligation set out in paragraph 3.1(e), below.

d. **Maintenance.** County will provide the routine and other maintenance for the Patrol Vehicles, until a Patrol Vehicle is transferred to City.

e. **Transfer.** “Transfer” means the set of acts reasonably necessary to transfer possession and ownership of a Patrol Vehicle to City, including a transfer under paragraph 3.2, below. “Transfer” includes transferring possession of a Patrol Vehicle, as well as transferring the vehicle’s title and ownership of the warranties or third-party protection or maintenance plans that cover the vehicle or equipment being transferred. County will not transfer any property or rights in breach of a contract with another party, such as proprietary licenses or software, incident-reporting systems, or licenses or software that would give City access to county or restricted databases or infrastructure. County will de-badge a vehicle and remove software or electronic data as reasonably necessary to meet County’s obligations to protect criminal-justice or other confidential information before transfer or ensure that a vehicle has been properly de-badged within 15 business days after transfer. County will bear all costs of de-badging a vehicle, if County de-badges it, and of removing software or electronic data. City will bear the costs of transferring a vehicle’s title and all other costs of transfer. The parties intend to comply with chapter 791 of the Government Code and section 263.152 of the Local Government Code related to the disposition of surplus property.

**Exception:** The equipment in Patrol Vehicle 1 belongs to County. If County transfers Patrol Vehicle 1 to City, then County may remove the equipment, including the computer, radar, light bar, and all other emergency equipment. Alternatively, City may buy some or all of the equipment—except for restricted software or licenses or confidential electronic data—at a price and on terms agreed by the parties at the time of the transfer. City will have 10 calendar days to exercise this option after County

notifies City that Patrol Vehicle 1 is to be removed from service under this Agreement or after City elects to remove Patrol Vehicle 1 from service.

**2.8 Patrol Vehicles: Removal from Service or Replacement.** A Patrol Vehicle may be removed from service whenever:

- a. County determines that a Patrol Vehicle should be removed from service based upon County's vehicle-replacement schedule and policy, which include an assessment of vehicles that have been damaged or been in an accident;
- b. City has paid 100% of the Patrol Vehicle's reimbursement amount (including purchase price and price of installed equipment and software and insurance) and City elects to remove the vehicle from service under the Agreement and take ownership and possession of it under paragraph 2.7(e); or
- c. a party terminates this Agreement or it ends on its own terms.

County will confer with City about a determination that a Patrol Vehicle needs to be removed from service and replaced for County to continue its performance, and City may agree to a replacement and the related reimbursement terms, comparable to the ones in paragraph 3.1 adjusted for the then-prevailing prices and circumstances. Alternatively, City may elect to increase or reduce the number of Patrol Vehicles dedicated to service under this Agreement. City's election will not alter County's right to full reimbursement for each Patrol Vehicle bought and put into service under the Agreement. Once County has purchased a Patrol Vehicle and dedicated to service under this Agreement, City has the duty to reimburse County.

### 3. CITY'S OBLIGATIONS.

3.1 **Payments.** City will pay County the reimbursement amounts set out here, including those for the patrol vehicle, maintenance and fuel, and deputies in paragraphs 3.1(a), (b), (c), and (d); insurance in paragraph 3.1(e); replacement or new patrol vehicles in paragraphs 2.8 or 3(f); additional deputies in paragraph 3.1(g); body-worn cameras in paragraph 2.5(b); and in Exhibits A and B, which will include amounts negotiated in contract Years 2, 3, and 4.

a. **Reimbursement Amounts.** City will reimburse County the full cost of Patrol Vehicle 2. Patrol Vehicle 2 costs \$83,987,<sup>1</sup> which is its **reimbursement amount**. Two Patrol Vehicles will ordinarily remain in service under this Agreement, and City may increase or decrease the number of vehicles in service under paragraphs 2.8 and 3.1(f). City will also pay County maintenance-and-operations costs, including fuel, of \$7,000 for each vehicle,<sup>2</sup> or \$14,000 total, in Year 1. City will also reimburse County for each dedicated deputy's salary at (i) County's current deputy at \$97,948 and (ii) one additional deputy at \$85,630, or \$183,578 total, in Year 1, plus overtime pay as set out in Exhibit A. The new deputy's first year salary and benefits are \$76,377, and the deputy's startup costs are \$9,253, or \$85,630 total. If County hires a licensed peace officer as the second deputy, then County will refund \$1,710 to City in training costs. The parties will negotiate the reimbursement amounts in contract

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<sup>1</sup> **Estimate:** The reimbursement amount includes the cost of the make-ready vehicle from the manufacturer, plus the cost of the equipment and software added to make a vehicle a Patrol Vehicle. The cost of Patrol Vehicles 2 and 3 is an estimate as of June 23. The figure will be updated by the time of signing.

<sup>2</sup> **Estimate:** The maintenance-and-operations costs are an estimate as of June 23. The figure will be updated by the time of signing.

Years 2, 3, and 4. City will pay the reimbursement amounts in four, equal, quarterly installments beginning on October 1 of each contract Year.

b. **Contract Year 1.** In contract Year 1, City will pay the following reimbursement amounts:

|                                       |                 |
|---------------------------------------|-----------------|
| <b>Patrol Vehicle 1</b>               | \$0             |
| <b>Patrol Vehicle 2</b>               | \$83,987        |
| <b>Maintenance &amp; Operations 1</b> | \$ 7,000        |
| <b>Maintenance &amp; Operations 2</b> | \$ 7,000        |
| <b>Deputy 1</b>                       | \$97,948        |
| <b>Deputy 2</b>                       | <u>\$85,630</u> |
| <b>Total</b>                          | \$281,565       |

Each quarterly payment will be  $\$281,565/4 = \mathbf{\$70,391.25}$ .

c. **Reimbursement in Contract Years 2, 3, and 4.** The parties will negotiate and agree to the amount of maintenance-and-operations costs and the amount of deputy compensation for City to reimburse County in Years 2, 3, and 4, comparable to the calculations in paragraphs 3.1(a) and (b)—except that the reimbursement amount for the two deputies will be the deputy’s actual salary and benefits, without the start-up costs incurred in Year 1 for the new deputy 2. The parties will try to agree to new terms in writing before October 1 of each year.

d. **Actual-Cost Variances by 10% or More.** At the end of each contract Year, County will evaluate its actual (i) deputy costs and (ii) maintenance-and-operations costs for each Patrol Vehicle. If County’s actual costs for a deputy or a Patrol Vehicle exceeded the agreed-upon amount by more than 10% in a year, then City will reimburse County for the difference between the actual costs and the agreed-upon amount. Upon request, County will provide documentation supporting these additional costs.

If County's actual costs for a deputy or a Patrol Vehicle fell short of the agreed-upon amount by more than 10% in a year and City paid 100% of its reimbursement payments for the contract Year, then County will refund City the difference between the agreed-upon amount and the actual costs.

e. **Insurance.** During the time when County has the title to a Patrol Vehicle, or the title is in County's name, County will provide insurance for that vehicle. In each contract Year, City will reimburse County for the actual cost of providing the insurance. County will bill City for the actual cost of each Patrol Vehicle's insurance.

f. **Replacement or New Patrol Vehicles.** The parties may agree to increase the number of Patrol Vehicles, which County puts in service under this Agreement. If County buys a replacement or a new Patrol Vehicle, then City will reimburse County for such costs in four, equal, quarterly payments on terms parallel to the reimbursement provisions here, but adjusted for the new vehicle type (sedan or SUV), price, equipment costs, and other circumstances.

g. **Additional Deputies.** The parties may agree to increase the number of deputies, which County dedicates to service in City's limits under this Agreement. If County would have to hire a new deputy, then County will provide City with the start-up costs, including costs of training, certification, protective gear, handgun, rifle with optics and magazines, TASER, flashlight, and stipend. If County dedicates an additional deputy, then City will reimburse County for the start-up costs in the first contract year and reimburse County for the deputy's actual salary and benefits for each contract Year, in four, equal, quarterly payments on terms parallel to the other reimbursement provisions here, but adjusted for the new salary and benefits.

3.2 **Damage to, or Failure of, a Patrol Vehicle.** A Patrol Vehicle may suffer damage in an accident, or a component or piece of equipment or software may fail to properly perform.

a. **Relatively Minor Damage or Failure.** If a Patrol Vehicle suffers relatively minor damage or failure, including failure of a component or equipment, then County will use the warranties or third-party-protection plan, if any, or insurance to repair the vehicle and return it to service.

b. **Patrol Vehicle 1.** City has reimbursed County for 100% of Patrol Vehicle 1's cost. Nonetheless, Patrol Vehicle 1 is titled in County's name and County maintains the insurance for it. If County determines, under paragraph 2.8, that Patrol Vehicle 1 should be removed from service before this Agreement's end, then, at City's option, County will transfer Patrol Vehicle 1 to City under paragraph 2.7(e). If Patrol Vehicle 1 is involved in an accident, then County will process the appropriate insurance claim and confer with City about (i) repairing the vehicle and returning it to service under paragraph 3.2(a); (ii) replacing the vehicle under paragraphs 2.8 and 3.1(f); (iii) finding a mutually acceptable vehicle to put into service under this Agreement as a substitute for Patrol Vehicle 1 (including for remaining in service under paragraph 2.1 and which County will eventually transfer to City under paragraphs 2.8 and 2.7(e)); or (iv) reducing the number of Patrol Vehicles under the Agreement, in which case County will make reasonable efforts to provide City with the benefit of its bargain in reimbursing County for Patrol Vehicle 1. County will consider the options of paying insurance proceeds, if any, to City; providing City with a vehicle that is comparable in type, age, and condition to Patrol Vehicle 1 immediately before the accident; or paying

City the fair market value of Patrol Vehicle 1 immediately before the accident, as measured by Kelley Blue Book or similar service.

c. **Patrol Vehicle 2.** Under paragraphs 2.7(a) and 3.1(a) and (b), County will initially purchase Patrol Vehicle 2 and City will reimburse County for the vehicle's cost in four, equal, quarterly payments in contract Year 1. If Patrol Vehicle 2 is involved in an accident, then County will process the appropriate insurance claim and confer with City about (i) repairing the vehicle and returning it to service under paragraph 3.2(a); (ii) replacing the vehicle under paragraphs 2.8 and 3.1(f); (iii) finding a mutually acceptable vehicle to put into service under this Agreement as a substitute for Patrol Vehicle 2 ((including for remaining in service under paragraph 2.1 and which County will eventually transfer to City under paragraphs 2.8 and 2.7(e)); or (iv) reducing the number of Patrol Vehicles under the Agreement, in which case County will make reasonable efforts to provide City with the benefit of its bargain in reimbursing County for the particular Patrol Vehicle. The parties will consider the amount City has paid to County in reimbursement payments for the particular Patrol Vehicle, as well as the Patrol Vehicle's age, condition, miles, fair market value, and expected remaining life immediately before the accident or failure. Under subparagraph (iv), County will consider the options of paying insurance proceeds, if any, to City; providing City with a vehicle that is comparable in type, age, and condition to Patrol Vehicle 2 immediately before the accident; or paying City the fair market value of Patrol Vehicle 2 immediately before the accident, as measured by Kelley Blue Book or similar service.



d. **Replacement or New Patrol Vehicles.** If a replacement or new Patrol Vehicle is involved in an accident, then County will process the appropriate insurance claim and confer with City about a resolution on terms parallel to those in subparagraph (c) in light of the Patrol Vehicle's price, City's total reimbursement payments at the time of the accident, and other relevant circumstances.

3.3 **Case Handling, Fines, and Fees.** As between County and City operating under this Agreement, cases falling within the jurisdiction of the City of Lucas Municipal Court, such as alleged violations of the City of Lucas Municipal Code, which are punishable by fine only or by limited fines, may be filed and handled in the City of Lucas Municipal Court. *See* Code of Criminal Procedure, art. 4.14. In such cases, all fines, penalties, fees, court costs, and similar amounts will be payable to City, as opposed to County, to the extent that the law permits. The Collin County Court, Justices of the Peace: Precinct 3-1 handles Class C misdemeanors (traffic or criminal citations) of state law, which fall under articles 4.11–4.12 of the Code of Criminal Procedure. Otherwise, the criminal jurisdiction of courts over violations of state and local law is governed by chapter 4 of title 1 of the Code of Criminal Procedure. The criminal jurisdiction of federal courts is governed by chapter 211 of title 18 of the United States Code.

3.4 **City's Liaison Officer.** County will confer with City's Liaison Officer—the City Manager of the City of Lucas—with regard to City's performance under this Agreement. The City Manager will oversee City's performance, devote sufficient time and attention to City's performance to reasonably ensure City's compliance with its

obligations, and supervise the City officials and employees who provide City's performance.

3.5 **Maps and Changes to Code of Ordinances.** City will continuously provide County with accurate and current maps of the territorial limits and extraterritorial jurisdiction of City. City will also notify County of any changes to the City of Lucas Code of Ordinances, which may relate to County's provision of law-enforcement services to City.

3.6 **Cooperation.** City will take reasonable efforts to cooperate with any requests by County for office space and related equipment, including a computer, word-processing software, internet access, and printer, or for a secure parking or storage space for a Patrol Vehicle. County will reimburse City for reasonable expenses resulting from City's cooperation. City will use reasonable efforts to notify County of any expected reimbursable costs before City incurs or pays those costs.

4. NOTICE AND CONFERENCE; SUSPENSION OF SERVICES.

4.1 **Notice & Conference.** If a party believes that the other party has not met, or is not meeting, an obligation under this Agreement, the party will contact the other's Liaison Officer to discuss the issue. If the aggrieved party does not believe that this informal contact, discussion, and ensuing efforts have fixed the issue, then the party will notify the other's Liaison Officer in writing of the party's belief or complaint with reasonable detail to permit the other party to address the issue. The other party will then have a reasonable time to address the issue and improve its performance. The parties should assess a "reasonable time" under the relevant circumstances and with regard to the nature of the issue.

4.2 **Suspension.** If City fails to make a payment as required by this Agreement within 30 days of the due date, County may suspend service until payment is received, or County may terminate this Agreement under paragraph 5.

4.3 **Notice of Suspension.** If County decides that it will suspend service to City for any reason, including for non-payment of any monies under this Agreement, then County will notify City's Liaison Officer by telephone and in writing of the date service will be suspended. County will use reasonable efforts to provide advance notice of at least five calendar days.

5. TERMINATION.

5.1 **Notice & Conference.** Before a party tries to terminate this Agreement, the party must follow the notice-and-conference procedures in paragraph 4.1.

5.2 **Termination by City.** City may terminate this Agreement by giving 90 days written notice to County.

5.3 **Termination by County.** County may terminate this Agreement by giving 90 days written notice to City.

5.4 **Recoveries & Remedies.** County will make a substantial investment in this Agreement, particularly in purchasing the Patrol Vehicles, staffing the two deputy positions, and, if it happens, implementing a patrol-wide body-worn-camera program and integrating the dedicated deputies into it. City must reimburse County for all Patrol Vehicles purchased for service under this Agreement, regardless of when this Agreement ends or is terminated.

If the Agreement ends before the end of a contract Year, then City must pay a prorated amount of reimbursement for maintenance-and-operations costs and for deputy compensation for the portion during which County provided services. Also, City forfeits its right to a refund caused by a variance under paragraph 3.1(d).

If City terminates the Agreement, then City will make all payments due within 30 days of the termination.

If County terminates the Agreement in contract Year 1, then City may pay the reimbursement amount for the Patrol Vehicles under the terms for repayment in Year 1, even if the parties do not otherwise perform under the Agreement. In other words, if County terminates in contract Year 1, then City's rights to pay reimbursement on the terms of paragraphs 3.1(a), (b), and (f) survive.

Paragraph 2.5(b) will govern the duties related to, and disposition of, all equipment, property, or rights associated with a body-worn-camera program upon this Agreement's end or termination.

If the Agreement is terminated early, then City's sole recourse and remedies are its right to pay only a prorated amount of reimbursement for maintenance-and-operations costs and for deputy compensation for the contract Year of termination; its right to pay the reimbursement amount for the Patrol Vehicles under the terms for repayment in contract Year 1 if County terminates the Agreement in Year 1; its option under paragraph 2.5(b); its vehicle rights under paragraphs 2.7(e), 2.8, 3.1(f), and 3.2; its fee-and-fine rights under paragraph 3.4; its cooperation-reimbursement rights under paragraph 3.7; and its report rights under paragraphs 2.4 and 5.5.

5.5 At this Agreement's expiration or termination, County will provide all reports that are outstanding under paragraph 2.4 within 15 business days of the expiration or termination.

6. LIMITATION OF EXTRAORDINARY REMEDIES. Each party is entitled only to its benefit of the bargain under this Agreement. The parties are not liable to each other for consequential, incidental, indirect, special, punitive, or exemplary damages or for damages that arise from special circumstances. This provision does not affect either party's rights to remedies set out in this Agreement, including the parties' rights in paragraph 5.4 and County's rights to the reimbursement amounts for Patrol Vehicles, for maintenance-and-operations costs and deputy compensation, and for vehicle insurance for all times County performed under this Agreement, or for defense and indemnification under paragraph 8.

