



Sherry Garrison, Council Position 1
Thane Harrison, Council Position 2
Tommy Ginn, Council Position 3

Bill Patterson, Council Position 4
Ron Martin, Council Position 5
Rae A. Sinor, Council Position 6

James Stokes, City Manager
Gary Jackson, Assistant City Manager

Jerry Mouton Jr., Mayor

Shannon Bennett, TRMC, City Secretary
Jim Fox, City Attorney

Ordinance #4031

Resolution #2018-15

CALL TO ORDER

The 1723rd meeting of the Deer Park City Council.

INVOCATION

PLEDGE OF ALLEGIANCE

CONSENT CALENDAR

1. Approval of minutes of workshop meeting on December 4, 2018.

[MIN 18-164](#)

Recommended Action: Approve

Attachments: [CC MW 120418](#)

2. Approval of minutes of regular meeting on December 4, 2018.

[MIN 18-165](#)

Recommended Action: Approve

Attachments: [CC MR 120418](#)

3. Approval of tax refund to Safety RX Service in the amount of \$500.14 due to an overpayment.

[TAXR
18-094](#)

Recommended Action: Approve tax refund to Safety RX Service.

Department: Finance

4. Approval of tax refund to Corelogic in the amount of \$787.62 due to a homestead exemption, an over-65 exemption, and a freeze change granted by Harris County Appraisal District.

[TAXR
18-095](#)

Recommended Action: Approve the tax refund to Corelogic.

Department: Finance

The Mission of the City of Deer Park is to deliver exemplary municipal services that provide the community a high quality of life consistent with our history, culture and unique character.

5. Approval of tax refund to Patsy Stacey in the amount of \$503.68 due to an over-65 exemption and a freeze change granted by Harris County Appraisal District.

[TAXR
18-098](#)

Recommended Action: Approve the tax refund to Patsy Stacey.

Department: Finance

6. Approval of tax refund to Beatty Street Properties Inc. in the amount of \$655.76 due to a value decrease granted by Harris County Appraisal District.

[TAXR
18-099](#)

Recommended Action: Approve the tax refund to Beatty Street Properties Inc.

Department: Finance

7. Approval of tax refund to SPM Flow Control Inc. in the amount of \$3,028.88 due to a value decrease granted by Harris County Appraisal District.

[TAXR
18-100](#)

Recommended Action: Approve the tax refund to SPM Flow Control Inc.

Department: Finance

8. Approval of tax refund to Patricia Boone in the amount of \$2,088.00 due to a homestead exemption, an over-65 exemption, and a freeze change granted by Harris County Appraisal District.

[TAXR
18-101](#)

Recommended Action: Approve the tax refund to Patricia Boone.

Department: Finance

9. Approval of tax refund to Corelogic in the amount of \$1,062.07 due to an overpayment.

[TAXR
18-102](#)

Recommended Action: Approve the tax refund to Corelogic.

Department: Finance

10. Approval of tax refund to Alice Lux in the amount of \$787.62 due to a homestead, an over 65 and a freeze change granted by Harris County Appraisal District.

[TAXR
18-103](#)

Recommended Action: Approve the tax refund to Alice Lux.

Department: Finance

11. Approval of change order number three on the New Animal Shelter project.

[CHO 18-007](#)

Recommended Action: Staff recommends approval of Change Order #3

Department: Public Works

Attachments: [Change Order 3](#)

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12. Authorization to advertise and receive bids on the Deer Park WetlandsTallow Mitigation Project. [AUT 18-116](#)

Recommended Action: Staff recommends moving forward with this project in order to meet the Texas Parks and Wildlife's Grant deadline.

Department: Parks & Recreation

Attachments: [Tallow Mitigation Contract Document](#)

13. Authorization to reduce Tandem's retainage from 5% to 2% for the soccer fields. [AUT 18-119](#)

Recommended Action: Authorize to reduce Tandem's retainage from 5% to 2% for the soccer fields

14. Acceptance of the Quarterly Financial Report for the Fiscal Year 2017-2018 fourth quarter ending September 30, 2018. [ACT 18-040](#)

Recommended Action: Accept the quarterly financial report for the Fiscal Year 2017-2018 fourth quarter ending September 30, 2018.

Department: Finance

Attachments: [2018 4Q Financial Report](#)

COMMENTS FROM AUDIENCE

The Mayor shall call upon those who have registered to address Council in the order registered. There is a five minute time limit . A registration form is available in the Council Chambers and citizens must register by 7:25 p.m.

