

CITY OF LAKE WORTH

CITY COUNCIL MEETING AGENDA

**3805 ADAM GRUBB
LAKE WORTH, TEXAS 76135
TUESDAY, OCTOBER 9, 2018**

REGULAR MEETING: 6:30 P.M.

Held in the City Council Chambers

A. CALL TO ORDER

A.1 ROLL CALL

A.2 SPECIAL PRESENTATION (S) AND RECOGNITION(S):

No items for this category.

A.3 CITIZENS PRESENTATION / VISITOR COMMENTS

The City Council is always pleased to have citizens attend its meetings and welcomes comments during the Citizen/Visitor Comments section of the meeting; however, pursuant to the Texas Open Meetings Act, Council cannot deliberate or vote on issues not posted on the agenda. Therefore, those types of items must be posted 72 hours prior to the City Council meeting. If it is not posted, no deliberation between Council members may occur; Council may only respond with specific factual information or recite existing policy. With the exception of public hearing items, at all other times during the Council meetings, the audience is not permitted to enter into discussion or debate on matters being considered by Council. Negative or disparaging remarks about City personnel will not be tolerated. Speakers are requested to sign up with the City Secretary prior to the presiding officer calling the meeting to order. Comments will be limited to three (3) minutes per speaker.

A.4 REMOVAL OF ITEM(S) FROM CONSENT AGENDA

B. CONSIDER APPROVAL OF CONSENT AGENDA ITEMS

B.1 [Approve minutes of the September 11, 2018 City Council meeting.](#)

B.2 [Approve Finance Reports for the month of September 2018.](#)

- B.3 [Approve a contract with Tarrant County Emergency Services District No. One \(District\) for fire service provided by the City of Lake Worth Fire Department to the District beginning October 1, 2018 through September 30, 2019.](#)

C. PUBLIC HEARINGS

- C.1 [Public Hearing to consider Planning & Zoning Case No. PZ-2018-17, a proposed replat being all of a 0.628-acre parcel of land known as Block 13, Lot\(s\) 8, 9, and 10, Indian Oaks Subdivision of the records of Tarrant County, Texas. The proposed replat's new legal description will be Block 13, Lot\(s\) 8-R, and 10-R, Indian Oaks Subdivision, which is generally described as 3132 Huron Trail \(Lot 8-R\) and 3128 Huron Trail \(Lot 10-R\), Lake Worth, Texas. \(THE PLANNING & ZONING COMMISSION RECOMMENDED APPROVAL BY A VOTE OF 6-0.](#)

D. PLANNING AND DEVELOPMENT

- D.1 [Discuss and consider Resolution No. 2018-31, appointing members to the Board of Adjustment Places 2, 4 and alternate Place 6 and the Planning and Zoning Commission, Places 2, 4 and 6.](#)
- D.2 [Discuss and consider Ordinance No. 1128, amending Chapter 3, Building Regulations, Article 3.900, Fences, Section 3.903, Restrictions and Requirements for Fences, \(A\) Fence Materials.](#)

E. PUBLIC WORKS

- E.1 [Discuss and consider approval of Individual Project Order Number 2018-02 with Kimley-Horn and Associates for the Hiawatha Trail Utilities Project, Phase I and authorize the City Manager to execute the contract.](#)
- E.2 [Discuss and provide direction on additional vehicle and equipment storage at the Public Works facility located at 4200 Fewell Drive.](#)

F. GENERAL ITEMS

- F.1 [Discuss and consider the first reading of Ordinance No. 1131, granting to ONCOR Electric Delivery Company, LLC, and Electric Power Franchise to use the present and future streets, alleys, highways, public utility easements, public ways and public property of the City of Lake Worth through September 30, 2039.](#)
- F.2 [Discuss and consider approval of a contact with the Department of Public Safety to participate in the Failure to Appear Program and authorize the City Manager to execute the agreement.](#)

- F.3 [Discuss and consider approval of a contact with The Payment Group \(TPG\) for processing of credit cards for Municipal Court payments and authorize the City Manager to execute the contract.](#)
- F.4 [Discuss and consider approval of a contact with The Payment Group \(TPG\) for processing of credit card payments for utility, permit, and miscellaneous charges and authorize the City Manager to execute the agreement.](#)
- F.5 [Discuss and consider Ordinance No. 1129, appointment of Jim Minter as Magistrate and authorize the City Manager to execute a two-year agreement for magistrate services.](#)
- F.6 [Discuss and consider Ordinance No. 1130, appointment of Renee Culp as an alternate Magistrate and authorize the City Manager to execute a two-year agreement for magistrate services.](#)

G. MAYOR AND COUNCIL ITEM(S)

- G.1 Update on Tarrant County Mayor's Council by Mayor Bowen

H. EXECUTIVE SESSION

The City Council may enter into closed Executive Session as authorized by Chapter 551, Texas Government Code. Executive Session may be held at the end of the Regular Session or at any time during the meeting that a need arises for the City Council to seek advice from the city attorney (551.071) as to the posted subject matter of this City Council meeting.

The City Council may confer privately with its attorney to seek legal advice on any matter listed on the agenda or on any matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Chapter 551, Texas Government Code.

I. EXECUTIVE SESSION ITEMS – CITY COUNCIL MAY TAKE ACTION ON ANY ITEMS DISCUSSED IN EXECUTIVE SESSION LISTED ON THE AGENDA.

J. ADJOURNMENT

All items on the agenda are for discussion and/or action.

Certification

I do hereby certify that the above notice of the meeting of the Lake Worth City Council was posted on the bulletin board of City Hall, 3805 Adam Grubb, City of Lake Worth Texas in compliance with Chapter 551, Texas Government Code on Friday, October 5, 2018 at 3:00 p.m.

City Secretary

This facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this meeting. Please contact the City Secretary's Office at (817) 237-1211 ext. 105 for further information.

Lake Worth City Council Meeting – October 9, 2018

Agenda Item No. B.1

FROM: Monica Solko, City Secretary

ITEM: Approve the minutes of the September 11, 2018 Regular City Council.

SUMMARY:

The minutes are listed on the consent agenda and approved by majority vote of Council at the City Council meetings.

The City Secretary's Office prepares action minutes for each City Council meeting. The minutes for the previous meeting are placed on the consent agenda for review and approval by the City Council, which contributes to a time efficient meeting. Upon approval of the minutes, an electronic copy will be uploaded to the City's website.

FISCAL IMPACT:

N/A

ATTACHMENTS:

1. September 11, 2018 City Council minutes

RECOMMENDED MOTION OR ACTION:

Approve minutes of the September 11, 2018 Regular City Council meeting.

**MINUTES OF THE REGULAR MEETING
OF THE CITY COUNCIL OF THE CITY OF LAKE WORTH, TEXAS
HELD IN CITY HALL, COUNCIL CHAMBERS, 3805 ADAM GRUBB
TUESDAY, SEPTEMBER 11, 2018**

REGULAR MEETING: 6:30 PM

A. CALL TO ORDER.

Mayor Walter Bowen called the Council meeting to order at 6:30 p.m.

A.1 INVOCATION AND PLEDGE OF ALLEGIANCE.

Pastor Zac Hatton with Lake Worth Baptist Church gave the invocation. Attendees recited the pledge of allegiance.

A.2 ROLL CALL.

| | | |
|----------|------------------|---|
| Present: | Walter Bowen | Mayor |
| | Clint Narmore | Mayor Pro Tem, Place 7 |
| | Jim Smith | Council, Place 1 |
| | Geoffrey White | Council, Place 2 |
| | Sue Wenger | Council, Place 3 |
| | Ronny Parsley | Council, Place 4 |
| | Pat O. Hill | Council, Place 5 |
| | Gary Stuard | Council, Place 6 |
| Staff: | Stacey Almond | City Manager |
| | Debbie Whitley | Assistant City Manager/Finance Director |
| | Monica Solko | City Secretary |
| | Mike Christenson | Fire Chief |
| | Corry Blount | Police Chief |
| | Sean Densmore | Public Works Director |
| | Barry Barber | Planning and Development Director |
| | Suzanne Meason | Planning and Zoning Coordinator |
| Absent: | Drew Larkin | City Attorney |

A.3 SPECIAL PRESENTATION(S) AND RECOGNITION(S):

No items for this category.

A.4 CITIZEN PRESENTATION / VISITOR COMMENTS

There were no requests to speak from the public.

A.5 REMOVAL OF CONSENT AGENDA

No items were removed from the consent agenda.

B. CONSIDER APPROVAL OF CONSENT AGENDA ITEMS APPROVED

B.1 APPROVE MINUTES OF THE AUGUST 14, 2018 CITY COUNCIL MEETING.

B.2 APPROVE FINANCE REPORTS FOR THE MONTH OF AUGUST 2018.

B.3 APPROVE THE 2018-2019 CITY OF LAKE WORTH OFFICIAL CALENDAR.

B.4 APPROVE THE 2018-2019 EMPLOYEE COMPENSATION PLAN.

B.5 APPROVE ORDINANCE NO. 1120, AUTHORIZING TEXAS MUNICIPAL RETIREMENT SYSTEM (TMRS) UPDATED SERVICE CREDITS, INCREASES IN RETIREMENT ANNUITIES AND AN INCREASE IN THE EMPLOYEE DEPOSIT RATE FOR EMPLOYEES FROM 6% TO 7%, MAINTAINING THE CITY'S MATCHING RATE AT 2:1 WITH AN EFFECTIVE DATE OF JANUARY 1, 2019

B.6 APPROVAL OF THE 2018-2019 CITY OF LAKE WORTH ORGANIZATIONAL CHART.

B.7 APPROVE RESOLUTION NO. 2018-27, DESIGNATING THE FORT WORTH STAR TELEGRAM AS THE OFFICIAL NEWSPAPER OF THE CITY OF LAKE WORTH.

B.8 APPROVE A CONTRACT RENEWAL WITH FORT WORTH STAR TELEGRAM FOR NEWSPAPER PUBLICATION SERVICES FOR FY 2018-2019.

B.9 APPROVE RESOLUTION NO. 2018-28, REVISING JOB DESCRIPTIONS FOR THE ACCOUNTS PAYABLE CLERK, ASSISTANT CITY MANAGER/DIRECTOR OF FINANCE, DETECTIVE, DIVISION CHIEF/FIRE MARSHAL, DRIVER/ENGINEER, FIRE CAPTAIN, HELP DESK TECHNICIAN, HUMAN RESOURCES COORDINATOR, IT MANAGER, PATROL LIEUTENANT, PATROL OFFICER, PATROL SERGEANT, POLICE CAPTAIN, PROFESSIONAL STANDARDS OFFICER, PURCHASING COORDINATOR/RISK MANAGER, STAFF ACCOUNTANT, SUPERINTENDENT-STREETS/MAINTENANCE, SUPERINTENDENT WATER/SEWER/PARKS, TELECOMMUNICATIONS SUPERVISOR, AND TELECOMMUNICATOR.

- B.10 APPROVE AN INTERLOCAL AGREEMENT WITH LAKE WORTH INDEPENDENT SCHOOL DISTRICT FOR THE SCHOOL RESOURCE PROGRAM AND AUTHORIZE THE CITY MANAGER TO EXECUTE THE AGREEMENT.**
- B.11 APPROVAL OF FUEL PURCHASES FOR FY2018/2019 IN AN AMOUNT NOT TO EXCEED \$100,000.**
- B.12 APPROVE A MASTER INTERGOVERNMENTAL COOPERATIVE PURCHASING AGREEMENT WITH TIPS (THE INTERLOCAL PURCHASING COOPERATIVE OF THE REGION VIII EDUCATION SERVICE CENTER AND AUTHORIZE THE CITY MANAGER TO EXECUTE SAME.**
- B.13 APPROVE A CONTRACT RENEWAL WITH TARRANT COUNTY FIRE ALARM CENTER (TCFAC) FOR LAKE WORTH FIRE DEPARTMENT DISPATCH SERVICES FROM OCTOBER 1, 2018 THROUGH SEPTEMBER 30, 2019 AND AUTHORIZE THE CITY MANAGER TO EXECUTE SAME.**
- B.14 APPROVE THE RENEWAL OF AN AGREEMENT FOR EMERGENCY MEDICAL AND FIRE PROTECTION SERVICES, FIRE INSPECTIONS AND PLAN REVIEW, FIRE CODE ENFORCEMENT AND FIRE INVESTIGATION SERVICES WITH THE TOWN OF LAKESIDE AND AUTHORIZE THE CITY MANAGER TO EXECUTE THE CONTRACT.**
- B.15 APPROVE RESOLUTION NO. 2018-29, APPROVING A SETTLEMENT BETWEEN THE ATMOS STEERING COMMITTEE (ACSC) AND ATMOS ENERGY CORP. MID TEX DIVISION REGARDING THE COMPANY'S 2018 RATE REVIEW MECHANISM FILINGS.**

A MOTION WAS MADE BY MAYOR PRO TEM NARMORE, SECONDED BY COUNCIL MEMBER PARSLEY TO APPROVE THE CONSENT AGENDA.

MOTION TO APPROVE CARRIED 7-0.

C. PUBLIC HEARINGS

- C.1 PUBLIC HEARING TO CONSIDER ORDINANCE NO. 1121, PLANNING & ZONING CASE NO. PZ-2018-13, AMENDING ORDINANCE NO. 500, THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY OF LAKE WORTH, SO AS TO CONSIDER A LAND USE DESIGNATION AND DEVELOPMENT AND SITE PLAN APPROVAL OF AN APPROXIMATELY 1.032-ACRE PARCEL OF LAND, LEGALLY KNOWN AS BLOCK 1, LOT 1, STURGEON ADDITION – LAKE WORTH AND GENERALLY DESCRIBED AS 4300 BOAT CLUB ROAD, LAKE WORTH, TEXAS. (THE PLANNING & ZONING COMMISSION RECOMMENDED APPROVAL BY A VOTE OF 6-0.)**

APPROVED

Mayor Bowen opened the public hearing and called on Suzanne Meason to present the item.

Planning and Zoning Administrator, Suzanne Meason summarized the item. Mr. Ron Sturgeon, the property owner, is requesting a land use designation and site plan approval for the property located at 4300 Boat Club Road. The property has been zoned PC-Planned Commercial for some time but has not been used and/or developed as such. Mr. Sturgeon submitted civil construction plans for review and staff has reviewed and found them to be in compliance with all applicable codes and ordinances. He has also received approval from TxDOT for the shared access and driveway as required for the development of the property. The Planning and Zoning Commission recommended approval by a vote of 6-0.

Mayor Bowen called on the applicant to come forward.

John Henderson, with Bannister Engineering, 240 N. Mitchell Road, Mansfield, Texas, the engineer for the property came forward. He commented that the usage of the property would be for a beauty salon and retail but the primary use would be a beauty salon. He was available to answer any questions the Council might have.

Mayor Bowen called for anyone wishing to speak for or against the request to come forward.

There being no one wishing to speak, Mayor Bowen closed the public hearing and called for the motion.

A MOTION WAS MADE BY COUNCIL MEMBER SMITH, SECONDED BY COUNCIL MEMBER WHITE TO APPROVE ORDINANCE NO. 1121, PZ 2018-13 AS PRESENTED.

MOTION TO APPROVE CARRIED 7-0.

C.2 PUBLIC HEARING TO CONSIDER PLANNING & ZONING CASE NO. PZ-2018-14, A PROPOSED REPLAT BEING ALL OF A 0.445-ACRE PARCEL OF LAND KNOWN AS BLOCK 5, LOT A, BROADVIEW WEST ADDITION OF THE RECORDS OF TARRANT COUNTY, TEXAS. THE PROPOSED REPLAT'S NEW LEGAL DESCRIPTION WILL BE BLOCK 5, LOT(S) AR1 AND AR2, BROADVIEW WEST ADDITION, WHICH IS GENERALLY DESCRIBED AS 3309 ROBERTS CUT OFF ROAD (LOT AR1) AND 3307 ROBERTS CUT OFF ROAD (LOT AR2), LAKE WORTH, TEXAS. (THE PLANNING & ZONING COMMISSION RECOMMENDED APPROVAL BY A VOTE OF 6-0.)

APPROVED

Mayor Bowen opened the public hearing and called on Suzanne Meason to present the item.

Planning and Zoning Administrator, Suzanne Meason summarized the item. Mr. Francisco Munoz, owner of the property at 3307 Roberts Cut Off had a house fire some

time back. He originally was supposed to repair the fire damage to the existing house, but instead completely tore down the house to the slab, in doing so he had to apply for a new construction permit. When he applied for the permit, it was discovered that Mr. Munoz lot was never properly subdivided from his neighbors' lot. Mr. Munoz hired a surveyor to prepare a replat document for his property and the neighbor. Mr. and Mrs. Wright, the neighbors, also applied for a replat to properly subdivide the properties, so that Mr. Munoz could rebuild the house. Staff has reviewed the document and it complies with state and local requirements. The Planning and Zoning Commission recommended approval by a vote of 6-0.

Mayor Bowen called for anyone wishing to speak for or against the request to come forward.

There being no one wishing to speak, Mayor Bowen closed the public hearing and called for the motion.

A MOTION WAS MADE BY COUNCIL MEMBER STUARD, SECONDED BY COUNCIL MEMBER PARSLEY TO APPROVE ITEM C.2, PZ 2018-14 AS PRESENTED.

MOTION TO APPROVE CARRIED 7-0.

C.3 PUBLIC HEARING TO CONSIDER ORDINANCE NO. 1122, PLANNING & ZONING CASE NO. PZ-2018-15, AMENDING ORDINANCE NO. 926, SO AS TO CONSIDER A SITE PLAN AMENDMENT OF AN APPROXIMATE 109.07-ACRE PARCEL OF LAND, LEGALLY KNOWN AS BLOCK 1, LOT 1R, RITCHIE BROTHERS ADDITION AND GENERALLY DESCRIBED AS 6050 AZLE AVENUE, LAKE WORTH, TEXAS. (THE PLANNING & ZONING COMMISSION RECOMMENDED APPROVAL BY A VOTE OF 6-0.)

APPROVED

Mayor Bowen opened the public hearing and called on Suzanne Meason to present the item.

Planning and Zoning Administrator, Suzanne Meason summarized the item. Ritchie Brothers Properties, Ltd. have submitted an application for a site plan amendment to their existing location at 6050 Azle Avenue. They are requesting to construct a 1,096 square foot storage building with locker rooms. This building will house the facilities golf carts and will have locker rooms for worker and driver clean up. The site will keep all their previously approved uses and variances as laid out in the original ordinance and carried through with all amendments to that ordinance. The Planning and Zoning Commission recommended approval by a vote of 6-0.

Mayor Bowen called on the applicant to present the item.

Pat Ford, 2777 N. Stemmons Freeway, Dallas Texas the architect for the project came forward. He was available to answer any questions the Council might have.

Mayor Bowen called for anyone wishing to speak for or against the request to come forward.

There being no one wishing to speak, Mayor Bowen closed the public hearing and called for the motion.

A MOTION WAS MADE BY COUNCIL MEMBER WHITE, SECONDED BY MAYOR PRO TEM NARMORE TO APPROVE ITEM C3, ORDINANCE NO. 1122, AS PRESENTED.

MOTION TO APPROVE CARRIED 7-0.

C.4 PUBLIC HEARING TO CONSIDER ORDINANCE NO. 1123, PLANNING & ZONING CASE NO. PZ-2018-16, AMENDING ORDINANCE NO. 1037, SO AS TO CONSIDER A SITE PLAN AMENDMENT OF AN APPROXIMATE 0.642-ACRE PARCEL OF LAND, LEGALLY KNOWN AS BLOCK 1, LOT 4R, BROADVIEW WEST ADDITION AND GENERALLY DESCRIBED AS 6018 GRAHAM STREET, LAKE WORTH, TEXAS. (THE PLANNING & ZONING COMMISSION RECOMMENDED APPROVAL BY A VOTE OF 6-0.)

APPROVED

Mayor Bowen opened the public hearing and called on Suzanne Meason to present the item.

Planning and Zoning Administrator, Suzanne Meason summarized the item. Ms. Brenda Ornelas owns the above-mentioned property where she currently operates Heather's Old Skool Village (a life skills school for students with special needs). The property was recently replatted into one large lot. The property has existing structures and the site plan amendment is to add a 2,925 square foot building to the property to better accommodate the facilities needs. Staff has reviewed the site plan for compliance and finds it to meet the City's requirements. The Planning and Zoning Commission recommended approval by a vote of 6-0.

Mayor Bowen called on the applicant to present the item.

Brenda Ornelas, 6316 Circle Trail, Lake Worth, Texas, the property owner came forward. Ms. Ornelas commented on the need for the space and how the school has helped so many in need in the community.

Mayor Bowen called for anyone wishing to speak for or against the request to come forward.

Other audience members and school clients came forward and spoke in favor of the project. They also stated that this type of school was needed in the community and those that attend gain more than life skills.

There being no one else wishing to speak, Mayor Bowen closed the public hearing and called for the motion.

A MOTION WAS MADE BY COUNCIL MEMBER SMITH, SECONDED BY COUNCIL MEMBER HILL TO APPROVE ITEM C4, ORDINANCE NO. 1123 AS PRESENTED.

MOTION TO APPROVE CARRIED 7-0.

D. PLANNING AND DEVELOPMENT

No items for this category.

E. PUBLIC WORKS

No items for this category.

F. GENERAL ITEMS

F.1 DISCUSS AND CONSIDER ORDINANCE NO. 1124, APPROVING AND ADOPTING THE BUDGET FOR FISCAL YEAR BEGINNING OCTOBER 1, 2018 AND ENDING SEPTEMBER 30, 2019.

APPROVED

City Manager Stacey Almond presented the item. The item before Council is to consider the FY 2018-2019 proposed budget. The City Council held a budget workshop on August 10, 2018. A public hearing for the proposed budget was held on August 14, 2018. The proposed budget is based on a \$0.434806 per \$100 tax rate. Although the city is proposing to lower the tax rate, the city will generate more revenue from property taxes than last year than last year because the city experienced an increase in its total taxable assessed values. Therefore, as required by Section 102.005 of the Local Government Code, which requires that a proposed budget that will require raising more revenue from property taxes than in the previous year, must contain a cover page with the following statement in 18-point or larger type. "This budget will raise more revenue from property taxes than last year's budget by an amount of \$6,547, which is a 0.31 percent increase from last year's budget. The property tax revenue to be raised from new property added to the tax roll this year is \$9,880."

Mayor Bowen announced that the Council members would take a record vote regarding Ordinance No. 1124, the adoption of the budget.

A MOTION WAS MADE BY COUNCIL MEMBER SMITH, SECONDED BY COUNCIL MEMBER WHITE, TO APPROVE ITEM F1, ORDINANCE NO. 1124, APPROVING AND ADOPTING THE BUDGET FOR FISCAL YEAR BEGINNING OCTOBER 1, 2018 AND ENDING SEPTEMBER 30, 2019, AS PRESENTED.

A RECORD VOTE WAS TAKEN WITH THE FOLLOWING RESULTS:

FOR:
COUNCIL MEMBER SMITH
COUNCIL MEMBER WHITE
COUNCIL MEMBER WENGER
COUNCIL MEMBER PARSLEY
COUNCIL MEMBER HILL
COUNCIL MEMBER STUARD
MAYOR PRO TEM NARMORE

AGAINST: NONE.

**PRESENT AND
NOT VOTING:** MAYOR BOWEN

ABSENT: NONE.

MOTION TO APPROVE CARRIED 7-0.

Mayor Bowen announced that the Council members would take a record vote to ratify the property tax revenue increase as reflected in the FY 2018-2019 budget.

A MOTION WAS MADE BY COUNCIL MEMBER WHITE, SECONDED BY COUNCIL MEMBER WENGER, TO RATIFY THE PROPERTY TAX REVENUE INCREASE AS REFLECTED IN THE FY 2018-2019 BUDGET.

A RECORD VOTE WAS TAKEN WITH THE FOLLOWING RESULTS:

FOR:
COUNCIL MEMBER SMITH
COUNCIL MEMBER WHITE
COUNCIL MEMBER WENGER
COUNCIL MEMBER PARSLEY
COUNCIL MEMBER HILL
COUNCIL MEMBER STUARD
MAYOR PRO TEM NARMORE

AGAINST: NONE.

**PRESENT AND
NOT VOTING:** MAYOR BOWEN

ABSENT: NONE.

MOTION TO APPROVE CARRIED 7-0.

F.2 DISCUSS AND CONSIDER ORDINANCE NO. 1125, FIXING AND LEVYING MUNICIPAL AD VALOREM TAXES FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2018, AND ENDING SEPTEMBER 30, 2019, AND FOR EACH YEAR THEREAFTER UNTIL OTHERWISE PROVIDED, AT THE RATE OF \$0.434806 PER \$100 ASSESSED VALUATION ON ALL TAXABLE PROPERTY WITHIN THE CORPORATE LIMITS OF THE CITY OF LAKE WORTH AS OF JANUARY 1, 2018; AND ADOPTING THE 2018 TAX ROLLS.

APPROVED

City Manager Stacey Almond summarized the item. The notice of effective tax rate was published in the Star Telegram newspaper on August 3, 2018 in accordance with State law. Staff recommends approval of Ordinance No 1125, fixing and levying municipal ad valorem taxes for the fiscal year beginning October 1, 2018, and ending September 30, 2019, and for each year thereafter until otherwise provided, at the rate of \$0.434806 per \$100 assessed valuation on all taxable property within the corporate limits of the City of Lake Worth as of January 1, 2018; and adopting the 2018 tax rolls.

A MOTION WAS MADE BY COUNCIL MEMBER WHITE, SECONDED BY COUNCIL MEMBER PARSLEY TO APPROVE ITEM F2, ORDINANCE NO. 1125 AS PRESENTED.

MOTION TO APPROVE CARRIED 7-0.

F.3 DISCUSS AND ORDINANCE NO. 1127, APPROVING A WATER AND SEWER RATE INCREASE.

APPROVED

City Manager Stacey Almond summarized the item. City Council authorized a water and sewer rate study at the June 12, 2018 regular Council meeting. The last rate increase performed by the city was in November 2013. The city engaged Carolyn Marshall, CPA to perform the study and the finding of her evaluation were provided to the City Council at the August 10, 2018 Budget Workshop.

- Water:**
- Maintain the ready for service fee (\$7.50);
 - Move from a 3 Tier billing system to a 4 Tier billing system (based upon consumption);
 - Add depreciation of assets to revenues needed.

At current rates the analysis showed a 14% loss in revenues versus expenditures.

Staff proposed the following rate structure to eliminate the deficit:

| | Res. | Comm. |
|---------|--------|---------|
| RFS | \$7.50 | \$15.50 |
| 1K-5K | \$3.10 | \$5.35 |
| 6K-10K | \$3.16 | \$5.46 |
| 11K-30K | \$3.23 | \$5.57 |
| >31K | \$3.29 | \$5.68 |

Sewer: - Add depreciation of assets to revenues needed.

At current rates the analysis showed a 30% loss in revenues versus expenditures.