7. LIABILITY.

This Agreement is made for the express purpose of County providing law-enforcement services to City, which is a governmental function or service within the meaning of sections 791.003(3)(A) and 791.011 of the Government Code.

By entering or performing this Agreement, City and County waive no sovereign, statutory, or other immunity or limitation of liability. *See* Gov't Code, § 791.006(c).

8. DEFENSE & INDEMNIFICATION.

City is responsible for any civil liability that arises from County's provision of services under this Agreement. *See* Gov't Code, § 791.006(b). City will defend, indemnify, and hold harmless County from and against all demands, claims, damages,

losses and liabilities, including reasonable attorney's fees and litigation expenses, that arise directly or indirectly from County's performance of this Agreement.

"County's performance of this Agreement" means County's provision of law-enforcement and all other services to City under this Agreement, including a deputy's driving to and from patrol duty in City's territorial limits or extraterritorial jurisdiction, providing services within City's limits or extraterritorial jurisdiction, the fresh pursuit of a person or suspect from inside City to an area outside City, complying with a request by City for services under paragraph 2.3, and transporting a person arrested or detained on a charge of committing an offense in whole or in part inside City to a detention center or to a hospital or other health-care facility. "County's performance" does not include a deputy's responding to a call for service outside City's territorial limits or extraterritorial jurisdiction, including a call to assist another deputy or officer who is not performing a service under this Agreement. "County's performance" also does not include a deputy's diversion during driving to or from patrol duty in City.

For purposes of this paragraph 8, "County" includes its officials, officers, deputies, employees, insurers, and agents.

With regard to the provision of a defense under this paragraph, County will reasonably cooperate with City in defending a claim or suit, including providing reasonable access to, and copies of, documents, electronic or magnetic data, and access to witnesses or other persons with discoverable knowledge such as deputies, employees, or other persons under County's supervision or control.

9. NO THIRD-PARTY BENEFICIARIES.

By entering and performing this Agreement, including the defense-and-indemnity provisions, the parties do not intend to create or confer a benefit on any person or entity, who is not a party to this Agreement. The parties do not intend to create a claim in favor of any person or entity, who is not a party to this Agreement.

To the extent that a party uses insurance or similar coverage or assistance in performing under this Agreement, then “City” and “County” will be interpreted to include the insurance company or other relevant entity.

10. OTHER.

Each party represents and warrants that the person or persons signing this Agreement have the requisite authority under section 791.011(d)(1) of the Government Code.

Each party paying for the performance of governmental functions or services must make those payments from current revenues available to the paying party within the meaning of section 791.011(d)(3) of the Government Code or other provision.

Texas law will govern this Agreement and the relationship between, and claims and defenses of, the parties. *See* Gov’t Code, § 791.012.

The parties will treat a photocopy of this agreement as an original copy for all purposes.

11. NOTICES.

A party will send any notice required under this Agreement by the United States Postal Service, Certified Mail, Return Receipt Requested to the following:

If to City:  
City Manager  
City of Lucas  
655 Country Club Road

Lucas, Texas 75002  
[jclarke@lucastexas.us](mailto:jclarke@lucastexas.us)

If to Collin County:  
Collin County Sheriff's Office  
Commander of Operations  
4300 Community Blvd.  
McKinney, Texas 75071  
[mlangan@co.collin.tx.us](mailto:mlangan@co.collin.tx.us)

With copy to:  
Collin County Purchasing Agent  
2300 Bloomdale Road, Ste. 3160  
McKinney, Texas 75071  
[shoglund@co.collin.tx.us](mailto:shoglund@co.collin.tx.us)

With a copy to:  
Joe Gorfida, City Attorney  
Nichols, Jackson, Dillard, Hagar & Smith  
1800 Ross Tower  
500 N. Akard Street  
Dallas, TX 75201  
[jgorfida@njdhs.com](mailto:jgorfida@njdhs.com)

AGREED TO:

COLLIN COUNTY

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CITY OF LUCAS

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Judge Keith Self  
2300 Bloomdale Road  
McKinney, TX 75071

Date

Major Jim Olk  
655 Country Club Road  
Lucas, TX 75002

Date

EXHIBIT A  
TO INTERLOCAL COOPERATION AGREEMENT  
FOR LAW ENFORCEMENT SERVICES

This Exhibit A is incorporated into the Interlocal Cooperation Agreement for Law Enforcement Services between Collin County (County) and the City of Lucas (City) dated \_\_\_\_\_ (the Agreement), and has the same force and effect as if originally written into the text of the Agreement.

1. **Hours of Service.** Pursuant to the Agreement, County will dedicate two deputies to provide law-enforcement services to City. Each deputy will generally provide services to City, within City's geographic and jurisdictional limits, 40 hours per week, with overtime and Time Off as discussed below. County will determine the shifts or days and times for the provision of services.
  
2. **Vacation, Compensation, Personal and Sick Time.** Each dedicated deputy may use vacation, compensation ("comp"), personal, and sick time accrued or allowed pursuant to the policies and procedures of the Collin County Sheriff's Office (Time Off). City acknowledges and agrees that County will not provide alternate personnel during a deputy's Time Off. But County will take reasonable efforts to coordinate the Time Off for the two deputies to provide regular services to City. Otherwise, Time Off does not alter City's obligations under this Agreement. County will notify City of a deputy's scheduled Time Off in advance when possible.
  
3. **Overtime.** In the event overtime pay is due to a dedicated deputy because of a request by City for particular services under this Agreement, City shall reimburse the County for such overtime pay.
  
4. The parties will review and evaluate this Exhibit's terms and provision each quarter. The parties may change or edit these terms as agreed.

EXHIBIT B  
TO INTERLOCAL COOPERATION AGREEMENT  
FOR LAW ENFORCEMENT SERVICES

This Exhibit B is incorporated into the Interlocal Cooperation Agreement for Law Enforcement Services between Collin County (County) and the City of Lucas (City) dated \_\_\_\_\_ (the Agreement), and has the same force and effect as if originally written into the text of the Agreement.

Under this Agreement, County will purchase and provide Patrol Vehicles 2 and 3 to provide law-enforcement services to City. Depending on circumstances, County may buy and dedicate a replacement or new Patrol Vehicle as well. In the case of Patrol Vehicles 2 and 3, and a replacement or new Patrol Vehicle, a “Patrol Vehicle” means the vehicle together with the installed equipment, including computer, radar, camera, emergency equipment, technology for internet connectivity, and all software and updates, if any. City prefers SUVs as Patrol Vehicles 2 and 3. “Maintenance-and-operations costs” include fuel costs.

1. In **contract Year 1**—October 1, 2017 to September 30, 2018—City will reimburse County for the full cost of Patrol Vehicles 2 and 3, the maintenance-and-operations costs, and the compensation for the dedicated deputies. City will pay the following reimbursement amounts in four, equal, quarterly payments:

|                                       |                 |
|---------------------------------------|-----------------|
| <b>Patrol Vehicle 1</b>               | \$0             |
| <b>Patrol Vehicle 2</b>               | \$83,987        |
| <b>Maintenance &amp; Operations 1</b> | \$7,000         |
| <b>Maintenance &amp; Operations 2</b> | \$7,000         |
| <b>Deputy 1</b>                       | \$97,948        |
| <b>Deputy 2</b>                       | <u>\$85,630</u> |
| <b>Total</b>                          | \$281,565       |

Each quarterly payment will be  $\$281,565/4 = \mathbf{\$70,391.25}$ .

City will pay overtime reimbursement as set out in Exhibit A.

County pays its sheriff’s deputies in Patrol:

|          |                        |
|----------|------------------------|
| Starting | \$76,377               |
| mid      | \$87,164, and          |
| max      | \$97,951. <sup>3</sup> |

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<sup>3</sup> **Note:** These figures were current as of June 23, 2017.

|                              |            |
|------------------------------|------------|
| New deputy's salary/benefits | \$76,377   |
| Deputy startup cost          | \$3,210    |
| Plate carrier w/pouch        | 1,277      |
| Helmet                       | 539        |
| Tourniquet w/ holster        | 65         |
| Stipend                      | 600        |
| TASER                        | 1,387      |
| Flashlight                   | 125        |
| Handgun                      | 409        |
| Handgun ammunition           | 50         |
| Rifle, optics, case, 6 mags  | 1,404      |
| Academy ammunition           | <u>187</u> |
|                              | \$85,630   |

City intends to reimburse County for the costs associated with dedicating two deputies to provide services under this Agreement. As of June 23, 2017, the annual salary and benefits of the deputy, who served City under the parties' Interlocal Cooperation Agreement for Law-Enforcement Services (October 1, 2013–September 30, 2017), was \$97,948. This deputy will continue to provide services under this version of the Agreement. County will also hire one new deputy, whose annual salary and compensation will be \$76,377, with \$9,253 in startup costs, for a total of \$85,630. If a new deputy is already a licensed peace officer, County will refund \$1,710 in training costs.

At the end of the contract Year, County will evaluate its actual costs for each deputy and maintenance-and-operations costs for each Patrol Vehicle. If County's actual costs exceeded the agreed-upon amounts by more than 10% in that year, then City will reimburse County the difference between the actual costs and the agreed-upon amount. If City reimbursed County for 10% more than County's actual costs, then County will refund the difference.

Lastly, City will reimburse County for its actual costs in insuring each Patrol Vehicle under paragraph 3.1(e).

2. In **contract Year 2**—October 1, 2018 to September 30, 2019—City will reimburse County for the annual compensation for the dedicated deputies as of October 1, 2018, for the annual maintenance-and-operations costs for the Patrol Vehicles, for the costs of a body-worn-camera program, if applicable, under paragraph 2.5(b), and for the annual cost for insuring each Patrol Vehicle for contract

Year 2 under paragraph 3.1(e). The parties will negotiate the reimbursement amounts for Year 2 and will try to agree to them in writing before October 1, 2018.

3. In **contract Year 3**—October 1, 2019 to September 30, 2020—City will reimburse County for the annual compensation for the dedicated deputies as of October 1, 2019, for the annual maintenance-and-operations costs for the Patrol Vehicles, for the costs of a body-worn-camera program, if applicable, under paragraph 2.5(b), and for the annual cost for insuring each Patrol Vehicle for contract Year 3 under paragraph 3.1(e). The parties will negotiate the reimbursement amounts for Year 3 and will try to agree to them in writing before October 1, 2019.

4. In **contract Year 4**—October 1, 2020 to September 30, 2021— City will reimburse County for the annual compensation for the dedicated deputies as of October 1, 2020, for the annual maintenance-and-operations costs for the Patrol Vehicles, for the costs of a body-worn-camera program, if applicable, under paragraph 2.5(b), and for the annual cost for insuring each Patrol Vehicle for contract Year 4 under paragraph 3.1(e). The parties will negotiate the reimbursement amounts for Year 4 and will try to agree to them in writing before October 1, 2020.

STATE OF TEXAS           §  
  §     **INTERLOCAL COOPERATION AGREEMENT**  
  §     **FOR LAW ENFORCEMENT SERVICES**  
COUNTY OF COLLIN       §

This Interlocal Cooperation Agreement for Law Enforcement Services ("Agreement") is entered into by and between the City of Lucas, Texas, a Texas home rule municipality ("Lucas"), and the Town of Fairview, Texas, a Texas home rule municipality ("Fairview"), (each a "Party" and collectively the "Parties"), acting by and through their authorized representatives.

**RECITALS:**

**WHEREAS**, Lucas desires to engage the services of Fairview to provide Law Enforcement Services as specified herein; and

**WHEREAS**, Fairview desires to render law enforcement services provided by the Town of Fairview Police Department under the terms and conditions set forth herein; and

**WHEREAS**, the Parties are authorized to enter into this Agreement pursuant to the Interlocal Cooperation Act ("Act"), Chapter 791, Texas Government Code; and

**WHEREAS**, both Parties are units of local government that have the statutory authority under the Act to perform the services 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 are hereby acknowledged, the Parties agree as follows:

**Article I**  
**Purpose**

The purpose of this Agreement is for the Parties to enter into an agreement for Fairview to provide Lucas with law enforcement services including, but not limited to, crime prevention, traffic control and enforcement, responding to calls for police assistance, investigations and any other service that is generally related to law enforcement as defined by local, state or federal law for the protection of the citizens of Lucas. ("Law Enforcement Services").

**Article II**  
**Term**

2.1 The Initial Term of this Agreement shall be for ~~five (5)~~three (3) years, commencing on October 1, 2017 ("Commencement Date"), and terminating on September 30, ~~2022~~2020, unless sooner terminated as provided herein.

2.2 Upon expiration of the Initial Term, Lucas shall have the option to renew this Agreement for two (2) additional terms of one (1) year each (each a "Renewal Term"). To renew this Agreement, Lucas must provide written notice in accordance with this Agreement at least one year before the beginning of the applicable Renewal Term.

### **Article III Scope of Services**

3.1 Fairview will, through the Fairview Police Department, provide Lucas with Law Enforcement Services in ~~the manner and at the level currently provided to Fairview. Fairview will provide law enforcement services in~~ accordance with Fairview's policies and procedures, and state and federal law.

3.2 The point of contact for Lucas shall be the City Manager. The planning, organizing, assignment and supervision of Fairview law enforcement personnel under this Agreement shall be Fairview Chief of Police. The Chief of Police will give prompt consideration to all requests from Lucas that are (1) consistent with the terms of this Agreement; (2) consistent with the policies and procedures of the Fairview Police Department; and (3) consistent with local, state and federal law.

3.3 Law enforcement services provided under the terms of this Agreement shall be provided to the incorporated boundaries of the City of Lucas.

3.4 Dispatch services shall be provided to Fairview through the Collin County Sheriff's Office.

3.5 Any citations issued in Lucas' jurisdiction shall be processed through the Lucas Municipal Court.

~~3.6 Alarms and Permits Need to discuss~~

~~3.6 Fairview shall have no obligations with respect to permitting alarms in Lucas.~~

3.7 A Fairview police officer shall attend the Lucas City Council meetings held on the first and third Thursday of each month and special called meetings.

3.8 A Fairview police officer-(s) shall attend two special events annually - Country Christmas scheduled in December and Founders Day scheduled in April.

3.9 Communication regarding law enforcement activity shall occur between the Fairview Chief of Police and Lucas City Manager.

~~3.10 If Lucas obtains any services that Fairview offers through the Collin County Child Abuse Law Enforcement Services Interlocal Agreement Children's Advocacy Center Need to discuss~~

~~3.11 Fairview's Mounted Patrol, Lucas shall assist the Trinity Trail Preservation Association in monitoring/reimburse Fairview for all costs associated with the Trinity Trail as~~

| ~~deemed appropriate~~ services obtained by the Fairview Chief of Police Lucas.



**Article IV  
Schedule of Work**

Fairview agrees to commence services on the Commencement Date and to provide the required services in accordance with a mutually agreed upon schedule between Lucas and Fairview.

**Article V  
Compensation**

5.1 Lucas agrees to compensate Fairview for two full-time Texas Commission on Law Enforcement (“TCOLE”) certified and licensed police officers, including salary, overtime, and benefits. Lucas shall assume all costs related to these two positions including uniforms and equipment. Lucas shall pay for one (1) fully equipped patrol vehicle. The yearly costs set forth below are realistic estimates based on current costs to Fairview. Lucas shall be billed for actual costs incurred by Fairview in providing the services under this Agreement.

| Item   | Year 1                          | Year 2                          | Year 3                          |
|--|---------------------------------|---------------------------------|---------------------------------|
| 2 Patrol Officers                            | \$203,635 <sup>(1)</sup>        | 178,286                         | 184,946                         |
| Patrol Vehicle                               | 97,182                          | 0                               | 0                               |
| Vehicle Expense                              | 15,454                          | 15,454                          | 15,454                          |
| Inmate Boarding <sup>(3)</sup>               | 750                             | 750                             | 750                             |
| Dispatch Fees <sup>(4)</sup>                 | 40,771                          | 40,771                          | 40,771                          |
| <u>Indirect Overhead Costs<sup>(5)</sup></u> | <u>42,500</u>                   | <u>43,563</u>                   | <u>44,650</u>                   |
| <b>TOTAL</b>                                 | <b><u>\$357,792,400,292</u></b> | <b><u>\$235,261,278,824</u></b> | <b><u>\$241,921,286,571</u></b> |

- Note <sup>(1)</sup>: The cost for two police officers in year one is higher due to star-up costs.
- Note <sup>(2)</sup>: Anticipates a 5% cost increase in new patrol vehicle cost and maintenance.
- Note <sup>(3)</sup>: Inmate boarding is based on a current rate of \$70 per day for Class C arrests.
- Note <sup>(4)</sup>: Dispatch fees are based upon Collin County Sheriff’s Office billed cost per call of \$10.96 X 3,720 radio incidents for Lucas in 2016.
- Note <sup>(5)</sup>: Includes the allocated share of the cost for Police management, Administrative management, and other related indirect costs with a 2.5% estimated annual increase.

5.2 Lucas shall compensate Fairview for the expenditures and services as set forth in Section 5.1 and any other reasonable and necessary expenses incurred in providing law enforcement services under this Agreement within thirty (30) days of the receipt of a proper

invoice provided there are no errors or discrepancies and that all work services on the invoice have been performed. Any errors, discrepancies or the invoicing of services not performed may result in a delay in payment.