NEW BUSINESS

15. Consideration of and action on an amendment to the Youth Sports Organization Utilization Agreements. [AMD 18-015](#)

Recommended Action: Approve the Youth Organization Utilization Agreement addendums

Attachments: [Sports Organization Utilization Agreement - Softball - FINAL112918](#)

[Sports Organization Utilization Agreement - Soccer - FINAL112918](#)

[ADDENDUM TO CONTRACT - DPSFC](#)

[ADDENDUM TO CONTRACT - DPGS](#)

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16. Consideration of and action on authorization to purchase RecTrac Registration / Rental Software Vermont Systems Recreation & Parks Software as a sole source purchase. [AUT 18-080](#)

Recommended Action: Approval to purchase RecTrac Registration / Rental Software from Vermont Systems Recreation & Parks Software

Department: Parks & Recreation

Attachments: [RecTrac Quote](#)
[Sole Source.pdf](#)

17. Consideration of and action on a resolution to members of the 86th Legislature of Texas for support of legislation that provides a fair and equitable distribution of the sporting goods sales tax revenue for Local and State parks and that all TRPA and Urban Account funded park projects be subject to the established TPWD competitive scoring system. [RES 18-499](#)

Recommended Action: Approve resolution.

Attachments: [2018 Resolution - 86th Legislative FINAL \(1\)](#)
[2018 TRAPS LEGISLATIVE TASKFORCE - ADVOCACY ISSUES AFTER TML](#)

18. Consideration of and action on a referral from the Planning and Zoning Commission and an ordinance calling a Joint Public Hearing from the request of Greenbriar Real Estate on behalf of Shirley Hill to rezone the property located at 2300 East 13th Street from General Commercial (GC) to Light Industrial (M1). [ORD 18-100](#)

Recommended Action: Approve Council to call a Joint Public Hearing on January 15, 2019 at 7:30 p.m.

Department: City Secretary's Office

Attachments: [Shirley Hill recomm letter](#)
[Joint Public Hearing-ReZone-2300 E Blvd-GC to M1-12-2018](#)

19. Consideration of and action on a referral from the Planning and Zoning Commission and an ordinance calling a Joint Public Hearing from the request of the City of Deer Park to adopt the Community Service zoning district into the zoning ordinance. [ORD 18-103](#)

Recommended Action: Approve Council to call a Joint Public Hearing on January 15, 2019 at 7:30 p.m.

Department: City Secretary's Office

Attachments: [Joint Public Hearing-Add CS Zoning District-12-2018](#)

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20. Consideration of and action on an ordinance amending Schedule B to address Chapter 74 Seismic Testing Permit Fees. [ORD 18-101](#)

Recommended Action: Approval is recommended

Department: City Manager's Office

Attachments: [Fee for Geophysical Testing-12-2018](#)

21. Consideration of and action on an ordinance appointing four members to the Library Board of Trustees. [ORD 18-104](#)

Recommended Action: The Board Selection Committee is recommending the reappointment of Patricia Adams, Brenda Spencer, Penny Henson, and Lois Malone.

Attachments: [Library Trustees - 2019-2020](#)

22. Consideration of and action on an ordinance appointing an alternate member to the Board of Adjustment. [ORD 18-105](#)

Recommended Action: Approval of appointment of one alternate member to the Board of Adjustment.

Attachments: [Appoint Alternate Member to Planning and Zoning and Board of Adjustment enc](#)

23. Consideration of and action on an ordinance appointing members to the Senior Citizen Commission. [ORD 18-106](#)

Recommended Action: Re-appointment of Mayor Jerry Mouton, Councilwoman, Sherry Garrison, Councilman, Tommy Ginn, Janice Delperdang, Gusta Cathey, Ralph Ross and Sam Bailey.

Attachments: [Senior Citizens Commission - Term ending 2021](#)

ADJOURN

Shannon Bennett, TRMC
City Secretary

Posted on Bulletin Board
December 14, 2018

City Hall is wheelchair accessible and accessible parking spaces are available. Hearing assistance devices are available. Requests for accommodations services must be made 72 hours prior to any meeting. Please contact the City Secretary's office at 281-478-7248 for further information.

The Mission of the City of Deer Park is to deliver exemplary municipal services that provide the community a high quality of life consistent with our history, culture and unique character.



City of Deer Park

710 E SAN AUGUSTINE
DEER PARK, TX 77536

Legislation Details (With Text)

File #: MIN 18-164 **Version:** 1 **Name:**
Type: Minutes **Status:** Agenda Ready
File created: 12/10/2018 **In control:** City Council
On agenda: 12/18/2018 **Final action:**
Title: Approval of minutes of workshop meeting on December 4, 2018.
Sponsors:
Indexes:
Code sections:
Attachments: [CC_MW_120418](#)

| Date | Ver. | Action By | Action | Result |
|------------|------|--------------|--------|--------|
| 12/18/2018 | 1 | City Council | | |

Approval of minutes of workshop meeting on December 4, 2018.