Staff proposed the following rate increase to eliminate the deficit:

| | Res. | Comm. |
|-------------------|---------|---------|
| RFS | \$14.95 | \$22.10 |
| Per 1,000 Gallons | \$4.29 | \$5.72 |

A MOTION WAS MADE BY COUNCIL MEMBER STUARD, SECONDED BY MAYOR PRO TEM NARMORE, TO APPROVE ORDINANCE NO. 1127, AN INCREASE IN WATER AND SEWER RATES.

MOTION TO APPROVE CARRIED 7-0.

F.4 DISCUSS AND CONSIDER ORDINANCE NO. 1126, AMENDING THE FY 2017/2018 BUDGET FOR WATER/SEWER FUND.

APPROVED

Assistant City Manager/Finance Director Debbie Whitley summarized the item. On April 10, 2018 Council approved a chloramine conversion design contract with Kimley-Horn & Associates. With the progression of their work, Kimley-Horn has been able to provide an OPCC (Opinion of Probably Construction cost) for the chloramine conversion project and staff is requesting a budget amendment to appropriate funding for it. The Water/Sewer Fund will increase \$123,000 in budgeted expenses. The mid-year review of the Water/Sewer Fund budget indicates an anticipated surplus of \$259,199, so funding is available for the chloramine conversion project.

A MOTION WAS MADE BY COUNCIL MEMBER WENGER, SECONDED BY MAYOR PRO TEM NARMORE, TO APPROVE ORDINANCE NO. 1126.

MOTION TO APPROVE CARRIED 7-0.

F.5 DISCUSS AND CONSIDER RESOLUTION NO. 2018-30, ESTABLISHING A FUND BALANCE COMMITMENT FOR VARIOUS CAPITAL PROJECTS IN THE GENERAL AND WATER/SEWER FUND.

APPROVED

Assistant City Manager/Finance Director Debbie Whitley summarized the item. There are multiple major projects that were funded and initiated in the current budget year FY 2017-2018 that cannot be completed prior to September 30, 2018. Staff is requesting that remaining budget balances for these projects be committed for appropriation in the future to complete them. The General Fund projects are the 16" Force Main and Azle Avenue. The Water/Sewer Fund projects are the Chloramine Conversion and Inflow & Infiltration projects.

A MOTION WAS MADE BY MAYOR PRO TEM NARMORE, SECONDED BY COUNCIL MEMBER STUARD, TO APPROVE RESOLUTION NO. 2018-30, ESTABLISHING A FUND BALANCE COMMITMENT FOR VARIOUS CAPITAL PROJECTS IN THE GENERAL AND WATER/SEWER FUNDS.

MOTION TO APPROVE CARRIED 7-0.

G. MAYOR AND COUNCIL ITEM(S)

G.1 Update on Tarrant County Mayor's Council by Mayor Bowen

Mayor Walter Bowen had nothing to report regarding the Tarrant County Mayor's Council.

H. EXECUTIVE SESSION

No items for this category.

I. EXECUTIVE SESSION ITEMS – CITY COUNCIL MAY TAKE ACTION ON ANY ITEMS DISCUSSED IN EXECUTIVE SESSION LISTED ON THE AGENDA.

No action required.

K. ADJOURNMENT

Mayor Walter Bowen adjourned the meeting at 7:02 p.m.

APPROVED

By: _____
Walter Bowen, Mayor

ATTEST:

Monica Solko, City Secretary

Lake Worth City Council Meeting – October 9, 2018

Agenda Item No. B.2

From: Debbie Whitley, ACM/ Director of Finance

Item: Approve Finance reports for the month of September 2018.

Summary:

Finance reports are prepared and presented to Council for approval each month. The purpose of the reports is to keep the Council informed on the status of the City's revenues and expenses as related to the current year budget projections for major funds and on the cash and investment balances for all funds.

Fiscal Impact:

N/A

Attachments:

1. Cash Position Report- all funds
2. Cash and investment summary-all funds
3. Expenditure Report-General Fund, EDC and Water/Sewer Fund
4. Revenue Report-General Fund, EDC, Water/Sewer Fund and Debt Service Fund
5. Sales Tax Revenue Report-General Fund
6. Revenue, Expense and Cash Position Report-Park Improvement Fund
7. Revenue and Expense Report-Street Maintenance Fund
8. Revenue and Expense Report-Crime Control & Prevention District

Recommended Motion or Action:

Approve finance reports for the month of September 2018.

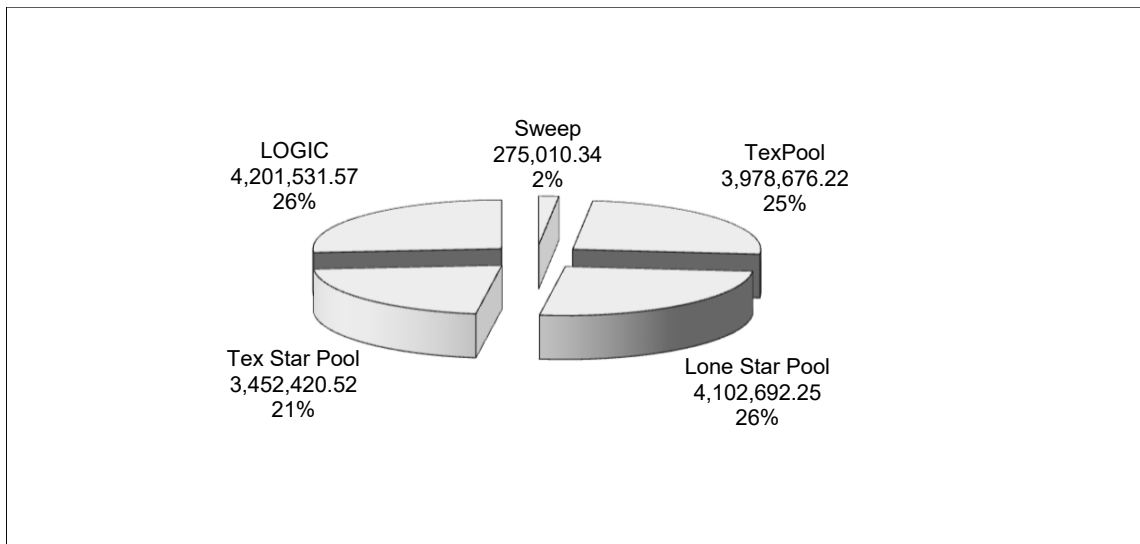
**CITY OF LAKE WORTH
CASH POSITION
As of September 30, 2018**

| | Checking Account | TexPool | Lone Star Pool | TexStar | LOGIC | Total |
|-----------------------------|---------------------|--------------|-------------------|--------------|--------------|---------------|
| General Fund | 60,866.01 | 2,364,413.72 | 2,387,159.86 | 2,365,181.73 | 2,487,200.24 | 9,664,821.56 |
| Park Fund | 13,277.55 | 173,881.30 | | | 184,863.29 | 372,022.14 |
| Child Safety Fund | 12,510.36 | | | | | 12,510.36 |
| Court Technology | 9,836.14 | | | | | 9,836.14 |
| Court Security Fund | 21,669.43 | | | | 48,247.66 | 69,917.09 |
| Confiscated Property Fund | | | | | | 0.00 |
| Street Maintenance | | 508,166.46 | 500,454.20 | 510,044.63 | 509,126.02 | 2,027,791.31 |
| Crime Control | 25,203.18 | 214,161.59 | 189,113.77 | 209,246.66 | | 637,725.20 |
| Economic Development | | | | | | 0.00 |
| PEG Fund | | | | | 74,809.78 | 74,809.78 |
| Water/Sewer Fund | 94,403.24 | 672,782.76 | 676,954.32 | | 626,819.48 | 2,070,959.80 |
| Debt Service | 7,522.01 | 45,270.39 | 44,887.42 | | | 97,679.82 |
| 2008 CO Series | | | | 48,172.87 | | 48,172.87 |
| Hotel/Motel Tax Fund | 29,722.42 | | 304,122.68 | 319,774.63 | 270,465.10 | 924,084.83 |
| Total All Cash & Invstments | 275,010.34 | 3,978,676.22 | 4,102,692.25 | 3,452,420.52 | 4,201,531.57 | 16,010,330.90 |

CITY OF LAKE WORTH INVESTMENT ACTIVITY *As of September 30, 2018*

The Public Funds Investment Act requires the Finance Officer to submit not less than quarterly a list of investments, their net asset value (NAV) and their weighted average maturity (WAM). Listed below are the City's investments, their respective NAV and WAM or collateral status.

| | |
|--|------------------------|
| Total Funds Held In Checking Accounts Subject To Overnight Sweep | \$275,010.34 |
| <i>(Funds covered by FDIC and Pledged Collateral by Bank of Texas)</i> | |
| Total Funds Held In TexPool | \$3,978,676.22 |
| <i>(NAV \$1.00 per share, 3,978,676 shares; WAM 1 day)</i> | |
| Total Funds Held In Lone Star Pool | \$4,102,692.25 |
| <i>(NAV \$1.00 per share, 4,102,692 shares; WAM 1 day)</i> | |
| Total Funds Held In TexStar Pool | \$3,452,420.52 |
| <i>(NAV \$1.00 per share, 3,452,421 shares; WAM 1 day)</i> | |
| Total Funds Held In LOGIC | \$4,201,531.57 |
| <i>(NAV \$1.00 per share, 4,201,532 shares; WAM 1 day)</i> | |
| Total All Funds | \$16,010,330.90 |



Prepared By: *Debbie Whitley*

Date: October 4, 2018

**CITY OF LAKE WORTH
EXPENDITURE REPORT
September 2018**

| CATEGORY | BUDGETED | CURRENT MONTH | YEAR TO DATE | UNEXPENDED BALANCE | % EXPENDED |
|----------------------------|----------------------|-------------------|----------------------|-----------------------|---------------|
| GENERAL FUND | | | | | |
| Mayor/Council | 20,035.00 | 916.11 | 16,919.42 | 3,115.58 | 84% |
| Administration | 2,752,803.00 | 34,047.37 | 1,220,947.90 | 1,531,855.10 | 44% |
| Admin-Finance | 353,624.00 | 26,466.24 | 339,383.20 | 14,240.80 | 96% |
| Admin-HR/Risk Mgmt | 153,402.00 | 7,617.96 | 146,243.22 | 7,158.78 | 95% |
| Admin-Multi-Purpose Center | 16,775.00 | 4,708.78 | 16,176.15 | 598.85 | 96% |
| Admin-Multi-LW Area Museum | 3,043.00 | 131.80 | 1,406.14 | 1,636.86 | 46% |
| Police | 2,467,970.00 | 174,650.50 | 2,286,940.12 | 181,029.88 | 93% |
| Fire | 2,842,632.00 | 138,802.96 | 2,751,392.45 | 91,239.55 | 97% |
| Street | 960,151.00 | 74,005.17 | 829,457.60 | 130,693.40 | 86% |
| Library | 251,435.00 | 19,936.67 | 239,679.86 | 11,755.14 | 95% |
| Parks | 469,253.00 | 45,991.72 | 409,291.02 | 59,961.98 | 87% |
| Maintenance Dept | 218,891.00 | 11,159.61 | 175,942.33 | 42,948.67 | 80% |
| Senior Citizens | 129,309.00 | 9,231.12 | 119,184.16 | 10,124.84 | 92% |
| Municipal Court | 235,059.00 | 17,127.29 | 224,404.77 | 10,654.23 | 95% |
| Animal Control | 227,683.00 | 21,084.43 | 118,284.12 | 109,398.88 | 52% |
| Emergency Management | 15,100.00 | 68.95 | 13,164.03 | 1,935.97 | 87% |
| Permits & Inspections | 291,521.00 | 19,081.52 | 247,943.69 | 43,577.31 | 85% |
| P & I - Planning & Zoning | 214,589.00 | 11,962.10 | 110,077.54 | 104,511.46 | 51% |
| P & I - Code Compliance | 20,300.00 | 61.87 | 8,610.02 | 11,689.98 | 42% |
| Information Technology | 576,747.00 | 25,776.86 | 499,104.22 | 77,642.78 | 87% |
| Economic Dev Activities | 3,278,037.00 | 182,085.00 | 959,064.77 | 2,318,972.23 | 29% |
| | | | | | |
| Total General Fund | 15,498,359.00 | 824,914.03 | 10,733,616.73 | 4,764,742.27 | 69% |

| | | | | | |
|--------------------------|---------------------|-------------------|---------------------|---------------------|------------|
| WATER/SEWER FUND | | | | | |
| Administration | 845,413.00 | 64,262.54 | 505,783.71 | 339,629.29 | 60% |
| Water Supply | 973,201.00 | 98,546.79 | 705,038.05 | 268,162.95 | 72% |
| Water Distribution | 516,500.00 | 22,916.39 | 438,808.09 | 77,691.91 | 85% |
| Sewer Department | 1,042,056.00 | 55,085.16 | 604,335.70 | 437,720.30 | 58% |
| | | | | | |
| Total Water/Sewer | 3,377,170.00 | 240,810.88 | 2,253,965.55 | 1,123,204.45 | 67% |

**CITY OF LAKE WORTH
REVENUE REPORT
September 2018**

(Numbers in UNRECEIVED BALANCE WITH (-) INDICATES REVENUE RECEIVED OVER BUDGETED AMOUNT)

| CATEGORY | BUDGETED | CURRENT MONTH | YEAR TO DATE | UNRECEIVED BALANCE | % RECEIVED |
|----------------------------|---------------|---------------|---------------|--------------------|------------|
| GENERAL FUND | | | | | |
| Property Taxes | 869,992.00 | 1,796.17 | 874,455.27 | -4,463.27 | 101% |
| Franchise Fees | 425,000.00 | 76,929.17 | 426,116.00 | -1,116.00 | 100% |
| Sales and Beverage Taxes | 6,825,000.00 | 705,382.88 | 6,416,073.16 | 408,926.84 | 94% |
| Fines and Warrants | 510,750.00 | 30,306.77 | 536,201.47 | -25,451.47 | 105% |
| License & Permits | 166,960.00 | 7,612.18 | 177,687.95 | -10,727.95 | 106% |
| Sanitation | 190,825.00 | 16,559.66 | 192,143.87 | -1,318.87 | 101% |
| Animal Control | 7,500.00 | 900.00 | 8,910.00 | -1,410.00 | 119% |
| Investment Income & Misc | 968,802.00 | 20,322.33 | 1,024,400.94 | -55,598.94 | 106% |
| Due From Other Funds | 177,843.00 | 46,057.25 | 177,940.25 | -97.25 | 100% |
| Use of Prior Year Reserves | 976,497.00 | | | 976,497.00 | 0% |
| Transfer In-Other Funds | 4,418,164.00 | | 4,418,164.00 | 0.00 | 0% |
| | | | | | |
| Total General Fund | 15,537,333.00 | 905,866.41 | 14,252,092.91 | 1,285,240.09 | 92% |

| | | | | | |
|---------------------------------|--------------|------------|--------------|------------|------|
| WATER/SEWER FUND | | | | | |
| Water Sales | 1,405,000.00 | 146,709.76 | 1,432,362.18 | -27,362.18 | 102% |
| Water Tap Fees | 1,000.00 | | 755.00 | 245.00 | 76% |
| Water Service Charge | 58,000.00 | 4,175.32 | 60,327.26 | -2,327.26 | 104% |
| Sewer Charges | 990,000.00 | 81,964.91 | 939,576.57 | 50,423.43 | 95% |
| Sewer Tap Fees | 3,000.00 | | 2,325.00 | 675.00 | 78% |
| Interest Income & Miscellaneous | 47,590.00 | 5,787.86 | 77,005.62 | -29,415.62 | 162% |
| Transfers In | 563,701.00 | 97,050.00 | 519,825.00 | 43,876.00 | 92% |
| Use of Prior Year Reserves | 185,879.00 | | | 185,879.00 | 0% |
| | | | | | |
| Total Water/Sewer Fund | 3,254,170.00 | 335,687.85 | 3,032,176.63 | 221,993.37 | 93% |

| | | | | | |
|----------------------------|--------------|------------|--------------|------------|------|
| DEBT SERVICE FUND | | | | | |
| Property Tax Revenue | 1,238,793.00 | 2,713.37 | 1,269,310.48 | -30,517.48 | 102% |
| Investment Income & Misc | 3,000.00 | 332.90 | 9,753.85 | -6,753.85 | 325% |
| Transfers In | 426,226.00 | 106,555.00 | 426,226.00 | 0.00 | 100% |
| Use of Prior Year Reserves | 12,500.00 | | | 12,500.00 | 0% |
| | | | | | |
| Total Debt Service | 1,680,519.00 | 109,601.27 | 1,705,290.33 | -24,771.33 | 101% |

**CITY OF LAKE WORTH
GF SALES TAX ANALYSIS
FOR SEPTEMBER 2018 REVENUE**

| | | Current % Incr or Decrease |
|-------------------------|--------------|----------------------------------|
| Current Month Receipts | 705,382.88 | |
| Same Month, Last Year | 705,383.26 | 0.000% |
| Same Month, 2 Years Ago | 705,836.49 | -0.064% |
| Current YTD Total | 6,881,387.27 | |
| YTD, Last Year | 6,912,926.93 | -0.456% |
| YTD, 2 Years Ago | 6,674,841.21 | 3.094% |

Current Year Budget is \$6,800,000

CITY OF LAKE WORTH
PARK FUND
As of September 30, 2018

REVENUE SOURCE:

| | |
|--------------------------------|------------------|
| UTILITY DONATIONS | 9,951.00 |
| DONATIONS - KIDS & TREES | 0.00 |
| DONATIONS - NAVAJO PARK | 0.00 |
| DONATIONS - RAYL PARK | 5,000.00 |
| DONATIONS - LAKE WORTH PARK | 0.00 |
| INVESTMENT INCOME | 5,622.33 |
| CONTRIBUTIONS FROM OTHER FUNDS | 25,000.00 |
| MISCELLANEOUS | 98.65 |
| Total Revenue | <u>45,671.98</u> |

EXPENDITURE CATEGORY:

| | |
|---------------------------------|------------------|
| MISCELLANEOUS | 970.85 |
| PARK MAINTENANCE | 5,398.17 |
| CHARBONNEAU PARK | 183.07 |
| LAKE WORTH PARK | 42,083.40 |
| NAVAJO PARK | 248.09 |
| GRAND LAKE PARK | 645.85 |
| REYNOLDS PARK | 0.00 |
| RAYL PARK | 1,390.38 |
| TELEPHONE ROAD PARK | 0.00 |
| DAKOTA PARK | 412.06 |
| EQUIPMENT PURCHASE/IMPROVEMENTS | 0.00 |
| Total Expenditure | <u>51,331.87</u> |

REVENUE OVER EXPENDITURES -5,659.89

| | |
|----------------------|-------------------|
| <u>CASH POSITION</u> | |
| CHECKING | 13,277.55 |
| INVESTMENTS | <u>358,744.59</u> |
| TOTAL CASH | 372,022.14 |

CITY OF LAKE WORTH
STREET MAINTENANCE
September 2018

Revenue

(Numbers in UNRECEIVED BALANCE WITH (-) INDICATES REVENUE RECEIVED OVER BUDGETED AMOUNT)

| CATEGORY | BUDGETED | CURRENT MONTH | YEAR TO DATE | UNRECEIVED BALANCE | % RECEIVED |
|------------------------|------------|------------------|-----------------|-----------------------|---------------|
| Sales Tax | 162,526.00 | | 162,525.99 | 0.01 | 100% |
| Interest & Misc Income | 24,673.00 | 3,568.77 | 33,012.81 | -8,339.81 | 134% |
| Use of Prior Yr Rsrvs | 295,579.00 | | | 295,579.00 | |
| Total Revenue | 482,778.00 | 3,568.77 | 195,538.80 | 287,239.20 | 41% |

Expenditures

| CATEGORY | BUDGETED | CURRENT MONTH | YEAR TO DATE | UNEXPENDED BALANCE | % EXPENDED |
|----------------------|------------|------------------|-----------------|-----------------------|---------------|
| Miscellaneous | | | | 0.00 | 0% |
| Barricades & Markers | 12,000.00 | | 4,863.90 | 7,136.10 | 41% |
| Street Projects | 329,778.00 | 1,534.20 | 176,985.00 | 152,793.00 | 54% |
| Concrete Replacement | 141,000.00 | 45,941.99 | 170,382.32 | -29,382.32 | 121% |
| Total Expenditures | 482,778.00 | 47,476.19 | 352,231.22 | 130,546.78 | 73% |

CITY OF LAKE WORTH
CCPD
September 2018

Revenue

(Numbers in UNRECEIVED BALANCE WITH (-) INDICATES REVENUE RECEIVED OVER BUDGETED AMOUNT)

| CATEGORY | BUDGETED | CURRENT MONTH | YEAR TO DATE | UNRECEIVED BALANCE | % RECEIVED |
|------------------------|--------------|------------------|-----------------|-----------------------|---------------|
| Sales Tax | 1,025,000.00 | 100,185.94 | 970,640.19 | 54,359.81 | 95% |
| SRO Reimbursement | 43,800.00 | 3,650.00 | 43,800.00 | 0.00 | 100% |
| Interest & Misc Income | 9,612.00 | 1,015.75 | 15,115.07 | -5,503.07 | 157% |
| Use of Prior Yr Rsrvs | 30,387.00 | | | 30,387.00 | |
| Total Revenue | 1,108,799.00 | 104,851.69 | 1,029,555.26 | 79,243.74 | 93% |

Expenditures

| CATEGORY | BUDGETED | CURRENT MONTH | YEAR TO DATE | UNEXPENDED BALANCE | % EXPENDED |
|--------------------|--------------|------------------|-----------------|-----------------------|---------------|
| Salaries | 709,561.00 | 52,693.23 | 648,799.04 | 60,761.96 | 91% |
| Supplies | 37,000.00 | 1,220.85 | 23,954.78 | 13,045.22 | 65% |
| Maintenance | 30,903.00 | 2,505.46 | 22,386.04 | 8,516.96 | 72% |
| Services | 76,388.00 | 1,104.28 | 58,185.66 | 18,202.34 | 76% |
| Equipment | 220,841.00 | 5,814.25 | 125,757.74 | 95,083.26 | 57% |
| Transfers Out | 73,604.00 | 18,401.00 | 73,604.00 | 0.00 | 100% |
| Total Expenditures | 1,148,297.00 | 81,739.07 | 952,687.26 | 195,609.74 | 83% |

Lake Worth City Council Meeting – October 9, 2018

Agenda Item No. B.3

From: Stacey Almond, City Manager

Item: Approve a contract with Tarrant County Emergency Services District No. One for fire service provided by the City of Lake Worth Fire Department to the District beginning October 1, 2018 through September 30, 2019.

Summary:

Lake Worth Fire Department will provide EMS/Fire protection services to all areas located within our designated county area. The services shall be provided in accordance with the attached contract.

Fiscal Impact:

The ESD No. 1 will provide Lake Worth the following annually:

1. \$88,200 for EMS and fire service
2. \$25,000 for equipment grant
 - a. Bunker gear and boots - \$17,220
 - b. EMS/Wildland boots - \$6,380
 - c. Thermal Imaging camera - \$1,400

Attachments:

1. Tarrant County Emergency Services District No. One Contract

Recommended Motion or Action:

Move to approve a contract with Tarrant County Emergency Services District No. One for fire service provided by the City of Lake Worth Fire Department to the District beginning October 1, 2018 through September 30, 2019.

THE STATE OF TEXAS §
§
§
§
COUNTY OF TARRANT §

City of Lake Worth, Texas
Fire Service
Equipment
Grant

The TARRANT COUNTY EMERGENCY SERVICES DISTRICT NO. ONE, acting by and through its Board of Emergency Commissioners, hereafter referred to as DISTRICT, and the CITY OF LAKE WORTH, TEXAS, hereafter referred to as CITY, enter into the following Agreement:

Section 1: Authority and Services

CITY has a volunteer fire department recognized by the Insurance Commission of the State of Texas or a full-time professional fire department, and is, by an order or resolution of its governing body, authorized to enter into this Agreement with DISTRICT for the use of the personnel and equipment of CITY for the purpose of providing fire protection to real and personal property located outside the boundaries of CITY and within such distance as the CITY may be reasonably expected to render service in case of emergency service needs. Said service area(s) is highlighted on the attached Exhibit "A." The equipment and personnel of the CITY shall be under the control and supervision of CITY employees during a fire or emergency medical response pursuant to this Agreement. In accordance with Section 418.109(d) of the Texas Government Code or Section 791.027 of the Texas Government Code, it is also understood and agreed that the existence of this Agreement does not prevent the CITY from providing mutual aid assistance on request from another municipality, county, emergency services district, fire protection agency, organized volunteer group or other emergency service entity, and shall not be obligated to respond, when in the sole judgment of the CITY, such response would leave insufficient protection for the CITY.

Section 2: Fire Services Provided

CITY and DISTRICT hereby agree that for and in consideration of the monies to be paid by DISTRICT to CITY, the CITY will provide, through its fire department, fire protection services to the area described. These services include fire protection, fire rescue and first response for emergency medical services. In the event that the CITY resources are unavailable at the time of the request for services, the CITY will take reasonable efforts to make the resources available as soon as reasonably possible.

Section 3: Fire Service Compensation

DISTRICT agrees to pay to CITY the total sum of EIGHTY-EIGHT THOUSAND TWO HUNDRED DOLLARS (\$88,200.00) during this contract year by making equal quarterly payments during the months of January 2019, April 2019, July 2019 and October 2019 for fire protection services in the service area outlined in Exhibit "A."

Section 4: Equipment

During the period of this Agreement the DISTRICT will provide an engine tanker truck and a brush truck for the CITY's use. Title to such trucks shall remain with the DISTRICT and the CITY shall return the trucks to the DISTRICT upon expiration or termination of this Agreement, ordinary wear and tear excepted. By housing the equipment, the CITY agrees to use the equipment for calls beyond its service area in the event that conditions warrant its use. The parties to this Agreement agree that the County Fire Marshal will have the discretion to make decisions governing its use. CITY agrees to provide manpower to operate the equipment. CITY agrees to provide routine maintenance for this truck, including, but not limited to, fuel, tires, oil, transmission fluid, and spark plugs. DISTRICT will provide insurance against damage to the truck and damage, if any, for liability for the use of the equipment. The equipment may not be used as a first responder (EMS) unless necessary, for example, other vehicles are already dispatched in emergency response. Additionally, the CITY will comply with the Tarrant County ESD Equipment Policy which is attached hereto as Exhibit "C" for the usage of the equipment.

Other than property described in the previous paragraph, DISTRICT is under no obligation with respect to providing firefighting equipment or ambulance vehicles or supplies, or any other expenses incidental to the carrying out of this Agreement, and will have no right, title or interest in and to vehicles and equipment belonging to or contracted for by CITY.

Section 5: Term

Regarding payment, this Agreement will be in full force and effect for and during the period beginning October 1, 2018 and ending September 30, 2019. Regarding response purposes, this Agreement will remain in force until the 2019-20 DISTRICT budget is approved by the Commissioners and a new Agreement is executed retroactive to October 1, 2019 under the same terms and conditions.