5.3 **Suspension of Services.** If Lucas fails to make payment to Fairview within thirty (30) days after the date of billing for a monthly invoiced amount, Fairview, at its discretion, may suspend service until payment is received or may terminate this Agreement by giving proper notice.

If service by Fairview to Lucas has been suspended for non-payment and Lucas subsequently becomes current on payments owed to Fairview under this Agreement, it is the responsibility of Lucas to contact the Fairview's Town Manager to confirm receipt of payment and that services are reactivated. Lucas will not receive credit for time which service is suspended for non-payment, and will continue to be obligated to pay Fairview all costs normally due under this Agreement during any period of suspension.

5.4 **Overtime.** Any time worked by the officers in excess of 80 hours bi-weekly is considered overtime. Overtime costs will be administered in accordance with Fairview's Attendance/Leave Time/Overtime policy as it applies to non-exempt law enforcement personnel. The Parties shall establish an overtime protocol designed to help manage overtime costs. Lucas agrees to compensate Fairview for any overtime directed by Lucas. Such costs will be added to the monthly invoice of Fairview.

## **Article VI Personnel**

6.1 Fairview shall provide two police officers funded by Lucas to ~~facilitate the provision~~ provide law enforcement services to Lucas ~~in under the policies of the same manner said services are provided to~~ Fairview. Police Department . The Fairview Chief of Police shall have sole discretion to structure work shifts and hours to provide law enforcement ~~services~~ services based on Lucas' requests, history and pattern of service calls, reports or occurrences of crime, and other law enforcement or emergency circumstances.

6.2 The Fairview Chief of Police shall devote sufficient time and attention to reasonably ensure Fairview's proper performance and shall be responsible for all supervision of law enforcement personnel.

6.3 Fairview Police Chief will be responsible for complying with all required law enforcement training, data retention, release of recordings or other information and reporting involving law enforcement activity.

6.4 The Fairview Chief of Police shall provide Lucas with written reports of all law enforcement activity within Lucas on a monthly basis consistent with the Uniform Crime Reporting program.

6.5 Each police officer funded by Lucas may use vacation, compensation, personal and sick time accrued or allowed pursuant to Fairview's policies and procedures. Lucas requests

Fairview make reasonable efforts to coordinate officers' vacation or personal time so that the law enforcement services provided to Lucas will not be adversely impacted.

~~6.6 Lucas shall reimburse Fairview for such overtime pay if overtime pay is due to a police officer because of a request by Lucas for particular services under this Agreement;~~

## **Article VII Patrol Vehicles and Equipment**

7.1 Lucas will work with Fairview to purchase a patrol vehicle together with the required equipment such as radio, computer, in-car camera system, technology for internet connectivity, all software and updates, emergency equipment, accessories and decals as used in Fairview police vehicles.

7.2 Fairview may purchase and maintain a reasonably priced, warranty or similar third-party protection package on the patrol vehicle including the equipment, software and updates. If Fairview chooses such additional protection, Fairview shall confer with Lucas regarding actual costs of said warranties.

7.3 In addition to the other insurance policies required under this Agreement, Lucas shall maintain insurance on any patrol vehicle that is owned by Lucas; ~~and, Fairview shall maintain insurance on any patrol vehicle that is owned by Fairview.~~

7.4 Fairview shall provide routine and other maintenance for the patrol vehicle for the Term of this Agreement

7.5 Fairview may proceed to make necessary repairs if a patrol vehicle or equipment incurs minor damage or failure. However, Fairview shall coordinate with Lucas prior to making repairs if a patrol vehicle or equipment suffers substantial damage.

7.6 Fairview shall determine when a patrol vehicle should be removed from service based on Fairview's vehicle replacement schedule and policy. Fairview shall coordinate the replacement purchase with Lucas during the annual budget process.

7.7 Upon removal from service, a patrol vehicle shall be delivered to Lucas. Fairview shall not transfer property not owned by Lucas including, but not limited to, proprietary licenses or software, incident reporting systems or restrict databases or infrastructure. Fairview will de-badge a patrol vehicle and remove software or electronic data as reasonably necessary to meet Fairview's obligation to protect confidential information before a patrol vehicle is delivered to Lucas.

## **Article VIII City's Obligations**

8.1 Lucas shall reimburse Fairview for actual expenses incurred for those items identified within this Agreement on a monthly basis.

8.2 Lucas shall continuously provide Fairview with accurate and current maps of the City limits. Lucas shall also notify Fairview of any changes to the Lucas Code of Ordinances, which may relate to providing law enforcement services to Lucas.

8.3 Lucas will take reasonable efforts to cooperate with all requests by Fairview. The Parties will endeavor to review and evaluate the terms of this Agreement each quarter and may change or edit these terms as agreed to in writing and duly approved of by the Parties' respective governing bodies. The reviews and evaluations shall include without limitation Lucas's long term plans for provision of law enforcement services.

### **Article IX** **Liability, Indemnification, and Insurance**

9.1 This Agreement is made for the express purpose of Fairview providing law enforcement services to Lucas. Both Parties acknowledge and agree that the provision of law enforcement services is a governmental function. In no event, shall any provision of this Agreement be construed as a waiver of Fairview's or Lucas' sovereign immunity from suit or liability with the exception that the parties waive immunity from suit and liability solely with respect to claims brought by one or more of the Parties to this Agreement to enforce its terms.

9.2 **TO THE EXTENT ALLOWED BY LAW, FAIRVIEW/LUCAS SHALL INDEMNIFY, HOLD HARMLESS AND DEFEND LUCAS/FAIRVIEW AND ITS OFFICIALS, EMPLOYEES, OFFICERS, AGENTS AND REPRESENTATIVES (THE "INDEMNITEES") FROM AND AGAINST ANY AND ALL DEMANDS, CLAIMS, CAUSES OF ACTION, DAMAGES, LOSSES AND LIABILITIES, INCLUDING WITHOUT LIMITATION ATTORNEY'S FEES, EXPERT'S FEES AND RELATED COSTS, THAT ARISE DIRECTLY OR INDIRECTLY FROM FAIRVIEW'S PERFORMANCE OF THE TERMS OF THIS AGREEMENT TO THE EXTENT SUCH PERFORMANCE RELATES TO OR ARISES FROM (1) THE ENFORCEMENT, REGARDLESS OF THE LAWS OF THE STATE OF TEXAS OR COLLIN COUNTY OR (2) ANY ACT IN FURTHERANCE OF A POLICY OR PROCEDURE PROMULGATED BY FAIRVIEW; PROVIDED, FAIRVIEW SHALL NOT INDEMNIFY LUCAS FOR ITS OWN NEGLIGENCE, GROSS CAUSE OR OF ANY FAULT, NEGLIGENCE OR WILLFUL CONDUCT OR THAT OF LUCAS' EMPLOYEES, AGENTS OR REPRESENTATIVES. MISCONDUCT OF ONE OR MORE INDEMNITEES.**

9.3 During the term of and any Renewal Terms of this Agreement, Lucas shall maintain the following insurance with an insurance company licensed to do business in the State of Texas by the State Insurance Commission or any successor agency that has a rating with Best Rate Carriers of at least an A- or above:

A. Comprehensive General Liability Insurance with bodily injury limits of not less than \$1,000,000 for each occurrence and not less than \$1,000,000 in the aggregate, and with property damage limits of not less than \$500,000 for each occurrence and not less than \$500,000 in the aggregate.

B. Automobile Liability Insurance with bodily injury limits of not less than \$500,000 for each person and not less than \$500,000 for each accident, and with property damage limits of not less than \$250,000 for each accident.

C. Worker's Compensation Insurance in accordance with statutory requirements, and Employers' Liability Insurance with limits of not less than \$100,000 for each accident.

E. Lucas shall furnish insurance certificates or insurance policies at Fairview's request to evidence such coverages. The insurance policies shall name Fairview and its officers and employees as an additional insured on all such policies, and shall contain a provision that such insurance shall not be canceled or modified without 30 days' prior written notice to Fairview and Lucas. In such event, Lucas shall, prior to the effective date of the change or cancellation, obtain substitute policies furnishing the same coverage.

## **Article X Availability of Funds**

If monies are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal period, this Agreement shall be canceled and Fairview may only be reimbursed for the reasonable value of any non-recurring costs incurred but not amortized in the price of services delivered under this Agreement or which are otherwise not recoverable. The cost of cancellation may be paid from any appropriations for such purposes.

## **Article XI Termination**

~~This Agreement may be terminated by either Party upon ninety (90) days written notice in the event of substantial failure by the other Party to perform in accordance with the terms hereof through no fault of the terminating Party; provided, however, that in any such case, Fairview shall be paid the reasonable value of the services rendered up to the time of termination on the basis of the payment provisions of this Agreement.~~

~~This Agreement shall terminate at the end of the Initial Term or at the end of any Renewal Term that is initiated in accordance with this Agreement. This Agreement may be terminated early by either Party without cause upon providing written notice at least one year in advance of the date of termination. Because Fairview must fill job positions and pay for equipment, training and various other expenses on an ongoing basis, the Parties agree that Fairview will sustain damages in the event that Lucas terminates this Agreement with less than one year's written notice. The Parties further agree that ascertaining the amount of said damages is impossible and that \$ [REDACTED] is a reasonable approximation of the amount of said damages, which shall be paid by Lucas to Fairview as liquidated damages and not as a penalty but only in the event that Lucas terminates this Agreement without providing at least one-year's written notice of termination. The payment of liquidated damages shall be due within thirty (30) days after the date of termination of this Agreement if Lucas terminates this Agreement without providing at least one year's written notice of termination. Such a termination would include, for example, funds not~~

appropriated as described in Article X of this Agreement but only if the funds are not appropriated without first providing at least one year's written notice of termination.

## **Article XII Miscellaneous**

12.1 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.

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

12.3 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.

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

12.5 Amendments. This Agreement may be amended by the mutual written agreement of the Parties.

12.6 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 affect any other provisions, and the Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in it.

12.7 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:

City Manager  
City of Lucas  
665 Country Club Road  
Lucas, Texas 75002  
Phone: (972) 727-8999

With Copy to:

Joseph J. Gorfida, Jr.  
Nichols, Jackson, Dillard, Hager & Smith, L.L.P.  
1800 Lincoln Plaza  
500 North Akard  
Dallas, Texas 75201  
Phone: (214) 965-9900

If intended for Town:

With Copy to:

Town Manager

~~XXX~~ Clark McCoy

Town of Fairview \_\_\_\_\_

Wolfe, Tidwell & McCoy, LLP

372 Town Place \_\_\_\_\_

2591 Dallas Pkwy, Suite 300

Fairview, Texas 75069 \_\_\_\_\_

Frisco, Texas 75034

12.8 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.

12.9 Recitals. The recitals to this Agreement are incorporated herein.

12.10 Current Funding. Lucas and Fairview agree that the Party paying for the performance of governmental functions or services shall make those payments only from current revenues legally available to the paying Party.

12.11 Authorization. Each Party represents that it has full capacity and authority to grant all rights and assume all obligations that are granted and assumed under this Agreement.

12.12 Consents and Approval. Unless otherwise expressly stated in this Agreement, whenever the consent or approval of a Party is required prior to the action to be taken by the other Party, such consent or approval shall not be unreasonably withheld, denied, or delayed.

12.13 Survival of Covenants. Any of the representations, warranties, covenants, and obligations of the Parties, as well as any rights and benefits of the Parties, pertaining to a period of time following the termination of this Agreement shall survive termination. Section 9.2 shall survive the termination of this Agreement for five years after the date of termination.

12.14 Immunity. ~~No~~ Except as expressly set forth in this Agreement, no provision of this Agreement shall affect or waive any sovereign or governmental immunity available to either Party and/or its elected officials, officers, employees and agents under federal or state law nor waive any defenses or remedies at law available to either Party and/or its elected officials, officers, employees and agents under federal or state law.

12.15 No Third-Party Beneficiaries. This Agreement is solely for the benefit of the Parties and there are no third-party beneficiaries of this Agreement.

*(signature page to follow)*

**EXECUTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

**City of Lucas, Texas**

By: \_\_\_\_\_  
Jim Olk, Mayor

**Approved as to form:**

By: \_\_\_\_\_  
Joseph J. Gorfida, Jr., City Attorney

**EXECUTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

**Town of Fairview, Texas**

By: \_\_\_\_\_  
Darion Culbertson, Mayor

**Approved as to form:**

By: \_\_\_\_\_  
\_\_\_\_\_, City Attorney





# City of Lucas

## City Council Agenda Request

### July 6, 2017

Requester: Fire Chief Ted Stephens and Vehicle Replacement Committee Joe Hillborn, Stanton Foerster, and Gary Johnson

#### **Agenda Item:**

Consider the purchase of a new fire-rescue apparatus to replace reserve apparatus Engine 862, a 1996 General Fire Engine and provide direction to staff.

#### **Background Information:**

According to Fire-Rescue records, Engine 862 was purchased by the City of Lucas on January 1, 1996. It was received by Fire-Rescue in October 1996 and placed in service in November 1996. It was the front line engine until Engine 861 was purchased and placed in service in April 2004. Engine 862 currently has approximately 46,000 miles. The engine has been extremely well maintained, however the reliability of a 20-year engine is questionable at best. This new Fire-Rescue vehicle would become the front-line vehicle while the current Engine 861, which is 13 years old, will become our second-out apparatus.

The Vehicle Replacement Committee suggested replacement of this apparatus in the current budget year, however more pressing budget items did not allow the purchase. The Committee has suggested the purchase of a new engine in the upcoming budget.

A replacement engine will cost approximately \$600,000 plus \$150,000 to equip for an approximate total of \$750,000. Estimated cost of a new engine increases by 8% per year and equipment costs increase 4%-20% per year. Most, if not all of the existing equipment on Engine 862 has exceeded its expected life as well and should be replaced to prevent any catastrophic failures while on scene of a fire.

It will take approximately 3-4 months to write the specifications on a new engine and 8-12 months from the time a contract is signed with a vendor to receive the new apparatus.

#### **Attachments/Supporting Documentation:**

1. Maintenance cost report for Engine 862

#### **Budget/Financial Impact:**

Options include:

1. Use unrestricted reserves for cash purchase.
2. Fund over two year period using revenue generated by Seis agreement.
3. Lease to purchase option similar to ambulance purchase.
4. Any combination of the above.

#### **Recommendation:**



# City of Lucas

## City Council Agenda Request

### July 6, 2017

Authorize staff to proceed with the development of specifications for the purchase of a new engine and associated equipment, not to exceed \$750,000.

**Motion:**

NA





# City of Lucas City Council Agenda Request July 6, 2017

Requester: Fire Chief Ted Stephens

**Agenda Item:**

Discuss the provisions of EMS and Fire Dispatch Services and provide direction to staff.

**Background Information:**

Lucas Fire-Rescue (LFR) is currently utilizing Plano Safety Communications as our EMS and Fire Dispatch center. Plano Safety Communications (PSC) has provided the City of Lucas with adequate dispatch services for several years; however, as the City grows and call volume continues to increase, Plano has been challenged with keeping up with their tremendous growth as well as serving the cities of Lucas and Parker. The service they provide us has been under an ever increasing strain, resulting in communications challenges that appear to be getting more difficult. As noted in LFR’s workplan for 2017/2018, evaluating dispatch is an important component of our long-term strategies to ensure service levels are adequate for future growth.

There are several areas of concern LFR has with the PSC:

1. Inability to simultaneously dispatch Automatic Aid from Fairview
2. 3-11 minute time mutual aid is requested to the dispatch of mutual aid
3. Parker Fire considering switching from PSC dispatch (to Wylie Dispatch) in October 2018, which will also create additional concern in both items above.

Our contract with Plano Safety Communications expires September 30, 2018.

**Attachments/Supporting Documentation:**

*Total Call Volume by Fiscal Year*

| <i>2011/2012</i> | <i>2012/2013</i> | <i>2013/2014</i> | <i>2014/2015</i> | <i>2015/2016</i> | <i>2016/2017<br/>To Date:</i> |
|------------------|------------------|------------------|------------------|------------------|-------------------------------|
| 368              | 390              | 502              | 504              | 532              | 447                           |

**Budget/Financial Impact:**

Effective communication is essential in providing acceptable response times. To improve our dispatch system, additional funds may be requested.

**Recommendation:**

Staff will be evaluating other providers for emergency dispatch.

**Motion:**

NA



# City of Lucas

## City Council Agenda Request

### July 6, 2017

Requester: Assistant Fire Chief/Emergency Management Coordinator Lance Gant

#### **Agenda Item:**

Discuss the purchase of a VHF or UHF Repeater System for communication needs and provide direction to staff.

#### **Background Information:**

Our Emergency Management Team has identified its greatest weakness as the inability to communicate efficiently and effectively during emergency events. In the recent past, the City experienced what was initially identified as a major water line break. During operations cell phones were utilized between departments; however, it was later determined using cell phones was not an efficient means of communications. Issues that arose included breaks in communications, duplication of efforts, and freelancing (when individuals work independently, commit to tasks and acts without the express knowledge or consent of the incident commander).