Summary:

Fiscal/Budgetary Impact:

Non

Approve

710 EAST SAN AUGUSTINE STREET

DEER PARK, TEXAS 77536

Minutes

of

A WORKSHOP MEETING OF THE CITY COUNCIL OF THE CITY OF DEER PARK, TEXAS HELD AT CITY HALL, 710 EAST SAN AUGUSTINE STREET, DEER PARK, TEXAS ON DECEMBER 04, 2018, BEGINNING AT 6:00 P.M., WITH THE FOLLOWING MEMBERS PRESENT:

JERRY MOUTON, JR.
SHERRY GARRISON
TOMMY GINN
RON MARTIN
RAE SINOR

MAYOR
COUNCILWOMAN
COUNCILMAN
COUNCILMAN
COUNCILWOMAN

OTHER CITY OFFICIALS PRESENT:

JAY STOKES
GARY JACKSON
SHANNON BENNETT
JIM FOX

CITY MANAGER
ASSISTANT CITY MANAGER
CITY SECRETARY
CITY ATTORNEY

1. MEETING CALLED TO ORDER – Mayor Mouton called the workshop to order at 6:00 p.m.
2. DISCUSSION OF ISSUES RELATING TO THE REQUEST FOR APPLICATIONS FOR PRIMARY DEPOSITORY BANK SERVICES – Finance Director, Donna Todd gave an overview of the term of a bank depository contract. Pursuant to Section 105.017 of the Texas Local Government Code, Chapter 105, Depositories for Municipal Funds, the term of a bank depository contract may not exceed five years. The City's current depository agreement with Wells Fargo Bank will complete a five-year term on January 31, 2019. Bill Cook of Valley View Consulting, the City's investment advisor, helped to develop the RFA, which were distributed to 19 financial institutions on August 29, 2018. Applications in response to the Request for Applications (RFA), which were due on October 1, 2018, to which five (5) banks responded: BB&T (Pasadena Branch), Capital One Bank (LaPorte Branch), JPMorgan Chase Bank (Deer Park Branch), The Moody National Bank (Pasadena Branch), and Wells Fargo Bank (Deer Park Branch). Staff concluded, and Valley View Consulting concurred, that Wells Fargo Bank provides the "best value" to the City, and it is Staff's recommendation to continue the depository banking relationship with, and award the contract to, Wells Fargo Bank. This will be an a term of five (5) years, the first three-year term of the contract beginning on February 1, 2019 and ending on January 31, 2022. The contract includes an option for annual renewals in the successive two years for a total of five years (final term ending on January 31, 2024).

Councilwoman Garrison commented, "I was very impressed with the materials we received. Thanks to Mr. Cook and Valley View."

3. DISCUSSION OF ISSUES RELATING TO A VOLUNTARY REQUEST FOR VOLUNTARY ANNEXATION OF A +/- 37 ACRE PARCEL IN THE CITY'S ETJ LOCATED AT 739 INDEPENDENCE PARKWAY INTO THE DEER PARK CITY LIMITS – Assistant City Manager, Gary Jackson gave an overview of the proposed voluntary annexation of a +/- 37 acre parcel in the City's ETJ located at 739 Independence Parkway into the Deer Park city limits. Mr. Jackson introduced Chad Parrish of Molto Properties. (Exhibit A1-A5)

Mr. Parrish gave a brief overview of the project developer, Molto Properties, a privately held industrial real estate developer and investor. Mr. Parrish also spoke of the current vacant and undeveloped land parcel that was developed by a chemical manufacturing plant. The current owner and applicant is Geo Specialty Chemicals, Inc. The property will be transferred to the developer during the annexation process. The propose for use is two Class A industrial/office/warehouse buildings featuring concrete tilt-wall construction totaling 555,000 square feet or greater. The owner is requesting water and sanitary sewer service from the City, which will be the property owner's responsibility to pay for the cost of extension of said services from their site to the point of connection in the City as designated by the City. The City will have to provide services, such as Police Fire/EMS. Mr. Parrish invited Chris Miller of Geo Specialty Chemicals to join the discussion.

Mr. Miller gave an overview of and planned usage for the property. The proceeds from the sale of the property are to be for Geo Specialty Chemical's expansion opportunities.

Mr. Miller commented, "I am here to ask for your support of this project on behalf of Geo Specialty Chemicals."