Section 6: Payment of Funds

The DISTRICT will use its general fund to pay for the services supplied by the CITY pursuant to this Agreement. Payment pursuant to this Agreement will be in accord with the Rules and Regulations promulgated by the Commissioners. Said payments will be made as funds are available to DISTRICT.

Section 7: Emergency Scene Control

Whenever CITY responds to a call outside its normal jurisdictional limits, it will operate under the Fire Code in effect within the CITY limits of such cities or fire department primarily responsible for service to the area being served by CITY. Any fire investigators or other personnel who respond from DISTRICT to a fire or emergency scene which is under the control of CITY will be governed by the Fire Code of the CITY within whose limits the CITY normally operates. CITY personnel agree to fully cooperate with DISTRICT personnel.

Section 8: Inspection of Equipment

The DISTRICT or its agent has the right to inspect the equipment of the CITY that the CITY operates in its performance under this Agreement. The parties acknowledge that the nature of the CITY's equipment determines the consideration paid under this Agreement. In the event that the inspection reveals that the equipment is not in operating condition and in compliance with the Insurance Services Office (ISO) requirements for a department of its size, the CITY will authorize a re-inspection by the DISTRICT within fifteen (15) days. In the event the equipment is not in operating condition or in compliance with the ISO requirements for a department of its size during the re-inspection, all payments by the DISTRICT to the CITY will cease until the problem is corrected as certified by the DISTRICT.

Section 9: Monthly Reporting Required

All monthly reports, fire or ambulance, shall be turned in to the Fire Marshal's office no later than fifteen (15) days after the end of the applicable month. The failure to timely file the monthly report shall excuse the DISTRICT from payment for that applicable month resulting in a reduction of one-third of the quarterly payment to the CITY for each applicable month.

Section 10: Workers' Compensation Coverage

The CITY shall maintain statutory workers' compensation coverage for its employees, officers and volunteers regarding the CITY's performance under this contract. The CITY recognizes that the DISTRICT has no responsibility to furnish this coverage and CITY waives any right to pursue the DISTRICT for liability regarding payments for this coverage or for liability regarding payments for claims filed against this coverage.

Section 11: Line of Duty

When an employee or volunteer of the responding CITY is performing duties under the terms of this Agreement, that person is considered to be acting in the line of duty for the CITY for the purposes of 42 U.S.C.A., Section 3796; is considered to be in performance of duties for the CITY within the applicable provisions of Chapter 615 of the Texas Government Code, and of Chapter 142, Texas Local Government Code; and shall be entitled to any other benefits which accrue under law as a result of injury, death or loss which occurs while in the line of duty for the CITY under this Agreement. This section does not increase the DISTRICT's liability under this Agreement.

Section 12: Assignment of Liability

The assisting party (CITY) shall be responsible for any civil liability or costs that may arise from the fire protection, fire rescue and first response for emergency medical services that the assisting party provides to the requesting party (DISTRICT) under this Agreement. The parties agree pursuant to Section 791.006 (a-1) of the Texas Government Code that assignment of liability provided by this Agreement is intended to be different than liability otherwise assigned under Section 791.006 (a) of the Texas Government Code, which provides that "the governmental unit that would have been

responsible for furnishing the services in the absence of the contract is responsible for any civil liability that arises from the furnishing of those services.” The parties also agree that pursuant to Section 775.0366 (e) of the Texas Health and Safety Code that assignment of liability provided by this Agreement is intended to be different than liability otherwise assigned under Section 775.0366 (d), which provides that the “district is responsible for any civil liability that arises from furnishing those services if the district would have been responsible for furnishing the services in the absence of the contract.” It is expressly understood and agreed, however, that in the execution of this Agreement, neither the CITY nor the DISTRICT waives, nor shall be deemed to waive, any immunity or defenses that would otherwise be available to it against claims arising in the exercise of governmental powers and functions, including the liability limits and immunities for a governmental unit provided by the Texas Tort Claims Act, Chapter 101, Civil Practice and Remedies Code, or other law.

Section 13: Implied Rights; Employees

By entering into this Agreement the parties do not intend to create any obligations expressed or implied other than those specifically set forth herein and this Agreement will not create rights in parties not signatories hereto. The employees of the CITY are not employees or agents of the DISTRICT by virtue of this Agreement. The employees of the DISTRICT are not employees or agents of the CITY by virtue of this Agreement.

Section 14: Conferring of Rights

This Agreement does not confer any rights on third parties who are not signatories to this Agreement, therefore no person may bring suit against CITY or DISTRICT regarding the performance of this Agreement as a third party beneficiary of this Agreement.

Section 15: Cancellation

DISTRICT and CITY retain the right to cancel without cause this Agreement on thirty (30) days written notice to the non-canceling party. In the event of cancellation, DISTRICT will pay a prorated share of the monies due for the remainder of that quarter only if the CITY provides services as required in the Agreement during the period of time leading up to the termination date. However, in the event that CITY exercises this right of cancellation, CITY must repay to DISTRICT all money paid CITY by DISTRICT for personal property, if any, purchased by the CITY with funds from the DISTRICT.

Section 16: Form 1295 Acknowledgement

CITY acknowledges that it is a governmental entity and not a business entity as those terms are defined in Section 2252.908 of the Texas Government Code, and therefore, no disclosure of interested parties pursuant to Section 2252.908 of the Texas Government Code is required.

Section 17: Grant from District

During the DISTRICT's 2019 fiscal year, the CITY may request reimbursement for expenses related to the item(s) listed in Exhibit "D". Reimbursement shall not exceed the amounts or quantities listed unless specifically authorized by the DISTRICT through an action of its Commissioners. Reimbursement requests must be received by the DISTRICT on or before June 30, 2019. If applicable, ambulance replacement reimbursements are due by August 31, 2019. Reimbursements will be considered based on proper documentation being submitted by the CITY including, but not limited to, an itemized invoice(s) and proof of payment(s) by the CITY.

WITNESS the signatures of the respective parties hereto this the _____ day of _____, _____.

**TARRANT COUNTY EMERGENCY
SERVICES DISTRICT NO. 1**

CITY OF LAKE WORTH, TEXAS

President

Authorized Official

ATTEST:

ATTEST:

Secretary/Treasurer

Secretary

Exhibit "D"

GRANT FROM DISTRICT

City of Lake Worth

(Items included in the categories below are based on the agency's itemized request and will be reimbursed in strict compliance with the agency's grant submission.)

| Grant Purpose | Amount |
|------------------------|---------------|
| Bunker gear and boots | \$17,220.00 |
| EMS/Wildland boots | \$6,380.00 |
| Thermal imaging camera | \$1,400.00 |



September 6, 2017
esn03911x8

199

ESN 39
LAKE WORTH FD
EAGLE MOUNTAIN EMS

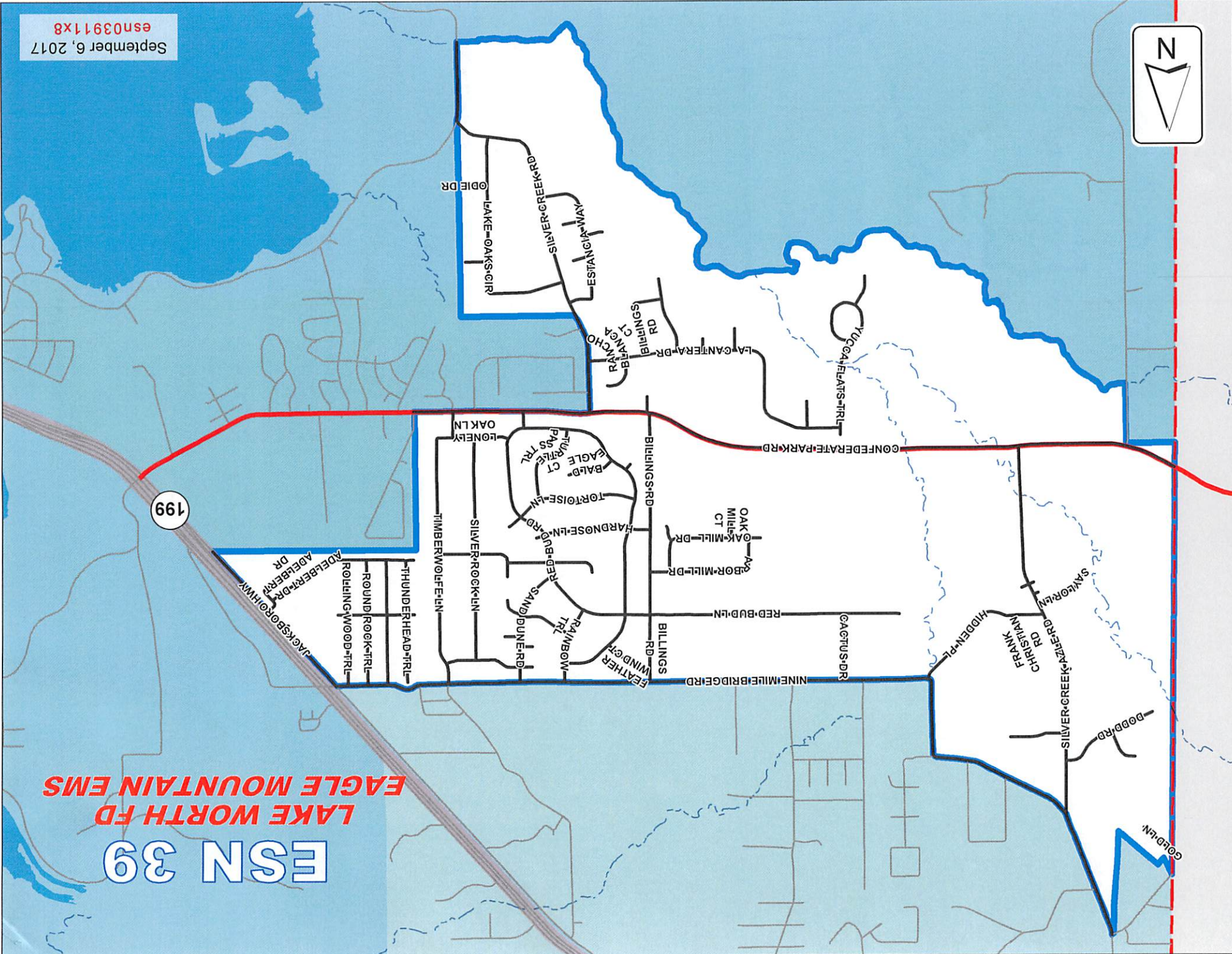


EXHIBIT "C"

TARRANT COUNTY EMERGENCY SERVICES DISTRICT NO. 1

EQUIPMENT POLICY

Table of Contents

| <u>Title</u> | <u>Policy Number</u> |
|---------------------------------------|----------------------|
| Mission Statement | 100.0 |
| Types of Calls Inside Tarrant County | 101.0 |
| Care and Maintenance | 102.0 |
| Training and Staffing | 103.0 |
| Types of Calls Outside Tarrant County | 104.0 |
| Inspections by the District | 105.0 |

Mission Statement

To provide emergency services to the residents of the unincorporated areas of Tarrant County by offering equipment for fire fighting and emergency medical purposes to the unincorporated areas of Tarrant County and providing available equipment to support and supplement existing equipment along with supervising the availability of this equipment for the citizens it serves.

Types of Calls the Apparatus Inside Tarrant County

1. Structure fires where no adequate water supply exists. (Tanker)
2. In support of the fire fighting units engaged in grass and brush fires.
3. In support of fire fighting units(s) engaged in such emergencies that require a large supply of water. (Tanker)
4. In support of fire fighting activities of Fire departments that contract with the Emergency Service District.
5. Other such calls, emergencies, or other activities as directed by the Tarrant County Fire Marshal's Office.
6. As assigned by the Fire Chief of the appointed departments which house the apparatus.

Care and Maintenance

1. Each individual fire department who contracts with the Emergency Service District to house and operate one of these units shall be responsible for normal day to day operation cost, and the regular maintenance of that particular unit. Day to day operating cost include: fuel, motor oil, lubricants, fan belts, water hoses, anti-freeze, air filters, transmission fluids, etc. Preventative maintenance includes scheduled oil and filter changes per manufacturer specifications, lubrications, tire rotations if needed, etc.
2. On all major repairs, each department will advise the Emergency Service District Board or the Tarrant County Fire Marshal's Office and coordinate these repairs with them. Top priority shall be given to keeping all units in service at all times.
3. All damages to the apparatus and the equipment assigned to it, either minor or major in nature, shall be reported to the Tarrant County Fire Marshal's Office who is assigned to oversee the operation of these units as soon as possible so that it can be repaired.
4. Anytime any unit is to be out of service whether for a mechanical reasons or otherwise, it shall be reported to the Tarrant County Fire Marshal's Office and also the Tarrant County Fire Alarm Center who will coordinate temporary coverage for that area that unit protects.
5. The Tarrant County Fire Marshal's Office shall coordinate warranty repair.
6. The department to which a Tanker is assigned is also responsible to see that the apparatus is not to leave the hard surface of the road.

Training and Staffing

1. Each individual department that is assigned one of the apparatus is responsible for training its personnel in the operations of the unit. This includes, but is not limited to, driving and all operations of the units.
2. When responding to emergency calls, it shall be up to the Fire Chief of the department the vehicle is assigned to, to oversee that the vehicle is adequately staffed for any particular assignment to which it is responding.
3. All drivers of the apparatus must at least possess a class "B" exempt driver's license.

Outside Unincorporated Usage

1. If, in the opinion of the Tarrant County Fire Marshal's Office, the utilization of this equipment outside of Tarrant County will serve a public purpose of the citizens of Tarrant County, Texas then the equipment may be used outside of Tarrant County, Texas in an area under the jurisdiction of a city or volunteer fire department.
2. On major incidents outside the boundaries of unincorporated Tarrant County, only one unit from the northern district and one unit from the southern district shall be permitted to leave the county. Priority shall always be with protecting the citizens of the unincorporated Tarrant County area.
3. Response to areas inside Tarrant County, but outside the responsible areas of the Emergency Services District, shall be coordinated through the Tarrant County Fire Alarm Center and also be limited only to those cities who contract with the District and can only be utilized for fire fighting purpose only. The Tarrant County Fire Alarm Center will then notify the Tarrant County Fire Marshal's Office when this occurs.

Inspection by the Emergency Services District

1. The Emergency Service District or its representatives shall be allowed to inspect each apparatus and the equipment assigned to it at any reasonable time to assure that the apparatus is being maintained, adequately equipped, and is available for emergency calls.
2. Apparatus that is not being maintained or equipped, and therefore unavailable for calls, can and shall be reassigned to another department if the Emergency Service District decided that such a reassignment would better serve the district and its citizens.

Lake Worth City Council Meeting – October 9, 2018

Agenda Item No. C.1

From: Suzanne Meason, Planning & Zoning Administrator

Item: Public Hearing to consider Planning & Zoning Case No. PZ-2018-17, a proposed replat being all of a 0.628-acre parcel of land known as Block 13, Lot(s) 8, 9, and 10, Indian Oaks Subdivision of the records of Tarrant County, Texas. The proposed replat's new legal description will be Block 13, Lot(s) 8-R, and 10-R, Indian Oaks Subdivision, which is generally described as 3132 Huron Trail (Lot 8-R) and 3128 Huron Trail (Lot 10-R), Lake Worth, Texas. **(THE PLANNING & ZONING COMMISSION RECOMMENDED APPROVAL BY A VOTE OF 6-0).**

Property Description:

0.0628-acre parcel(s) of land, located at 3132 & 3128 Huron Trail

Property Owner(s):

Jo & Harry Peterson, 3128 Huron Trail, Lake Worth, Texas 76135

Jim McNally, 1640 Palisades Drive, Carrollton, Texas 75007

Applicant:

Jo & Harry Peterson, 3128 Huron Trail, Lake Worth, Texas 76135

Jim McNally, 1640 Palisades Drive, Carrollton, Texas 75007

Engineer/Surveyor:

Rick DeFalco – Surveyor, 201 Carolyn Drive, Hurst, Texas 76054

Current Zoning:

"SF1" – Single Family Residential

Current Use(s):

Single Family Residences

Existing Road(s):

Huron Trail

Surrounding Zoning:

North: The property to the north is currently zoned SF1-Single Family Residential.

South: The property to the north is currently zoned SF1-Single Family Residential.

East: The property to the north is currently zoned SF1-Single Family Residential.

West: The property to the north is currently zoned SF1-Single Family Residential.

Agenda Item No. C.1

Summary:

Mr. & Mrs. Peterson owners of the property at 3128 Huron Trail wished to add on to their existing home. When they applied for the building permit, it was discovered that their lot was never properly subdivided from their neighbors' lot and that the current structure was straddling lot(s) 9 and 10 as well. The Petersons hired a surveyor to prepare a replat document for them and their neighbor, Mr. McNally so that the lots could be properly subdivided and remove the issue with the non-conforming structure so that they could add on. Staff has reviewed the document and find it to comply with state and local requirements. The replat document was heard by the Planning and Zoning Commission on September 18, 2018 and recommended approval to the City Council by a vote of 6-0.

Public Input:

On Wednesday, September 5, 2018 as required by State law, the City mailed out twenty-one (21) letters of Notification for a Public Hearing to all property owners within two hundred (200') feet of the subject site. Notice was also published in the City's paper of record, the Fort Worth Star Telegram on Saturday, September 1, 2018. We have received the following in favor/opposition to the request:

1. FOR – one (1) comment forms received. See attached.
2. AGAINST – no comment forms received.

Fiscal Impact:

N/A

Attachments:

1. Subdivision Application/30 Day Waiver of Action Form
2. Replat Document
3. Public Hearing Notice
4. Public Hearing Notifications (within 200' of subject property)
5. Vicinity Map
6. Public Comment Forms Received

Recommended Motion or Action:

Staff's recommends approval of Agenda Item C.1 as presented.



BUILDING DEVELOPMENT SERVICES
PLANNING & ZONING DIVISION
3805 ADAM GRUBB, LAKE WORTH, TEXAS 76135
817-255-7922 OR SMEASON@LAKEWORTHTX.ORG

FOR OFFICE USE ONLY
Case No: PZ-2018-17
Date Submitted: 8.8.18

APPLICATION FOR SUBDIVISION PLAT APPROVAL

(CHECK ALL THAT APPLY)

☐ PRELIMINARY PLAT ☐ FINAL PLAT ☒ REPLAT ☐ AMENDING/CORRECTION PLAT

PROPOSED SUBDIVISION NAME Lots 8-R and 10-R, Indian Oaks Subdivision
CURRENT ZONING CLASSIFICATION Single Family Residential
CURRENT LEGAL DESCRIPTION Lots 8, 9, and 10, Indian Oaks Subdivision
TOTAL ACRES 0.628 # OF LOTS 2 PROPOSED USE Single Family Residential

APPLICANT/DEVELOPER INFORMATION

NAME Jo Ann Peterson
ADDRESS 3128 Huron Trail CITY Lake Worth
STATE TX ZIP 76135 EMAIL Jopeterson88@yahoo.com
PHONE 817-441-0271 FAX _____

PROPERTY OWNER INFORMATION

NAME Jo Ann Peterson
ADDRESS 3128 Huron Trail CITY Lake Worth
STATE Texas ZIP 76135 EMAIL Jopeterson88@yahoo.com
PHONE 817-441-0271 FAX _____

SURVEYOR/ARCHITECT/ENGINEER INFORMATION

NAME Rick DeFalco R.P.L.S., P.E.
ADDRESS 201 Carolyn Drive CITY Hurst
STATE Hurst, TX ZIP 76054 EMAIL rickdefalco@sbcglobal.net
PHONE 817-913-1636 FAX 817-428-0155

I hereby certify that I am the owner of the property described above and further certify that the information provided on this development application is true and correct. I further understand that the public hearing for this project will not be scheduled until the application fee(s) have been paid and the plans have been reviewed and accepted by City staff. IF APPLICATION IS SIGNED BY SOMEONE OTHER THAN THE OWNER, THEN AN OWNER AUTHORIZATION FORM MUST BE COMPLETED AND TURNED IN WITH APPLICATION.

Jo Peterson
SIGNATURE OF OWNER, AGENT, OR APPLICANT

7-28-18
DATE

GENERAL INFORMATION

A plat is intended to serve as the official recorded map of the property to be developed, showing thereon the boundaries, lots, public streets and easements and other significant public facilities and features which are necessary to serve the development. All plats shall conform to the Lake Worth Subdivision and Development Ordinance and Design Criteria and Construction Standards.

Owner signature: The plat application is required to be signed by the **current property owner**. If the property owner is not available to sign the application, then an owner authorization form (City provided) from the property owner is required to be submitted which empowers a designee to sign for the property owner.

Waiver from Section 212.009: The Texas Local Government Code requires that the municipal authority responsible for approving plats must take action on a plat within thirty (30) days of the plat application being accepted. A plat is considered approved by the municipal authority unless it is disapproved within that period. Because thirty (30) days is generally not enough time for a plat to be processed by City Staff and forwarded to the Planning and Zoning Commission and City Council for approval, a waiver of action form must be signed. **If the waiver of action form is not signed and submitted, then it is likely that the plat will be forwarded to the Planning and Zoning Commission with a staff recommendation of denial within thirty (30) days of the application being accepted. The waiver must be signed by the property owner or by the property owner's designee as noted on the owner authorization form.**

Acceptance of plat application: All plat applications will be reviewed for completeness in accordance with this checklist before they are accepted by City Staff. Failure of applicant to provide the required information constitutes grounds for refusal of plat acceptance for processing; or staff recommendation of denial when application is scheduled for consideration.

SUBMITTAL CHECKLIST

The following items must be turned in for the subdivision plat application to be accepted and processed by this department:

- ____ SUBDIVISION PLAT APPLICATION
- ____ OWNER AUTHORIZATION FORM (IF APPLICABLE)
- ____ SIGNED WAIVER OF 30 DAY ACTION FORM
- ____ APPLICATION FEE (VERIFY WITH P&Z ADMINISTRATOR)
- ____ FOUR (4) HARD COPIES OF SUBDIVISION PLAT DOCUMENT (SIZE 24 x 36 FOLDED INTO 8½ x 11)
- ____ ELECTRONIC VERSION (.pdf) OF THE SUBDIVISION PLAT DOCUMENT EMAILED TO SMEASON@LAKEWORTHTX.ORG
- ____ FOUR (4) HARD COPIES OF CIVIL CONSTRUCTION PLANS (IF APPLICABLE)

OFFICE USE ONLY

Fee: 370.00
Date Paid: 8-8-18
Receipt #: P18-0653

Ownership Verified:
☒ YES ☐ NO

Taxes Paid:
☒ YES ☐ NO

Liens Paid:
☒ YES ☐ NO

Public Hearing Newspaper Notice Deadline Date: 9-1-18
Public Hearing 200' Notification Deadline Date: 9-8-18
P&Z Commission Meeting Date: 9-18-18
City Council Meeting Date: 10-9-18

Plat Approval Date: _____
Plat File Date: _____
Instrument #: _____



BUILDING DEVELOPMENT SERVICES
PLANNING & ZONING DIVISION
3805 ADAM GRUBB, LAKE WORTH, TEXAS 76135
817-255-7922 OR SMEASON@LAKEWORTHTX.ORG

FOR OFFICE USE ONLY
Case No: PZ-2018-17
Date Submitted: 8.8.18

APPLICATION FOR SUBDIVISION PLAT APPROVAL

(CHECK ALL THAT APPLY)

☐ PRELIMINARY PLAT ☐ FINAL PLAT ☒ REPLAT ☐ AMENDING / CORRECTION PLAT

PROPOSED SUBDIVISION NAME Lots 8-R and 10-R, Indian Oaks Subdivision

CURRENT ZONING CLASSIFICATION Single Family Residential

CURRENT LEGAL DESCRIPTION Block 13, Lots 8A and 9B, Indian Oaks Subdivision

TOTAL ACRES 0.222 # OF LOTS 1 PROPOSED USE Single Family Residential

APPLICANT/DEVELOPER INFORMATION

NAME Jim McNally

ADDRESS 1640 Palisades Drive CITY Carrollton

STATE TX ZIP 75007 EMAIL jm-nicholsonmetal@sbcglobal.net

PHONE 214-995-6546 FAX _____

PROPERTY OWNER INFORMATION

NAME Jim McNally

ADDRESS 1640 Palisades Drive CITY Carrollton

STATE TX ZIP 75007 EMAIL jm-nicholsonmetal@sbcglobal.net

PHONE 214-995-6546 FAX _____

SURVEYOR/ARCHITECT/ENGINEER INFORMATION

NAME Rick DeFalco

ADDRESS 201 Carolyn Drive CITY Hurst

STATE TX ZIP 76054 EMAIL rickdefalco@sbcglobal.net

PHONE 817-913-1636 FAX 817-428-0155

I hereby certify that I am the owner of the property described above and further certify that the information provided on this development application is true and correct. I further understand that the public hearing for this project will not be scheduled until the application fee(s) have been paid and the plans have been reviewed and accepted by City staff. IF APPLICATION IS SIGNED BY SOMEONE OTHER THAN THE OWNER, THEN AN OWNER AUTHORIZATION FORM MUST BE COMPLETED AND TURNED IN WITH APPLICATION.

Jim McNally
SIGNATURE OF OWNER, AGENT, OR APPLICANT

8/7/18
DATE



BUILDING DEVELOPMENT SERVICES
PLANNING & ZONING DIVISION
3805 ADAM GRUBB, LAKE WORTH, TEXAS 76135
817-255-7922 OR SMEASON@LAKEWORTHTX.ORG

FOR OFFICE USE ONLY
Case No: PZ-2018-17
Date Submitted: 8.8.18
Accepted By: Smeason

WAIVER OF 30 DAY ACTION REQUIREMENT FOR PLATTING

(CHECK ONE)

☐ PRELIMINARY PLAT ☐ FINAL PLAT ☒ REPLAT ☐ AMENDING/CORRECTION PLAT

PROPOSED SUBDIVISION NAME Lots 8-R and 10-R, Indian Oaks Subdivision

CURRENT LEGAL DESCRIPTION Lots 8, 9, and 10, Indian Oaks Subdivision

TOTAL ACRES 0.628 # OF LOTS 2 PROPOSED USE Single Family Residential

PROPERTY OWNER INFORMATION

NAME Jo Ann Peterson
ADDRESS 3128 Huron Trail CITY Lake Worth
STATE TX ZIP 76135 EMAIL jopeterson88@yahoo.com
PHONE 817-298-7452 FAX 817-441-0271

I hereby affirm that I am the owner or an authorized representative of the owner of the property described above which is being submitted for the platting process and I hereby waive my right to have action taken on my plat within the thirty (30) day period as required by section 212.009 of Texas Local Government Code.

IF APPLICATION IS SIGNED BY SOMEONE OTHER THAN THE OWNER, THEN AN OWNER AUTHORIZATION FORM MUST BE COMPLETED AND TURNED IN WITH APPLICATION.