In March 2017, a tabletop exercise was conducted with Collin County Emergency Management regarding a major tornado hitting the City of Lucas (similar scenario of the City of Lavon and communities east of Lake Lavon tornados). Following the exercise, a survey was conducted and communication was the number one concern of the members in the Emergency Operations Center (EOC). The City's Emergency Management Team further identified that there is no interoperable communication between City departments.

The repeater system would allow Lucas Fire-Rescue to self-dispatch EMS and fire services calls if something should happen to the City of Plano Safety Communications Dispatch. Another benefit of a repeater system is that it would allow outside emergency services to come into Lucas and obtain our EOC frequency and be able to communicate internally with our City departments. This system will not only be an emergency essential communication system. This system can be utilized during City events and daily operations if necessary.

However, while evaluating the Repeater System, a concern was noted that should the repeater system be destroyed by inclement weather, the City would no longer have a viable system.

Staff is reviewing multiple options for consideration that best meet the needs of the City and seeking council's feedback on this issue.

#### **Attachments/Supporting Documentation:**

NA

#### **Budget/Financial Impact:**

A new repeater system will impact the budget by approximately \$30,000.



# City of Lucas City Council Agenda Request July 6, 2017

## **Recommendation:**

No recommendations at this time, additional research is needed for future budget allocation for an effective interdepartmental communications system.

## **Motion:**

NA



# City of Lucas

## City Council Agenda Request

### July 6, 2017

Item No. 15

Requester: Public Works Director/City Engineer Stanton Foerster

#### **Agenda Item:**

Consider authorizing the City Manager to enter into a contract with R&M Services for fire hydrant and valve maintenance utilizing an interlocal with the City of Garland, Texas in the amount not to exceed \$150,000.

#### **Background Information:**

The City is required to perform maintenance and open/close each fire hydrant within the Lucas Waterworks. This activity takes place as Public Works staff works in specific areas along with various duties. This contract will enable the City to catch up on this required maintenance work.

#### **Attachments/Supporting Documentation:**

1. R&M Services Contract

#### **Budget/Financial Impact:**

This activity was specifically budgeted for during the mid-year budget adjustments. There is \$150,000 in 51-4600-233 Repairs and Maintenance of Water Facilities.

#### **Recommendation:**

City Staff recommends authorizing the City Manager to enter into this maintenance agreement.

#### **Motion:**

I make a motion to authorize the City Manager to enter into a contract with R&M Services for fire hydrant and valve maintenance utilizing an interlocal with the City of Garland, Texas in the amount not to exceed \$150,000.

**CITY OF LUCAS, TEXAS**

**PUBLIC WORKS CONSTRUCTION PROJECT**

**Water Valve & Fire Hydrant Maintenance**

**Via an Interlocal with the City of Garland, Texas,**

**R&M Services Solutions**



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## City of Lucas, Texas

This Agreement is made by and between the City of Lucas, Texas, a home-rule municipality (hereinafter referred to as the "City") and *R&M Services Solutions*, (hereinafter referred to as the "Contractor") for construction of *Water Valve & Fire Hydrant Maintenance*, (hereinafter referred to as the "Project"), the City and the Contractor hereby agreeing as follows:

### ARTICLE I

#### THE CONTRACT AND THE CONTRACT DOCUMENTS

##### 1.1 THE CONTRACT

1.1.1 The contract between the City and the Contractor, of which this agreement (sometimes referred to herein as the "Contract") is a part, consists of the Contract Documents. It shall be effective on the date this Agreement is executed by the last party to execute it.

##### 1.2. THE CONTRACT DOCUMENTS

1.2.1 The Contract Documents consist of this agreement, the General Conditions, the Special Conditions, the Invitation to Bid, Requirements and Instructions to Bidders, the Specifications, the Drawings, the Shop Drawings, the Project Manual, all Change Orders and Field Orders issued hereafter, the addenda, exhibits and attachments thereto, any other amendments hereto executed by the parties hereafter, together with the following (if any):

**1) City of Garland Bid Tabs 0347-17 Addendum 3 (three pages) and 2) City of Garland Blanket Order BL 06723 (two pages).**

##### 1.3 ENTIRE AGREEMENT

1.3.1 This Contract, together with the Contractor's performance and payment bonds for the Project, all General Conditions, Special Conditions, Plans and Specifications, and Addenda attached thereto, constitute the entire and exclusive agreement between the City and the Contractor with reference to the Project. Specifically, but without limitation, this Contract supersedes any bid documents and all prior written or oral communications, representations and negotiations, if any, between the City and Contractor not expressly made a part hereof.

##### 1.4 NO PRIVACY WITH OTHERS

1.4.1 Nothing contained in this Contract shall create, or be interpreted to create, privity or any other contractual agreement between the City and any person or entity other than the Contractor.

##### 1.5 INTENT AND INTERPRETATION

1.5.1 The intent of this Contract is to require complete, correct and timely execution of the Work. Any Work that may be required, implied or inferred by the Contract Documents, or any one or more of them, as necessary to produce the intended result shall be provided by the Contractor for the Contract Price.

1.5.2 This Contract is intended to be an integral whole and shall be interpreted as internally consistent. What is required by any one Contract Document shall be considered as required by the Contract.

1.5.3 When a word, term or phrase is used in this Contract, it shall be interpreted or construed, first, as defined herein; second, if not defined, according to its generally accepted meaning in the construction industry; and third, if there is no generally accepted meaning in the construction industry, according to its common and customary usage.

1.5.4 The word "City" includes the City of Lucas, Texas, a municipal corporation, and its public officials, officers, employees, agents and employees. The word "Contractor" includes the Contractor and its officers, employees, agents and representatives. The word "include", "includes", or "including", as used in this subparagraph and in this Contract, shall be deemed to be followed by the phrase, "without limitation".

1.5.5 The specification herein of any act, failure, refusal, omission, event, occurrence or condition as constituting a material breach of this Contract shall not imply that any other, non-specified act, failure, refusal, omission, event, occurrence or condition shall be deemed not to constitute a material breach of this Contract.

1.5.6 Words or terms used as nouns in this Contract shall be inclusive of their singular and plural forms, unless the context of their usage clearly requires a contrary meaning.

1.5.7 The Contractor shall have a continuing duty to read, carefully study and compare each of the Contract Documents, the Shop Drawings, the Product Data, and any Plans and Specifications, and shall give written notice to the City of any inconsistency, ambiguity, error or omission which the Contractor may discover with respect to these documents before proceeding with the affected Work. The issuance, or the express or implied approval by the City or the Engineer of the Contract Documents, Shop Drawings or Product Data, shall not relieve the Contractor of the continuing duties imposed hereby, nor shall any such approval be evidence of the Contractor's compliance with this Contract. The City has requested the Engineer to only prepare documents for the Project, including the Drawings, Plans and Specifications for the Project, which are accurate, adequate, consistent, coordinated and sufficient for construction. HOWEVER, THE CITY MAKES NO REPRESENTATION OR WARRANTY OF ANY NATURE WHATSOEVER TO THE CONTRACTOR CONCERNING SUCH DOCUMENTS. THE CONTRACTOR ASSUMES ALL RISK OF ERRORS, AMBIGUITIES AND INACCURACIES. By the execution hereof, the Contractor acknowledges and represents that it has received, reviewed and carefully examined such documents, has found them to be complete, accurate, adequate, consistent, coordinated and sufficient for construction, and that the Contractor has not, does not, and will not rely upon any representation or warranties by the City concerning such documents as no such representation or warranties have been or are hereby made. Further, the Contractor represents and warrants that it has had a sufficient opportunity to inspect the Project site and assumes any and all responsibility for inadequacies or ambiguities in the plans, drawings or specifications as well as for latent conditions of the site where the work is to be performed.

1.5.8 As between numbers and scaled measurements on the Drawings and in the Design, the numbers shall govern, as between larger scale and smaller scale drawings, the larger scale shall govern.

1.5.9 Neither the organization of any of the Contract Documents into divisions, sections, paragraphs, articles, (or other categories), nor the organization or arrangement of the Design, shall control the Contractor in dividing the Work or in establishing the extent or scope of the Work to be performed by Subcontractors.

## **1.6 OWNERSHIP OF CONTRACT DOCUMENTS**

1.6.1 The Contract Documents, and each of them individually and collectively, shall remain the property of the City. The Contractor shall have the right to keep one record set of the Contract Documents upon completion of the Project; provided, however, that in no event shall Contractor use, or permit to be used, any or all of such Contract Documents on other projects without the City's prior written authorization.

## ARTICLE II

### THE WORK

2.1 The Contractor shall perform all of the Work required, implied or reasonably inferable from this Contract.

#### 2.2 WORK

2.2.1 The term "Work" shall mean whatever is done by or required of the Contractor to perform and complete its duties under this Contract, including the following: construction of the whole or a designated part of the Project; furnishing of any required surety bonds and insurance, and the provision or furnishing of labor, supervision, services, materials, supplies, equipment, fixtures, appliances, facilities, tools, transportation, storage, permits and licenses required of the Contractor, power, water, fuel, heat, light, cooling and all other utilities as required by this Contract. The Work to be performed by the Contractor is generally described as follows:

Approximate quantities for Water Valve & Fire Hydrant Maintenance includes procedures outlined in AWWA Manual M17 and M44; and other miscellaneous improvements as shown on the plans and in accordance with the specifications.

2.2.2 The Contractor shall be responsible for paying for and procuring all materials and labor and furnishing all services necessary or appropriate for the full performance of the Work and the for the full completion of the Project. All materials shall be new and materials and workmanship shall be of good quality. Upon request, the Contractor shall furnish satisfactory proof of the type, kind, and quality of materials.

## ARTICLE III

### CONTRACT TIME

#### 3.1 SUBSTANTIAL COMPLETION

3.1.1 "Substantial Completion" shall mean that stage in the progression of the Work when the Work is sufficiently complete in accordance with this Contract that the City can enjoy beneficial use or occupancy of the Work and can utilize the Work for its intended purpose, even though minor miscellaneous work and/or adjustment may be required.

#### 3.2 TIME

3.2.1 The Contractor shall commence the Work within 10 days of receipt of a written Notice to Proceed, and shall achieve Substantial Completion of the Work no later than September 30, 2017 ~~calendar days from the date specified in the Notice to Proceed. The term "calendar days" shall mean any and all days of the week or month, no days being excepted. The number of calendar days from the date on which the Work is permitted to proceed, through the date set forth for Substantial Completion, shall constitute the Contract Time~~ and the "scheduled completion date." The execution of this Contract by the Contractor constitutes an agreement that adequate time has been allotted for this Contract, given the Contract Price.

3.2.2 Work may proceed on any day of the week, including weekends, and at any time of the day. However, work shall not occur on such days or at such times as, in the City's or Engineer's discretion, may be a violation of noise or environmental regulations or ordinances, or when the presence of workers, equipment or materials may create an abnormally hazardous condition.

3.2.3 The Contractor shall submit and comply with construction schedules establishing completion timelines and deadlines for each component of the Project. Construction schedules shall be submitted to and approved by the Engineer and the City on a regular basis as required by the Contract Documents. If no reference is made to construction schedules in the Contract Documents, then construction schedules shall be submitted with each Application for Payment.

**3.3 TIME IS OF THE ESSENCE**

3.3.1 The scheduled completion date is based on public necessity. The scheduled completion date is factored into and is a material component of the Contract Price. All limitations of time set forth in the Contract Documents are of the essence of this Contract.

3.3.2 TIME IS OF THE ESSENCE IN THE PERFORMANCE OF THE WORK AND THE COMPLETION OF THE PROJECT ON OR BEFORE THE SCHEDULED COMPLETION DATE. THE SCHEDULED COMPLETION DATE IS A DEADLINE. THE CITY EMPLOYS A ZERO-TOLERANCE POLICY REGARDING THE TIME FOR COMPLETION. The time for completion is an essential and material term of this Contract and the Contractor's failure to achieve substantial completion on the date stated herein, to comply with work schedules, or achieve milestones in approved construction schedules, shall be a material breach and default of this Contract.

3.3.3 The City will assess liquidated damages for late or untimely performance and may, at the City's sole option, elect to allow Contractor to continue with the Work, or may declare Contractor to be in breach and default of the Contract and order Contractor to remove all equipment and personnel from the work site. All remedies for Contractor's late performance shall be nonexclusive and cumulative without waiver of any other, and the City's election of one shall not preclude the City from pursuing any other.

3.3.4 It is contemplated by the parties that the progress of the Work may be delayed by certain conditions beyond the control of the parties; these delays have been contemplated by the parties and considered in the time allotted for performance specified herein and in the contract price and includes, but is not limited to delays occasioned on account of adverse weather, temporary unavailability of materials, shipment delays, and the presence and potential interference of other contractors or of utilities that may be performing work at the Project site unrelated to this Contract. These delays have been considered and included in the determination of the scheduled completion date and the Contract Price.

**3.4 LIQUIDATED DAMAGES; EARLY COMPLETION BONUS**

~~3.4.1 The Contractor shall pay the City the sum of \$ \_\_\_\_\_ [ENTER DAILY LIQUIDATED DAMAGE AMOUNT] per day for each and every calendar day of unexcused delay in achieving Substantial Completion beyond the date set forth herein for Substantial Completion of the Work. Any sums due and payable hereunder by the Contractor shall be payable, not as a penalty, but as liquidated damages representing an estimate of delay damages likely to be sustained by the City, estimated at or before the time of executing this Contract. When the City reasonably believes that Substantial Completion will be inexcusably delayed, the City shall be entitled, but not required, to withhold from any amounts otherwise due the Contractor an amount then believed by the City to be adequate to recover liquidated damages applicable to such delays. If and when the Contractor overcomes the delay in achieving Substantial Completion, or any part thereof, for which the City has withheld payment, the City shall promptly release to the Contractor those funds withheld, but no longer applicable, as liquidated damages. If the Contractor has submitted a Statement of Delay with the appropriate Application for Payment as required by Subparagraph 5.2.3, and/or has complied with the notice and Change Order requirements of this Contract, the Engineer shall have sole discretion to determine whether a delay is excused or unexcused and the Engineer's determination thereof shall be final and binding on the parties.~~

~~3.4.2 In the event that the Contractor achieves certification by the Engineer of Final Completion prior to \_\_\_\_\_ [ENTER DATE FOR EARLY COMPLETION BONUS] Calendar days from the date specified in the Notice to Proceed, the City shall pay to the Contractor the sum of \$ \_\_\_\_\_ [ENTER DAILY AMOUNT OF INCENTIVE] per day for each calendar day that Final Completion is certified in advance of the scheduled Final Completion date, as that date may be modified by written change order. However, early completion bonuses shall not, in the aggregate, exceed the total sum of \$ \_\_\_\_\_ [ENTER MAXIMUM AMOUNT OF EARLY COMPLETION BONUS]. Any reduction in the scope of work, evidenced by written change order, shall commensurately reduce the Contract Time.~~

**3.5 NO DAMAGES FOR DELAY; NO BACK-CHARGES; DAMAGE WAIVER**

3.5.1 No claim shall be made by the Contractor to the City, and no damages, costs or extra compensation shall be allowed or paid by the City to the Contractor for any delay or hindrance from any cause in the progress or completion of the Work or this Contract. The Contractor's sole remedy in the event of any delay or hindrance, regardless of cause, shall be to request time extensions by written change orders as provided for hereinafter. The failure to seek or obtain a change order for time

extension shall be deemed a waiver thereof and Contractor shall be regarded as having made a determination that the delay will not affect the completion of the Work. Should the Contractor be delayed by an act of the City, or should the City order a stoppage of the Work for sufficient cause unrelated to any act or omission of the Contractor, an extension of time shall be granted by the City by Change Order upon written application, which extension shall not be unreasonably denied, to compensate for the delay.

3.5.2 The City shall have the authority to suspend the Work wholly or in part for such period or periods of time as it may deem appropriate due to unsuitable conditions considered unfavorable for the proper prosecution of the Work or for the failure of the Contractor to carry out instructions from the City or City's representative. During any period in which the Work is stopped or during which any of the Work is not actively in progress for any reason, Contractor shall properly protect the site and the Work from damage, loss or harm. The Contractor shall not be compensated for periods of delay caused by a suspension of the work by the City. If work is suspended due to unsuitable conditions through no fault of the Contractor, an extension of time shall be granted by the City by Change Order upon written application, which extension shall not be unreasonably denied, to compensate for the delay.

3.5.3 The Contractor shall not have or assert any claim against the City for damages or back-charges of any kind for any reason, including but not limited to claims for Extra Work, damages, economic loss, additional costs, unknown latent site conditions, and refusals by the City to grant extensions of time, unless supported and authorized by a written Change Order or separate agreement signed by all parties. The Contractor, in entering into this Contract, hereby waives, releases, quitclaims, discharges and holds harmless the City from and against any and all claims, damages, liabilities and losses, save and except those arising under Paragraph 12.1 of this Contract.

## **ARTICLE IV**

### **CONTRACT PRICE**

#### **4.1 THE CONTRACT PRICE**

4.1.1 The City shall pay, and the Contractor shall accept, as full and complete payment for all of the Work required herein, the fixed sum of

##### **\$150,000 Total Contract Amount**

1. **\$35.50 per 8-Inch (or smaller) Valve with GPS**
2. **\$40.50 per 10- to 12-Inch Valve with GPS**
3. **\$95.50 per 14-Inch (or larger) Valve with GPS**
4. **\$30.50 per Fire Hydrant with GPS**

**There will be no compensation for valves and hydrants that cannot be found.**

The sum set forth in this Paragraph 4.1 shall constitute the Contract Price which shall not be modified except by written Change Order as provided in this Contract, or the assessment of liquidated damages or the award of an early completion bonus.