4. DISCUSSION OF ISSUES RELATING TO AN ORDINANCE RE-AFFIRMING THE TAX ABATEMENT POLICY – Assistant City Manager, Gary Jackson was very satisfied with the policy discussed the background of the Texas Tax Code and how it provides authority for cities to establish guidelines and criteria for property tax abatement. Tax abatement guidelines are effective for a period of two (2) years and during the 2 year period after approval or reaffirmation, the guidelines and criteria may only be amended or repealed by a 3/4th vote of the members of the governing body. On December 6, 2016, Ordinance No. 3862 was passed which reaffirmed the tax abatement program that was approved in 2014. After a review of the current Tax Abatement Policy, Staff proposes no changes to the existing policy and support it to be reaffirmed by ordinance.
5. DISCUSSION OF ISSUES RELATING TO UPCOMING CHANGES IN LIBRARY POLICIES/LIBRARY REFRESH – Library Director, Rebecca Pool gave an overview of the upcoming changes in the Library policies to update the Library's appearance and circulation. Changes from the Dewey Decimal System to BISAC/Word Categories, fictional book shelving by genre and reducing the reference section. Changes to improve

access for children and teens includes lowering the age to get a Library card, allow DVD's to be checked out on children/teen cards and to allow parents to restrict graphic novels rated MA or up. Additionally, a plan to designate February 2019 as fine free/fine forgiveness month is also being proposed.

Councilwoman Garrison asked, "How long will it take to complete the project?"

Ms. Pool responded, "We are working on it now. We would like to close for at least 4 days after New Year's, January 2-5, 2019. That would give us time to get the vast majority done."

Councilwoman asked, "Will you ask Library friends to help?"

Ms. Pool responded, "Absolutely."

6. DISCUSSION OF ISSUES RELATING TO REPAIR OF THE PRATT TRUSS BRIDGE STRUCTURE AT THE BATTLEGROUND GOLF COURSE – City Manager, Jay Stokes gave a brief summary of the option elected in a prior meeting that proposed repairs to the Pratt Truss Bridge at the Battleground Golf Course. At that time, the estimated project cost was \$241,785, and we budgeted accordingly in the City's FY 2018-2019 budget. Over the past few months, RPS Engineers has completed design work on the project. Their latest opinion of probable cost has risen to \$370,705, an increase of \$128,920. Mr. Stokes introduced Mr. Johnathan Griffin of RPS (formerly Klotz Associates).

Mr. Griffin gave an overview of the specifications for the estimated project costs. RPS indicates that the labor required to repair the truss members is the driving factor behind the costs. There is repair work needed and the skill to do the work is equivalent to that of cosmetic car repairs. The City's Public Works Staff have also asked if it is possible to replace more truss members than are identified in the construction plans. If the main truss members along with the intermediate supports are removed, RPS recommends we notify the Texas Historical Commission of your intentions with a letter and return the historical marker. If this option were pursued, there would be a significant portion of the bridge that would no longer exist, and, therefore, would no longer have its historical significance. Mr. Griffin believes \$325,000.00 is a reasonable estimate of what this project would cost.

Councilwoman Garrison asked, "Are you not sure of an accurate number. Could it come back higher?"

Mr. Griffin responded, "We don't have any control of what the bids are going to be. It could come in higher, because I feel this is a bit conservative."

Councilwoman Garrison commented, "This has been a very controversial subject. When we found the contract that Mayor Burke signed, supposedly, it superseded any other contract. It stated that we are to maintain this bridge. I think we should go out for bid. If this is something the City decides not to do, we still have to think about the fact that we

would need to ask Coryell County what to do with the bridge. Taking the bridge down would be an expense. I don't think the State of Texas will come get it. There is a lot of things to consider. I think we crossed a bridge a few months ago and I know it was not unanimous, but it was agreed by majority to take this option. I think we need to investigate it more. I think we need to see how much it is going to cost and how long it is going to last and if it is going to outweigh breaking that original agreement. There are a lot of things to consider, but we are not going to know anything if we do not go out for bids."

Mr. Griffin continued the discussion of an estimated timetable for the construction as 10 weeks. The construction plans developed are 95% complete, and is almost bid ready.

City Manager, Jay Stokes asked, "Would we have bids in by end of January?"

Mr. Griffin responded, "Yes, the end of January. That sounds fair."

Mayor Mouton commented, "The only way we can settle this is to put it out for bid and see what happens at that point."

Councilwoman Garrison commented, "We are not bound by the bids."

Mayor Mouton commented, "There is a life expectancy that this bridge is not going to last forever."

Councilwoman Sinor commented, "I think it is shameful that we are pushing three quarters of a million dollars to protect a bridge. Much of it has already been replaced and we continue to worry about it to preserve its historical value. We spoke to you all about 6 months ago of the safety of the bridge. It is falling apart. I predicated months ago, that it was going to be more costly than this."

Councilwoman Garrison commented, "The cost is just not the dollar amount. If we take the bridge down, we have to notify Coryell County and see if that makes us responsible to transport it."

Mayor Mouton commented, "We need to have a realistic check on this, and until we get hard numbers, we really don't know how much we are talking about."

Councilman Ginn asked, "Do you know what the annual maintenance might be?"

Mr. Griffin responded, "No I do not."

It was the consensus of the Council to go out for bids for the repair of the Pratt Truss Bridge Structure at the Battleground Golf Course.