Jo Peterson
SIGNATURE OF OWNER, AGENT, OR APPLICANT

7-28-18
DATE



BUILDING DEVELOPMENT SERVICES
PLANNING & ZONING DIVISION
3805 ADAMGRUBB, LAKE WORTH, TEXAS 76135
817-255-7922 OR SMEASON@LAKEWORTH.TX.ORG

FOR OFFICE USE ONLY
Case No: PZ-2018-17
Date Submitted: 8.8.18
Accepted By: Smeason

WAIVER OF 30DAY ACTION REQUIREMENT FOR PLATTING

(CHECK ONE)

☐ PRELIMINARY PLAT ☐ FINAL PLAT ☒ REPLAT ☐ AMENDING/CORRECTION PLAT

PROPOSED SUBDIVISION NAME Lots 8-R and 10-R, Block 13, Indian Oaks Subdivision

CURRENT LEGAL DESCRIPTION Lots 8A and 9B, Block 13, Indian Oaks Subdivision

TOTAL ACRES 0.222 # OF LOTS 1 PROPOSED USE Single Family Residential

PROPERTY OWNER INFORMATION

NAME Jim McNally

ADDRESS 1640 Pallisades Drive

CITY Carrollton

STATE TX

ZIP 75007

EMAIL jm-nicholsonmetal@sbcglobal.net

PHONE 214-995-6540

FAX _____

I hereby affirm that I am the owner or an authorized representative of the owner of the property described above which is being submitted for the platting process and I hereby waive my right to have action taken on my plat within the thirty (30) day period as required by section 212.009 of Texas Local Government Code.

IF APPLICATION IS SIGNED BY SOMEONE OTHER THAN THE OWNER, THEN AN OWNER AUTHORIZATION FORM MUST BE COMPLETED AND TURNED IN WITH APPLICATION.

Jim McNally
SIGNATURE OF OWNER, AGENT, OR APPLICANT

8/7/18
DATE

STATE OF TEXAS
OWNER'S ACKNOWLEDGEMENT AND DEDICATION
COUNTY OF TARRANT

We, the undersigned, owners of the land shown on this plat within the area described by metes and bounds as follows:

A 0.628 acre tract located on Huron Trail, Lake Worth, Tarant County, Texas, owned by Jo Peterson and Harry Peterson, as recorded in document D208121337, and by Jim McNally, recorded in document D208147257, Deed Records of Tarrant County, Texas, being all of Lots 8 and 9 and 10, Block 13, of "Indian Oaks Subdivision", as reorded in Volume 204-A, Page 177, Plat Records of Tarrant County, Texas, and being more particularly described by metes and bounds as follows:

Beginning at a Point, said point being a 1/2" IR (fnd) for the NW corner of this tract and the NW corner of aforesaid Lot 8, being the SW corner of land of Francisco Mercado, Lot 7, Blk 13 of said "Indian Oaks Subdivision", and being in the East line of Huron Trail, a 50' r.o.w.;

Thence S 89°58'28" E, by the South line of aforesaid Lot 7, Blk 13, a distance of 181.26' to a 2" metal post (fnd);

Thence S 00°15'47" E, by the West line of land of Jerry Nettles, Lots 33 & 34, Blk 13, "Indian Oaks Subdivision", a distance of 41.92' to a 5/8" IR (fnd);

Thence S 00°23'41" E, by the West line of land of said Jerry Nettles, by the West line of land of Diane Houston, Lot 32, Blk 13, "Indian Oaks Subdivision" and by the West line of land of Felipe Valles Est., Lots 30 & 31, Blk 13, "Indian Oaks Subdivision", a distance of 109.17' to a point from which a 2" metal post (fnd) bears N 89° 37' 54" W 2.62';

Thence N 89°37'54" W, by the North line of land of David Young, Lots 11 & 12, Blk 13, "Indian Oaks Subdivision", a distance of 182.21' to a point in the East line of Huron Trail, from which a 2" metal post (fnd) bears N 89° 37' 54" W 2.62';

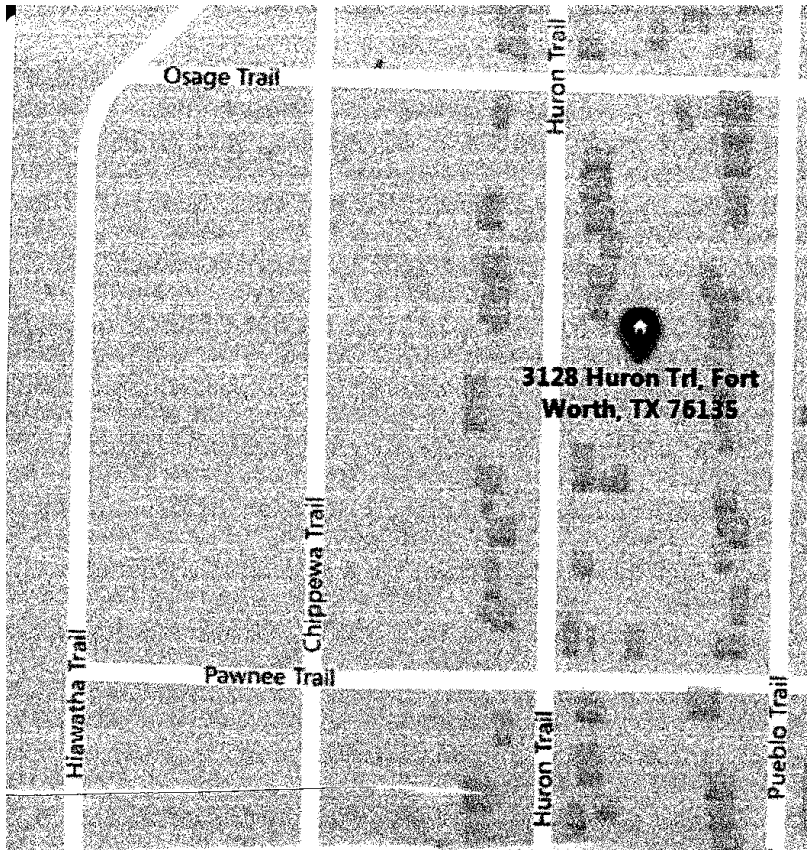
Thence N 00°00'00" E, by the East line of Huron Trail, at 86.00' passing a 5/8" IR (fnd) and continuing for a total distance of 150.00' to the 1/2" IR at the Point of Beginning, said parcel being 27353.98 SqFt or 0.628 acres.

and designated herein as Lots 8 - R and 10 - R, Block 13, "Indian Oaks Subdivision", and whose names are suscribed hereto, hereby dedicate to the public forever all streets, alleys, rights-of-way, parks, school sites, and any other public areas shown on the Plat.

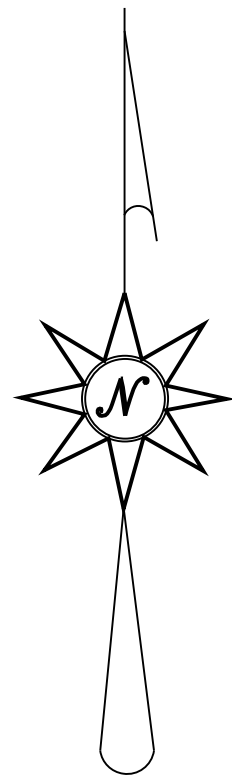
OWNERS: Jim McNally (Lot 8-R) _____
Jo Peterson (Lot 10-R) _____
Harry Peterson (Lot 10-R) _____

APPROVED BY THE CITY COUNCIL OF LAKE WORTH, TEXAS,
ON THIS _____ DAY OF _____, 2018
ATTEST:

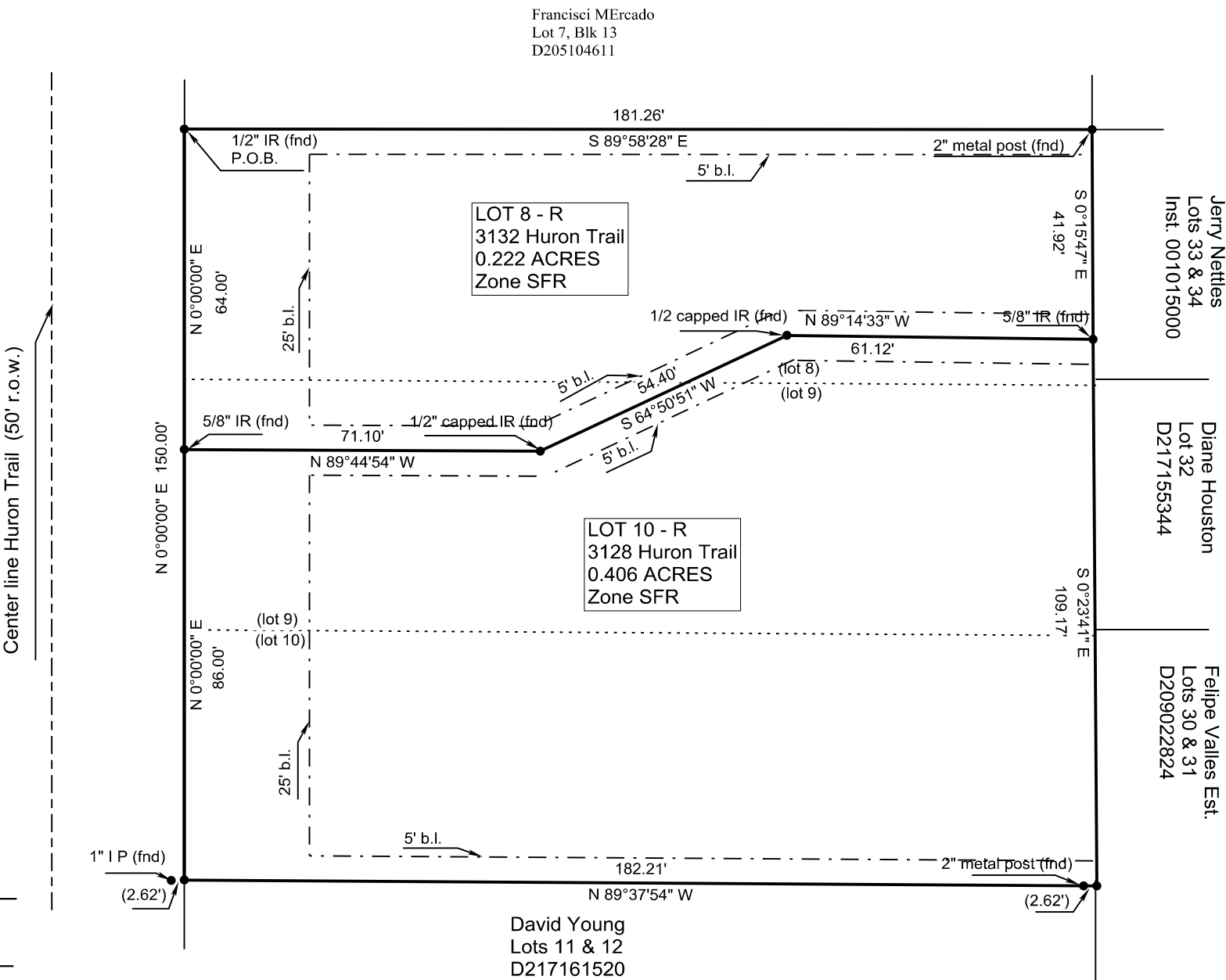
MAYOR CITY SECRETARY



Vicinity map
(not to scale)



SCALE: 1" = 30'
0 30'



STATE OF TEXAS
COUNTY OF TARRANT
Before me, the undersigned authority, a Notary Public in and for said County and State on this date personally appeared Jim McNally, Owner, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purpose and considerations therein expressed.

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

Notary Public in and for the State of Texas

STATE OF TEXAS
COUNTY OF TARRANT

Before me, the undersigned authority, a Notary Public in and for said County and State on this date personally appeared Jo Peterson, Owner, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same for the purpose and considerations therein expressed.

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

Notary Public in and for the State of Texas

STATE OF TEXAS
COUNTY OF TARRANT

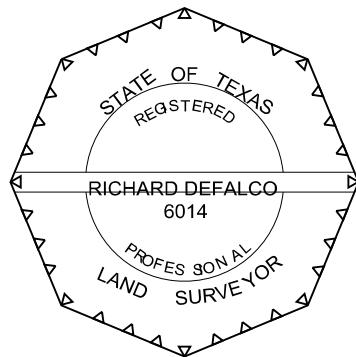
Before me, the undersigned authority, a Notary Public in and for said County and State on this date personally appeared Harry Peterson, Owner, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purpose and considerations therein expressed.

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

Notary Public in and for the State of Texas

I, Richard DeFalco, do certify that I prepared this plat from an actual and accurate survey of the land, and that the corner monuments shown thereon were properly placed under my supervision.

07/18/ 2018



R. F. DeFalco

Rick DeFalco - Surveyor
201 Carolyn Drive
Hurst, TX 76054
817-428-0155
Date: 07/27/2018
Updated: 08/28/2018

This Plat filed:
Instrument No. _____
Date: _____

OWNERS:
Harry Peterson
Jo Peterson
3128 Huron Trail
Lake Worth, TX
817-441-0271
Jim McNally
1640 Palisades Drive
Carrollton, TX. 75007
214-995-6540

REPLAT

Lots 8 - R and 10- R , Block 13, a 0.628 acre tract in Indian Oaks Subdivision, being a REPLAT of Lots 8 and 9 and 10, Indian Oaks Subdivision, recorded in Volume 204-A, Page 177, Plat Records of Tarrant County, Texas.

**CITY OF LAKE WORTH
NOTICE OF PUBLIC HEARING
PLANNING AND ZONING COMMISSION
AND CITY COUNCIL**

**REPLAT REQUEST
PLANNING & ZONING CASE #PZ-2018-17**

You may own property within two hundred feet (200') of the property described in the notice below. The owner of the lot or lot(s) has made application for a replat. Attached you will find a copy of the requested replat for the location. You are invited to attend and participate in the following public hearings regarding this application:

The Planning and Zoning Commission of the City of Lake Worth, Texas, will conduct the first of two public hearings at **6:30 p.m. on Tuesday, September 18, 2018**, at the Lake Worth City Council Chambers, 3805 Adam Grubb, Lake Worth, Texas 76135 to hear public comment and consider recommendations to the City Council regarding a proposed replat being all of a 0.628-acre parcel of land known as Block 13, Lot(s) 8, 9, and 10, Indian Oaks Subdivision of the records of Tarrant County, Texas. The proposed replat's new legal description will be Block 13, Lot(s) 8-R and 10-R, Indian Oaks Subdivision, which is generally described as 3132 Huron Trail (Lot 8-R) and 3128 Huron Trail (Lot 10-R), Lake Worth, Texas. The City Council will conduct a second Public Hearing at **6:30 p.m. on Tuesday, October 9, 2018**, at Lake Worth City Council Chambers, 3805 Adam Grubb, Lake Worth, Texas 76135 to hear public comment and consider. All interested parties are encouraged to attend.

Platting is a ministerial duty of the municipality. Platting is not a zoning change request and does not involve any properties except for the one(s) specifically called out on the plat document. Any property owner located within two hundred feet (200') of the property making application is required to be notified of the property owner's intent.

Please contact the Planning & Zoning Administrator at 817-255-7922 or smeason@lakeworthtx.org with any questions or concerns.

Jo & Harry Peterson
3128 Huron Trail
Lake Worth, Texas 76135

Melanie S & Corey Woolard
3200 Huron Trail
Lake Worth, Texas 76135

Nicholas Salazar
1932 N Fork Road
Saginaw, Texas 76179

Jim McNally
1640 Palisades Drive
Carrollton, Texas 75007

Francisco Mercado
3136 Huron Trail
Lake Worth, Texas 76135

Steve C & Sharon A Branon
3125 Pueblo Trail
Lake Worth, Texas 76135

David F Young
PO Box 137557
Lake Worth, Texas 76136

Diane Houston
3133 Pueblo Trail
Lake Worth, Texas 76135

Deirdre Kay Pope Estate
3125 Huron Trail
Lake Worth, Texas 76135

Jerry Nettles
3201 Pueblo Trail
Lake Worth, Texas 76135

Raymond Pettis Jr. & Shirley Pettis
PO Box 136702
Lake Worth, Texas 76136

Agnes R Own
3209 Pueblo Trail
Lake Worth, Texas 76135

Billy W Scheets
3201 Huron Trail
Lake Worth, Texas 76135

Eugenio Canales
7509 Osage Trail
Lake Worth, Texas 76135

Joel Esparza & Brenda M Mauricio
3209 Huron Trail
Lake Worth, Texas 76135

Ronald Roy Gouyton
3212 Huron Trail
Lake Worth, Texas 76135

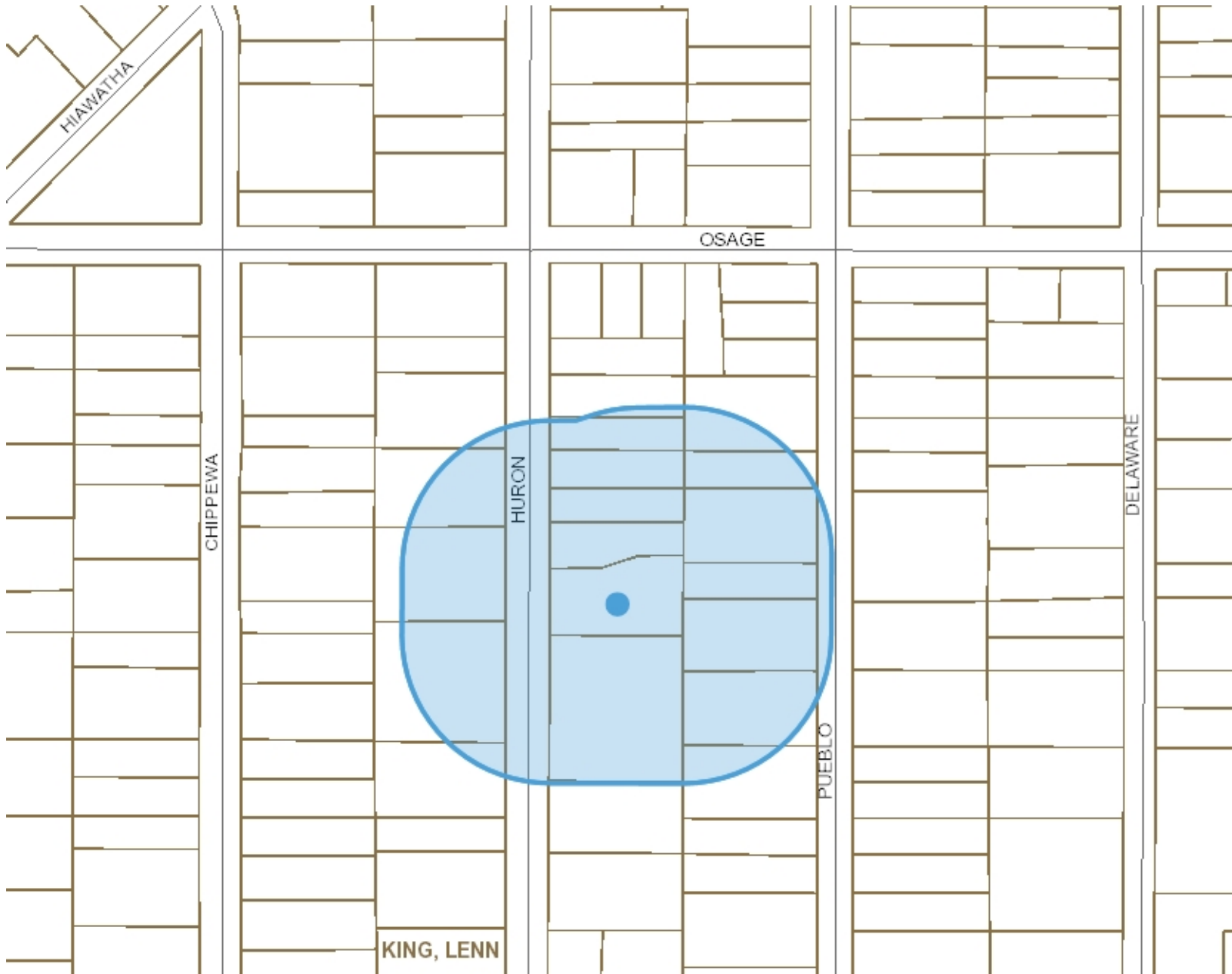
Diane Teague
3117 Huron Trail
Lake Worth, Texas 76135

Simon/Santos Najera
3208 Huron Trail
Lake Worth, Texas 76135

Blanca Estella Valles
3129 Pueblo Trail
Lake Worth, Texas 76135

Vested Asset 12 LLC
PO Box 163643
Fort Worth, Texas 76161

Luis & Maria Rodriguez
4005 Lakewood Drive
Lake Worth, Texas 76135



Legend

- Parcels
- Lots
- Arterials
- Freeways
- Streets
- Tarrant County Streets
- Parks
- Lakes
- City Limit
- Extraterritorial Jurisdiction (ETJ)



9/4/18 2:15 PM

0.1 0 0.04 0.1 Miles

This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. The City of Fort Worth assumes no responsibility for the accuracy of said data.

NCTCOG ORTHOPHOTOGRAPHY

1: 2,392



**CITY OF LAKE WORTH
PUBLIC COMMENT FORM**
(Please type or use black ink)

Planning & Zoning Department at 3805 Adam Grubb, Lake Worth, Texas 76135




I am **FOR** the proposed zoning case as explained on the attached public notice for Zoning Case #PZ-2018-17 (Peterson/McNally Replat – 3128 & 3132 Huron Trail).



I am **AGAINST** the proposed zoning case as explained on the attached public notice for Zoning #PZ-2018-17 (Peterson/McNally Replat – 3128 & 3132 Huron Trail).

Property Owner Name: JEAN McNALLY
(Please print)

Mailing Address: 1410 PALMSADES
CARROLLTON, TX 75007

Signature: 

Date: 9/10/18

Property Address(s): 3132 HURON TRAIL

COMMENTS:

PLEASE TURN IN PUBLIC COMMENT FORM NO LATER THAN
THURSDAY, SEPTEMBER 13, 2018 @ NOON TO BE INCLUDED IN THE AGENDA PACKET

For Office Use Only

Legal Description: BLK 13, Lots 8 & 9, Indian Oaks Subdivision

Received By: S Meason Date: 9.12.18

Lake Worth City Council Meeting – October 9, 2018

Agenda Item No. D.1

FROM: Suzanne Meason, Planning & Zoning Administrator

ITEM: Discuss and consider Resolution No. 2018-31, appointing members to the Board of Adjustment Places 2 and Planning and Zoning Commission, Places 2, 4 and 6.

SUMMARY:

Each year the Council appoints members of the public, which have resided in the city for the minimum residency requirement to serve on the Board of Adjustment (BOA) and the Planning & Zoning Commission (P&Z).

The terms of office for the board members serving in Places 2, 4, and Alternate 6 on the Board of Adjustment and Places 2, 4, and 6 of the Planning & Zoning Commission expired on October 1, 2018. The term of office is a two-year term.

The following have submitted application for consideration of re-appointment:

BOARD OF ADJUSTMENT

| <u>Reappointments for consideration:</u> | | <u>Term expires</u> |
|--|---|---------------------|
| Place 2 | Tana Wharton (currently held by same) | Oct. 1, 2020 |
| Place 4 | No applications (currently held by Darla Scroggins) | Oct. 1, 2020 |
| Alternate Place 6 | No applications (currently vacant) | Oct. 1, 2020 |

PLANNING & ZONING COMMISSION

| <u>Reappointments for consideration:</u> | | <u>Term expires</u> |
|--|---|---------------------|
| Place 2 | Sherrie Kubala-Watkins (currently held by same) | Oct. 1, 2020 |
| Place 4 | Patty Biggers (currently held by same) | Oct. 1, 2020 |
| Place 6 | Diane Smith (currently held by same) | Oct. 1, 2020 |

FISCAL IMPACT:

N/A

ATTACHMENTS:

1. Resolution No. 2018-31
2. Board/Commission Application(s)

RECOMMENDED MOTION OR ACTION:

Move to approve Resolution No. 2018-31, reappointing Tana Wharton to Place 2 of the Board of Adjustment and reappointing Sherrie Kubala-Watkins to Place 2, Patty Biggers to Place 4 and Diane Smith to Place 6 of the Planning & Zoning Commission with terms expiring October 1, 2020.

RESOLUTION NO. 2018-31

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAKE WORTH; APPOINTING MEMBERS TO THE BOARD OF ADJUSTMENT AND PLANNING AND ZONING COMMISSION; ESTABLISHING TERMS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, City Council appoints members of the public to serve on various boards, commissions, and committees; and

WHEREAS, appointed members serve a two-year term, unless appointed to fulfill an unexpired term; and

WHEREAS, annual appointment terms consist of Places 1, 3, 5, and 7 being appointed in odd-numbered years and Places 2, 4, and 6 appointments in even-numbered years; and

WHEREAS, each member serves until their successor has been duly appointed and qualified; and

WHEREAS, the applications for appointment have been submitted for consideration by the City Council.

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

SECTION 1. The following members have been submitted for nomination and approved by a majority of the City Council.

Board of Adjustment

| | | |
|--------------|---------|-------------------------------|
| Tana Wharton | Place 2 | Term expiring October 1, 2020 |
|--------------|---------|-------------------------------|

Planning & Zoning Commission

| | | |
|------------------------|---------|-------------------------------|
| Sherrie Kubala-Watkins | Place 2 | Term expiring October 1, 2020 |
|------------------------|---------|-------------------------------|

| | | |
|---------------|---------|-------------------------------|
| Patty Biggers | Place 4 | Term expiring October 1, 2020 |
|---------------|---------|-------------------------------|

| | | |
|-------------|---------|-------------------------------|
| Diane Smith | Place 6 | Term expiring October 1, 2020 |
|-------------|---------|-------------------------------|

PASSED AND APPROVED on this the 9th day of October, 2018.

CITY OF LAKE WORTH

By: _____
Walter Bowen, Mayor

ATTEST:

Monica Solko, City Secretary



BOARD/COMMISSION CANDIDATE REAPPOINTMENT APPLICATION

| | |
|--|---------------------------------------|
| Name: <u>TANA WHARTON</u> | |
| Home Address: <u>3225 SHAWNEE TR. LAKE WORTH, TX 76135</u> | |
| Spouse's Name: <u>GLEN</u> | |
| Home Phone: <u>NA</u> | Cell Phone: <u>817.999-3182</u> |
| Resident since: <u>23.4.10</u> | E-Mail: |
| Employer: <u>Retired</u> | Years: |
| Occupation: | E-Mail: <u>wgwharton@att.net</u> |
| Previous Residence | Street Address <u>7208 Apache Tr.</u> |
| City <u>LAKE WORTH</u> | State <u>TX</u> Zip <u>76135</u> |

**I am currently a member of the (check the box of the board/commission that you are currently serving on):
and wish to reapply for membership for another term.

☐ Animal Shelter Advisory Committee

☒ Board of Adjustment

☐ Planning & Zoning Commission

☐ Library Board

☐ Economic Development Corporation

☐ Other

K. Wharton
Applicant Signature

9/30/18
Date

Return completed form to: City of Lake Worth, Attn: City Secretary
3805 Adam Grubb
Lake Worth, Texas 76136
or via e-mail or fax to: E-Mail: citysecretary@lakeworthtx.org
Fax (817) 237-9684

By signing above, you certify that all information on this form is represented accurately. The applicant authorizes the City Council, or its designee, to verify any information. The applicant agrees to release and hold harmless the City from all claims incident to the verification of information contained herein. All information provided is considered public pursuant to the Texas Public Information Act.