## **ARTICLE V**

### **PAYMENT OF THE CONTRACT PRICE**

#### **5.1 SCHEDULE OF VALUES**

5.1.1 The Schedule of Values, submitted to and accepted by the City and Engineer at the time of the Contractor's bid, allocates the Contract Price to the various portions of the Work. The Contractor's Schedule of Values shall have been prepared, or at the City's or Engineer's request shall be amended prior to the commencement of construction, in such form, with such detail, and supported by such data as the Engineer or the City may require to substantiate its accuracy. The

Contractor shall not imbalance its Schedule of Values nor artificially inflate any element thereof. The violation of this provision by the Contractor shall constitute a material breach of this Contract. The Schedule of Values shall be used only as a basis for the Contractor's Applications for Payment and shall only constitute such basis after it has been acknowledged and accepted in writing by the Engineer and the City.

## **5.2 PAYMENT PROCEDURE**

5.2.1 The City shall pay the Contract Price to the Contractor as provided below.

5.2.2 **PROGRESS PAYMENTS** - Based upon the Contractor's Applications for Payment submitted to the Engineer and upon Certificates for Payment subsequently issued to the City by the Engineer, the City shall make progress payments to the Contractor on account of the Contract Price.

5.2.3 **APPLICATION FOR PAYMENT** - On or before the 25th day of each month after commencement of the Work, the Contractor shall submit an Application for Payment for the period ending the 15th day of the month to the Engineer in such form and manner, and with such supporting data and content, as the City or the Engineer may require. The Contractor may request payment for that portion of the Contract Price properly allocable to Contract requirements properly provided and to labor, materials and equipment properly incorporated in the Work, less retainage and less the total amount of previous payments received from the City. Such Application for Payment shall be signed by the Contractor and shall constitute the Contractor's representation that the Work has progressed to the level for which payment is requested in accordance with the Schedule of Values, that the Work has been properly installed or performed in full compliance with this Contract, and that the Contractor knows of no reason why payment should not be made as requested. Thereafter, the Engineer will review the Application for Payment and may also review the Work at the Project site or elsewhere to determine whether the quantity and quality of the Work is as represented in the Application for Payment and is as required by this Contract. The Engineer shall determine and certify to the City the amount properly owing to the Contractor. The City shall make partial payments on account of the Contract Price to the Contractor within thirty (30) days following the Engineer's receipt and approval of each Application for Payment. The amount of each partial payment shall be the amount certified for payment by the Engineer less such amounts, if any, otherwise owing by the Contractor to the City or which the City shall have the right to withhold as authorized by this Contract. The Engineer's certification of the Contractor's Application for Payment shall not preclude the City from the exercise of any of its rights as set forth in Paragraph 5.3 hereinbelow.

5.2.4 **STATEMENT OF DELAY** - Each Application for Payment shall include a Statement of Delay showing the number of days lost due to inclement weather, conflicts with other City contractors, utilities, or design specifications, or other proper reasons. The failure to submit the Statement of Delay shall be a waiver of any claim for additional days or extensions of the scheduled completion date.

5.2.5 **RETAINAGE** - If the Contract Price set forth in Subparagraph 4.1.1 exceeds \$400,000, the City shall withhold retainage of ten (10) percent from each progress payment to secure performance of the Contract and shall deposit in an interest-bearing account that portion of the retainage withheld that exceeds five (5) percent of the progress payment. If a different percentage is set forth in the Invitation to Bid, then that percentage shall apply.

5.2.6 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the City when installed at the Project site, regardless of the time of payment. The Contractor further warrants that upon submittal of an Application for Payment, all Work for which payments have been received from the City shall be free and clear of liens, claims, security interest or other encumbrances in favor of the Contractor or any other person or entity whatsoever.

5.2.7 The Contractor shall promptly pay each Subcontractor out of the amount paid to the Contractor on account of such Subcontractor's Work, the amount to which such Subcontractor is entitled. In the event the City becomes informed that the Contractor has not paid a Subcontractor as herein provided, the City shall have the right, but not the duty, to issue future checks in payment to the Contractor of amounts otherwise due hereunder naming the Contractor and such Subcontractor as joint payees. Such joint check procedure, if employed by the City, shall create no rights in favor of any person or entity beyond the right of the named payees to payment of the check and shall not be deemed to commit the City to repeat the procedure in the future.

5.2.8 No progress payment, nor any use or occupancy of the Project by the City, shall be interpreted to constitute an acceptance of any Work not in strict compliance with this Contract.



### **5.3 WITHHELD PAYMENT**

5.3.1 The City may decline to make payment, may withhold funds, and, if necessary, may demand the return of some or all of the amounts previously paid to the Contractor, to protect the City from loss because of:

- (a) defective Work not remedied by the Contractor or, in the opinion of the City, likely to be remedied by the Contractor;
- (b) claims of third parties against the City or the City's property;
- (c) failure by the Contractor to pay Subcontractors or others in a prompt and proper fashion;
- (d) evidence that the balance of the Work cannot be completed in accordance with the Contract for the unpaid balance of the Contract Price,
- (e) evidence that the Work will not be completed in the time required for substantial or final completion (final completion meaning the full and final completion of all work called for by this Contract and final acceptance by the Engineer and the City);
- (f) persistent failure to carry out the Work in accordance with the Contract;
- (g) damage to the City or a third party to whom the City is, or may be, liable.
- (h) failure to submit an updated project schedule in accordance with Subparagraph 3.2.3.
- (i) failure to submit record drawings in accordance with Subparagraph 7.9.1.

In the event that the City makes written demand upon the Contractor for amounts previously paid by the City as contemplated in this Subparagraph 5.3.1, the Contractor shall promptly comply with such demand. The City shall have no duty to third parties to withhold payment to the Contractor and shall incur no liability for a failure to withhold funds.

### **5.4 UNEXCUSED FAILURE TO PAY**

5.4.1 If within twenty (20) days after the date established herein for payment to the Contractor by the City, the City, without cause or basis hereunder, fails to pay the Contractor any amount then due and payable to the Contractor, then the Contractor may after ten (10) additional days' written notice to the City and the Engineer, and without prejudice to any other available rights or remedies it may have, stop the Work until payment of those amounts due from the City have been received. Late payments shall not accrue interest or other late charges.

### **5.5 CERTIFICATE OF SUBSTANTIAL COMPLETION**

5.5.1 When the Contractor believes that the Work is substantially complete, the Contractor shall submit to the Engineer a list of items to be completed or corrected. When the Engineer and the City on the basis of an inspection determine that the Work is in fact substantially complete, the Engineer will prepare a Certificate of Substantial Completion which shall establish the date of Substantial Completion, shall state the responsibilities of the City and the Contractor for Project security, maintenance, heat, utilities, damage to the Work, and insurance, and shall fix the time within which the Contractor shall complete the items listed therein. In no event, however, shall the date of Final Completion be delayed. Guarantees required by the Contract shall commence on the date of Substantial Completion of the Work; however, the maintenance bond required herein, and the assurances given thereunder, shall commence of and from the date of final acceptance of the work by the City. The Certificate of Substantial Completion shall be submitted to the City and the Contractor for their written acceptance of the responsibilities assigned to them in such certificate.

Upon Substantial Completion of the Work, and execution by both the City and the Contractor of the Certificate of Substantial Completion, the City shall pay the Contractor for all work completed to date, less retainage.

**5.6 COMPLETION AND FINAL PAYMENT**

5.6.1 When all of the Work is finally complete and the Contractor is ready for a final inspection, it shall notify the City and the Engineer thereof in writing. Thereupon, the Engineer will make final inspection of the Work and, if the Work is complete in full accordance with this Contract and this Contract has been fully performed, the Engineer will promptly issue a final Certificate for Payment certifying to the City that the Project is complete and the Contractor is entitled to the remainder of the unpaid Contract Price (including retainage and the interest accrued on the retainage in excess of five (5) percent if the Contract Price is in excess of \$400,000), plus an early completion bonus, if any, less any amount withheld pursuant to this Contract. If the Engineer is unable to issue its final Certificate for Payment and is required to repeat its final inspection of the Work, the Contractor shall bear the cost of such repeat final inspection(s) which cost may be deducted by the City from the Contractor's final payment.

5.6.1.1 If the Contractor fails to achieve final completion within the time fixed therefor by the Engineer in its Certificate of Substantial Completion, the Contractor shall pay the City the sum set forth hereinabove as liquidated damages per day for each and every calendar day of unexcused delay in achieving final completion beyond the date set forth herein for final completion of the Work. Any sums due and payable hereunder by the Contractor shall be payable, not as a penalty, but as liquidated damages representing an estimate of delay damages likely to be sustained by the City, estimated at or before the time of executing this Contract. When the City reasonably believes that final completion will be inexcusably delayed, the City shall be entitled, but not required, to withhold from any amounts otherwise due the Contractor an amount then believed by the City to be adequate to recover liquidated damages applicable to such delays. If and when the Contractor overcomes the delay in achieving final completion, or any part thereof, for which the City has withheld payment, the City shall promptly release to the Contractor those funds withheld, but no longer applicable, as liquidated damages. Liquidated damages shall be deducted first from any earned early completion bonus, then from any sums otherwise due to the Contractor.

5.6.2 The Contractor shall not be entitled to final payment unless and until it submits to the Engineer its affidavit that all payrolls, invoices for materials and equipment, and other liabilities connected with the Work for which the City, or the City's property might be responsible, have been fully paid or otherwise satisfied; releases and waivers of lien from all Subcontractors of the Contractor and of any and all other parties required by the Engineer or the City; consent of Surety, if any, to final payment. If any third party fails or refuses to provide a release of claim or waiver of lien as required by the City, the Contractor shall furnish a bond satisfactory to the City to discharge any such lien or indemnify the City from liability.

5.6.3 The City shall make final payment of all sums due the Contractor within thirty (30) days of the Engineer's execution of a final Certificate for Payment.

5.6.4 Acceptance of final payment shall constitute a waiver of all claims against the City by the Contractor except for those claims previously made in writing against the City by the Contractor, pending at the time of final payment, and identified in writing by the Contractor as unsettled at the time of its request for final payment.

5.6.5 Other than interest on retainage in excess of 5% under Paragraph 5.2.5, under no circumstances shall Contractor be entitled to receive interest on any payments or monies due Contractor by the City, whether the amount on which the interest may accrue is timely, late, wrongfully withheld, or an assessment of damages of any kind.

**ARTICLE VI**

**THE CITY**

**6.1 INFORMATION, SERVICES AND THINGS  
REQUIRED FROM CITY**

6.1.1 The City shall furnish to the Contractor, at the time of executing this Contract, any and all written and tangible

material in its possession concerning conditions below ground at the site of the Project. Such written and tangible material is furnished to the Contractor only in order to make complete disclosure of such material and for no other purpose. By furnishing such material, the City does not represent, warrant, or guarantee its accuracy either in whole, in part, implicitly or explicitly, or at all, and shall have no liability therefor. The City shall also furnish surveys, legal limitations and utility locations (if known), and a legal description of the Project site.

6.1.2 Excluding permits and fees normally the responsibility of the Contractor, the City shall obtain all approvals, easements, and the like required for construction and shall pay for necessary assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

6.1.3 The City shall furnish the Contractor, free of charge, two copies of the Contract Documents for execution of the Work.

## **6.2 RIGHT TO STOP WORK**

6.2.1 If the Contractor persistently fails or refuses to perform the Work in accordance with this Contract, if the Contractor fails to meet milestones set forth in approved construction schedules, if the City has sufficient reason to believe that the Contractor is not and will not complete the Project by the scheduled completion date, or if the best interests of the public health, safety or welfare so require, the City may order the Contractor to stop the Work, or any described portion thereof, until the cause for stoppage has been corrected, no longer exists, or the City orders that Work be resumed. In such event, the Contractor shall immediately obey such order.

## **6.3 CITY'S RIGHT TO PERFORM WORK**

6.3.1 If the Contractor's Work is stopped by the City under Paragraph 6.2, and the Contractor fails within seven (7) days of such stoppage to provide adequate assurance to the City that the cause of such stoppage will be eliminated or corrected, then the City may, without prejudice to any other rights or remedies the City may have against the Contractor, proceed to carry out the subject Work. In such a situation, an appropriate Change Order shall be issued deducting from the Contract Price the cost of correcting the subject deficiencies, plus compensation for the Engineer's additional services and expenses necessitated thereby, if any. If the unpaid portion of the Contract Price is insufficient to cover the amount due the City, the Contractor shall pay the difference to the City.

# **ARTICLE VII**

## **THE CONTRACTOR**

### **7.1 MUST FOLLOW CONTRACT**

7.1.1 The Contractor shall perform no part of the Work at any time without adequate Contract Documents or, as appropriate, approved Shop Drawings, Product Data or Samples for such portion of the Work. If the Contractor performs any of the Work knowing it involves a recognized error, inconsistency or omission in the Contract Documents without such notice to the Engineer, the Contractor shall bear responsibility for such performance and shall bear the cost of correction. The Contractor shall perform the Work strictly in accordance with this Contract

### **7.2 PROSECUTION OF WORK**

7.3.1 The Contractor shall supervise and direct the Work using the Contractor's best skill, effort and attention. The Contractor shall be responsible to the City for any and all acts or omissions of the Contractor, its employees and others engaged in the Work on behalf of the Contractor.

7.3.2 The Contractor shall give adequate attention to the faithful prosecution of the Work and the timely completion of this Contract, with authority to determine the manner and means of performing such Work, so long as such methods insure timely completion and proper performance.

7.3.3 The Contractor shall exercise all appropriate means and measures to insure a safe and secure jobsite in order to avoid and prevent injury, damage or loss to persons or property.

7.3.4 The City will not interfere with the Contractor's manner and means of performing the Work. However, the City's insistence on strict compliance with the Contract shall not be regarded as an interference with the Contractor's manner and means. In the event that any part of the Work is not in strict compliance with the Contract, the Contractor is and shall be estopped from claiming any interference by the City or Engineer with the Contractor's manner and means of performing that part of the Work.

**7.4 WARRANTY**

7.4.1 The Contractor warrants to the City that all labor furnished to progress the Work under this Contract will be competent to perform the tasks undertaken, that the product of such labor will yield only first-class results, that materials and equipment furnished will be of good quality and new unless otherwise permitted by this Contract, and that the Work will be of good quality, free from faults and defects and in strict conformance with this Contract. All Work not conforming to these requirements may be considered defective. THE CONTRACTOR WARRANTS AND GUARANTIES THAT IT SHALL COMPLETE THE WORK AND ACHIEVE SUBSTANTIAL COMPLETION BY THE SCHEDULED COMPLETION DATE, STRICTLY IN ACCORDANCE WITH THIS CONTRACT. DEFECTIVE WORK OR MATERIALS SHALL BE FIXED, REPAIRED OR REPLACED FREE OF CHARGE OR COST TO THE CITY.

**7.5 PERMITS; FEES; LICENSES**

The Contractor shall obtain and pay for all permits, fees and licenses necessary and ordinary for the Work. The Contractor shall comply with all lawful requirements applicable to the Work and shall give and maintain any and all notices required by applicable law pertaining to the Work.

**7.6 SUPERVISION**

7.6.1 The Contractor shall employ and maintain at the Project site only competent supervisory personnel. Absent written instruction from the Contractor to the contrary, the superintendent shall be deemed the Contractor's authorized representative at the site and shall be authorized to receive and accept any and all communications from the City or the Engineer.

7.6.2 Key supervisory personnel assigned by the Contractor to this Project are as follows:

| <b>NAME</b> | <b>FUNCTION</b> |
|-------------|-----------------|
| _____       | _____           |
| _____       | _____           |
| _____       | _____           |
| _____       | _____           |
| _____       | _____           |

So long as the individuals named above remain actively employed or retained by the Contractor, they shall perform the functions indicated next to their names unless the City agrees to the contrary in writing. In the event one or more individuals not listed above subsequently assume one or more of those functions listed above, the Contractor shall be bound by the provisions of this Subparagraph 7.6.2 as though such individuals had been listed above.

**7.7 WORK SCHEDULE**

7.7.1 At the pre-construction meeting, the Contractor shall submit to the City and the Engineer for their information, the Contractor's schedule for completing the Work (also referred to herein as the construction schedule). The Contractor's

schedule shall be revised no less frequently than monthly (unless the parties otherwise agree in writing) and shall be revised to reflect conditions encountered from time to time and shall be related to the entire Project. Each such revision shall be furnished to the City and the Engineer.

7.7.2 The Contractor's schedule for completing the Work and any revised schedules, shall demonstrate achievement of substantial completion by the scheduled completion date. Failure by the Contractor to strictly comply with the provisions of this Paragraph 7.7 shall constitute a default and a material breach of this Contract.