7. DISCUSSION OF ISSUES RELATING TO PURCHASING CHAIRS FOR THE THEATRE / COURTS FACILITY – Parks and Recreation Director, Charlie Sandberg gave an overview of the 122 guest chairs proposed for purchase for the Theater/Court Facility.

Councilwoman Garrison commented, “This past weekend at the Theater, they had the kids program. Some of the grandparents that came to the show, had problems getting the chairs pulled out. It takes them about five minutes. It’s horrible.”

Councilman Martin asked, “Is it just the dinner table chairs?”

Mr. Sandberg responded, “Correct.”

8. DISCUSSION OF ISSUES RELATING TO CAPITAL IMPROVEMENT PROJECTS AT THE SURFACE WATER TREATMENT PLANT– Public Works Surface Water Treatment Plant Supervisor, Nicholas Cook gave an overview of the capital improvement projects at the Surface Water Treatment Plant to include solids handling at the Surface Water Treatment Plant, changing the existing clearwell, and changing the disinfection methods used by the plant. All three projects come with an estimated capital cost of approximately \$11,000,000. (Exhibits C1-C5)

Councilwoman Garrison commented, “I have the utmost confidence in what needs to be done. It is obvious you know your job.”

Councilwoman Sinor commented, “I think I would like to come out and take a tour of the facility to get a better understanding. It has been a long time since I have been there.”

Assistant City Manager, Gary Jackson commented, “First of all, Nicholas Cook, Bill Pedersen and Ardurra Group LLC., have done a wonderful job at looking at all the alternatives that were available. These options presented are the least cost impacting alternatives. The vast majority of funding will have to come from water rates. A water rate study plan is proposed to be performed in 2019. This will help identify what impact it will have on the rates.”

City Manager, Jay Stokes commented, “We are very fortunate to have Nicholas Cook here. To echo what Mr. Jackson said, we are going to have to pay for this. We have had to go up on rates for the last six years. When that happens, it is very unpopular. Everything that needs to be done is for the betterment of the City, it is things the TCEQ mandate. We truly don’t have a choice but to do a lot of this, and we have to pay for it principally, by borrowing money and having new debt. When you have that new debt, you will have to raise the rates to pay for that debt.”

Councilwoman Sinor asked, “Will these improvements put us in good shape?”

Mr. Cook responded, “Yes. We don’t have any major improvements like this in the next 10 years.”

Mr. Stokes commented, “In December 2011, we went to the City of Houston to talk about getting a new contract. The current contract expires in 2020. We still do not have that contract or any significant contacts for the City of Houston. It has been very frustrating. They will not cut off our water, we will get something worked out between now and then, I promise you that. If you look at what is likely to happen, water is not going to get any cheaper.”

Mayor Mouton asked, "What is the life expectancy of these investments?"

Mr. Cook responded, "About 25 years."

9. DISCUSSION OF ISSUES RELATING TO THE YOUTH SPORTS ORGANIZATION UTILIZATION AGREEMENTS WITH DEER PARK SOCCER FC, DEER PARK PONY BASEBALL AND DEER PARK GIRLS' SOFTBALL ORGANIZATIONS FROM JANUARY 1, 2019 THROUGH DECEMBER 31, 2019 – Parks and Recreation Director Charlie Sandberg gave an update on the process and final draft of the sports youth utilization agreements. Mr. Sandberg thanked the Council, Parks and Recreation Commission, James Stokes, Gary Jackson, Lacy Stole and Jacob Zuniga for their contribution on developing a better fitting agreement for each sports organization. Mr. Sandberg highlighted items that were priority for each individual organization agreement to include field protection (downtime for field maintenance), making sure there is a recreational component and third party usage would have to pay fees to utilize fields.

Mr. Sandberg commented, "I feel confident that this is a good start for us because we needed this for several years in order to clean the agreements up, make it more understanding and make it more equitable for each one of the organizations."

Mr. Jackson asked, "Can you give us a brief summary on how you are accommodating third party agreements and how the league can identify certain select teams?"

Mr. Sandberg responded, "We have asked the organization to list which select teams they will actually recognize in the contract."

Councilman Martin asked, "Do those teams need to be identified prior to signing or can they be added as they go?"

Mr. Sandberg, "I wanted to do it prior to signing, but a lot of them are still working on it, so it is going to be something I will request."

10. ADJOURN – Mayor Mouton adjourned the workshop meeting at 7:29 p.m.

ATTEST:

APPROVED:

Shannon Bennett, TRMC
City Secretary

Jerry Mouton, Jr.
Mayor



Legislation Details (With Text)

File #: MIN 18-165 **Version:** 1 **Name:**
Type: Minutes **Status:** Agenda Ready
File created: 12/10/2018 **In control:** City Council
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Sponsors:
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Attachments: [CC_MR_120418](#)

| Date | Ver. | Action By | Action | Result |
|------------|------|--------------|--------|--------|
| 12/18/2018 | 1 | City Council | | |

Approval of minutes of regular meeting on December 4, 2018.