For City Secretary's Use Only

Date Appointed _____

Date application received _____

Term Expiring _____

Received by _____

Appointed to Place _____



BOARD/COMMISSION CANDIDATE REAPPOINTMENT APPLICATION

| | |
|--|------------------------------------|
| Name: <u>Sherrie Kubala Watkins</u> | |
| Home Address: <u>4105 Circle Trail</u> | |
| Spouse's Name: _____ | |
| Home Phone: _____ | Cell Phone: <u>469-774-8588</u> |
| Resident since: <u>1966</u> | E-Mail: <u>SKUBWATKINS@AOL.COM</u> |
| Employer: <u>Retired</u> Years: _____ | |
| Occupation: _____ E-Mail: _____ | |
| Previous | Street Address |
| Residence | City _____ State _____ Zip _____ |

****I am currently a member of the** (check the box of the board/commission that you are currently serving on) :
and wish to reapply for membership for another term.

☐ Animal Shelter Advisory Committee

☐ Board of Adjustment

☒ Planning & Zoning Commission

☐ Library Board

☐ Economic Development Corporation

☐ Other

Sherrie Kubala Watkins
Applicant Signature

Sept 14, 2018
Date

Return completed form to:

City of Lake Worth, Attn: City Secretary

3805 Adam Grubb

Lake Worth, Texas 76136

or via e-mail or fax to:

E-Mail: citysecretary@lakeworthtx.org

Fax (817) 237-9684

By signing above, you certify that all information on this form is represented accurately. The applicant authorizes the City Council, or its designee, to verify any information. The applicant agrees to release and hold harmless the City from all claims incident to the verification of information contained herein. All information provided is considered public pursuant to the Texas Public Information Act.

For City Secretary's Use Only

Date Appointed _____

Date application received _____

Term Expiring _____

Received by _____

Appointed to Place _____



BOARD/COMMISSION CANDIDATE REAPPOINTMENT APPLICATION

| | |
|--|-------------------------------------|
| Name: <u>Patty Biggers</u> | |
| Home Address: <u>6332 Langham Sr. Ft Worth, Tx 76135</u> | |
| Spouse's Name: <u>Larry Biggers</u> | |
| Home Phone: <u>817-239-3781</u> | Cell Phone: <u>817 239-3781</u> |
| Resident since: <u>1970</u> | E-Mail: <u>pbiggersfh@gmail.com</u> |
| Employer: <u>Retired</u> | Years: _____ |
| Occupation: <u>Retired</u> | E-Mail: <u>same as above</u> |
| Previous | Street Address <u>n/a</u> |
| Residence | City _____ State _____ Zip _____ |

****I am currently a member of the** (check the box of the board/commission that you are currently serving on) :
and wish to reapply for membership for another term.

- | | | |
|--|---|--|
| <input type="checkbox"/> Animal Shelter Advisory Committee | <input type="checkbox"/> Board of Adjustment | <input checked="" type="checkbox"/> Planning & Zoning Commission |
| <input type="checkbox"/> Library Board | <input type="checkbox"/> Economic Development Corporation | <input type="checkbox"/> Other |

Patty Biggers
Applicant Signature

9-18-18
Date

Return completed form to: City of Lake Worth, Attn: City Secretary
3805 Adam Grubb
Lake Worth, Texas 76136
or via e-mail or fax to: E-Mail: citysecretary@lakeworthtx.org
Fax (817) 237-9684

By signing above, you certify that all information on this form is represented accurately. The applicant authorizes the City Council, or its designee, to verify any information. The applicant agrees to release and hold harmless the City from all claims incident to the verification of information contained herein. All information provided is considered public pursuant to the Texas Public Information Act.

| | |
|---------------------------------|--------------------------|
| For City Secretary's Use Only | Date Appointed _____ |
| Date application received _____ | Term Expiring _____ |
| Received by _____ | Appointed to Place _____ |



BOARD/COMMISSION CANDIDATE REAPPOINTMENT APPLICATION

| | |
|--|--|
| Name: <u>Diane Smith</u> | |
| Home Address: <u>4308 Woodlake Dr. LW TX 76135</u> | |
| Spouse's Name: <u>Jim</u> | |
| Home Phone: _____ | Cell Phone: <u>8179806951</u> |
| Resident since: <u>1995</u> | E-Mail: <u>djcandles@aol.com</u> |
| Employer: <u>N/A</u> Years: _____ | |
| Occupation: _____ E-Mail: _____ | |
| Previous Residence | Street Address <u>2508 Roberts Out Off F-W</u> |
| City <u>Ft Worth</u> | State <u>TX</u> Zip <u>76114</u> |

****I am currently a member of the** (check the box of the board/commission that you are currently serving on) :
and wish to reapply for membership for another term.

- | | | |
|--|---|--|
| <input type="checkbox"/> Animal Shelter Advisory Committee | <input type="checkbox"/> Board of Adjustment | <input checked="" type="checkbox"/> Planning & Zoning Commission |
| <input type="checkbox"/> Library Board | <input type="checkbox"/> Economic Development Corporation | <input type="checkbox"/> Other |


Applicant Signature

9-18-2018
Date

Return completed form to: City of Lake Worth, Attn: City Secretary
3805 Adam Grubb
Lake Worth, Texas 76136
or via e-mail or fax to: E-Mail: citysecretary@lakeworthtx.org
Fax (817) 237-9684

By signing above, you certify that all information on this form is represented accurately. The applicant authorizes the City Council, or its designee, to verify any information. The applicant agrees to release and hold harmless the City from all claims incident to the verification of information contained herein. All information provided is considered public pursuant to the Texas Public Information Act.

| | |
|---------------------------------|--------------------------|
| For City Secretary's Use Only | Date Appointed _____ |
| Date application received _____ | Term Expiring _____ |
| Received by _____ | Appointed to Place _____ |

Lake Worth City Council Meeting – October 9, 2018

Agenda Item No. D.2

FROM: Barry Barber, Director of Building Development Services

ITEM: Discuss and consider Ordinance No. 1128, amending Chapter 3, Building Regulations, Article 3.900, Fences, Section 3.903 Restriction's and Requirements for Fences, (A) Fence Materials.

SUMMARY:

Staff was asked by Council to look at certain portions of the current fence ordinance and bring back two options pertaining to those. Attached you will find an updated ordinance with two alternatives. Both options add permitted and prohibited fence construction materials and address front yard fencing restrictions and requirements.

Option 1:

(A) Fence Materials. Permitted construction materials are brick, stone, masonry, natural and treated woods, ornamental metal, PVC fence material, metal tubing, or wrought iron, decorative aluminum or metal having a factory applied non-metallic matte finish, and chain link. Vinyl or fiberglass composite materials may be utilized if the material is listed, designed, and constructed for fencing materials. Metal posts will be allowed on wood fences.

- (1) Prohibited construction materials are rope, string, wire products including, but not limited to chicken wire, hog wire, wire fabric, barbed wire (except as allowed in other sections of this code), razor ribbon wire and similar welded or woven wire fabrics, chain, netting, cut or broken glass, paper, metal panels, corrugated metal panels, galvanized sheet metal, plywood, fiberglass panels or plastic panels or any other materials that are not specifically manufactured as fencing materials. No person shall weave or use slats of any material, including but not limited to metal, fiberglass, bamboo, or mesh through a chain link fence to create a blind or screening fence in a residential zoning district. No person shall construct a fence, retaining wall, screen or barrier of used, damaged, or unsafe material. The Building Official may require the applicant to provide the manufacturer's standards to establish the intended use of a proposed fencing material.

- (2) The following setback restriction applies:

(a) Front Yard. No fence, retaining wall, screen, or barrier may be built nearer to the street onto which the main house or building faces than the main house or building itself. Exceptions to this restriction may be made for schools and in commercial and industrial zoning districts, if required for topographical or structural support.

Agenda Item No. D.2

Option 2:

- (A) Fence Materials. Permitted construction materials are brick, stone, masonry, natural and treated woods, ornamental metal, PVC fence material, metal tubing, or wrought iron, decorative aluminum or metal having a factory applied non-metallic matte finish, and chain link. Vinyl or fiberglass composite materials may be utilized if the material is listed, designed, and constructed for fencing materials. Metal posts will be allowed on wood fences.
- (1) Prohibited construction materials are rope, string, wire products including, but not limited to chicken wire, hog wire, wire fabric, barbed wire (except as allowed in other sections of this code), razor ribbon wire and similar welded or woven wire fabrics, chain, netting, cut or broken glass, paper, metal panels, corrugated metal panels, galvanized sheet metal, plywood, fiberglass panels or plastic panels or any other materials that are not specifically manufactured as fencing materials. No person shall weave or use slats of any material, including but not limited to metal, fiberglass, bamboo, or mesh through a chain link fence to create a blind or screening fence in a residential zoning district. No person shall construct a fence, retaining wall, screen or barrier of used, damaged, or unsafe material. The Building Official may require the applicant to provide the manufacturer's standards to establish the intended use of a proposed fencing material.
- (2) The following setback restriction applies:
- (a) Front Yard on Residential Lots – A fence may be erected in front of the main dwelling, but no closer than the front building line.
- (b) The fence shall not exceed six (6) feet in height above the adjacent grade;
- (c) The fence shall be constructed to provide that a minimum of fifty (50) percent of the fence is open.
- (d) On corner lots the fence shall not be located within the designated visibility triangle;
- (e) The fence shall be constructed of vinyl coated chain link, ornamental or wrought iron, or other materials as approved by the City Council;
- (f) The fence must have a Fire Department approved access device located on the gate.

FISCAL IMPACT:

N/A

ATTACHMENTS:

1. Ordinance No. 1128

RECOMMENDED MOTION OR ACTION:

Move to approve Ordinance No. 1128, amending Chapter 3, Building Regulations, Article 3.900, Fences, Section 3.903 Restriction's and Requirements for Fences, (A) Fence Materials.

ORDINANCE NO. 1128

AN ORDINANCE AMENDING CHAPTER 3 “BUILDING REGULATIONS”, ARTICLE 3.900 “FENCES” OF THE LAKE WORTH CODE OF ORDINANCES (2004), AS AMENDED, BY AMENDING SECTION 3.903 (A) “FENCE MATERIALS”; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Lake Worth is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Texas Local Government Code; and

WHEREAS, Chapter 3 of the Lake Worth Code of Ordinances provides for building regulations that were adopted to protect the public health, safety, and welfare; and

WHEREAS, the City Council now desires to amend certain provisions of the building regulations providing for the regulation of fences.

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

SECTION 1.

Article 3.900 “Fences” of Chapter 3 “Building Regulations,” of the Lake Worth Code of Ordinances is hereby amended by revising Sec.3.903 (A), Fence Material, to read as follows:

Option 1:

(A) Fence Materials: Permitted construction materials are brick, stone, masonry, natural and treated woods, ornamental metal, PVC fence material, metal tubing, or wrought iron, decorative aluminum or metal having a factory applied non-metallic matte finish, and chain link. Vinyl or fiberglass composite materials may be utilized if the material is listed, designed, and constructed for fencing materials. Metal posts will be allowed on wood fences.

(1) Prohibited construction materials are rope, string, wire products including, but not limited to chicken wire, hog wire, wire fabric, barbed wire (except as allowed in other sections of this code), razor ribbon wire and similar welded or woven wire fabrics, chain, netting, cut or broken glass, paper, metal panels, corrugated metal panels, galvanized sheet metal, plywood, fiberglass panels or plastic panels or any other materials that are not specifically manufactured as fencing materials. No person shall weave or

use slats of any material, including but not limited to metal, fiberglass, bamboo, or mesh through a chain link fence to create a blind or screening fence in a residential zoning district. No person shall construct a fence, retaining wall, screen or barrier of used, damaged, or unsafe material. The Building Official may require the applicant to provide the manufacturer's standards to establish the intended use of a proposed fencing material.

(2) The following setback restriction applies:

- (a) Front Yard. No fence, retaining wall, screen, or barrier may be built nearer to the street onto which the main house or building faces than the main house or building itself. Exceptions to this restriction may be made for schools and in commercial and industrial zoning districts, if required for topographical or structural support.

Option 2:

- (A) Fence Materials. Permitted construction materials are brick, stone, masonry, natural and treated woods, ornamental metal, PVC fence material, metal tubing, or wrought iron, decorative aluminum or metal having a factory applied non-metallic matte finish, and chain link. Vinyl or fiberglass composite materials may be utilized if the material is listed, designed, and constructed for fencing materials. Metal posts will be allowed on wood fences.

- (1) Prohibited construction materials are rope, string, wire products including, but not limited to chicken wire, hog wire, wire fabric, barbed wire (except as allowed in other sections of this code), razor ribbon wire and similar welded or woven wire fabrics, chain, netting, cut or broken glass, paper, metal panels, corrugated metal panels, galvanized sheet metal, plywood, fiberglass panels or plastic panels or any other materials that are not specifically manufactured as fencing materials. No person shall weave or use slats of any material, including but not limited to metal, fiberglass, bamboo, or mesh through a chain link fence to create a blind or screening fence in a residential zoning district. No person shall construct a fence, retaining wall, screen or barrier of used, damaged, or unsafe material. The Building Official may require the applicant to provide the manufacturer's standards to establish the intended use of a proposed fencing material.

(2) The following setback restriction applies:

- (a) Front Yard on Residential Lots – A fence may be erected in front of the main dwelling, but no closer than the front building line.

- (b) The fence shall not exceed six (6) feet in height above

the adjacent grade;

- (c) The fence shall be constructed to provide that a minimum of fifty (50) percent of the fence is open.
- (d) On corner lots the fence shall not be located within the designated visibility triangle;
- (e) The fence shall be constructed of vinyl coated chain link, ornamental or wrought iron, or other materials as approved by the City Council;
- (f) The fence must have a Fire Department approved access device located on the gate.

SECTION 2.

This ordinance shall be cumulative of all provisions of ordinances and of the Revised Code of Ordinances of the City of Lake Worth, Texas (2004), as amended, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances and such Code, in which event the conflicting provisions of such ordinances and such Code are hereby repealed.

SECTION 3.

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this ordinance are severable, and if any phrase, clause sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 4.

All rights and remedies of the City of Lake Worth are expressly saved as to any and all violations of the Lake Worth Code of Ordinances, as amended, or any other ordinances affecting fences, retaining walls, screens, and barriers which have accrued at the time of the effective date of this ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

SECTION 5.

Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance shall be fined not more than Two Thousand Dollars (\$2,000.00) for all violations

involving (fire safety, zoning or public health and sanitation, including dumping of refuse), and shall be fined Five Hundred Dollars (\$500.00) for all other violations of this ordinance. Each day that a violation is permitted to exist shall constitute a separate offense.

SECTION 6.

This ordinance shall be in full force and effect from and after its passage and publication as required by law, and it is so ordained.

PASSED AND APPROVED on the 9th day of October, 2018.

CITY OF LAKE WORTH

By: _____
Walter Bowen, Mayor

ATTEST:

Monica Solko, City Secretary

APPROVED AS TO FORM AND LEGALITY:

Drew Larkin, City Attorney

Lake Worth City Council Meeting –October 9, 2018

Agenda Item No. E.1

From: Sean Densmore, Director of Public Works

Item: Discuss and consider approval of Individual Project Order Number 2018-02 with Kimley-Horn and Associates for the Hiawatha Trail Utilities Project Phase I and authorize the City Manager to execute the contract.

Summary:

This contract consists of providing professional services associated with the replacement of water and sanitary sewer lines along Hiawatha Trail between Pueblo Trail and Osage Trail.

As a part of this contract below is a sample list of subtasks that will be performed (detailed list in contract):

1. **Design** – Design of the 8” sanitary sewer and water line along Hiawatha trail (1,700 feet). Prepare engineered construction plans for the project along with contract documents for approval by the City Council.
2. **Bidding Phase Service** - Kimley-Horn will assist the city with bidding the project. This includes advertising in the local paper, answering bud questions, issuing addendums, attending the bid opening, and preparing bid tabulations for City Council approval.
3. **Construction Phase Services** – This budget is based upon 60 hours of works which includes pre-construction conference, site visits and observation of construction, recommendations with respect to defective work, clarifications and interpretations, change orders, and Inspections/testing.

Fiscal Impact:

1. Total - \$88,500
 - a. Task 1 – Design \$58,000
 - b. Task 2 – Bidding \$4,000
 - c. Task 3 – Topographic Survey \$14,500
 - d. Task 4 – Hourly Engineering Services (Not to exceed) \$12,000

Attachments:

1. Hiawatha Trail Utilities Phase I Individual Project Order Number 2018-02

Recommended Motion or Action:

Move to approve the Individual Project Order Number 2018-02 with Kimley-Horn and Associates for the Hiawatha Trail Utilities Project Phase I and authorize the City Manager to execute the contract.

INDIVIDUAL PROJECT ORDER NUMBER 2018-02

Describing a specific agreement between Kimley-Horn and Associates, Inc. (the Consultant or Kimley-Horn), and City of Lake Worth (the Client) in accordance with the terms of the Master Agreement for Continuing Professional Services dated October 14, 2003 which is incorporated herein by reference.

Identification of Project: Hiawatha Trail Utilities Phase 1

Project Background and Understanding: This project includes professional services related to the design of water and sanitary sewer lines along Hiawatha Trail from Pueblo Trail to Osage Trail.

The Scope of Services is provided below:

Task 1– Design

As part of this task, the following subtasks will be performed:

- A. Perform general project management related tasks such as routine communication with the Client, project status updates, quality control efforts, internal team meetings, project invoicing, project planning efforts, preparation of the project schedule and updates to the project schedule.
- B. Conduct up to three (3) site visits to observe pre-construction conditions, review topographic features, and to review the design performed as part of this task prior to bidding the project.
- C. Prepare for, attend and conduct up to three (3) project meetings with the Client to discuss the design/project.
- D. Review the topographic survey prepared as part of Task 2. The survey will be modified to format the design plans.
- E. Design an 8" sanitary sewer line along Hiawatha Trail within the limits of construction. The purpose of this design is to construct a new sanitary sewer line to replace the existing sanitary sewer line. Based upon the Client's GIS database, the sanitary sewer line will be approximately 1,700 feet.
- F. Design an 8" water line along Hiawatha Trail within the limits of construction. The purpose of this design is to construct a new water line to replace the existing water line. Based upon the Client's GIS database, the sanitary sewer line will be approximately 1,700 feet.
- G. Prepare engineered construction plans (full size) for the project. It is anticipated the following sheets may be included in the construction plans:
 1. Cover Sheet – 1 Sheet
 2. General Notes – 1 Sheet
 3. Index Sheet – 1 Sheet, if needed
 4. Dimensional Control – 2-3 Sheets
 5. Water Line Design– 3-5 Sheets
 6. Sanitary Sewer Line Design– 5-6 Sheets
 7. Erosion Control Sheet, if needed – 1-2 Sheets
 8. General Construction Details – 4 Sheets
- H. Coordinate with franchise utility companies by providing construction plans to the companies and notifying them of potential conflicts. Kimley-Horn will provide the franchise utility companies plans at 90% and final submittals.
- I. Coordinate will prepare 60% and 90% construction plans and Opinion of Probable Construction Costs (OPCC). Kimley-Horn will submit the 60% and 90% construction plans to the Client for review and comment.
- J. Address the 60% and 90% comments and prepare final construction plans. A final OPCC will be prepared and provided to the Client.
- K. Prepare contract documents and project specifications for the project. It is anticipated the Client will use the North Central Texas Council of Government's (NCTCOG) technical specifications and EJCDC contract documents.

Meetings:

- Kickoff Meeting
- 90% Plan Review Meeting
- Final Plan Review Meeting
- Franchise Utility Coordination Meeting, if needed

Deliverables:

- Up to five (5) copies of the 60% Construction Plans (11"x17", 22"x34")
- Up to five (5) copies of the 90% Construction Plans (11"x17", 22"x34")
- Up to six (6) copies of the Final Construction Plans (11"x17", 22"x34") and Contract Documents (8.5"x11")

Task 2 – Bidding Phase Services

- A. Kimley-Horn will assist the Client in bidding the project. This task includes assisting the Client with advertising the project in the local newspapers or electronically through CivCast (fees to be paid by the Client as a part of this Task), answering questions from the bidders during the bidding process, issuing addendums (when appropriate), attending the bid opening, preparing the bid tabulations, reviewing the qualifications/previous project experience provided by the apparent low bidder, and provide a summary of bid/bidder evaluation to the Client. This task includes bidding the project one time. Additional bidding will be considered Additional Services.

Meetings:

- Bid Opening
- Attending one (1) council meeting

Deliverables:

- Bid Tabulation
- Notice of Award Letter

Task 3 – Construction Phase Services

This task includes Kimley-Horn performing Construction Phase Services which may include the following subtasks. The budget for this task is based upon 60 hours of effort. Exceeding the 60 hours budgeted will be considered Additional Services.

- A. Pre-Construction Conference. Kimley-Horn will conduct a Pre-Construction Conference prior to commencement of Work at the Site.
- B. Visits to Site and Observation of Construction. Kimley-Horn will provide on-site construction observation services during the construction phase. Kimley-Horn will make visits at intervals as directed by Client in order to observe the progress of the Work. Such visits and observations by Kimley-Horn are not intended to be exhaustive or to extend to every aspect of Contractor's work in progress. Observations are to be limited to spot checking, selective measurement, and similar methods of general observation of the Work based on Kimley-Horn's exercise of professional judgment. Based on information obtained during such visits and such observations, Kimley-Horn will evaluate whether Contractor's work is generally proceeding in accordance with the Contract Documents, and Kimley-Horn will keep Client informed of the general progress of the Work.
- C. The purpose of Kimley-Horn's site visits will be to enable Kimley-Horn to better carry out the duties and responsibilities specifically assigned in this Agreement to Consultant, and to provide Client a greater degree of confidence that the completed Work will conform in general to the Contract Documents. Kimley-Horn shall not, during such visits or as a result of such observations of Contractor's work in progress, supervise, direct, or have control over Contractor's work, nor shall Kimley-Horn have authority over or responsibility for the means, methods, techniques, equipment choice and usage, sequences, schedules, or procedures of construction selected by Contractor, for safety precautions and programs incident to Contractor's work, nor for any failure of Contractor to comply with laws and regulations applicable to Contractor's furnishing and performing the Work. Accordingly, Kimley-Horn neither guarantees the performance of any Contractor nor assumes responsibility for any Contractor's failure to furnish and perform its work in accordance with the Contract Documents.

- D. Recommendations with Respect to Defective Work. Kimley-Horn will recommend to Client that Contractor's work be disapproved and rejected while it is in progress if, on the basis of such observations, Kimley-Horn believes that such work will not produce a completed Project that conforms generally to Contract Documents.
- E. Clarifications and Interpretations. Kimley-Horn will respond to reasonable and appropriate Contractor requests for information and issue necessary clarifications and interpretations of the Contract Documents to Client as appropriate to the orderly completion of Contractor's work. Any orders authorizing variations from the Contract Documents will be made by Client.
- F. Change Orders. Kimley-Horn may recommend Change Orders to Client, and will review and make recommendations related to Change Orders submitted or proposed by the Contractor.
- G. Shop Drawings and Samples. Kimley-Horn will review and approve or take other appropriate action in respect to Shop Drawings and Samples and other data which Contractor is required to submit, but only for conformance with the information given in the Contract Documents. Such review and approvals or other action will not extend to means, methods, techniques, equipment choice and usage, sequences, schedules, or procedures of construction or to related safety precautions and programs.
- H. Substitutes and "or-equal." Evaluate and determine the acceptability of substitute or "or-equal" materials and equipment proposed by Contractor in accordance with the Contract Documents, but subject to the provisions of applicable standards of state or local government entities.
- I. Inspections and Tests. Kimley-Horn may require special inspections or tests of Contractor's work as Kimley-Horn deems appropriate, and may receive and review certificates of inspections within Consultant's area of responsibility or of tests and approvals required by laws and regulations or the Contract Documents. Consultant's review of such certificates will be for the purpose of determining that the results certified indicate compliance with the Contract Documents and will not constitute an independent evaluation that the content or procedures of such inspections, tests, or approvals comply with the requirements of the Contract Documents. Kimley-Horn shall be entitled to rely on the results of such tests and the facts being certified.
- J. Disagreements between Client and Contractor. Kimley-Horn will, if requested by Client, render written decision on all claims of Client and Contractor relating to the acceptability of Contractor's work or the interpretation of the requirements of the Contract Documents pertaining to the progress of Contractor's work. In rendering such decisions, Kimley-Horn shall be fair and not show partiality to Client or Contractor and shall not be liable in connection with any decision rendered in good faith in such capacity.
- K. Applications for Payment. Based on its observations and on review of applications for payment and accompanying supporting documentation, Kimley-Horn will determine the amounts that Kimley-Horn recommends Contractor be paid. Such recommendations of payment will be in writing and will constitute Consultant's representation to Client, based on such observations and review, that, to the best of Consultant's knowledge, information and belief, Contractor's work has progressed to the point indicated and that such work-in-progress is generally in accordance with the Contract Documents subject to any qualifications stated in the recommendation. In the case of unit price work, Consultant's recommendations of payment will include determinations of quantities and classifications of Contractor's work, based on observations and measurements of quantities provided with pay requests.
- L. By recommending any payment, Kimley-Horn shall not thereby be deemed to have represented that its observations to check Contractor's work have been exhaustive, extended to every aspect of Contractor's work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Kimley-Horn in this Agreement. It will also not impose responsibility on Kimley-Horn to make any examination to ascertain how or for what purposes Contractor has used the moneys paid on account of the Contract Price, nor to determine that title to any portion of the work in progress, materials, or equipment has passed to Client free and clear of any liens, claims, security interests, or encumbrances, nor that there may not be other matters at issue between Client and Contractor that might affect the amount that should be paid.
- M. Substantial Completion. Kimley-Horn will, promptly after notice from Contractor that it considers the entire Work ready for its intended use, in company with Client and Contractor, conduct a site visit to determine if the Work is substantially complete. Work will be considered substantially complete following satisfactory completion of all items with the exception of those identified on a final punch list. If after considering any

objections of Client, Kimley-Horn considers the Work substantially complete, Kimley-Horn will notify Client and Contractor.

- N. Final Notice of Acceptability of the Work. Kimley-Horn will conduct a final site visit to determine if the completed Work of Contractor is generally in accordance with the Contract Documents and the final punch list so that Kimley-Horn may recommend, in writing, final payment to Contractor. Accompanying the recommendation for final payment, Kimley-Horn shall also provide a notice that the Work is generally in accordance with the Contract Documents to the best of Kimley-Horn's knowledge, information, and belief based on the extent of its services and based upon information provided to Kimley-Horn upon which it is entitled to rely.
- O. Limitation of Responsibilities. Kimley-Horn shall not be responsible for the acts or omissions of any Contractor, or of any of their subcontractors, suppliers, or of any other individual or entity performing or furnishing the Work. Kimley-Horn shall not have the authority or responsibility to stop the work of any Contractor.
- P. Prepare record drawings provided by the Contractor and the Client to Kimley-Horn. Record drawings will be provided in pdf and mylar format.