#### **7.8 ON-SITE DRAWINGS**

7.8.1 The Contractor shall continuously maintain at the site, for the benefit of the City and the Engineer, one record copy of this Contract marked to record on a current basis changes, selections and modifications made during construction. Additionally, the Contractor shall maintain at the site for the City and Engineer the approved Shop Drawings, Product Data, Samples and other similar required submittals. Upon final completion of the Work, all of these record documents shall be delivered to the City.

#### **7.9 RECORD DRAWINGS/PLANS, AS-BUILT PLANS, SHOP DRAWINGS, PRODUCT DATA, AND SAMPLES**

7.9.1 The Contractor shall submit, with each Application for Payment, As-Built plans for any and each part or portion of the Project that varies from the Engineer's plans and specifications and the Contract Documents.

7.9.2 Shop Drawings, Product Data, Samples and other submittals from the Contractor do not constitute Contract Documents. Their purpose is merely to demonstrate the manner in which the Contractor intends to implement the Work in conformance with information received from the Contract Documents.

7.9.3 The Contractor shall not perform any portion of the Work requiring submittal and review of Shop Drawings, Product Data or Samples unless and until such submittal shall have been approved by the Engineer. Approval by the Engineer, however, shall not be evidence that Work installed pursuant thereto conforms to the requirements of this Contract.

#### **7.10 CLEANING THE SITE AND THE PROJECT**

7.10.1 The Contractor shall keep the site reasonably clean during performance of the Work. The Contractor shall clean the site and the Project and remove all waste, rubbish, temporary structures, and other materials during construction and, upon completion of construction, shall clean the site and remove all such material together with all of the Contractor's property therefrom. Contractor shall dispose of all refuse at a landfill approved by the Texas Commission on Environmental Quality. The Contractor shall further restore all property damaged during the prosecution of the Work and shall leave the site in a clean and presentable condition. No additional payment shall be made by the City for this work, the compensation having been considered and included in the contract price.

#### **7.11 ACCESS TO WORK AND INSPECTIONS**

7.11.1 The City and the Engineer shall have access to the Work at all times from commencement of the Work through final completion. The Contractor shall take whatever steps necessary to provide access when requested. When reasonably requested by the City or the Engineer, the Contractor shall perform or cause to be performed such testing as may be necessary or appropriate to insure suitability of the jobsite or the Work's compliance with the Contract requirements.

#### **7.12 INDEMNITY AND DISCLAIMER**

7.12.1 CITY SHALL NOT BE LIABLE OR RESPONSIBLE FOR, AND SHALL BE INDEMNIFIED, DEFENDED, HELD HARMLESS AND RELEASED BY CONTRACTOR FROM AND AGAINST ANY AND ALL SUITS, ACTIONS, LOSSES, DAMAGES, CLAIMS, OR LIABILITY OF ANY CHARACTER, TYPE, OR DESCRIPTION, INCLUDING ALL EXPENSES OF LITIGATION, COURT COSTS, AND ATTORNEY'S FEES, FOR INJURY OR DEATH TO ANY PERSON, INJURY OR LOSS TO ANY PROPERTY, OR ECONOMIC LOSS, RECEIVED OR SUSTAINED BY ANY

PERSON OR PERSONS, INCLUDING THE CONTRACTOR, OR PROPERTY, DIRECTLY OR INDIRECTLY ARISING OUT OF, OR OCCASIONED BY THE PERFORMANCE OF CONTRACTOR UNDER THIS CONTRACT, INCLUDING CLAIMS AND DAMAGES ARISING IN WHOLE OR IN PART FROM THE NEGLIGENCE OF CITY, WITHOUT WAIVING THE CITY'S GOVERNMENTAL, SOVEREIGN OR OTHER IMMUNITIES OR DEFENSES AVAILABLE TO THE CITY UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW. IT IS THE EXPRESS INTENT OF THE PARTIES TO THIS CONTRACT THAT THE INDEMNITY PROVIDED FOR HEREIN IS AN INDEMNITY EXTENDED BY CONTRACTOR TO INDEMNIFY AND PROTECT CITY FROM THE CONSEQUENCES OF THE CONTRACTOR'S AS WELL AS THE CITY'S NEGLIGENCE, WHETHER SUCH NEGLIGENCE IS THE SOLE OR PARTIAL CAUSE OF ANY SUCH INJURY, DEATH, OR DAMAGE.

The provisions of this indemnification are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity.

7.12.2 The Contractor will secure and maintain contractual liability insurance to cover this indemnification agreement that will be primary and non-contributory as to any insurance maintained by the City for its own benefit, including self-insurance. In addition, Contractor shall obtain and file with City a standard form Certificate of Insurance evidencing the required coverage.

7.12.3 In claims against any person or entity indemnified under this Paragraph 7.12 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under this Paragraph 7.12 shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts or other employee benefit acts.

### **7.13 NONDISCRIMINATION**

7.13.1 The Contractor shall not discriminate in any way against any person, employee or job applicant on the basis of race, color, creed, national origin, religion, age, sex, or disability where reasonable accommodations can be effected to enable the person to perform the essential functions of the job. The Contractor shall further insure that the foregoing nondiscrimination requirement shall be made a part and requirement of each subcontract on this Project.

### **7.14 PREVAILING WAGE RATES**

7.14.1 The Contractor shall comply in all respects with all requirements imposed by any laws, ordinances or resolutions applicable to the Project with regard to the minimum prevailing wage rates for all classes of employees, laborers, subcontractors, mechanics, workmen and persons furnishing labor and services to the Project. The City has adopted a Prevailing Wage Rate Schedule, available to the Contractor by request (or attached to this contract as a part of the exhibits), which specifies the classes and wage rates to be paid to all persons. The Contractor shall pay not less than the minimum wage rates established thereby for each class, craft or type of labor, workman, or mechanic employed in the execution of this Contract. The failure of the Contractor to comply with this requirement shall result in the forfeiture to the City of a sum of not less than Sixty Dollars (\$60.00) for each person per day, or portion thereof, that such person is paid less than the prevailing rate. Upon request by the City, Contractor shall make available for inspection and copying its books and records, including but not limited to its payroll records, account information and other documents as may be required by the City to insure compliance with this provision.

### **7.15 JOB SITE SAFETY PRECAUTIONS**

7.15.1 The Contractor shall at all times exercise reasonable precautions for the safety of its employees, laborers, subcontractors, mechanics, workmen and others on and near the jobsite and shall comply with all laws, ordinances, regulations, and standards of federal, state and local safety laws and regulations. The Contractor shall provide such machinery

guards, safe walk-ways, ladders, bridges, and other safety devices as may be necessary or appropriate to insure a safe and secure jobsite and shall require its subcontractors to comply with this requirement. The Contractor shall immediately comply with any and all safety requirements imposed by the Engineer during the progress of the Work.

#### **7.16 WARNING DEVICES AND BARRICADES**

7.16.1 The Contractor shall furnish and maintain such warning devices, barricades, lights, signs, pavement markings, and other devices as may be necessary or appropriate or required by the Engineer to protect persons or property in, near or adjacent to the jobsite. No separate compensation shall be paid to the Contractor for such measures. Where the Work is being conducted in, upon or near streets, alleys, sidewalks, or other rights-of-way, the Contractor shall insure the placement, maintenance and operation of any and all such warning devices as may be required by the City and shall do so until no longer required by the City. Such devices shall be in compliance with and conform to the manual and specifications for the uniform system of traffic control devices adopted by the Texas Department of Transportation.

#### **7.17 PROTECTION OF UTILITIES AND OTHER CONTRACTORS**

7.17.1 The Contractor shall use best efforts to leave undisturbed and uninterrupted all utilities and utility services provided to the jobsite or which presently exists at, above or beneath the location where the Work is to be performed. In the event that any utility or utility service is disturbed or damaged during the progress of the Work, the Contractor shall forthwith repair, remedy or restore the utility at Contractor's sole expense. The Contractor shall coordinate any utility conflicts with the owner of the utility and no extension of time will be requested or given if adequate coordination is not provided by Contractor.

7.17.2 The Contractor understands and acknowledges that other contractors of the City or of other entities may be present at the jobsite performing other work unrelated to the Project. The Contractor shall use best efforts to work around other contractors without impeding the work of others while still adhering to the scheduled completion date. In the event that the Contractor's work is or may be delayed by any other person, the Contractor shall immediately give notice thereof to the Engineer and shall request a written Change Order in accordance with the procedures set forth by this Contract. The Contractor's failure to provide such notice and to request such Change Order shall constitute a waiver of any and all claims associated therewith.

### **ARTICLE VIII**

#### **CONTRACT ADMINISTRATION**

##### **8.1 THE ENGINEER**

8.1.1 When used in this Contract the term "Engineer" does not necessarily denote a duly licensed, trained or certified engineer; as used herein, the term shall be used interchangeably and shall mean a designated Engineer, Engineer, or Contract Administrator (who may not be an architect or engineer) for the City, said person to be designated or re-designated by the City prior to or at any time during the Work hereunder. The Engineer may be an employee of the City or may be retained by the City as an independent contractor but, in either event, the Engineer's duties and authority shall be as set forth hereinafter. The Contractor understands and agrees that it shall abide by the decisions and instructions of the Engineer notwithstanding the contractual relationship between the City and Engineer, the title of Contract Administrator, or the fact that the Engineer is an employee of the City.

In the event the City should find it necessary or convenient to replace the Engineer, the City shall retain a replacement Engineer and the status of the replacement Engineer shall be that of the former Engineer.

##### **8.2 ENGINEER'S ADMINISTRATION**

8.2.1 The Engineer, unless otherwise directed by the City in writing, will perform those duties and discharge those responsibilities allocated to the Engineer as set forth in this Contract. The Engineer shall be the City's representative from the effective date of this Contract until final payment has been made.

8.2.2 The City and the Contractor shall communicate with each other in the first instance through the Engineer.

8.2.3 The Engineer shall be the initial interpreter of the requirements of the drawings and specifications and the judge of the performance thereunder by the Contractor. The Engineer shall render written or graphic interpretations necessary for the proper execution or progress of the Work with reasonable promptness on request of the Contractor.

8.2.4 The Engineer will review the Contractor's Applications for Payment and will certify to the City for payment to the Contractor, those amounts then due the Contractor as provided in this Contract.

8.2.5 The Engineer shall have authority to reject Work which is defective or does not conform to the requirements of this Contract. If the Engineer deems it necessary or advisable, the Engineer shall have authority to require additional inspection or testing of the Work for compliance with Contract requirements.

8.2.6 The Engineer will review and approve, or take other appropriate action as necessary, concerning the Contractor's submittals including Shop Drawings, Product Data and Samples. Such review, approval or other action shall be for the sole purpose of determining conformance with the design concept and information given through the Contract Documents.

8.2.7 The Engineer will prepare Change Orders and may authorize minor changes in the Work by Field Order as provided elsewhere herein.

8.2.8 The Engineer shall, upon written request from the Contractor, conduct inspections to determine the date of Substantial Completion and the date of final completion, will receive and forward to the City for the City's review and records, written warranties and related documents required by this Contract and will issue a final Certificate for Payment upon compliance with the requirements of this Contract.

8.2.9 The Engineer's decisions in matters relating to aesthetic effect shall be final if consistent with the intent of this Contract.

### **8.3 CLAIMS BY THE CONTRACTOR**

8.3.1 The Engineer shall determine all claims and matters in dispute between the Contractor and City with regard to the execution, progress, or sufficiency of the Work or the interpretation of the Contract Documents, including but not limited to the plans and specifications. Any dispute shall be submitted in writing to the Engineer within seven (7) days of the event or occurrence or the first appearance of the condition giving rise to the claim or dispute and the Engineer shall render a written decision within a reasonable time thereafter. The Engineer's decisions shall be final and binding on the parties. In the event that either party objects to the Engineer's determination as to any submitted dispute, that party shall submit a written objection to the Engineer and the opposing party within ten (10) days of receipt of the Engineer's written determination in order to preserve the objection. Failure to so object shall constitute a waiver of the objection for all purposes.

8.3.2 Pending final resolution of any claim of the Contractor, the Contractor shall diligently proceed with performance of this Contract and the City shall continue to make payments to the Contractor in accordance with this Contract.

8.3.3 **CLAIMS FOR CONCEALED, LATENT OR UNKNOWN CONDITIONS** - The Contractor expressly represents that it has been provided with an adequate opportunity to inspect the Project site and thoroughly review the Contract Documents and plans and specifications prior to submission of its bid and the City's acceptance of the bid. Subject to the conditions hereof, Contractor assumes full responsibility and risk for any concealed, latent or unknown condition which may affect the Work. No claims for extra work or additional compensation shall be made by Contractor in connection with concealed, latent or unknown conditions except as expressly provided herein. Should concealed, latent or unknown conditions encountered in the performance of the Work (a) below the surface of the ground or (b) in an existing structure be at variance with the conditions indicated by this Contract, or should unknown conditions of an unusual nature differing materially from those ordinarily encountered in the area and generally recognized as inherent in Work of the character provided for in this Contract, be encountered, the Contract Price shall be equitably adjusted by Change Order upon the written notice and claim by either party made within seven (7) days after the first observance of the condition. As a condition precedent to the City having any liability to the Contractor for concealed or unknown conditions, the Contractor must give the City and the Engineer written notice of, and an opportunity to observe, the condition prior to disturbing it. The failure by the Contractor to make the written notice



and claim as provided in this Subparagraph shall constitute a waiver by the Contractor of any claim arising out of or relating to such concealed, latent or unknown condition and the Contractor thereby assumes all risks and additional costs associated therewith.

#### **8.4 EXTRA WORK**

8.4.1 The Contractor shall not claim, request or demand any sum from the City for Extra Work or for additional costs, and hereby waives all such claims, requests and demands and any right to assert same, unless the conditions of this subparagraph are strictly complied with. "Extra Work" is defined herein to mean any labor, service, materials, equipment, supplies or charges that are directly or indirectly related to the Work, the Project or the Project site, that is not necessarily or fairly required or implied by the Contract Documents.

8.4.2 The parties acknowledge and agree that there shall be no payment made by the City to the Contractor without a written agreement (either a separate contract or a written Change Order) signed by the parties. Should the Contractor perform Extra Work or be requested to perform Extra Work by the Engineer or City, it shall be the Contractor's obligation and duty to first apply for and obtain a written Change Order, approved by the Engineer and executed by the City. The Contractor's failure to obtain a written, signed Change Order prior to commencement of Extra Work shall constitute a complete and final waiver of any right for compensation for the Extra Work.

#### **8.5 CLAIMS FOR ADDITIONAL COSTS OR TIME; CONTRACT PRICE INCREASE**

8.5.1 If the Contractor wishes to make a claim for an increase in the Contract Price, as a condition precedent to any liability of the City therefor, the Contractor shall give the Engineer written notice of such claim within seven (7) days after the occurrence of the event, or the first appearance of the condition, giving rise to such claim. Such notice shall be given by the Contractor before proceeding to execute any additional or changed Work. The failure by the Contractor to give such notice and to give such notice prior to executing the Work shall constitute a waiver of any right to or claim for additional compensation.

8.5.2 In connection with any claim by the Contractor against the City for compensation in excess of the Contract Price, any liability of the City for the Contractor's costs shall be strictly limited to direct costs incurred by the Contractor and shall in no event include indirect costs or consequential damages of the Contractor. The City shall not be liable to the Contractor for claims of third parties, including Subcontractors. The City shall not be liable to the Contractor for any claims based upon delay to the Contractor for any reason whatsoever including any act or neglect on the part of the City.

8.5.3 If the Contractor is delayed in progressing any task which at the time of the delay is then critical or which during the delay becomes critical, as the sole result of any act or neglect to act by the City or someone acting in the City's behalf, or by changes ordered in the Work, unusual delay in transportation, unusually adverse weather conditions not reasonably anticipated, fire or any causes beyond the Contractor's control, then the date for achieving Substantial Completion of the Work shall be extended upon the written notice and claim of the Contractor to the City and the Engineer, for such reasonable time as the Engineer may determine. Any notice and claim for an extension of time by the Contractor shall be made not more than seven (7) days after the occurrence of the event or the first appearance of the condition giving rise to the claim and shall set forth in detail the Contractor's basis for requiring additional time in which to complete the Project. In the event the delay to the Contractor is a continuing one, only one notice and claim for additional time shall be necessary. If the Contractor fails to make such claim as required in this Subparagraph, any claim for an extension of time shall be waived. The procedures and remedies provided by this provision shall be the sole remedy of Contractor and Contractor shall not assert nor be entitled to any additional delays or damages associated therewith.

#### **8.6 FIELD ORDERS**

8.6.1 The Engineer shall have authority to order minor changes in the Work not involving a change in the Contract Price or in Contract Time and not inconsistent with the intent of the Contract. Such changes shall be effected by Field Order and shall be binding upon the Contractor. The Contractor shall carry out such Field Orders promptly.

**8.7 MEDIATION**

8.7.1 In the event that a dispute arises under the terms of this Contract, following an adverse determination by the Engineer and proper preservation of the issue as required herein, the parties agree to submit to mediation. In such event, the parties shall agree to a designated person to serve as mediator and each party shall be responsible for payment of one-half of the total mediation fees. The parties shall submit the dispute to mediation as soon as practical and in no event later than one (1) year after the Engineer's written decision on the matter. At least one designated representative of each party must attend and participate in good faith in an effort to resolve the matters in dispute.