Summary:

Fiscal/Budgetary Impact:

Non

Approve

CITY OF DEER PARK

78-

710 EAST SAN AUGUSTINE STREET

DEER PARK, TEXAS 77536

Minutes of

THE 1722nd REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF DEER PARK, TEXAS HELD IN CITY HALL, 710 EAST SAN AUGUSTINE STREET, DEER PARK, TEXAS ON DECEMBER 04, 2018, AT 7:30 P.M., WITH THE FOLLOWING MEMBERS PRESENT:

JERRY MOUTON, JR.
SHERRY GARRISON
THANE HARRISON
TOMMY GINN
RON MARTIN
RAE SINOR

MAYOR
COUNCILWOMAN
COUNCILMAN
COUNCILMAN
COUNCILMAN
COUNCILWOMAN

OTHER CITY OFFICIALS PRESENT:

JAY STOKES
GARY JACKSON
SHANNON BENNETT
JIM FOX

CITY MANAGER
ASSISTANT CITY MANAGER
CITY SECRETARY
CITY ATTORNEY

1. MEETING CALLED TO ORDER – Mayor Mouton called the meeting to order at 7:30 p.m.
2. INVOCATION – The invocation was given by Councilwoman Sinor.
3. PLEDGE OF ALLEGIANCE – Councilman Martin led the Pledge of Allegiance to the United States Flag and the Texas Flag.
4. SPECIAL PRESENTATION RECOGNIZING THE DEER PARK SEMINOLES FOR WINNING THE SUPER BOWL – Assistant Athletic Director of the Deer Park Seminoles, Gary Atchley, recognized the Seminoles Junior Football Team for winning the Super Bowl. This is the Deer Park Seminoles 4th Super Bowl in the 4 years the organization was formed. The team also competes in the Gulf Coast Premier Football League which includes teams from the surrounding areas of Galveston, Texas City, Pearland, Friendswood, League City, Alvin, Manvel and Pasadena. Coaches include John Lloyd, as Head Coach, and Assistant Coaches Richard Gatlin, Chris Fountain, Rodney Medellin, David Tijerina, Mike Bustamante and Chester Gurka. The Deer Park Seminole Junior Football Team players are Sean Dupuis, Zachary Zuniga, Christopher Mora, Kaleb Wingo, Rome Gatlin, LaShaun Panuco, Nicholas Hinojosa, Elijah Fountain, Kyler Ferris, Nathaniel Rios, Kyle Fielder, Luke Lloyd, Trystan Hardy, Hunter Lehman, Zane Bailey, Nathaniel Luciaga, Cayden Webber, Colt Turner,

Liam Gurka, Kaleb Adams, Devian Chavez, Manuel Bustamante, Trevor Waggoner and Luis Gutierrez.

Seminoles Head Coach, John Lloyd commented, "I want to thank my assistant coaches as well as Rodney Medellin, Mike Bustamante, Chris Fountain, Richard Gatlin, David Tijerina who could not make it, as well as a lot of help from Chester Gurka and some sideline help from Brian Bailey and Carlos Gonzalez during the tournaments."

5. SPECIAL PRESENTATION RECOGNIZING THE PARKS AND RECREATION AQUATICS DIVISION FOR RECEIVING THE 2018 GOLD INTERNATIONAL AQUATIC SAFETY AWARD FROM JEFF ELLIS & ASSOCIATES, INC – Parks and Recreation Director, Charlie Sandberg recognized Parks and Recreation Athletics/Aquatics Supervisor, Lacy Stole and Parks and Recreation Athletics/Aquatics Coordinator, Debra Culp for their admirable and dedicated work on receiving the 2018 Gold International Aquatic Safety Award.

Parks and Recreation Director, Charlie Sandberg commented, "This is an incredible team made up of Lacy Stole and Debra Culp."

Ms. Stole gave an overview of the audit and graded scenarios the life guards and aquatic staff go through on training and preparedness.

Mr. Sandberg asked, "How many saves in the pool did Staff do this year?"

Ms. Culp responded, "About 127 saves. I am sure it will probably increase this upcoming summer with the slides. What is great about the team is, we train our Staff for the future. We have a lot of students that go on to become doctors, nurses and paramedics. All of this training prepares them for that. We feel honored to be able to help prepare them for their future."

Assistant Parks and Recreation Director, Jacob Zuniga commented, "I also want to recognize the Staff that Lacy Stole and Debra Culp train. Majority of them are not here tonight because they are in school. This group of Staff should be commended as well."