Task 4 – Topographic Survey

Kimley-Horn, through its subconsultant, will provide topographic survey (approximately 2,000 linear feet) along Hiawatha Trail from Osage Trail to Pueblo Trail. Other subtasks included in the scope are as follows:

- A. Establish horizontal control points.
- B. Establish a vertical control benchmark circuit as needed throughout the project.
- C. Set horizontal and vertical control points, which shall be based on NAD 83 and NAVD 88.
- D. Perform a survey to identify and locate existing topographic along Hiawatha Trail. The following items will be surveyed:
 - Property corner monumentation
 - Existing pavement, curbs, sidewalks, barrier free ramps, etc.
 - Existing storm drain inlets, manholes, junction boxes (including culvert sizes and invert elevations)
 - Outfalls and erosion control
 - Trees (6" and larger)
 - Utility manholes, vaults, water valves, water meters, sprinkler heads, telephone poles, power poles, utility markers, other public utilities, and franchise utilities
 - Signs (excluding temporary signs)
 - Buildings and permanent structures
 - Retaining walls
 - Landscaping
 - Fence limits and material types (excluding temporary fences)
 - Concrete abutments and riprap
 - Culverts
 - Finished floor elevations of the storage units
 - Aerial sanitary sewer crossing and existing supports
 - Other applicable physical features that could impact design
- E. Perform cross-sections throughout project limits at 50-foot intervals and at grade breaks.
- F. Prepare a final topographic drawing in digital format (including contours and breaklines) showing the features located in the field and an ASCII coordinate file of the points located in the field.

Additional Services if required: See below.

Services not specifically identified in the Scope of Services above shall be considered additional and shall be

performed on an individual basis upon authorization by the Client. Compensation for additional services will be agreed to prior to their performance. Such services shall include, but are not limited to, the following:

Any services not specifically provided for in the above scope will be billed as additional services and performed at our then current hourly rates. Additional services we can provide include, but are not limited to, the following:

- A. Construction staking (anticipated to be performed by the contractor);
- B. Any Permitting;
- C. Preparation of permits for various agencies, which include the Federal Emergency Management Agency (FEMA) and the United States Army Corps of Engineers (USACE);
- D. Development of Storm Water Pollution Prevention Plan/NOI;
- E. Hydraulic or Hydrologic modeling other than what is described in the Scope above;
- F. Assisting with property or easement acquisition;
- G. Preparation of right of way or easement documents;
- H. Public Outreach/Public Involvement;
- I. Additional design milestone submittals other than 90% and Final;
- J. Furnish additional copies of review documents and/or bid documents in excess of the number of the same identified above;
- K. Preparation and/or design of landscape and/or irrigation plans;
- L. Preparation of a tree inventory or tree mitigation plan;
- M. Preparation and/or design of traffic control, pavement marking, or other traffic safety plans (other than what is described in the Scope);
- N. Assist the City as an expert witness in litigation and in connection with the project or in hearings before approving and regulatory agencies; and
- O. Redesign to reflect project scope changes requested by the City, required to address changed conditions or change in direction previously approved by the City, mandated by changing governmental laws, or necessitated by the City's acceptance of substitutions proposed by the contractor.

Schedule: Consultant will begin services upon receipt of Notice to Proceed.

Terms of compensation: The services identified in the scope of services shall be provided on a lump sum and hourly (not to exceed) basis. See below for Task budget breakdowns.

Lump Sum

| | |
|---------------------------------|-----------------|
| Task 1 – Design | \$58,000 |
| Task 2 – Bidding Phase Services | \$ 4,000 |
| Task 4 – Topographic Survey | \$14,500 |
| Total (Lump Sum) | \$76,500 |

Hourly (Not to Exceed)

| | |
|--|-----------------|
| Task 3 – Construction Phase Engineering Services | \$12,000 |
| Total Hourly (Not to Exceed) | \$12,000 |

PROJECT TOTAL **\$88,500**

ACCEPTED:

CITY OF LAKE WORTH

BY: _____
Stacey Almond

TITLE: City Manager

DATE: _____

KIMLEY-HORN AND ASSOCIATES, INC.

BY: 
Scott R. Arnold

TITLE: Assistant Secretary

DATE: September 19, 2018

Lake Worth City Council Meeting – October 9, 2018

Agenda Item No. E.2

From: Stacey Almond, City Manager

Item: Discuss and provide direction on additional vehicle and equipment storage at the Public Works facility located at 4200 Fewell Dr.

Summary:

This item was added to the agenda at the request of Councilmember Smith. He requested the Council discuss additional vehicle and equipment storage at the Public Works facility located at 4200 Fewell Dr.

The existing covered parking provides for 10 stalls. Equipment currently not covered would require an additional 4 stalls. To provide cover to the existing fleet the structure would need to be 48' x 100' (4,800 sq. ft). Staff utilized data from the last covered storage building and added a 25% increase to estimated costs.

The purchase and construction of this structure would exceed \$50,000 threshold and would need to follow Procurement Law. The estimated costs include the prefab building, installation, electrical work and additional costs for the bid process, engineering and other miscellaneous expenses.

Below is a table that lists the total number of vehicles and equipment and the associated total value minus depreciation.

| General Fund | | | | | | | | |
|--------------|----------------|-----------|------------------|--------|------------------|---------|-------|-----------|
| Dept | As of 09/30/17 | | Add FY 2017/2018 | | Add FY 2018/2019 | | Total | |
| | Qty | Cost | Qty | Cost | Qty | Cost | Qty | Cost |
| Street | 35 | 1,228,350 | 2 | 17,115 | 3 | 137,500 | 40 | 1,382,965 |
| Parks | 48 | 2,204,556 | 1 | 30,272 | | | 49 | 2,234,828 |
| Maint | 5 | 53,648 | 1 | 26,659 | 1 | 21,823 | 7 | 102,130 |
| Total | 88 | 3,486,554 | 4 | 74,046 | 4 | 159,323 | 96 | 3,719,923 |

| Water/Sewer Fund | | | | | | | | |
|------------------|----------------|---------|------------------|---------|------------------|---------|-------|-----------|
| Dept | As of 09/30/17 | | Add FY 2017/2018 | | Add FY 2018/2019 | | Total | |
| | Qty | Cost | Qty | Cost | Qty | Cost | Qty | Cost |
| Supply | 1 | 65,249 | | | | | 1 | 65,249 |
| Distrb | 8 | 390,836 | 2 | 153,042 | 1 | 12,000 | 11 | 555,878 |
| Sewer | 16 | 408,401 | | | 1 | 400,000 | 17 | 808,401 |
| Total | 25 | 864,486 | 2 | 153,042 | 2 | 412,000 | 29 | 1,429,528 |

****Note:** This expenditure was not included in the budget for FY 2018/2019; funds would need to be allocated when the project was submitted for approval.

Lake Worth City Council Meeting – October 9, 2018

Agenda Item No. E.2

Fiscal Impact:

1. Estimated cost - \$85,000 - \$95,000.
 - a. The above estimate includes the cost of the prefabricated building, installation, piers, electrical work and costs associated with the bidding process.

Attachments:

N/A

Recommended Motion or Action:

This item is for discussion purposes only and to provide staff direction.

Lake Worth City Council Meeting – October 9, 2018

Agenda Item No. F.1

From: Stacey Almond, City Manager

Item: Discuss and consider the first reading of Ordinance No. 1131, granting to ONCOR Electric Delivery Company LLC, an Electric Power Franchise to use the present and future streets, alleys, highways, public utility easements, public ways and public property of the City of Lake Worth through September 30, 2039.

Summary:

The proposed ordinance grants to Oncor Electric Delivery Company LLC, the right, privilege and franchise to construct, extend, maintain, and operate in, along, under and across the present and future streets, alleys, highways, public utility easements, public ways, and other public property of the city.

This franchise agreement does not grant the company the right to engage in any other activities within the city other than as specified in the attached ordinance. Oncor shall, except in certain cases, provide the city reasonable notice, and obtain a permit, prior to performing work in public right-of-way.

The location of Oncor's facilities in the public right-of-way shall be subject to approval by the City Manager prior to construction, provided said approval shall not be unreasonably withheld. In the event of a conflict the City Manager shall determine the location of the respective facilities or designate a reasonable alternate location within the city's right-of-way.

In consideration for the grant of right-of-way Oncor shall pay the city the following:

A. A final quarterly payment will be made on or before December 15, 2018, for the basis period of July 1, 2018 through September 30, 2018 and the privilege period of July 1, 2019 through September 30, 2019 in accordance with the provisions in the previous franchise agreement.

B. As authorized by Section 33.008(b) of PURA, the original franchise fee factor calculated for the City in 2002 was 0.002873 (the "Base Factor"), multiplied by each kilowatt hour of electricity delivered by Company to each retail customer whose consuming facility's point of delivery is located within the City's municipal boundaries for determining franchise payments going forward.

Due to a 2006 agreement between Oncor and city the franchise fee factor was increased to a franchise fee factor of 0.003017 (the "Current Factor"), multiplied by each kilowatt hour of electricity delivered by Company to each retail customer whose consuming facility's point of delivery is located within the City's municipal boundaries on a quarterly basis.

Lake Worth City Council Meeting – October 9, 2018

Agenda Item No. F.1

However, consistent with the 2006 agreement, should the Public Utility Commission of Texas at any time disallow Company's recovery through rates of the higher franchise payments made under the Current Factor as compared to the Base Factor, then the franchise fee factor shall immediately revert to the Base Factor of 0.002873 and all future payments, irrespective of the time period that is covered by the payment, will be made using the Base Factor.

Per the Home Rule Charter for Lake Worth, Article VII, Franchise and Public Utilities, Section 7.03 Franchise: Power of City Council

"The City Council shall have power to grant, amend, renew or extend by ordinance all franchises of all public utilities of every character operating within the City of Lake Worth, and for such purposes is granted full power. All ordinances granting, amending, renewing, or extending franchises for public utilities shall be voted on at two separate regular meetings of the City council and shall not be finally passed until at least fifteen (15) days after the first reading; and no such ordinance shall take effect until thirty (30) days after its final passage; and pending such time, the full text of such ordinance shall be posted on the bulletin board at the City Hall of the City of Lake Worth, and the expense of such publication shall be borne by the proponent of the franchise. No public utility franchise shall be transferable except to persons, firms or corporations taking all or substantially all of the holder's business in the City of Lake Worth and except upon approval of an ordinance by the Council in accordance with this Section."

The 2nd reading of Ordinance No. 1131 will take place at the November 13, 2018 Regular City Council Meeting.

Fiscal Impact:

1. \$280,107 received in franchise fees from Oncor (2018 total)

Attachments:

1. Ordinance No. 1131

Recommended Motion or Action:

Move to approve the first reading of Ordinance No. 1131, granting to ONCOR Electric Delivery Company LLC, an Electric Power Franchise to use the present and future streets, alleys, highways, public utility easements, public ways and public property of the City of Lake Worth through September 30, 2039.

ORDINANCE NO. 1131

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

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LAKE WORTH, TEXAS:

SECTION 1. **GRANT OF AUTHORITY**

A. The City of Lake Worth, Texas ("City") hereby grants to Oncor Electric Delivery Company LLC, its successors and assigns (herein called "Company"), the right, privilege and franchise to construct, extend, maintain and operate in, along, under and across the present and future streets, alleys, highways, public utility easements, public ways and other public property ("Public Rights-of-Way") of the City, electric power lines with all necessary or desirable appurtenances (including underground conduits, poles, towers, wires, transmission lines, telephone and communication lines, and other structures solely for Company's own use), (herein called "Facilities") for the purpose of delivering electricity to the City, the inhabitants thereof, and persons, firms and corporations beyond the corporate limits thereof, for the term set out in Section 10.

B. The provisions set forth in this ordinance represent the terms and conditions under which Company shall construct, operate, and maintain its system facilities within the Public Rights-of-Way of the City. This franchise agreement shall in no way affect or impair the rights, obligations or remedies of the parties under PURA, other state, local, or federal laws, rules or regulations, or the Texas Constitution. Nothing herein shall be deemed a waiver, release or relinquishment of either party's right to contest, appeal, or file suit with respect to any action or decision of the other party, including ordinances adopted by the City, that Company believes is in violation of any federal, state, or local laws, rules or regulations.

C. This Franchise does not grant to the Company the right, privilege or authority to engage in any other activities within the City other than as specified in this Franchise or by federal and state laws, rules, and regulations.

SECTION 2.
USE OF PUBLIC RIGHTS-OF-WAY

A. The poles, towers and other structures shall be so erected as not to unreasonably interfere with traffic over streets, alleys and highways.

B. Company shall, except in cases of (i) emergency conditions or (ii) routine maintenance and repair of facilities that do not involve any of the following (a) cutting or breaking of pavement or (b) closure of traffic lane for longer than 24 hours or (c) boring or (d) excavation greater than 100 cubic feet or (iii) connection of real property to a utility service on the same side of the Public Rights-of-Way if connection does not require a pavement cut in the Public Rights-of-Way or (iv) replacement of a single damaged pole and associated work within a ten (10) foot radius of the damaged pole or (v) installation of aerial lines on less than 11 existing poles or installation of aerial lines on less than 11 new poles, provide City reasonable advance notice, and obtain a permit, (if required by City Ordinance), prior to performing work in the Public Rights-of-Way, except in no instance shall Company be required to pay fees or bonds related to its use of the Public Rights-of-Way, despite the City's enactment of any ordinance providing the contrary. Company shall construct and maintain its facilities in conformance with the applicable provisions of the National Electrical Safety Code or such comparable standards as may be adopted, and in a good and workmanlike manner.

C. The City retains the right to make visual, non-invasive inspections of the Company's facilities and upon reasonable notice and request, to require the Company to make available for inspection available records or data to demonstrate its current compliance with the terms of this Franchise.

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

E. The Company shall restore at the Company's expense, all work within the City Public Rights-of-Way, to a condition equally as good as it was immediately prior to being disturbed by Company's construction, excavation, repair or removal or to a condition agreed upon by City and Company. If City or Company believe that there are extenuating circumstances that do not allow for restoration of all work within the City Rights-of-Way to a condition equally as good as it was immediately prior to being disturbed by Company, City and Company will negotiate an alternative restoration plan (in writing) to remedy the situation. Absent an agreement to an alternative restoration plan, either party has a right to request review of the matter by any court or regulatory agency having jurisdiction.

F. Company shall cooperate with the City in providing information regarding the location of current and future overhead and underground wires and poles within City's Public Rights-of-Way. Reproducible copies of maps showing the location of all overhead and underground wires and poles within the Public Rights-of-Way shall be furnished to the City upon reasonable request, if available. The maps shall be provided in electronic digital format, if available.

SECTION 3. **RELOCATION AND ABANDONMENT**

A. The City reserves the right to lay, and permit to be laid, storm, sewer, gas, water, wastewater and other pipe lines, cables, and conduits, or other improvements and to do and permit to be done any underground or overhead work that may in City's sole discretion determine to be necessary or proper in, across, along, over, or under Public Rights-of-Way occupied by Company. The City also reserves the right to change in any manner any curb, sidewalk, highway, alley, public way, street, utility lines, storm sewers, drainage basins, drainage ditches, and the like. City shall provide Company with at least thirty (30) days' notice when requesting Company to relocate facilities and shall specify a new location for such facilities along the Public Rights-of-Way. Company shall construct its facilities in conformance with the applicable provisions of the National Electrical Safety Code. City-requested relocations of Company facilities in the Public Rights-of-Way shall be at the Company's expense; provided however, if the City is the end use Retail Customer (customer who purchases electric power or energy and ultimately consumes it) requesting the removal or relocation of Company Facilities for its own benefit, or the project requiring the relocation is solely aesthetic/beautification in nature, it will be at the total expense of the City. Provided further, if the relocation request includes, or is for, the Company to relocate above-ground facilities to an underground location, City shall be fully responsible for the additional cost of placing the facilities underground.

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

which has already been requested, and paid for, by any entity other than City.

C. If City abandons any Public Rights-of-Way in which Company has facilities, such abandonment shall be conditioned on Company's right to maintain its use of the former Public Rights-of-Way and on the obligation of the party to whom the Public Rights-of-Way is abandoned to reimburse Company for all removal or relocation expenses if Company agrees to the removal or relocation of its facilities following abandonment of the Public Rights-of-Way. If the party to whom the Public Rights-of-Way is abandoned requests the Company to remove or relocate its facilities and Company agrees to such removal or relocation, such removal or relocation shall be done within a reasonable time at the expense of the party requesting the removal or relocation. If relocation cannot practically be made to another Public Rights-of-Way, the expense of any right-of-way acquisition shall be considered a relocation expense to be reimbursed by the party requesting the relocation.

SECTION 4. **INDEMNIFICATION**

A. In consideration of the granting of this Franchise, Company shall, at its sole cost and expense, indemnify and hold the City, and its past and present officers, agents and employees harmless against any and all liability arising from suits, actions or claims regarding injury or death to any person or persons, or damages to any property arising out of or occasioned by the intentional and/or negligent acts or omissions of the Company or any of its officers, agents, or employees in connection with Company's construction, maintenance and operation of Company's system in the City Public Rights-of-Way, including any court costs, reasonable expenses and reasonable defenses thereof.

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

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

D. In fulfilling its obligation to defend and indemnify City, Company shall have the right to select defense counsel, subject to City's approval, which will not be unreasonably withheld. Company shall retain defense counsel within seven (7) business days of City's written notice that City is invoking its right to indemnification under this franchise. If Company fails to retain counsel within such time period, City shall have the right to retain defense counsel on its own behalf, and Company shall be liable for all reasonable defense costs incurred by City, except as otherwise provided in section 4.B and 4.C.

SECTION 5. **LIABILITY AND INSURANCE**

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

- A. Commercial general or excess liability on an occurrence or claims made form with minimum limits of five million dollars (\$5,000,000) per occurrence and ten million dollars (\$10,000,000) aggregate. This coverage shall include the following:
 - (1) Products/completed operations to be maintained for the warranty period.
 - (2) Personal and advertising injury.
 - (3) Contractual liability.
 - (4) Explosion, collapse, or underground (XCU) hazards.
- B. Automobile liability coverage with a minimum policy limit of one million dollars (\$1,000,000) combined single limit each accident. This coverage shall include all owned, hired and non-owned automobiles.
- C. Workers compensation and employers liability coverage. Statutory coverage limits for Coverage A and five hundred thousand dollars (\$500,000) bodily injury each accident, five hundred thousand dollars (\$500,000) each employee bodily injury by disease, and five hundred thousand dollars (\$500,000) policy limit bodily injury by disease Coverage B employers' liability are required. Company must provide the City with a waiver of subrogation for worker's compensation claims.
- D. Company must name the City, which includes all authorities, commissions, divisions and departments, as well as elected and appointed officials, agents, and volunteers, as an additional insured under the coverage required herein, except Worker's Compensation Coverage. The certificate of insurance must state that the City is an additional insured.

- E. Company will require its contractors and subcontractors to maintain, at their sole cost and expense, a minimum of three million dollars (\$3,000,000) each occurrence or each accident general liability and automobile liability throughout the course of work performed. Also, contractors and subcontractors will be required to maintain statutory workers' compensation benefits in accordance with the regulations of the State of Texas or state of jurisdiction as applicable. The minimum limits for employers' liability insurance will be five hundred thousand dollars (\$500,000) bodily injury each accident, five hundred thousand dollars (\$500,000) each employee bodily injury by disease, five hundred thousand dollars (\$500,000) policy limit bodily injury by disease.

The Company will provide proof of its insurance in accordance with this Franchise within 30 days of the effective date of the Franchise and annually thereafter. Company will not be required to furnish separate proof when applying for permits.

SECTION 6. **NON-EXCLUSIVITY**

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

SECTION 7. **CONSIDERATION**

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

A. A final quarterly payment will be made on or before December 15, 2018, for the basis period of July 1, 2018 through September 30, 2018 and the privilege period of July 1, 2019 through September 30, 2019 in accordance with the provisions in the previous franchise agreement.

B. As authorized by Section 33.008(b) of PURA, the original franchise fee factor calculated for the City in 2002 was 0.002873 (the "Base Factor"), multiplied by each kilowatt hour of electricity delivered by Company to each retail customer whose consuming facility's point of delivery is located within the City's municipal boundaries for

determining franchise payments going forward.

Due to a 2006 agreement between Company and City the franchise fee factor was increased to a franchise fee factor of 0.003017 (the "Current Factor"), multiplied by each kilowatt hour of electricity delivered by Company to each retail customer whose consuming facility's point of delivery is located within the City's municipal boundaries on an quarterly basis.

However, consistent with the 2006 agreement, should the Public Utility Commission of Texas at any time disallow Company's recovery through rates of the higher franchise payments made under the Current Factor as compared to the Base Factor, then the franchise fee factor shall immediately revert to the Base Factor of 0.002873 and all future payments, irrespective of the time period that is covered by the payment, will be made using the Base Factor.

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

| Payment Due Date | Basis Period | Privilege Period (Following Year) |
|-------------------------|---------------------|---|
| March 15 | Oct. 1 – Dec. 31 | Oct. 1 – Dec. 31 |
| June 15 | Jan. 1 – Mar. 31 | Jan. 1 – Mar. 31 |
| September 15 | Apr. 1 – June. 30 | Apr. 1 – June. 30 |
| December 15 | Jul. 1 – Sept. 30 | Jul. 1 – Sept. 30 |

- (1) The first quarterly payment hereunder shall be due and payable on or before March 15, 2019, and will cover the basis period of October 1, 2018 through December 31, 2018 and the privilege period of October 1, 2019 through December 31, 2019. If this Franchise is not effective prior to the first quarterly payment date, Company will pay any payments due within 30 days of the effective date of this agreement. The final payment under this Franchise is due on or before December 15, 2038 and covers the basis period of July 1, 2038 through September 30, 2038 and the privilege period of July 1, 2039 through September 30, 2039.
- (2) After the final payment date of December 15, 2038, Company may continue to make additional quarterly payments in accordance with the above schedule. City acknowledges that such continued payments will correspond to privilege periods that extend beyond the term of this Franchise and that such continued payments will be recognized in any subsequent franchise as full payment for the relevant quarterly periods.

C. A sum equal to four percent (4%) of gross revenues received by Company

from services identified as DD1 through DD24 in Section 6.1.2 “Discretionary Service Charges,” in Oncor’s Tariff for Retail Delivery Service (Tariff), effective 1/1/2002, that are for the account and benefit of an end-use retail electric consumer. Company will, upon request by City, provide a cross reference to Discretionary Service Charge numbering changes that are contained in Company’s current approved Tariff.

- (1) The franchise fee amounts based on “Discretionary Service Charges” shall be calculated on an annual calendar year basis, i.e. from January 1 through December 31 of each calendar year.
- (2) The franchise fee amounts that are due based on “Discretionary Service Charges” shall be paid at least once annually on or before April 30 each year based on the total “Discretionary Service Charges”, as set out in Section 7C, received during the preceding calendar year. The initial Discretionary Service Charge franchise fee amount will be paid on or before April, 30 2019 and will be based on the calendar year January 1 through December 31, 2018. The final Discretionary Service Charge franchise fee amount will be paid on or before April 30, 2040 and will be based on the calendar months of January 1, 2039 through September 30, 2039.
- (3) Company may file a tariff or tariff amendment(s) to provide for the recovery of the franchise fee on Discretionary Service Charges.
- (4) City agrees (i) to the extent the City acts as regulatory authority, to adopt and approve that portion of any tariff which provides for 100% recovery of the franchise fee on Discretionary Service Charges; (ii) in the event the City intervenes in any regulatory proceeding before a federal or state agency in which the recovery of the franchise fees on such Discretionary Service Charges is an issue, the City will take an affirmative position supporting the 100% recovery of such franchise fees by Company and; (iii) in the event of an appeal of any such regulatory proceeding in which the City has intervened, the City will take an affirmative position in any such appeals in support of the 100% recovery of such franchise fees by Company.
- (5) City agrees that it will take no action, nor cause any other person or entity to take any action, to prohibit the recovery of such franchise fees by Company.
- (6) In the event of a regulatory disallowance of the recovery of the franchise fees on the Discretionary Service Charges, Company will not be required to continue payment of such franchise fees.

D. With each payment of compensation required by Section 7.B, Company shall furnish to City a statement that provides the franchise basis period, the total amount of kilowatt hours of electricity delivered during the franchise basis period by the Company to retail customers whose consuming facility's point of delivery is located within the City's municipal boundaries, and the privilege period covered by the payment. The parties agree that any information exchanged or provided to the other party is true and correct to the best of their knowledge.

E. With each payment of compensation required by Section 7.C, Company shall furnish to the City a statement reflecting the total amount of gross revenues received by Company within the City's municipal boundaries for services identified in its Tariff, Section 6.1.2, "Discretionary Service Charges," Items DD1 through DD24. The parties agree that any information exchanged or provided to the other party is true and correct to the best of their knowledge.

SECTION 8

MOST FAVORED NATIONS

A. This Section 8 applies only if, after the effective date of this Franchise Agreement, Company enters into a new municipal franchise agreement or renews an existing municipal franchise agreement with another municipality that provides for a different method of calculation of franchise fees for use of the Public Rights-of-Way than the calculation under PURA, Section 33.008(b), which, if applied to the City, would result in a greater amount of franchise fees owed the City than under this Franchise Agreement.

B. In the event of an occurrence as described in Section 8.A hereof, City shall have the option to:

- (1) Have Company select, within 30 days of the City's request, any or all portions of the franchise agreement with the other municipality or comparable provisions that, at Company's sole discretion, must be considered in conjunction with the different method of the calculation of franchise fees included in that other franchise agreement; and
- (2) Modify this franchise agreement to include both the different method of calculation of franchise fee found in the franchise agreement with the other municipality and all of the other provisions identified by Company pursuant to Section 8.B.(1). In no event shall City be able to modify the franchise to include the different method of calculation of franchise fee found in the franchise agreement with the other municipality without this franchise also being modified to include all of the other provisions identified by Company pursuant to Section 8.B.(1).

C. City may not exercise the option provided in Section 8 if any of the provisions that would be included in this franchise are, in Company's sole opinion, inconsistent with or in any manner contrary to any then-current rule, regulation, ordinance, law, Code, or City Charter.

D. In the event of a regulatory disallowance of the increase in franchise fees paid pursuant to City's exercise of its option under Section 8, then at any time after the regulatory authority's entry of an order disallowing recovery of the additional franchise fee expense in rates, Company shall have the right to cancel the modification of the franchise made pursuant to Section 8, and the terms of the Franchise shall immediately revert to those in place prior to City's exercise of its option under Section 8.