8.7.2 In no event shall the foregoing provision justify or authorize any delay in the progress of the Work; the parties shall abide by the decision of the Engineer in accomplishing the timely completion of the Project.

**ARTICLE IX**

**SUBCONTRACTORS**

**9.1 DEFINITION**

9.1.1 A Subcontractor is a person or entity that has a direct contract with the Contractor to perform a portion of the Work. No Subcontractor shall be in privity with the City.

**9.2 AWARD OF SUBCONTRACTS**

9.2.1 Upon execution of the Contract, the Contractor shall furnish the City, in writing, the names of persons or entities proposed by the Contractor to act as a Subcontractor on the Project. The City shall promptly reply to the Contractor, in writing, stating any objections the City may have to such proposed Subcontractor. The Contractor shall not enter into a subcontract with a proposed Subcontractor with reference to whom the City has made timely objection. The Contractor shall not be required to subcontract with any party to whom the Contractor has objection.

9.2.2 All subcontracts shall afford the Contractor rights against the Subcontractor which correspond to those rights afforded to the City against the Contractor herein, including those rights afforded to the City by Subparagraph 12.2.1 below. All subcontracts shall incorporate by reference the provisions hereof and shall provide that no claims, causes or demands shall be made by any Subcontractor against the City.

9.2.3 The Contractor shall indemnify, defend and hold harmless the City from and against any and all claims, demands, causes of action, damage, and liability asserted or made against the City by or on behalf of any Subcontractor.

**ARTICLE X**

**CHANGES IN THE WORK**

**10.1 CHANGES PERMITTED**

10.1.1 Changes in the Work within the general scope of this Contract, consisting of additions, deletions, revisions, or any combination thereof, may be ordered without invalidating this Contract, by Change Order or by Field Order.

10.1.2 Changes in the Work shall be performed under applicable provisions of this Contract and the Contractor shall proceed promptly with such changes.

## **10.2 CHANGE ORDER DEFINED**

10.2.1 Change Order shall mean a written order to the Contractor executed by the City and the Engineer, issued after execution of this Contract, authorizing and directing a change in the Work or an adjustment in the Contract Price or the Contract Time, or any combination thereof. The Contract Price and the Contract Time may be changed only by written Change Order.

## **10.3 CHANGES IN THE CONTRACT PRICE**

10.3.1 Any change in the Contract Price resulting from a Change Order shall be determined as follows: (a) by mutual agreement between the City and the Contractor as evidenced by (1) the change in the Contract Price being set forth in the Change Order, (2) such change in the Contract Price, together with any conditions or requirements related thereto, being initialed by both parties, and (3) the Contractor's execution of the Change Order, or (b) if no mutual agreement occurs between the City and the Contractor, then, as provided in Subparagraph 10.3.2 below.

10.3.2 If no mutual agreement occurs between the City and the Contractor as contemplated in Subparagraph 10.3.1 above, the change in the Contract Price, if any, shall then be determined by the Engineer on the basis of the reasonable expenditures or savings of those performing, deleting or revising the Work attributable to the change, including, in the case of an increase or decrease in the Contract Price, a reasonable allowance for direct job site overhead and profit. In such case, the Contractor shall present, in such form and with such content as the City or the Engineer require, an itemized accounting of such expenditures or savings, plus appropriate supporting data for inclusion in a Change Order. Reasonable expenditures or savings shall be limited to the following: reasonable costs of materials, supplies, or equipment including delivery costs, reasonable costs of labor, including social security, old age and unemployment insurance, fringe benefits required by agreement or custom, and workers' compensation insurance, reasonable rental costs of machinery and equipment exclusive of hand tools whether rented from the Contractor or others, reasonable costs of premiums for all bonds and insurance, permit fees, and sales, use or other taxes related to the Work, and reasonable cost of direct supervision and jobsite field office overhead directly attributable to the change. In no event shall any expenditure or savings associated with the Contractor's home office or other non-jobsite overhead expense be included in any change in the Contract Price. Pending final determination of reasonable expenditures or savings to the City, payments on account shall be made to the Contractor on the Engineer's Certificate for Payment.

10.3.3 If unit prices are provided in the Contract, and if the quantities contemplated are so changed in a proposed Change Order that application of such unit prices to the quantities of Work proposed will cause substantial inequity to the City or to the Contractor, the applicable unit prices shall be equitably adjusted.

## **10.4 MINOR CHANGES**

10.4.1 The Engineer shall have authority to order minor changes in the Work not involving a change in the Contract Price or an extension of the Contract Time and not inconsistent with the intent of this Contract. Such minor changes shall be made by written Field Order, and shall be binding upon the City and the Contractor. The Contractor shall promptly carry out such written Field Orders.

## **10.5 EFFECT OF EXECUTED CHANGE ORDER**

10.5.1 The execution of a Change Order by the Contractor shall constitute conclusive evidence of the Contractor's agreement to the ordered changes in the Work, this Contract as thus amended, the Contract Price and the Contract Time. The Contractor, by executing the Change Order, waives and forever releases any claim against the City for additional time or compensation for matters relating to or arising out of or resulting from the Work included within or affected by the executed Change Order.

## **10.6 NOTICE TO SURETY; CONSENT**

10.6.1 The Contractor shall notify and obtain the consent and approval of the Contractor's surety with reference to all Change Orders if such notice, consent or approval are required by the Contractor's surety or by law. The Contractor's execution of the Change Order shall constitute the Contractor's warranty to the City that the surety has been notified of and

consents to, such Change Order and the surety shall be conclusively deemed to have been notified of such Change Order and to have expressly consented thereto.

## **ARTICLE XI**

### **UNCOVERING AND CORRECTING WORK**

#### **11.1 UNCOVERING WORK**

11.1.1 If any of the Work is covered contrary to the Engineer's request or to any provisions of this Contract, it shall, if required by the Engineer or the City, be uncovered for the Engineer's inspection and shall be properly replaced at the Contractor's expense without change in the Contract Time or Contract Price.

11.1.2 If any of the Work is covered in a manner consistent with the Engineer's request or the provisions of this Contract, it shall, if required by the Engineer or City, be uncovered for the Engineer's inspection. If such Work conforms strictly to this Contract, costs of uncovering and proper replacement shall by Change Order be charged to the City. If such Work does not strictly conform to this Contract, the Contractor shall pay the costs of uncovering and proper replacement.

#### **11.2 CORRECTING WORK**

11.2.1 The Contractor shall immediately proceed to correct Work rejected by the Engineer as defective or failing to conform to this Contract. The Contractor shall pay all costs and expenses associated with correcting such rejected Work, including any additional testing and inspections, and reimbursement to the City for the Engineer's services and expenses made necessary thereby.

11.2.2 If within four (4) years after Substantial Completion of the Work any of the Work is found to be defective or not in accordance with this Contract, the Contractor shall correct it promptly upon receipt of written notice from the City. This obligation shall survive final payment by the City and termination of this Contract. With respect to Work first performed and completed after Substantial Completion, this four year obligation to specifically correct defective and nonconforming Work shall be extended by the period of time which elapses between Substantial Completion and completion of the subject Work.

11.2.3 Nothing contained in this Paragraph 11.2 shall establish any period of limitation with respect to other obligations which the Contractor has under this Contract. Establishment of the four year time period in Subparagraph 11.2.2 relates only to the duty of the Contractor to specifically correct the Work.

#### **11.3 CITY MAY ACCEPT DEFECTIVE OR NONCONFORMING WORK**

11.3.1 If the City chooses to accept defective or nonconforming Work, the City may do so at its sole discretion. In such event, the Contract Price shall be reduced by the greater of (a) the reasonable cost of removing and correcting the defective or nonconforming Work, and (b) the difference between the fair market value of the Project as constructed and the fair market value of the Project had it not been constructed in such a manner as to include defective or nonconforming Work. If the remaining portion of the unpaid Contract Price, if any, is insufficient to compensate the City for its acceptance of defective or nonconforming Work, the Contractor shall, upon written demand from the City, pay the City such remaining compensation for accepting defective or nonconforming Work.

## **ARTICLE XII**

### **CONTRACT DEFAULT AND TERMINATION**

## **12.1 TERMINATION BY THE CONTRACTOR**

12.1.1 If the Work is stopped for a period of ninety (90) days by an order of any court or other public authority, or as a result of an act of the Government, through no fault of the Contractor or any person or entity working directly or indirectly for the Contractor, the Contractor may, upon fifteen (15) days' written notice to the City and the Engineer, terminate performance under this Contract and recover from the City payment for the actual reasonable expenditures of the Contractor (as limited in Subparagraph 10.3.2 above) for all Work executed and for materials, equipment, tools, construction equipment and machinery actually purchased or rented solely for the Work, less any salvage value of any such items.

12.1.2 If the City shall persistently or repeatedly fail to perform any material obligation to the Contractor for a period of fifteen (15) days after receiving written notice from the Contractor of its intent to terminate hereunder, the City shall have fifteen (15) days to remedy its failure and if not so cured, the Contractor may terminate performance under this Contract by written notice to the Engineer and the City. In such event, the Contractor shall be entitled to recover from the City as though the City had terminated the Contractor's performance under this Contract for convenience pursuant to Subparagraph 12.2.1 hereunder.

## **12.2 TERMINATION BY THE CITY**

### **12.2.1 FOR CONVENIENCE**

12.2.1.1 The City may for any reason whatsoever terminate performance under this Contract by the Contractor for convenience. The City shall give written notice of such termination to the Contractor specifying when termination becomes effective.

12.2.1.2 The Contractor shall incur no further obligations in connection with the Work and the Contractor shall stop Work when such termination becomes effective. The Contractor shall also terminate outstanding orders and subcontracts. The Contractor shall settle the liabilities and claims arising out of the termination of subcontracts and orders. The City may direct the Contractor to assign the Contractor's right, title and interest under terminated orders or subcontracts to the City or its designee.

12.2.1.3 The Contractor shall transfer title and deliver to the City such completed or partially completed Work and materials, equipment, parts, fixtures, information and Contract rights as the Contractor has.

12.2.1.4 (a) The Contractor shall submit a termination claim to the City and the Engineer specifying the amounts due because of the termination for convenience together with costs, pricing or other data required by the Engineer. If the Contractor fails to file a termination claim within one (1) year from the effective date of termination, the City shall pay the Contractor, an amount derived in accordance with subparagraph (c) below.

(b) The City and the Contractor may agree to the compensation, if any, due to the Contractor hereunder.

(c) Absent agreement to the amount due to the Contractor, the City shall pay the Contractor the following amounts:

(i) Contract prices for labor, materials, equipment and other services accepted under this Contract;

(ii) Reasonable costs incurred in preparing to perform and in performing the terminated portion of the Work, and in terminating the Contractor's performance, plus a fair and reasonable allowance for overhead and profit thereon (such profit shall not include anticipated profit or consequential damages), provided however, that if it appears that the Contractor would have not profited or would have sustained a loss if the entire Contract would have been completed, no profit shall be allowed or included and the amount of compensation shall be reduced to reflect the anticipated rate of loss, if any;

(iii) Reasonable costs of settling and paying claims arising out of the termination of subcontracts or orders pursuant to Subparagraph 12.2.1.2 of this Paragraph. These costs shall not include amounts paid in accordance with other provisions hereof.

12.2.1.5 The total sum to be paid the Contractor under this Subparagraph 12.2.1 shall not exceed the total Contract Price, as properly by amounts withheld by the City and reduced by the amount of payments otherwise made, and shall in no event include duplication of payment.

#### 12.2.2 FOR CAUSE

12.2.2.1 The following constitute grounds for termination of this Contract by the City:

- (a) the Contractor's failure or refusal to prosecute the Work in a timely manner;
- (b) The Contractor abandons the jobsite and fails to resume work within five (5) days of written notice thereof by the City;
- (c) the Contractor fails to meet milestones or comply with approved construction schedules;
- (d) the Contractor fails to grant or allow access to the jobsite by the City or Engineer;
- (e) the Contractor fails to supply enough properly skilled workers, supervisory personnel or proper equipment or materials;
- (f) the Contractor fails to make prompt payment to Subcontractors or for materials or labor;
- (g) the Contractor persistently disregards laws, ordinances, rules, regulations or orders of any public authority having jurisdiction; or,
- (h) the Contractor is otherwise guilty of a violation of a material provision of this Contract.

In the event of the occurrence of any one or more of the above events, the City may by written notice to the Contractor, without prejudice to any other right or remedy, terminate the employment of the Contractor, exclude the Contractor from the job site, and take possession of the site and of all materials, equipment, tools, construction equipment and machinery thereon owned by the Contractor and may finish the Work by whatever methods it may deem expedient. In such case, the Contractor shall not be entitled to receive any further payment until the Work is finished.

12.2.2.2 If the unpaid balance of the Contract Price does not exceed the cost of finishing the work, including compensation for the Engineer's additional services and expenses made necessary thereby, such difference shall be paid by the Contractor to the City. This obligation for payment shall survive the termination of the Contract.

12.2.2.3 In the event the employment of the Contractor is terminated by the City for cause pursuant to Subparagraph 12.2.2 and it is subsequently determined by a Court of competent jurisdiction that such termination was without cause, such termination shall thereupon be deemed a Termination for Convenience under Subparagraph 12.2.1 and the provisions of Subparagraph 12.2.1 shall apply.

#### 12.3 USE OF THIRD-PARTY OVERSIGHT OR CONSTRUCTION MANAGER

12.3.1 Should the City allow the Contractor to continue its performance of Work notwithstanding an event of default specified in Subparagraph 12.2.2.1, or should there be an imminent potential of default, the City, at its sole option and within its sole discretion, may retain a third-party construction manager to document the events of default and oversee further progress of the Work. The use of a third-party construction manager shall not prevent the City from declaring the Contractor to be in default and the City may, at its sole option and within its sole discretion, terminate this Contract at any time. Should the City retain a third-party construction manager, the costs thereof shall be withheld from any amounts due Contractor upon termination. The City's exercise of this option shall be without prejudice to any other right or remedy available to the City by law or under this Contract.

**ARTICLE XIII**

**INSURANCE**

**13.1 CONTRACTOR SHALL MAINTAIN INSURANCE**

13.1.1 The Contractor at its own expense shall purchase, maintain and keep in force during the life of this contract, adequate insurance that will protect the Contractor and/or any Additional Insured from claims which may arise out of or result from operations under this Contract. The insurance required shall provide adequate protections from all claims, whether such operations be by the Contractor or by any Additional Insured or by any Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone whose acts of any of them may be liable and from any special hazards, such as blasting, which may be encountered in the performance of this contract in the amounts as shown below in Paragraph 13.2.1.

13.1.2 The Contractor shall not commence work on any Contract in the City until the Contractor has obtained all the insurance required under this paragraph and such insurance has been approved by the City.

**13.2 TYPES AND AMOUNTS OF CONTRACTOR'S INSURANCE**

13.2.1. The Contractor shall furnish and maintain during the life of the contract adequate Worker's Compensation and Commercial General Liability (Public) Insurance in such amounts as follows:

| <u>Type of Insurance</u>                 | <u>Amount</u>  |
|--|--|
| Worker's Compensation                    | As set forth in the Worker's Compensation Act.   |
| Commercial General                       | \$1,000,000 Each Accident/Occurrence.  |
| Liability (Public)                       | \$1,000,000 Aggregate<br>\$1,000,000 Products &<br>Completed Operations<br>Aggregate.  |
| City's Protective<br>Liability Insurance | \$600,000 per occurrence<br>\$1,000,000 aggregate  |
| Excess/Umbrella Liability                | \$1,000,000 per occurrence<br>w/drop down coverage   |
| Endorsement CG 2503                      | Amendment Aggregate<br>Limit of Insurance per<br>Project or City's and<br>Contractor's Protective<br>Liability Insurance for the<br>Project. |
| Automobile Liability                     | \$500,000 Combined<br>single limit per<br>occurrence.  |

**13.3 ADDITIONAL INSURED**

13.3.1 The City and the Engineer shall be named as an additional insured on the Commercial General Liability (Public), City's Protective Liability, and Excess/Umbrella Liability Insurance Policies furnished by the Contractor.

**13.4 WRITTEN NOTIFICATION**

13.4.1 Each insurance policy shall contain a provision requiring that thirty (30) days prior to expiration, cancellation, non-renewal or any material change in coverage, a notice there of shall be given by certified mail to the City of Lucas, Attention: Stanton Foerster, 665 Country Club Road, Lucas, TX 75002-7561.

**13.5 PREMIUMS AND ASSESSMENTS; SUBROGATION**

13.5.1 Companies issuing the insurance policies shall have no recourse against the City for payment of any premiums or assessments for any deductibles which are at the sole responsibility and risk of the Contractor. Insurance Companies shall have no right of subrogation against the City or the Engineer.

**13.6 CERTIFICATE OF INSURANCE**

13.6.1 Proof that the insurance is in force shall be furnished to the City on Standard Certificate of Insurance Forms. In the event any insurance policy shown on the Certificate of Insurance has an expiration date that is prior to the completion and final acceptance of the project by the City, the contractor shall furnish the City proof of identical continued coverage no later than thirty(30) days prior to the expiration date shown on the Certificate of Insurance.

**13.7 PRIMARY COVERAGE**

13.7.1 The coverages provided herein shall be primary and noncontributory with any other insurance maintained by the City, for its benefit, including self-insurance.

**13.8 WORKER'S COMPENSATION INSURANCE COVERAGE**

13.8.1 The Contractor shall:

- (1) provide coverage for its employees providing services on a project, for the duration of the project based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements;
- (2) provide a certificate of coverage showing workers' compensation coverage to the governmental entity prior to beginning work on the project;
- (3) provide the governmental entity prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the contractor's current certificate of coverage ends during the duration of the project;
- (4) obtain from each person providing services on a project, and provide to the governmental entity:
  - (A) a certificate of coverage, prior to that person beginning work on the project, so the governmental entity will have on file certificates of coverage showing coverage for all persons providing services on the project; and
  - (B) no later than seven days after receipt by the contractor, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the Project;
- (5) retain all required certificates of coverage on file for the duration of the project and for one year thereafter;
- (6) notify the governmental entity in writing by certified mail or personal delivery, within 10 days after the contractor knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project;
- (7) post a notice on each project site informing all persons providing services on the project that they are required to be covered, and stating how a person may verify current coverage and report failure to provide coverage. This notice shall comply with the requirements established by the Division of Workers Compensation of the Texas Department of Insurance, or its successor agency.



and

- (8) contractually require each person with whom it contracts to provide services on a project, to:
  - (A) provide coverage based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements for all of its employees providing services on the project, for the duration of the project;
  - (B) provide a certificate of coverage to the contractor prior to that person beginning work on the project;
  - (C) provide the Contractor, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project;
  - (D) obtain from each other person with whom it contracts, and provide to the Contractor:
    - (i) a certificate of coverage, prior to the other person beginning work on the project; and
    - (ii) prior to the end of the coverage period, a new certificate of coverage showing extension of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the project;
  - (E) retain all required certificates of coverage on file for the duration of the project and for one year thereafter;
  - (F) notify the governmental entity in writing by certified mail or personal delivery, within 10 days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project; and
  - (G) contractually require each other person with whom it contracts, to perform as required by sub-paragraphs (A) - (G) of this paragraph, with the certificate of coverage to be provided to the person for whom they are providing services.

## ARTICLE XIV

### MISCELLANEOUS

#### 14.1 LAWS AND ORDINANCES

14.1.1 The Contractor shall at all times and in all respects observe and comply with all federal, state and local laws, ordinances, and regulations applicable to the Project and Work. The Contractor shall further insure that all Subcontractors observe and comply with said laws, ordinances and regulations.

#### 14.2 GOVERNING LAW

14.2.1 The Contract shall be governed by the laws of the State of Texas. Exclusive venue for any causes of action arising under the terms or provisions of this Contract or the Work to be performed hereunder shall be in the state courts of Collin County, Texas.

#### 14.3 SUCCESSORS AND ASSIGNS

14.3.1 The City and Contractor bind themselves, their successors, assigns and legal representatives to the other party hereto and to successors, assigns and legal representatives of such other party in respect to covenants, agreements and obligations contained in this Contract. The Contractor shall not assign this Contract without written consent of the City.

#### **14.4 SURETY BONDS**

14.4.1 The Contractor shall furnish separate performance and payment bonds to the City, according to the requirements set out in the bid documents and state statutes to guaranty full and faithful performance of the Contract by the Contractor and the full and final payment of all persons supplying labor or materials to the Project. Each bond required by the bid documents or state statute shall set forth a penal sum in an amount not less than the full Contract Price. Each bond furnished by the Contractor shall incorporate by reference the terms of this Contract as fully as though they were set forth verbatim in such bonds. In the event the Contract Price is adjusted by Change Order executed by the Contractor, the penal sum of both the performance bond and the payment bond shall be deemed increased by like amount. The performance and payment bonds furnished by the Contractor shall be in form suitable to the City and shall be executed by a surety, or sureties, reasonably suitable to the City and authorized to do business in the State of Texas.

14.4.2 If the Contract Price exceeds the sum of \$25,000.00, the Contractor, upon execution of the Contract and prior to commencement of the Work, shall furnish to the City a two-year maintenance bond in the amount of one hundred percent (100%) of the Contract Price covering the guaranty and maintenance prescribed herein, written by an approved surety authorized and duly licensed to conduct business in the State of Texas. The cost of said maintenance bond shall be included in the Contractor's unit bid prices and shall be paid by the Contractor.

#### **14.5 FORCE MAJEURE**

14.5.1 As used herein, "force majeure" means an incident, situation, or act of a third party that is beyond a party's reasonable control such as an act of God, an act of the public enemy, strikes or other labor disturbances (other than strikes within such party's own labor force), hurricanes, earthquakes, fires, floods, epidemics, embargoes, war, and riots. The Contractor will not be liable or responsible for its failure to perform any obligation under this Contract because of an event of Force Majeure, provided, however, that the Contractor submits notice thereof to the City and Engineer within seven (7) days of such an event, obtains a written Change Order, signed by all parties, that allows an extension of the scheduled completion date, and identifies the specific causes and number of days in the Statement of Delay submitted with the next ensuing Application for Payment. Notwithstanding, if the Contractor's failure to perform continues for more than twenty (20) calendar days, the City may at its option terminate this Agreement immediately and pursue such rights and remedies as may be allowed under Subparagraph 12.2.2 of this Contract.

#### **14.6 IMMUNITIES; DEFENSES**

14.6.1 Nothing in this Contract shall be deemed to waive any immunity, sovereign, governmental, official, qualified or otherwise, from liability or suit, which the City may have or assert, except as may be provided by law, all such immunities being hereby expressly retained.

#### **14.7 NO RIGHTS IN THIRD PARTIES**

14.7.1 The indemnification provisions of this Contract and the rights and remedies afforded herein are solely for the benefit of the parties to this Contract. Nothing in this Contract is intended nor shall be construed to grant, create or confer any right, benefit, interest or cause of action in any person not a party to this Contract, or to the public in general.

#### **14.8 SEVERABILITY**

14.8.1 The provisions of this Contract are herein declared to be severable; in the event that any term, provision or part hereof is determined to be invalid, void or unenforceable, such determination shall not affect the validity or enforceability of the remaining terms, provisions and parts, and this Contract shall be read as if the invalid, void or unenforceable portion had not been included herein.

#### **14.9 AMENDMENTS; NO WAIVER**

14.9.1 This Contract may be amended by the parties only by a written agreement duly executed by both parties. The failure of the City to object to any nonperformance or nonconforming work or to enforce any provision hereof shall in no event be regarded as or construed to be a waiver, release or modification of any term or provision in this Contract, nor shall such

failure to object or enforce estop the City from insisting on strict compliance with this Contract or from recovering damages, costs or expenses arising as a result of such nonperformance or nonconforming work.

**14.10 NOTICES**

14.10.1 All notices required by this Contract shall be in writing and presumed received when deposited in the mail properly addressed to the other party or Engineer at the address set forth herein or set forth in a written designation of change of address delivered to all parties and the Engineer.

EXECUTED in single or multiple originals, this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

**CITY OF LUCAS, TEXAS**

**CONTRACTOR:**

R&M Services Solutions

\_\_\_\_\_  
City Manager

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Type/Print Name and Title)

ATTEST:

\_\_\_\_\_  
(Street Address)

\_\_\_\_\_  
City Secretary (Rev. 03/14)

\_\_\_\_\_  
(City/State/Zip)

APPROVED TO FORM

\_\_\_\_\_  
City Attorney

| 1 Valve Maintenance & Inspection for valve sizes 8" and smaller - \$_____ each. |     |     |         |          |                |              |           |
|---|-----|-----|---------|----------|----------------|--------------|-----------|
| Supplier  | QTY | UOM | Price   | Extended | Supplier Notes | Manufacturer | Manuf Num |
| Texas Electric Cooperatives, INC  | 1   | EA  | No Bid  |          |                |              |           |
| R&M Service Solutions   | 1   | EA  | \$35.00 | \$35.00  |                |              |           |
| Wachs Water Services  | 1   | EA  | \$42.00 | \$42.00  |                |              |           |

| 2 Valve Maintenance & Inspection for valve sizes 10" to 12" - \$_____ each. |     |     |         |          |                |              |           |
|---|-----|-----|---------|----------|----------------|--------------|-----------|
| Supplier  | QTY | UOM | Price   | Extended | Supplier Notes | Manufacturer | Manuf Num |
| R&M Service Solutions   | 1   | EA  | \$40.00 | \$40.00  |                |              |           |
| Wachs Water Services  | 1   | EA  | \$42.00 | \$42.00  |                |              |           |

| 3 Valve Maintenance & Inspection for valve sizes 14" and larger - \$_____ each. |     |     |          |          |                |              |           |
|---|-----|-----|----------|----------|----------------|--------------|-----------|
| Supplier  | QTY | UOM | Price    | Extended | Supplier Notes | Manufacturer | Manuf Num |
| R&M Service Solutions   | 1   | EA  | \$95.00  | \$95.00  |                |              |           |
| Wachs Water Services  | 1   | EA  | \$125.00 | \$125.00 |                |              |           |

| 4 Valve Maintenance & Inspection for valve that could not be located \$_____ each. |     |     |         |          |                |              |           |
|--|-----|-----|---------|----------|----------------|--------------|-----------|
| Supplier   | QTY | UOM | Price   | Extended | Supplier Notes | Manufacturer | Manuf Num |
| R&M Service Solutions  | 1   | EA  | \$30.00 | \$30.00  |                |              |           |
| Wachs Water Services   | 1   | EA  | \$45.00 | \$45.00  |                |              |           |

| 5 Valve Maintenance & Inspection labor for adjusting valve stack \$_____ per hour. |     |     |          |          |                |              |           |
|--|-----|-----|----------|----------|----------------|--------------|-----------|
| Supplier   | QTY | UOM | Price    | Extended | Supplier Notes | Manufacturer | Manuf Num |
| R&M Service Solutions  | 1   | EA  | \$85.00  | \$85.00  |                |              |           |
| Wachs Water Services   | 1   | EA  | \$250.00 | \$250.00 |                |              |           |

| 6 Fire Hydrant Maintenance & Inspection - \$_____ each. |     |     |         |          |                |              |           |
|---|-----|-----|---------|----------|----------------|--------------|-----------|
| Supplier  | QTY | UOM | Price   | Extended | Supplier Notes | Manufacturer | Manuf Num |
| R&M Service Solutions                                   | 1   | EA  | \$30.00 | \$30.00  |                |              |           |
| Wachs Water Services                                    | 1   | EA  | \$40.00 | \$40.00  |                |              |           |

| 7 Fire Hydrant Maintenance & Inspection labor for minor repairs - \$_____ per hour. |     |     |          |          |                |              |           |
|---|-----|-----|----------|----------|----------------|--------------|-----------|
| Supplier  | QTY | UOM | Price    | Extended | Supplier Notes | Manufacturer | Manuf Num |
| R&M Service Solutions   | 1   | EA  | \$100.00 | \$100.00 |                |              |           |
| Wachs Water Services  | 1   | EA  | \$250.00 | \$250.00 |                |              |           |

| 8 FH Maintenance & Inspection - for FH that could not be located \$_____ each. |     |     |       |          |                |              |           |
|--|-----|-----|-------|----------|----------------|--------------|-----------|
| Supplier   | QTY | UOM | Price | Extended | Supplier Notes | Manufacturer | Manuf Num |
|  |     |     |       |          |                |              |           |

|                       |   |    |         |         |  |
|-----------------------|---|----|---------|---------|--|
| R&M Service Solutions | 1 | EA | \$25.00 | \$25.00 |  |
| Wachs Water Services  | 1 | EA | \$45.00 | \$45.00 |  |

**9** GPS coordinates for valve location - \$ \_\_\_\_\_ each.

| Supplier              | QTY | UOM | Price  | Extended | Supplier Notes | Manufacturer | Manuf Num |
|-----------------------|-----|-----|--------|----------|----------------|--------------|-----------|
| Wachs Water Services  | 1   | EA  | \$0.50 | \$0.50   |                |              |           |
| R&M Service Solutions | 1   | EA  | \$2.00 | \$2.00   |                |              |           |

**10** GPS coordinates for fire hydrant location - \$ \_\_\_\_\_ each.

| Supplier              | QTY | UOM | Price  | Extended | Supplier Notes | Manufacturer | Manuf Num |
|-----------------------|-----|-----|--------|----------|----------------|--------------|-----------|
| Wachs Water Services  | 1   | EA  | \$0.50 | \$0.50   |                |              |           |
| R&M Service Solutions | 1   | EA  | \$2.00 | \$2.00   |                |              |           |



# GARLAND

BLANKET ORDER  
BL 06723

Ship and Bill To:

Water Utilities 972-205-3206  
ROBERT ASHCRAFT  
2343 Forest Lane  
Garland, Texas 75042

This PO number must appear on all  
documentation. Invoices not referencing  
this PO number will be returned.

| Line   | Commodity / Item | Description   | Qty | Ut | Unit Price | Total                          |
|--|------------------|---|-----|----|------------|--------------------------------|
|  |                  | <p>TERM CONTRACT FOR VALVE AND HYDRANT MAINTENANCE<br/>           BID #0347-17<br/>           EFFECTIVE DATE 3-1-2017<br/>           EXPIRATION DATE 2-28-2018<br/>           FOUR OPTIONS FOR RENEWAL</p> <p>THIS TERM ORDER IS ISSUED TO CONFIRM THE ITEM(S) UPON WHICH YOU WERE THE SUCCESSFUL BIDDER IN CONNECTION WITH OUR TERM CONTRACT BID. THIS IS A VERIFICATION ONLY, AND DOES NOT CONSTITUTE AN ORDER FOR ANY ITEM OR A REQUEST OR AUTHORIZATION TO PRODUCE, SHIP OR DELIVERY ANY OF THE IDENTIFIED ITEMS. SEPARATE RELEASES WILL BE ISSUED BY THE USING DEPARTMENT, IDENTIFYING ITEMS AND QUANTITIES DESIRED IF AND AS THEY ARE NEEDED.</p> <p>AS STATED IN THE BID, THE QUANTITIES SHOWN REFLECT THE CITY'S ESTIMATED ANNUAL REQUIREMENT FOR PARTICULAR ITEMS. AS THE BID INDICATES, THE CITY MAY CHOOSE TO PURCHASE MORE, LESS OR NONE OF</p> |     |    |            |                                |
| <p><b>Signed:</b> <b>Guy W Trampe</b><br/>           Digitally signed by Guy W Trampe<br/>           Date: 2017.03.17 08:05:30 -05'00'</p> |                  |   |     |    |            | <p><b>Total:</b> Continued</p> |

**Vendor** 38147      **Vendor Ph#** (352) 585-1504

**To:** R&M SERVICE SOLUTIONS, LLC  
 14749 MATT BARTHLE ROAD  
 DADE CITY FL 33525

**PO Date:** 03/17/17

**Buyer:** GUY TRAMPE 972-205-2424  
**Bid #:**  
**Delivery Promised:**  
**Delivery Required:** DESTINATION  
**F.O.B.:** Net 30  
**Terms:**



# GARLAND

BLANKET ORDER  
BL 06723

| Line          | Commodity / Item | Description   | Qty        | Ut | Unit Price | Total       |
|---------------|------------------|---|------------|----|------------|-------------|
| 1             |                  | <p>ANY LISTED ITEM, DEPENDING ON IT'S NEEDS. THE CITY IS UNDER NO OBLIGATION TO PURCHASE A MINIMUM AMOUNT OF ANY ITEM AWARDED.</p> <p>WATER UTILITIES<br/>VALVE AND HYDRANT MAINTENANCE 2017-SEE ATTACHED SPECS</p> <p>DISCLOSURE OF BUSINESS RELATIONSHIPS/AFFILIATIONS, CONFLICT OF INTEREST QUESTIONNAIRE. VENDOR REPRESENTS THAT IT IS IN COMPLIANCE WITH THE APPLICABLE FILING AND DISCLOSURE REQUIREMENTS OF CHAPTER 176 OF THE TEXAS LOCAL GOVERNMENT CODE. THE STATUTE AND CIQ FORM MAY BE FOUND ON THE PURCHASING WEBSITE. WWW.GARLANDPURCHASING.COM CERTIFICATES OF INSURANCE AND SIGNED INDEMNIFICATION FORMS MUST BE APPROVED BY THE CITY OF GARLAND RISK MANAGEMENT DEPT. PRIOR TO BEGINNING WORK. IT IS THE RESPONSIBILITY OF THE CONTRACTOR TO ENSURE THAT COVERAGE REMAINS IN EFFECT DURING THE ENTIRE PERIOD OF THE CONTRACT</p> | 250000.000 | EA | \$1.00000  | \$250000.00 |
| <b>Total:</b> |                  |   |            |    |            | \$250000.00 |



# City of Lucas Council Agenda Request July 6, 2017

Requester: Mayor Jim Olk

**Agenda Item:**

**Executive Session:**

An Executive Session is not scheduled for this meeting.

**Background Information:**

NA

**Attachments/Supporting Documentation:**

NA

**Budget/Financial Impact:**

NA

**Recommendation:**

NA

**Motion:**

NA