E. Notwithstanding any other provision of this franchise, should the City exercise the option provided in Section 8.B, and then adopt any rule, regulation, ordinance, law, Code, or City Charter that, in Company's sole opinion, is inconsistent with or in any manner contrary to the provisions included in this franchise pursuant to Section 8.B, then Company shall have the right to cancel all of the modifications to this franchise made pursuant to Section 8 and, effective as of the date of the City's adoption of the inconsistent provision, the terms of the franchise shall revert to those in place prior to the City's exercise of its option under Section 8.

F. The provisions of Section 8 apply only to the amount of the franchise fee to be paid and do not apply to other franchise fee payment provisions, such as the timing of such payments. The provisions of Section 8 do not apply to differences in the franchise fee factor that result from the application of the methodology set out in PURA Section 33.008(b) or any successor methodology.

SECTION 9

RECORDS AND REPORTS

A. Company shall keep accurate books of account at its principal office for the purpose of determining the amount due to the City under this Franchise.

B. Pursuant to Section 33.008(e) of the Texas Utilities Code, the City may conduct an audit or other inquiry in relation to a payment made by Company less than two (2) years before the commencement of such audit or inquiry. The City may, if it sees fit, and upon reasonable notice to the Company, have the books and records of the Company examined by a representative of the City to ascertain the correctness of the reports agreed to be filed herein.

C. The Company shall make available to the auditor during the Company's regular business hours and upon reasonable notice, such personnel and records as the City may, in its reasonable discretion, request in order to complete such audit, and shall make no charge to the City therefore.

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

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

F. If either party discovers that the Company has either overpaid the City or failed to pay the entire or correct amount of compensation due the City, the correct amount shall be mutually determined by the City and Company and shall be paid by the responsible party within thirty (30) calendar days of such mutual determination pursuant to the payment terms in Section 7. Such underpayments or overpayments shall include interest calculated in accordance with the interest rate for customer deposits established by the PUC in accordance with Texas Utilities Code Section 183.003. Any overpayment to the City by Company through error or otherwise, will, at the option of the City, either be refunded within thirty (30) days of the mutual determination or be offset against the next payment due from Company. If neither party can mutually agree on either the underpayment due the City or an overpayment due the Company, both the City and Company may seek any other rights and remedies provided by law or in equity. Acceptance by the City or Company of any payment due under this Section shall not be deemed to be a waiver by the City or Company of any breach of this Franchise, nor shall the acceptance by the City or Company of any such payments preclude the City or Company from later establishing that a larger amount was actually due or from collecting any balance due.

SECTION 10.

TERM

This Ordinance shall become effective upon Company's written acceptance hereof by City, said written acceptance to be filed by Company with the City Secretary within sixty (60) days after final passage and approval but not prior to thirty (30) days after passage by City. The right, privilege and franchise granted hereby shall expire on September 30, 2039 provided that, unless written notice of cancelation is given by either party hereto to the other not less than sixty (60) days before the expiration of this franchise agreement, it shall be automatically renewed for an additional period of six (6) months from such expiration date and shall be automatically renewed thereafter for like periods until canceled by written notice given not less than sixty (60) days before the expiration

of any such renewal period.

SECTION 11. **REPEALER CLAUSE**

This Ordinance shall supersede any and all other franchises granted by the City to Company, its predecessors and assigns, provided the parties agree any claim, action or complaint by either party that arose under any such previous franchise ordinance agreement shall be preserved and saved from repeal, subject to all applicable statutes of limitations.

SECTION 12. **DEFAULT, REMEDIES, TERMINATION**

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

- (1) The failure of Company to pay the franchise fee on or before the due dates specified herein.
- (2) Company's material breach or material violation of any material terms, covenants, representations or warranties contained herein.

B. Uncured Events of Default.

- (1) Upon the occurrence of an Event of Default which can be cured by the immediate payment of money to City, Company shall have thirty (30) calendar days from receipt of written notice from City of an occurrence of such Event of Default to cure same before City may exercise any of its rights or remedies provided for in Section 12.C.
- (2) Upon the occurrence of an Event of Default by Company which cannot be cured by the immediate payment of money to City, Company shall have sixty (60) calendar days (or such additional time as may be agreed to by the City) from receipt of written notice from City of an occurrence of such Event of Default to cure same before City may exercise any of its rights or remedies provided for in Section 12.C.
- (3) If the Event of Default is not cured within the time period allowed for curing the Event of Default as provided for herein, such Event of Default shall, without additional notice, become an Uncured Event of Default, which shall entitle City to exercise the remedies provided for in Section 12.C.

C. Remedies. The City shall notify the Company in writing of an alleged Uncured Event of Default as described in Section 12.B, which notice shall specify the alleged failure with reasonable particularity. The Company shall, within thirty (30) business days after receipt of such notice or such longer period of time as the City may specify in such notice, either cure such alleged failure or in a written response to the City either present facts and arguments in refuting or defending such alleged failure or state that such alleged failure will be cured and set forth the method and time schedule for accomplishing such cure. In the event that such cure is not forthcoming, City shall be entitled to exercise any and all of the following cumulative remedies:

- (1) The commencement of an action against Company at law for monetary damages.
- (2) The commencement of an action in equity seeking injunctive relief or the specific performance of any of the provisions that as a matter of equity, are specifically enforceable.
- (3) The termination of this Franchise.

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

E. Termination. In accordance with the provisions of Section 12.C, this Franchise may be terminated upon thirty (30) business day's prior written notice to Company from City. City shall notify Company in writing at least fifteen (15) business days in advance of the City Council meeting at which the question of forfeiture or termination shall be considered, and Company shall have the right to appear before the City Council in person or by counsel and raise any objections or defenses Company may have that are relevant to the proposed forfeiture or termination. The final decision of the City Council may be appealed to any court or regulatory authority having jurisdiction. Upon timely appeal by Company of the City Council's decision terminating the Franchise, the effective date of such termination shall be either when such appeal is withdrawn or an order upholding the termination becomes final and unappealable. Until the termination becomes effective the provisions of this Franchise shall remain in effect for all purposes. The City recognizes Company's right and obligation to provide service in accordance with the Certificate of Convenience and Necessity authorized by the Public Utility Commission of Texas in accordance with the Texas Utilities Code.

F. This Franchise Ordinance shall be construed and governed by the laws of the State of Texas. City and Company agree that any lawsuit between the City and the Company concerning this Ordinance will be filed in the state of Texas. Nothing in this Ordinance shall prohibit the City from filing an action related to this Ordinance in Tarrant County, Texas.

SECTION 13 **NOTICES**

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

If to City:

City Manager
City of Lake Worth
3805 Adam Grubb
Lake Worth, Texas 76135

If to the Company:

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

SECTION 14. **SEVERABILITY**

The sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable. If any portion of this Ordinance is declared illegal or unconstitutional by the valid final non-appealable judgment or decree of any court of competent jurisdiction, such illegality or unconstitutionality shall not affect the legality and enforceability of any of the remaining portions of this Ordinance.

SECTION 15. **PUBLIC NOTICE**

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

SECTION 16.
PUBLICATION

The City Secretary will, after its passage, post the full text of this Ordinance on the bulletin board at City Hall once at the expense of Company.

PASSED AND APPROVED on the 1st reading at a regular meeting of the City Council of Lake Worth, Texas, on this the 9th day of October, 2018.

PASSED AND APPROVED on the 2nd and final reading at a regular meeting of the City Council of Lake Worth, Texas, on this the _____ day of _____, 20____.

CITY OF LAKE WORTH, TEXAS

Walter Bowen, Mayor

ATTEST:

Monica Solko, City Secretary

APPROVED AS TO LEGALITY:

Drew Larkin, City Attorney

STATE OF TEXAS §
COUNTY OF TARRANT §
CITY OF LAKE WORTH §

Lake Worth City Council Meeting – October 9, 2018

Agenda Item No. F.2

From: Natacha Valdez, Municipal Court Director

Item: Discuss and consider approval of a contact with the Department of Public Safety to participate in the Failure to Appear Program and authorize the City Manager to execute the agreement.

Summary:

Chapter 706 of the Texas Transportation Code allow cities to enter into an agreement with the Department of Public Safety to deny renewal of a defendant's driver's license if they have failed to appear for a complaint/citation or failed to pay/satisfy a judgment ordering payment of a fine. Defendant's will not be allowed to renew their driver's licenses until the violation is resolved with the court. The program is maintained for the Department of Public Safety by OmniBase Services of Texas.

Each complaint/citation sent to OmniBase will incur a \$30.00 administrative fee in which \$20.00 will be remitted to the State Comptroller, \$6.00 will be paid to OmniBase, and \$4.00 will be kept by the City with no designation.

This contract is for a period of one (1) year with an automatic renewal on an annual basis with a 30-day termination agreement by either party.

Fiscal Impact:

N/A

Attachments:

1. Contract

Recommended Motion or Action:

Move to approve of a contact with the Department of Public Safety to participate in the Failure to Appear Program and authorize the City Manager to execute the agreement.

STATE OF TEXAS §
COUNTY OF TARRANT §

Page 1 of 9

“Failure to Appear Report” or “FTA Reports” means a notice sent by the political subdivision requesting person(s) be denied renewal in accordance with this Contract.

“Failure to Appear System” or “FTA System” means the goods and services, including all hardware, software, consulting services, telephone and related support services, supplied by the Vendor.

“FTA Software” means the computer software developed or maintained now or in the future by the Vendor to support the FTA System.

“Originating Court” means the court in which an applicable violation has been filed for which a person has failed to appear or failed to pay or satisfy a judgment and which has submitted an appropriate FTA Report.

“State” means the State of Texas.

“Political subdivision” means a municipality or county of the State of Texas.

Unless otherwise defined, terms used herein shall have the meaning assigned by Texas Transportation Code, Chapter 706, or other relevant statute. Terms not defined in this Contract or by other relevant statutes shall be given their ordinary meanings.

IV. Application and Scope of Contract

This Contract applies to each FTA Report submitted to and accepted by TXDPS or the Vendor by the Political Subdivision pursuant to the authority of Texas Transportation Code, Chapter 706.

V. Required Warning on Citation for Traffic Law Violations

A peace officer authorized to issue citations within the jurisdiction of the Political Subdivision shall issue a written warning to each person to whom the officer issues a citation for a traffic law violation. This warning shall be provided in addition to any other warnings required by law. The warning must state in substance that if the person fails to appear in court for the prosecution of the offense or if the person fails to pay or satisfy a judgment ordering the payment of a fine and cost in the manner ordered by the court, the person may be denied renewal of the person’s driver license. The written warning may be printed on the citation or on a separate instrument.

VI. FTA Report

If a person fails to appear or fails to pay or satisfy a judgment as required by law, the Political Subdivision may submit an FTA Report to the Vendor containing the following information:

- (1) the jurisdiction in which the alleged offense occurred;
- (2) the name of the Political Subdivision submitting the report;
- (3) the name, date of birth and Texas driver license number of the person who failed to

- appear or failed to pay or satisfy a judgment;
- (4) the date of the alleged violation;
- (5) a brief description of the alleged violation;
- (6) a statement that the person failed to appear or failed to pay or satisfy a judgment as required by law;
- (7) the date that the person failed to appear or failed to pay or satisfy a judgment; and
- (8) any other information required by TXDPS.

There is no requirement that a criminal warrant be issued in response to the person's failure to appear. The Political Subdivision must make reasonable efforts to ensure that all FTA Reports are accurate, complete and non-duplicative.

VII. Clearance Reports

The Political Subdivision that files the FTA Report has a continuing obligation to review the FTA Report and promptly submit appropriate additional information or reports to the Vendor or TXDPS. The clearance report shall identify the person, state whether or not a fee was required, advise TXDPS to lift the denial of renewal and state the grounds for the action. All clearance reports shall be submitted immediately, but no later than two (2) business days, from the time and date that the Political Subdivision receives appropriate payment or other information that satisfies the person's obligation to that Political Subdivision.

To the extent that a Political Subdivision utilizes the FTA Program by submitting an FTA Report, the Political Subdivision shall collect the statutorily required \$30.00 administrative fee. If the person is acquitted of the underlying offense for which the original FTA Report was filed, the Political Subdivision shall not require payment of the administrative fee.

A clearance report shall be submitted for the following circumstances:

- (1) the perfection of an appeal of the case for which the warrant of arrest was issued or judgment arose;
- (2) the dismissal of the charge for which the warrant of arrest was issued or judgment arose;
- (3) the posting of a bond or the giving of other security to reinstate the charge for which the warrant was issued;
- (4) the payment or discharge of the fine and cost owed on an outstanding judgment of the court; or
- (5) other suitable arrangement to pay the fine and cost within the court's discretion.

TXDPS will not continue to deny renewal of the person's driver license after receiving notice from the Political Subdivision that the FTA Report was submitted in error or has been destroyed in accordance with the Political Subdivision's record retention policy.

VIII. Quarterly Reports and Audits

The Political Subdivision shall submit to TXDPS quarterly reports in a format established by

TXDPS.

The Political Subdivision is subject to audit and inspection at any time during normal business hours and at a mutually agreed upon location by the State Auditor, TXDPS, and any other department or agency, responsible for determining that the Parties have complied with the applicable laws. The Political Subdivision shall provide all reasonable facilities and assistance for the safe and convenient performance of any audit or inspection.

If any of the transactions performed by the Political Subdivision do not conform to this Contract or to TXDPS standards, TXDPS may require the Political Subdivision to perform the transactions again at its own cost until acceptable to TXDPS.

The Political Subdivision shall keep all records and documents regarding this Contract for the term of this Contract and for four (4) years after the termination of this Contract.

IX. Accounting Procedures

The Political Subdivision collecting fees pursuant to Texas Transportation Code §706.006 shall keep separate records of the funds and shall deposit the funds in the appropriate municipal or county treasury. The Political Subdivision may deposit such fees in an interest-bearing account and retain the interest earned thereon for the Political Subdivision. The Political Subdivision shall keep accurate and complete records of funds received and disbursed in accordance with this Contract and the governing statutes.

The Political Subdivision shall remit \$20.00 of each fee collected pursuant to Texas Transportation Code §706.006 to the Comptroller on or before the last day of each calendar quarter and retain \$10.00 of each fee to be allocated as follows: \$6.00 is for payment to the Vendor; and \$4.00 is credited to the general fund of the municipal or county treasury.

X. Payments to Vendor

TXDPS has contracted with a Vendor to assist with the implementation of the FTA Program.

The Political Subdivision shall pay the Vendor a fee of \$6.00 per person for each violation which has been reported to the Vendor and for which the Political Subdivision has subsequently collected the statutorily required \$30.00 administrative fee. In the event that the person has been acquitted of the underlying charge, no payment shall be made to the Vendor or required of the Political Subdivision.

The Political Subdivision agrees that payment shall be made by the Political Subdivision to the Vendor no later than the last day of the month following the close of the calendar quarter in which the payment was received by the Political Subdivision.

TXDPS shall have no responsibility to pay the Vendor for any fees collected by the Political Subdivision.

XI. Non-Waiver of Fee

The Political Subdivision shall not waive the \$30.00 administrative fee for any person that has been submitted on an FTA Report, even if the person is deemed to be indigent, unless (i) the person is acquitted of the charges for which the person failed to appear or (ii) the FTA Report was submitted in error.

Failure to comply with this section shall result in (i) termination of this Contract for cause and (ii) the removal of all outstanding entries of the Political Subdivision in the FTA Report, resulting in the lifting of any denied driver license renewal status from TXDPS.

XII. General Terms and Conditions

A. Compliance with Law

The Political Subdivision understands and agrees that it shall comply with all local, state and federal laws in the performance of this Contract, including administrative rules adopted by TXDPS.

B. Governing Law

This Contract is entered into pursuant to Texas Government Code, Chapter 791, and is subject to the laws and jurisdiction of the State of Texas and shall be construed and interpreted accordingly.

C. Venue

Except as otherwise provided by Chapter 2260 of the Texas Government Code, venue for any litigation between the Parties shall be Travis County, Texas.

D. Chapter 2260, Texas Government Code

The Political Subdivision shall use the dispute resolution process provided for in Chapter 2260 of the Texas Government Code and the applicable TXDPS administrative rules to attempt to resolve all disputes or contract claims arising under this Contract.

E. Litigation and Liability

In the event that the Political Subdivision is aware of litigation in which this Contract or Texas Transportation Code, Chapter 706 is subject to constitutional, statutory, or common-law challenge, or is struck down by judicial decision, the Political Subdivision shall make a good faith effort to notify TXDPS immediately.

Each Party to this Contract agrees that it shall have no liability whatsoever for the actions and/or omissions of the other Party's employees and officers, regardless of where the individual's actions and/or omissions occurred. Each Party is solely responsible for the actions and/or omissions of its employees and officers; however, such responsibility is only to the extent

required by Texas law. Where injury or property damage result from the joint or concurring acts and/or omissions of the Parties, any liability shall be shared by each Party in accordance with the applicable Texas law, subject to all defenses, including governmental immunity. These provisions are solely for the benefit of the Parties hereto and not for the benefit of any person or entity not a Party hereto; nor shall any provision hereof be deemed a waiver of any defenses available by law.

F. No Joint Enterprise

TXDPS is associated with the Political Subdivision only for the purposes and to the extent set forth herein, and with respect to the performance hereunder, the Political Subdivision is and shall be an independent contractor and shall have the sole right to supervise, manage, operate, control, and direct the performance of the details incident to its duties hereunder. Nothing contained herein shall be deemed or construed to create a partnership or joint venture, to create the relationships of an employer-employee or principal-agent, or to otherwise create any liability for TXDPS whatsoever with respect to the indebtedness, liabilities, and obligations of the Political Subdivision or any other party.

G. No Apparent Agency

Neither Party has authority for or on behalf of the other except as provided in this Contract. No other authority, power, partnership, or rights are granted or implied.

H. Contract Modification

No modifications, amendments or supplements to, or waivers of, any provision of this Contract shall be valid unless made in writing and signed by both Parties to this Contract.

I. Severability

If any provision of this Contract is held to be illegal, invalid or unenforceable under present or future laws effective during the term hereof, such provision shall be fully severable. This Contract shall be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part hereof, and the remaining provisions shall remain in full force and effect and shall not be affected by the illegal, invalid or unenforceable provision or by its severance therefrom.

J. Non-Waiver of Defaults

Any failure of TXDPS, at any time, to enforce or require the strict keeping and performance of any provision of this Contract, shall not constitute a waiver of such provision, and shall not affect or impair same or the right of TXDPS at any time to avail itself of same. Any acceptance, payment, or use by TXDPS shall not constitute a waiver or otherwise impair or prejudice any right, power, privilege, or remedy available to TXDPS to enforce its rights, as such rights, powers, privileges, and remedies are specifically preserved.

K. Non-Incorporation

This Contract constitutes the entire agreement between the Parties with regard to the matters made the subject of this Contract. There are no verbal representations, inducements, agreements, understandings, representations, warranties, or restrictions between the Parties other than those specifically set forth herein.

L. Non-Assignment

Neither party shall assign its rights nor delegate its duties under this Contract without prior written consent of the other Party.

M. Headings

The headings, captions, and arrangements used in this Contract are, unless specified otherwise, for convenience only and shall not be deemed to limit, amplify, or modify the terms of this Contract, nor to affect the meaning thereof.

N. Interpretation Against the Drafter

Regardless of which Party drafted this Contract or the language at issue, any ambiguities in this Contract or the language at issue will not be interpreted against the drafting party.

O. Multiple Counterparts

This Contract may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes. In making proof of this Contract, it shall not be necessary to produce or account for more than one such counterpart.

P. Effective Date of Contract

This Contract shall be in effect from and after the date that the final signature is set forth below. This Contract shall automatically renew on a yearly basis.

Q. Termination

1. Termination for Cause. Either Party may terminate this Contract if the other Party neglects or fails to perform or observe any of its material obligations herein, and such default continues for thirty (30) days following receipt of written notice of such default.
2. Termination for Convenience. Either Party, upon thirty (30) days written notice, may terminate this Contract in whole or in part.
3. Mutual Termination. This Contract may be terminated by mutual agreement and consent, in writing, of both Parties.

After termination, the local political subdivision has a continuing obligation to report dispositions and collect fees for all violators in the FTA System at the time of termination.

Failure to comply with this continuing obligation to report shall result in the removal of all outstanding entries of the Political Subdivision in the FTA Report, resulting in the lifting of any denied driver license renewal status from TXDPS.

R. Notice

Any notice required or permitted under this Contract shall be directed to the respective Parties at the addresses shown below and shall be deemed given: (1) when delivered in hand and a receipt granted; (2) when received if sent by certified mail, return receipt requested; (3) upon three business days after deposit in the U.S. mail; or (4) when received if sent by confirmed facsimile or confirmed email.

Political Subdivision

Attn: STACEY ALMOND

Address: 3805 ADAM GRUBB

Address: LAKE WORTH, TEXAS 76135

Fax: 817-237-1333

Email: salmond@lakeworthtx.org

Phone: 817-237-1211

Texas Department of Public Safety

Attn: Enforcement & Compliance Service

5805 North Lamar Boulevard

Austin, Texas 78773-0001

(512) 424-5311 [fax]

Driver.Improvement@dps.texas.gov

Either of the Parties may change its address or designated individual(s) to receive notices by giving the other Party written notice as provided herein, specifying the new address and/or individual and the date upon which it shall become effective.

XIII. Signature Authority

The signatory for the Political Subdivision hereby represents and warrants that he/she has full and complete authority to enter into this Contract on behalf of the Political Subdivision.

XIV. Certifications

The Parties certify that each Party paying for the performance of governmental functions or services must make those payments from current revenues available to the paying party.

The Parties certify that this Contract is authorized by the governing body of the Parties.

The Parties certify that each has the authority to enter into this Contract by authority granted in Texas Transportation Code, Chapter 706.

**TEXAS DEPARTMENT OF
PUBLIC SAFETY**

POLITICAL SUBDIVISION*

Driver License Division Director
Or Designee

Authorized Signature

Title

Date

Date

*An additional page may be attached if more than one signature is required to execute this Contract on behalf of the Political Subdivision. Each signature block must contain the person's title and date.

Lake Worth City Council Meeting – October 9, 2018

Agenda Item No. F.3

From: Natacha Valdez, Municipal Court Director

Item: Discuss and consider approval of a contract with The Payment Group (TPG) for processing of credit cards for Municipal Court payments and authorize the City Manager to execute the contract.

Summary:

Staff has looked at The Payment Group and our current provider nCourt and are recommending the City change credit card processing companies to The Payment Group. The Payment Group has agreed upon the same rates as we currently offer court customers.

In addition, The Payment Group is integrated with the Municipal Court records management system to automatically post online or phone payments directly to the court system and allows the Court to send text messages to defendants with status updates of their citation (court date reminders, appearance date reminders, payment plan due reminders, etc).

This contract is for a period of one (1) year with an automatic renewal on an annual basis with a 30-day termination agreement by either party.

The change would go into effect January 2019 allowing ample time to notify nCourt per the current contract requirements.

Fiscal Impact:

N/A

Attachments:

1. The Payment Group Service Agreement - Court

Recommended Motion or Action:

Move to approve the contract with The Payment Group (TPG) for processing of credit cards for Municipal Court payments and authorize the City Manager to execute the contract.



The Payment Group Service Agreement - Court

Important – Read Carefully: This is an agreement between The Payment Group, LLC (TPG), a Delaware limited liability company, and the City of Lake Worth, TX (“Client”), for the license of TPG online citation payment service, associated software, hardware, media materials, and electronic documentation. Client and TPG are collectively referred to in this agreement as the “Parties”. The purpose of this agreement is to state the terms and conditions under which TPG will provide for Client *telephone citation payment services* and/or *online citation payment services* to individuals who have received citation(s) from Client for traffic or other legal violations (“End User”).

Agreement

1. **Services Provided:** TPG will provide online citation payment services 24 hours a day, and pay-by-phone services via toll-free number during normal business hours. TPG will also provide ancillary services for Client, including all necessary installation/setup, promotional assistance, credit card processing, payments to client's specified account(s), and access to real time online reporting. Client agrees to retain the service of TPG to act as an agent for the limited purpose of receiving and processing debit and credit card payments. Client agrees to promptly clear all citations upon notice or posting by TPG that payment for such citations has been received by TPG. If a “chargeback” to a credit/debit card occurs, TPG will handle the matter and make the proper adjustment on the next Client report, and Client will then reinstate the affected citation(s) as remaining outstanding and unpaid.
2. **Timing of Contract:** TPG will furnish the necessary setup and perform all services required to begin processing citation payments within twenty- four (24) hours, or as soon as is practicable thereafter, of the time this contract and other paperwork are completed and received by TPG.
3. **Property of TPG:** All computer programs, written procedures, promotional materials, and other supporting items used in the work performed for Client shall be the property of TPG, and shall be returned upon termination of this agreement.
4. **Hardware and Software Requirements:** In order to access posting of payments and view online reports, and communicate with TPG, Client needs the following: Access to the Internet and ability to browse to TPG administration website, an email address, an up-to-date copy of Adobe Reader to view reports, and a telephone line for TPG to communicate with Client when a payment is received or for any other common communication.
5. **Information Provided by Client:** Client must provide the following to TPG prior to startup:
 - a) Any and all standard contact information;
 - b) Bank routing number, bank account number (if using direct deposit); and
 - c) Bank account type for deposit of all payments (if using direct deposit).
6. **Actions to be Performed by TPG:** TPG will provide toll free pay-by-phone service during business hours, and paper check or electronic payment to the Client for all citations paid using TPG. TPG will provide all necessary technical support to maintain the payment system 24 hours a day, 7 days a week. TPG will send or electronically deposit funds and reports to Client on the next business day to the account specified by Client.
7. **Term and Cancellation of Contract:** The term of this agreement shall begin on the date executed by both parties and shall continue in full force and effect from that date until it is terminated by thirty (30) days written notice from either party to the other.
8. **Indemnity:** TPG will hold harmless the Client for causes of action and damages resulting from the wrongful arrest of defendants due to TPG's negligence in processing and reporting payments in accordance with this Agreement. If, and to the extent, allowed under Texas law, Client will hold harmless TPG for causes of action and damages resulting from the wrongful arrest of defendants due to Client's negligence in processing payments or errors in information generated by Client and furnished to TPG. The liability of either Party to the other with respect to this Agreement shall not include any contingent liability or exemplary or consequential damages.
9. **Reservation:** All rights not expressly granted in this agreement are reserved by TPG.
10. **Support Services:** TPG will provide Client with support services related to all aspects of TPG citation payment service. The TPG web portal, software applications, electronic payments, online reports, and promotional materials are the specific services supported. Client may contact TPG support services during business hours Monday through Friday 8:00am to 5:00pm, CST. It is understood that TPG will charge End Users a processing fee for the use of its services, and in no event shall Client ever be responsible for any such fee.

Initials: “TPG” _____ “Client” _____



11. **Fees and Expenses:** It is understood that TPG will charge End Users a processing fee for the use of TPG's services, and in no event shall Client ever be responsible for any such fee. Client shall not be responsible for any EFT, processing, maintenance or other fees or charges. Client's customer will pay 5.0% or a minimum of \$3.95 for all payments processed via phone; 5.0% or a minimum of \$2.95 for all payments processed via online; 3.5% or a minimum of \$0.95 for all payments processed via card physically present at Client's site.
12. **Attorney Fees and Costs:** If any action at law or in equity is necessary to enforce or interpret the terms of this agreement, the prevailing party shall be entitled to reasonable attorney's fees, costs, and necessary disbursements in addition to any other relief to which such party may be entitled.
13. **Promotional Materials:** Client agrees to the following for promotional purposes: *a.* to allow TPG to use any logo or trademark of Client on the TPG website for Client Identification if deemed necessary by TPG; and *b.* to allow TPG to send promotional material to Client regarding TPG services for Client to display on-site reflecting TPG as an authorized agent of Client to receive payment of traffic and parking citations. The use of these materials is optional and Client is in no way obligated to use or display.
14. **Miscellaneous Provisions:**
 - a. *Texas Law to apply:* This provision shall be construed under and in accordance with the laws of the State of Texas, and all obligations of the parties created under this agreement are performable in the State of Texas.
 - b. Venue and exclusive jurisdiction for any action to enforce or construe this Agreement shall be in Tarrant County, Texas
 - c. *Parties Bound:* This agreement shall be binding on and inure to the benefit of the parties and their respective heirs, executors, administrators, legal representatives, successors, and assigns.
 - d. *Legal Construction:* In case any one or more of the provisions contained in this agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, that invalidity, illegality or unenforceable shall not affect any other provision of this agreement, and this agreement shall be construed as if the invalid, illegal, or unenforceable provision was not contained in the agreement.
 - e. *Sole Agreement:* This agreement constitutes the sole agreement of the parties and supercedes any prior understandings or written or oral agreements between the parties respecting the subject matter of this agreement.

The Payment Group, LLC

City of Lake Worth, Texas

Name: Rusty Steele Name: _____

Title: Director of Business Development Title: _____

Address: 5151 Belt Line Rd. Suite 505 Address: _____

Dallas, Texas 75254 _____

Signature: _____ Signature: _____

Date: _____ Date: _____

Initials: "TPG" _____ "Client" _____

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

OFFICE USE ONLY CERTIFICATION OF FILING

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

The Payment Group
Dallas, TX United States

Certificate Number:
2018-406920

Date Filed:
09/21/2018

Date Acknowledged:

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

City of Lake Worth

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

2018-10-09 F3
Credit Card, Payment Processing for court fines

| 4 | Name of Interested Party | City, State, Country (place of business) | Nature of interest (check applicable) | |
|---|--------------------------|--|---------------------------------------|--------------|
| | | | Controlling | Intermediary |
| | Steele, Rusty | Dallas, TX United States | | X |
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5 Check only if there is NO Interested Party. ☐

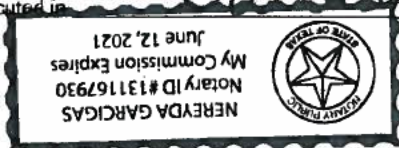
6 UNSWORN DECLARATION

My name is Russell Steele and my date of birth is [REDACTED]

My address is 3751 Belt Line Road Dallas TX 75254 USA
(street) (city) (state) (zip code) (country)

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Dallas County, State of Texas on the 21 day of September, 2018
(month) (year)



Nereyda Garcia
Signature of authorized agent of contracting business entity
(Declarant)

Lake Worth City Council Meeting – October 9, 2018

Agenda Item No. F.4

From: Natacha Valdez, Municipal Court Director

Item: Discuss and consider approval of a contract with The Payment Group (TPG) for processing of credit card payments for utility, permit, and miscellaneous charges and authorize the City Manager to execute the agreement.

Summary:

Staff has looked at The Payment Group (TPG) and our current provider nCourt and are recommending the City change credit card processing companies to The Payment Group. The Payment Group has agreed upon the same rates as we currently have with nCourt except for utility payments processed online. The current charge is a flat \$4.95 fee and with The Payment Group it would be 3.5%. On a \$69.79 (5k usage-city average bill) the fee with nCourt would be \$4.95 and with The Payment Group would be \$2.44 to the resident.

This contract is for a period of one (1) year with an automatic renewal on an annual basis with a 30-day termination agreement by either party.

The change would go into effect January 2019 allowing ample time to notify nCourt per the current contract requirements.

Fiscal Impact:

N/A

Attachments:

1. The Payment Group Service Agreement – UB, Permits, Misc.

Recommended Motion or Action:

Move to approve the contract with The Payment Group (TPG) for processing of credit card payments for utility, permit, and miscellaneous charges and authorize the City Manager to execute the agreement.



The Payment Group Service Agreement - Utilities

Important – Read Carefully: This is an agreement between The Payment Group (“TPG”), a Delaware limited liability company, and the City of Lake Worth (“Client”), for the license of TPG online utility payment service, associated software, hardware, media materials, and electronic documentation. Client and TPG are collectively referred to in this agreement as the “Parties”. The purpose of this agreement is to state the terms and conditions under which TPG will provide for Client online utility payment services to individuals who have received billing for utility services from Client (“End User”).

Agreement

1. **Services Provided:** TPG will provide 24-hour online utility payment services, ancillary services for Client, including all necessary installation/setup, promotional assistance, credit card processing, payments to client's specified account(s), and access to real time online reporting. Client agrees to retain the service of TPG to act as an agent for the limited purpose of receiving and processing Visa and MasterCard credit and debit card payments for utility services. Client agrees to promptly credit End User upon notice by TPG that payment for such utilities has been received by TPG. If a “chargeback” to a credit/debit card occurs, TPG will handle the matter and make the proper adjustment on the next Client report, and Client will then reinstate the affected account of End User as remaining outstanding and unpaid.
2. **Timing of Contract:** TPG will furnish the necessary setup and perform all services required to begin processing utility payments online within twenty- four (24) hours, or as soon as is practicable thereafter, of the time this agreement and other paperwork are completed and received by TPG.
3. **Property of TPG:** All computer programs, written procedures, promotional materials, and other supporting items used in the work performed for Client shall be the property of TPG, and shall be returned upon termination of this agreement.
4. **Hardware and Software Requirements:** In order to access and view online reports, and communicate with TPG, Client needs the following: Access to the Internet and ability to browse to TPG administration website, an up-to-date copy of Adobe Reader to view reports, and a telephone line for TPG to communicate with Client when a payment is received or for any other common communication.
5. **Information Provided by Client:** Client must provide the following to TPG prior to startup:
 - a) Any and all standard contact information;
 - b) Bank routing number, bank account number ; and
 - c) Bank account type for deposit of all payments.
6. **Actions to be Performed by TPG:** TPG will provide online payment service 24 hours a day, 7 days a week, to the Client for all utilities paid using TPG. TPG will provide all necessary technical support to maintain the payment system 24 hours a day, 7 days a week. TPG will send or electronically deposit funds and reports to Client on the next business day to the account specified by Client.
7. **Term and Cancellation of Contract:** The term of this agreement shall begin on the date executed by both parties and shall continue in full force and effect from that date until it is terminated by thirty (30) days written notice from either party to the other.
8. **Indemnity:** TPG will hold harmless the Client for causes of action and damages resulting from the wrongful termination of an End User's utility services due to TPG's negligence in processing and reporting payments in accordance with this Agreement. To the extent, if any, allowed by Texas law, Client will hold harmless TPG for causes of action and damages resulting from the wrongful termination of an End User's utility services due to Client's negligence in processing payments or errors in information generated by Client and furnished to TPG. The liability of either Party to the other with respect to this Agreement shall not include any contingent liability or exemplary or consequential damages.
9. **Reservation:** All rights not expressly granted in this agreement are reserved by TPG.
10. **Support Services:** TPG will provide Client with support services related to all aspects of TPG online utility payment service. The TPG web portal, software applications, electronic payments, online reports, and promotional materials are the specific services supported. Client may contact TPG support services during business hours Monday through Friday 8:00am to 5:00pm, CST.
11. **Fees and Expenses:** It is understood that TPG will charge End Users a processing fee for the use of TPG's services, and in no event shall Client ever be responsible for any such fee. Client shall not be responsible for

Initials: “TPG” _____ “Client” _____



any EFT, processing, maintenance or other fees or charges. Client's customer will pay 3.5% or a minimum of \$0.95 for all payments processed.

12. **Permits and Miscellaneous Payments:** From time to time there are payments other than utility transactions that will be accepted by the Client. These transactions will be afforded the same services under this utility agreement. Client's customer will pay 3.5% or a minimum of \$0.95 for all payments processed under this section.
13. **Attorney Fees and Costs:** If any action at law or in equity is necessary to enforce or interpret the terms of this agreement, the prevailing party shall be entitled to reasonable attorney's fees, costs, and necessary disbursements in addition to any other relief to which such party may be entitled.
14. **Promotional Materials:** Client agrees to the following for promotional purposes: a. to allow TPG to use any logo or trademark of Client on the TPG website for Client Identification if deemed necessary by TPG; b. to allow TPG to send promotional material to Client regarding TPG services for Client to display on-site reflecting TPG as an authorized agent of Client to receive payment of utilities. The use of these materials is optional and Client is in no way obligated to use or display.
15. **Miscellaneous Provisions:**
 - a. *Texas Law to apply:* This provision shall be construed under and in accordance with the laws of the State of Texas, and all obligations of the parties created under this agreement are performable in the State of Texas.
 - b. Venue and exclusive jurisdiction for any action to enforce or construe this Agreement shall be in Tarrant County, Texas
 - c. *Parties Bound:* This agreement shall be binding on and inure to the benefit of the parties and their respective heirs, executors, administrators, legal representatives, successors, and assigns.
 - d. *Legal Construction:* In case any one or more of the provisions contained in this agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, that invalidity, illegality or unenforceable shall not affect any other provision of this agreement, and this agreement shall be construed as if the invalid, illegal, or unenforceable provision was not contained in the agreement.
 - e. *Sole Agreement:* This agreement constitutes the sole agreement of the parties and supercedes any prior understandings or written or oral agreements between the parties respecting the subject matter of this agreement.

THE PAYMENT GROUP, LLC

City of Lake Worth, Texas

Name: Rusty Steele Name: _____

Title: Director of Business Development Title: _____

Address: 5151 Belt Line Road, Suite 505 Address: _____

Dallas, Texas 75254

Signature: _____ Signature: _____

Initials: "TPG" _____ "Client" _____



Date: _____ Date: _____

Initials: "TPG" _____ "Client" _____

CERTIFICATE OF INTERESTED PARTIES**FORM 1295**

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

**OFFICE USE ONLY
CERTIFICATION OF FILING****1 Name of business entity filing form, and the city, state and country of the business entity's place of business.**

The Payment Group
Dallas, TX United States

Certificate Number:
2018-406921

Date Filed:
09/21/2018

Date Acknowledged:

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

City of Lake Worth

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

2018-10-09 F4
Credit Card, Payment Processing for Utility Accounts

| 4 | Name of Interested Party | City, State, Country (place of business) | Nature of interest (check applicable) | |
|---|--------------------------|--|--|--------------|
| | | | Controlling | Intermediary |
| | Steele, Rusty | Dallas, TX United States | | X |
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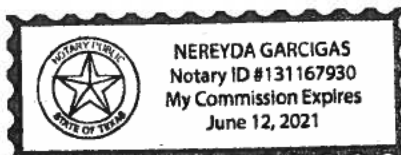
5 Check only if there is NO Interested Party.**6 UNSWORN DECLARATION**

My name is Russell Steele, and my date of birth is [REDACTED]

My address is 5151 Belt Line Rd, Dallas, TX, 75254, USA
(street) (city) (state) (zip code) (country)

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Dallas County, State of Texas, on the 21 day of September, 2018
(month) (year)



Nereyda Garcigas
Signature of authorized agent of contracting business entity
(Declarant)

Lake Worth City Council Meeting – October 9, 2018

Agenda Item No. F.5

From: Natacha Valdez, Municipal Court Director

Item: Discussion and consider Ordinance No. 1129, appointment of Jim Minter as Magistrate and authorize the City Manager to execute a two-year agreement for magistrate services.

Summary:

In February 2018, the Lake Worth Municipal Court implemented video arraignment procedures in the jail and our Associate Judge Craig Magnuson agreed to provide Magistrate duties. Upon the renewal of his appointment and service agreement, the City and Judge Magnuson could not come to an agreement on the terms of his duties and compensation. This resulted in Judge Magnuson submitting a letter of resignation for his magistrate duties for the City.

Staff contacted Jimmy “Jim” Minter to serve as the City’s Magistrate and he has agreed to provide magistrate duties per the terms set out in the service agreement. This agreement will be for a two-year term and will expire on October 8, 2020. The City will compensate the Magistrate at a flat-rate of \$1,200 per month. Mr. Minter is a graduate of Texas Wesleyan, has a law office in River Oaks, and has been practicing law since 1995.

In the absence of Mr. Minter, Renee Culp will serve as the alternate Magistrate. Ms. Culp works with Mr. Minter in his law office in River Oaks, is a graduate of Texas Wesleyan, and has been practicing law since 1999. There is no compensation for the alternate magistrate.

Fiscal Impact:

1. \$14,400

Attachments:

1. Ordinance No. 1129
2. Service Contract

Recommended Motion or Action:

Move to approve Ordinance No. 1129, appointment of Jim Minter as Magistrate and authorize the City Manager to execute a two-year agreement for magistrate services.

ORDINANCE NO. 1129

AN ORDINANCE OF THE CITY OF LAKE WORTH, TEXAS APPOINTING A MAGISTRATE FOR THE MUNICIPAL COURT OF RECORD IN THE CITY OF LAKE WORTH; PROVIDING THAT THIS ORDINANCE BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Lake Worth is a home rule acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, it is of great benefit to the City of Lake Worth to have a magistrate to perform various administrative and other duties within the municipal court; and

WHEREAS, Section 30.01255, Texas Government Code authorizes the City of Lake Worth to appoint one or more magistrates; and

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

SECTION 1. Pursuant to Section 30.01255, Texas Government Code, the duties of a magistrate may include: 1) conduction arraignments; 2) holding indigency hearings; 3) accepting pleas; 4) signing judgments; 5) setting the amount of a bond; and 6) performing other functions under Article 15.17, Code of Criminal Procedure.

SECTION 2. Jimmy “Jim” Minter is hereby appointed as magistrate in the Municipal Court of Record of the City of Lake Worth beginning October 9, 2018 and expiring October 8, 2020.

SECTION 3. This ordinance shall be cumulative of all provisions of ordinances of the City of Lake Worth, Texas, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed.

SECTION 4. It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 5. This ordinance shall be in full force and effect from and after its passage, and it is so ordained.

PASSED AND APPROVED on this the 9th day of October 2018.

CITY OF LAKE WORTH

By: _____
Walter Bowen, Mayor

ATTEST:

Monica Solko, City Secretary

MAGISTRATE LETTER AGREEMENT

On or about October 9, 2018, the Mayor of the City of Lake Worth, with the concurrence of the City Council for the City of Lake Worth ("City"), appointed Jimmy "Jim" Minter to serve as Magistrate for the City. Jimmy "Jim" Minter has been appointed for a two-year term that will expire on October 8, 2020, subject to the following terms and conditions for such professional services.

Section 1. Appointment

- a. The Magistrate shall be appointed in accordance with the City Charter, and upon approval of the City Council.

Section 2. Term and Termination

- a. The Magistrate shall be, at all times and for all purposes, an independent contractor of the City, as that term is defined by Texas legal authority. The Magistrate agrees that no property right shall be created by the execution of this Agreement.
- b. The Magistrate shall serve until October 8, 2020. This Agreement shall be considered for renewal beginning October 9, 2020. Nothing in this Agreement shall prevent, limit, or otherwise interfere with the right of the City to terminate the services of the Magistrate at any time in accordance with law.
- c. The Magistrate shall serve at the pleasure of the City Council. This Agreement and the Magistrate's services may be terminated at any time by the City Council, with or without cause, and without notice.

Section 3. Duties

- a. The Magistrate shall perform the functions and duties specified in the applicable sections of the City Charter and City Ordinances and shall perform such other legally permissible and proper duties and functions as the City shall assign from time to time.
- b. The Magistrate shall perform all services and duties customarily performed by a Magistrate of a municipal court in the State of Texas.
- c. The Magistrate is required to keep abreast of state law and local ordinances, including state-mandated fees for the Lake Worth Municipal Court. Although a recognized function of the judicial discretion, the Magistrate shall endeavor to enforce the laws consistently and within suggested state guidelines and pursuant to the Standing Orders and shall be uniform and consistent in the implementation of the judicial policy in accordance with State law and local ordinances. The Magistrate shall apply the law and enter judgments in accordance with State law and local ordinances, shall abide by all mandatory provisions of the law, and shall not create or apply exceptions where none exist under law. Judicial discretion shall only be applied where allowed under law.

Section 4. Standing Orders

- a. The City Council desires uniformity and consistency in the implementation of judicial policy in accordance with State law and local ordinances. Therefore, the Magistrate shall utilize the "Bench Book" produced by the Texas Municipal Courts Education Center.

- b. The Presiding Judge shall promulgate and maintain judicial policies and procedures for insertion into "Standing Order" which addresses the daily administration of the municipal court and trial procedures for matters such as dismissals, installment payments, deferred disposition, and continuances. The Standing Orders shall be signed by the Presiding Judge and any changes to the Stating Orders much be in writing and acknowledged by the Magistrate. Court clerks will not enforce oral policies.
- c. The Magistrate shall adhere to the Standing Orders.

Section 5. Arraignments

- a. Jail arraignments shall be performed on a daily basis; however, the Magistrate will endeavor to arraign prisoners as soon as practical after receiving notice of such a need, in accordance with the rules in the Standing Orders and all applicable state and federal laws. The Magistrate shall be notified daily, no later than 9:00 a.m., to be advised of any prisoners in need arraignment and the status of any other prisoner currently in the Lake Worth jail. An officer shall be made available for assisting with arraignments. This schedule shall be a permanent responsibility, which must be maintain other than for emergencies or upon advance notice.
- b. All paperwork from jail arraignments must be properly completed. The Magistrate shall ensure that no judicially-inputted information is omitted on judgments, warrants and probable cause affidavits. Any documents prepared by City staff that are not properly completed will be returned for correction by the Magistrate; however, this shall in no way be read to create a duty for the Magistrate to correct the document or to give legal advice to City staff.
- c. The Magistrate shall make all reasonable effort to be available to sign warrants, probable cause affidavits or emergency arraignments (such as for medical emergencies) at times other than as scheduled. The Police Department shall use all reasonable efforts to ensure that each situation receives immediate judicial attention.

Section 6. Compensation

- a. As compensation for all required services, as outlines above, the City agrees to pay the Magistrate a flat rate of One Thousand Two Hundred Dollars (\$1200.00) per month.
- b. The Magistrate shall send a bill to the City once per month not later than the fifth day of each month.
- c. The City shall pay the Magistrate once per month within twenty-one (21) days from the date the invoice is received by the City.
- d. The City understands and agrees that certain judicial training is mandated by the State of Texas for the Magistrate. Such training and expenses associated with such training, and payment therefor, shall be the responsibility of the Magistrate.

Section 7. General Provisions

- a. The text herein, or an amended hereafter, in writing, by agreement of City and Magistrate, shall constitute the entire agreement between the parties.
- b. This Agreement shall become effective on October 9, 2018.

- c. This Agreement shall be governed by the laws of the State of Texas and venue for any proceeding related to this Agreement shall be in Tarrant County, Texas.
- d. If any provision, or any portion thereof, contained in this Agreement is held to be unconstitutional, invalid, or unenforceable, the remainder of this Agreement, or portion thereof, shall be deemed severable, shall not be affected, and shall remain in full force and effect.

ACKNOWLEDGED AND ACCEPTED:

Jimmy "Jim" Minter

Stacey Almond, City Manager
City of Lake Worth, Texas

Date Signed

Date Signed

Lake Worth City Council Meeting – October 9, 2018

Agenda Item No. F.6

From: Natacha Valdez, Municipal Court Director

Item: Discussion and consider Ordinance No. 1130, appointment of Renee Culp as an alternate Magistrate and authorize the City Manager to execute a two-year agreement for magistrate services.

Summary:

In February 2018, the Lake Worth Municipal Court implemented video arraignment procedures in the jail and our Associate Judge Craig Magnuson agreed to provide Magistrate duties. Upon the renewal of his appointment and service agreement, the City and Judge Magnuson could not come to an agreement on the terms of his duties and compensation. This resulted in Judge Magnuson submitting a letter of resignation for his magistrate duties for the City.

Staff contacted Jim Minter to serve as the City's Magistrate and Renee Culp to serve as the alternate in the absence of Mr. Minter. She has agreed to serve as the alternate, providing the magistrate duties for the City per the terms set out in the service agreement. This agreement will be for a two-year term and will expire on October 8, 2020. There is no compensation for the alternate magistrate. Ms. Culp works with Mr. Minter in his law office in River Oaks, is a graduate of Texas Wesleyan, and has been practicing law since 1999.

Fiscal Impact:

N/A

Attachments:

1. Ordinance No. 1130
2. Service Contract

Recommended Motion or Action:

Move to approve Ordinance No. 1130, appointment of Renee Culp as an alternate Magistrate and authorize the City Manager to execute a two-year agreement for magistrate services.

ORDINANCE NO. 1130

AN ORDINANCE OF THE CITY OF LAKE WORTH, TEXAS APPOINTING A MAGISTRATE FOR THE MUNICIPAL COURT OF RECORD IN THE CITY OF LAKE WORTH; PROVIDING THAT THIS ORDINANCE BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Lake Worth is a home rule acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, it is of great benefit to the City of Lake Worth to have a magistrate to perform various administrative and other duties within the municipal court; and

WHEREAS, Section 30.01255, Texas Government Code authorizes the City of Lake Worth to appoint one or more magistrates; and

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

SECTION 1. Pursuant to Section 30.01255, Texas Government Code, the duties of a magistrate may include: 1) conduction arraignments; 2) holding indigency hearings; 3) accepting pleas; 4) signing judgments; 5) setting the amount of a bond; and 6) performing other functions under Article 15.17, Code of Criminal Procedure.

SECTION 2. Renee Culp is hereby appointed as alternate magistrate in the Municipal Court of Record of the City of Lake Worth beginning October 9, 2018 and expiring October 8, 2020.

SECTION 3. This ordinance shall be cumulative of all provisions of ordinances of the City of Lake Worth, Texas, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed.

SECTION 4. It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 5. This ordinance shall be in full force and effect from and after its passage, and it is so ordained.

PASSED AND APPROVED on this the 9th day of October 2018.

CITY OF LAKE WORTH

By: _____
Walter Bowen, Mayor

ATTEST:

Monica Solko, City Secretary

MAGISTRATE LETTER AGREEMENT

On October 9, 2018, the Mayor of the City of Lake Worth, with the concurrence of the City Council for the City of Lake Worth ("City"), appointed Renee Culp to serve as Magistrate for the City. Renee Culp has been appointed for a two-year term that will expire on October 8, 2020, subject to the following terms and conditions for such professional services.

Section 1. Appointment

- a. The Magistrate shall be appointed in accordance with the City Charter, and upon approval of the City Council.

Section 2. Term and Termination

- a. The Magistrate shall be, at all times and for all purposes, an independent contractor of the City, as that term is defined by Texas legal authority. The Magistrate agrees that no property right shall be created by the execution of this Agreement.
- b. The Magistrate shall serve until October 8, 2020. This Agreement shall be considered for renewal beginning October 9, 2020. Nothing in this Agreement shall prevent, limit, or otherwise interfere with the right of the City to terminate the services of the Magistrate at any time in accordance with law.
- c. The Magistrate shall serve at the pleasure of the City Council. This Agreement and the Magistrate's services may be terminated at any time by the City Council, with or without cause, and without notice.

Section 3. Duties

- a. The Magistrate shall perform the functions and duties specified in the applicable sections of the City Charter and City Ordinances and shall perform such other legally permissible and proper duties and functions as the City shall assign from time to time.
- b. The Magistrate shall perform all services and duties customarily performed by a Magistrate of a municipal court in the State of Texas.
- c. The Magistrate is required to keep abreast of state law and local ordinances, including state-mandated fees for the Lake Worth Municipal Court. Although a recognized function of the judicial discretion, the Magistrate shall endeavor to enforce the laws consistently and within suggested state guidelines and pursuant to the Standing Orders and shall be uniform and consistent in the implementation of the judicial policy in accordance with State law and local ordinances. The Magistrate shall apply the law and enter judgments in accordance with State law and local ordinances, shall abide by all mandatory provisions of the law, and shall not create or apply exceptions where none exist under law. Judicial discretion shall only be applied where allowed under law.

Section 4. Standing Orders

- a. The City Council desires uniformity and consistency in the implementation of judicial policy in accordance with State law and local ordinances. Therefore, the Magistrate shall utilize the "Bench Book" produced by the Texas Municipal Courts Education Center.

- b. The Presiding Judge shall promulgate and maintain judicial policies and procedures for insertion into "Standing Order" which addresses the daily administration of the municipal court and trial procedures for matters such as dismissals, installment payments, deferred disposition, and continuances. The Standing Orders shall be signed by the Presiding Judge and any changes to the Stating Orders must be in writing and acknowledged by the Magistrate. Court clerks will not enforce oral policies.
- c. The Magistrate shall adhere to the Standing Orders.

Section 5. Arraignments

- a. Jail arraignments shall be performed on a daily basis; however, the Magistrate will endeavor to arraign prisoners as soon as practical after receiving notice of such a need, in accordance with the rules in the Standing Orders and all applicable state and federal laws. The Magistrate shall be notified daily, no later than 9:00 a.m., to be advised of any prisoners in need arraignment and the status of any other prisoner currently in the Lake Worth jail. An officer shall be made available for assisting with arraignments. This schedule shall be a permanent responsibility, which must be maintained other than for emergencies or upon advance notice.
- b. All paperwork from jail arraignments must be properly completed. The Magistrate shall ensure that no judicially-inputted information is omitted on judgments, warrants and probable cause affidavits. Any documents prepared by City staff that are not properly completed will be returned for correction by the Magistrate; however, this shall in no way be read to create a duty for the Magistrate to correct the document or to give legal advice to City staff.
- c. The Magistrate shall make all reasonable effort to be available to sign warrants, probable cause affidavits or emergency arraignments (such as for medical emergencies) at times other than as scheduled. The Police Department shall use all reasonable efforts to ensure that each situation receives immediate judicial attention.

Section 6. Compensation

- a. There is no compensation for this position.

Section 7. General Provisions

- a. The text herein, or an amended hereafter, in writing, by agreement of City and Magistrate, shall constitute the entire agreement between the parties.
- b. This Agreement shall become effective on October 9, 2018.
- c. This Agreement shall be governed by the laws of the State of Texas and venue for any proceeding related to this Agreement shall be in Tarrant County, Texas.
- d. If any provision, or any portion thereof, contained in this Agreement is held to be unconstitutional, invalid, or unenforceable, the remainder of this Agreement, or portion thereof, shall be deemed severable, shall not be affected, and shall remain in full force and effect.

ACKNOWLEDGED AND ACCEPTED:

Renee Culp

Stacey Almond, City Manager
City of Lake Worth, Texas

Date Signed

Date Signed