Councilwoman Sinor commented, "Every time we recognize a department or group from one of our programs, these two ladies are always up and in front, large and in charge who do so much. I don't think we realize the level of responsibility and the hours it takes. Great job. Thank you so much."

6. AWARD THE REHABILITATION OF THE P STREET 1-MILLION GALLON GROUND STORAGE TANK – Motion was made by Councilwoman Garrison and seconded by Councilwoman Sinor to award the bid to MK Painting for the rehabilitation of the P Street 1 million gallon ground storage tank. Motion carried 6 to 0.
7. CONSENT CALENDAR – Motion was made by Councilman Harrison and seconded by Councilman Ginn to approve the consent calendar as follows:
 - a. Approval of minutes of workshop meeting for November 06, 2018.
 - b. Approval of minutes of regular meeting for November 06, 2018.
 - c. Acceptance of a change order on the New Animal Shelter construction.
 - d. Authorization to purchase a 2018 Starcraft Allstar 24 ADA Shuttle Bus for the Senior Services Division through HGAC.
 - e. Authorization to purchase playground equipment for Big Bend Park for the Parks Division through BuyBoard National Purchasing Cooperative.
 - f. Authorization to purchase a replacement gearbox and motor.
 - g. Acceptance of a grant award from the Texas Forest Service in the amount of \$20,000 to be utilized by the Fire Department.Motion carried 6 to 0.
8. CONSIDERATION OF AND ACTION ON THE REPAIR OF THE PRATT TRUSS BRIDGE STRUCTURE AT THE BATTLEGROUNDS GOLF COURSE – Motion was made by Councilwoman Garrison and seconded by Councilman Ginn the authorization to seek bids for the repair of the Pratt Truss Bridge Structure. Motion carried 6 to 0.
9. CONSIDERATION OF AND ACTION ON THE REQUEST OF PASADENA TAXI COMPANY TO OPERATE A TAXI CAB BUSINESS IN DEER PARK – Motion was made by Councilman Ginn and seconded by Councilman Harrison to approve the request of Pasadena Taxi Company to operate a taxi cab business in Deer Park. Motion carried 6 to 0.
10. CONSIDERATION OF AND ACTION ON A REFERRAL TO THE PLANNING AND ZONING COMMISSION FROM THE REQUEST OF AT&T FOR A SPECIFIC USE PERMIT AT 6911 ½ HIGHWAY 225 FOR A CELL TELECOMMUNICATIONS TOWER – Motion was made by Councilwoman Sinor and seconded by Councilman Ginn to refer to the Planning and Zoning Commission the request from AT&T for a Specific Use Permit at 6911 ½ Highway 225, Deer Park, Texas for a cell telecommunications tower. Motion carried 6 to 0.

11. CONSIDERATION OF AND ACTION ON A REFERRAL TO THE PLANNING AND ZONING COMMISSION FROM THE REQUEST OF BREATH OF LIFE INTERNATIONAL MINISTRIES FOR A SPECIFIC USE PERMIT AT 4526 GLENWOOD AVENUE TO OPERATE A CHURCH – Motion was made by Councilman Ginn and seconded by Councilman Martin to refer to the Planning and Zoning Commission from the request of Breath of Life International Ministries for a Specific Use Permit at 4526 Glenwood Avenue to operate a church. Motion carried 6 to 0.
12. CONSIDERATION OF AND ACTION ON AN AGREEMENT FOR TRAFFIC SIGNAL COORDINATION OF EAST BOULEVARD FROM 13TH STREET TO SPENCER HIGHWAY – Motion was made by Councilman Martin and seconded by Councilwoman Sinor to enter into an agreement for traffic signal coordination of East Boulevard from 13th Street to Spencer Highway. Motion carried 6 to 0.
13. CONSIDERATION OF AND ACTION ON ENTERING INTO AN AGREEMENT WITH ARDURRA GROUP, LLC FOR ENGINEERING SERVICES FOR ALTERNATIVE DISINFECTION METHODS – Motion was made by Councilwoman Garrison and seconded by Councilman Harrison to enter into an agreement with Ardurra Group LLC for engineering services for alternative disinfection methods. Motion carried 6 to 0.
14. CONSIDERATION OF AND ACTION ON AN AGREEMENT WITH ARDURRA GROUP, LLC FOR ENGINEERING SERVICES IN THE SURFACE WATER TREATMENT PLANT SOLIDS HANDLING PROJECT – Motion was made by Councilman Martin and seconded by Councilwoman Sinor to enter into an agreement with Ardurra Group LLC for engineering services for Surface Water Treatment Plant Solids Handling Project. Motion carried 6 to 0.
16. CONSIDERATION OF AND ACTION ON THE YOUTH SPORTS ORGANIZATION UTILIZATION AGREEMENTS WITH DEER PARK SOCCER FC, DEER PARK PONY BASEBALL AND DEER PARK GIRLS' SOFTBALL ORGANIZATIONS FROM JANUARY 1, 2019 THROUGH DECEMBER 31, 2019 - Motion was made by Councilman Ginn and seconded by Councilwoman Sinor to authorize the utilization agreements with Deer Park Soccer FC, Deer Park Pony Baseball and Deer Park Girls' Softball Organizations from January 1, 2019 through December 31, 2019. Motion carried 6 to 0.
17. CONSIDERATION OF AND ACTION ON A RESOLUTION TO AWARD A CONTRACT FOR PRIMARY DEPOSITORY BANK SERVICES – Motion was made by Councilwoman Garrison and seconded by Councilman Ginn to approve Resolution No. 2018-14, captioned as follows:

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DEER PARK, TEXAS, AWARDING THE PRIMARY DEPOSITORY BANK SERVICES CONTRACT TO WELLS FARGO BANK, N.A. AND AUTHORIZING THE CITY MANAGER TO ACT ON THE CITY'S

BEHALF IN EXECUTING THE AGREEMENTS NECESSARY FOR PRIMARY
DEPOSITORY BANK SERVICES.

Motion carried 6 to 0.

18. CONSIDERATION OF AND ACTION ON A REFERRAL FROM THE PLANNING AND ZONING COMMISSION AND AN ORDINANCE CALLING A JOINT PUBLIC HEARING FROM THE REQUEST OF DHIRU PATEL TO REZONE THE PROPERTY LOCATED AT 825 CENTER STREET FROM GENERAL COMMERCIAL (GC) TO MULTI-FAMILY 2 (SF2) – After a proposed ordinance was read by caption, motion was made by Councilman Harrison and seconded by Councilwoman Sinor to adopt on first and final reading of Ordinance No.4028, captioned as follows:

AN ORDINANCE CALLING A JOINT PUBLIC HEARING ON JANUARY 8, 2019 BY THE CITY COUNCIL AND THE PLANNING AND ZONING COMMISSION OF THE CITY OF DEER PARK, TEXAS, ON A PROPOSED AMENDMENT TO ORDINANCE NO. 3886, THE ZONING ORDINANCE, PLACING IN THE MULTI FAMILY-TWO (MF-2) ZONING DISTRICT, RESERVE “B”, ALL IN BLOCK 1, OF FINAL PLAT PATEL FAMILY SUBDIVISION ALSO KNOWN AS 825 CENTER STREET, CITY OF DEER PARK, HARRIS COUNTY, TEXAS, AND TAKING THE SAME OUT OF THE GENERAL COMMERCIAL (GC) ZONING DISTRICT; AND DECLARING AN EMERGENCY.

Motion carried 6 to 0.

19. CONSIDERATION OF AND ACTION ON AN ORDINANCE AMENDING SECTION 18-507 OF THE CODE OF ORDINANCES FOR THE FEES ASSOCIATED WITH THE CROSS-CONNECTION (BACKFLOW) CONTROL PROGRAM – After a proposed ordinance was read by caption, motion was made by Councilman Martin and seconded by Councilwoman Sinor to adopt on first and final reading of Ordinance No.4029, captioned as follows:

AN ORDINANCE AMENDING CERTAIN PORTIONS OF SECTION 18-507 OF THE CODE OR ORDINANCES OF THE CITY OF DEER PARK, TEXAS, CONCERNING CROSS-CONNECTION CONTROL FEES; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY.

Motion carried 6 to 0.

20. CONSIDERATION OF AND ACTION ON AN ORDINANCE RE-AFFIRMING THE TAX ABATEMENT POLICY – After a proposed ordinance was read by caption, motion was made by Councilman Martin and seconded by Councilman Harrison to adopt on first and final reading of Ordinance No.4030, captioned as follows:

REAFFIRMING THE REINVESTMENT ZONES AND TAX ABATEMENT PROGRAM PASSED BY ORDINANCE 3862 OF THE CODE OF ORDINANCES OF THE CITY OF DEER PARK; AND DECLARING AN EMERGENCY.

Motion carried 6 to 0.

21. CONSIDERATION OF AND ACTION ON AN ORDINANCE RE-AFFIRMING THE TAX ABATEMENT POLICY – After a proposed ordinance was read by caption, motion was made by Councilman Martin and seconded by Councilman Harrison to adopt on first and final reading of Ordinance No.4030, captioned as follows:

REAFFIRMING THE REINVESTMENT ZONES AND TAX ABATEMENT PROGRAM PASSED BY ORDINANCE 3862 OF THE CODE OF ORDINANCES OF THE CITY OF DEER PARK; AND DECLARING AN EMERGENCY.

Motion carried 6 to 0.

22. ADJOURN – Mayor Mouton adjourned the meeting at 7:55 p.m.

ATTEST:

APPROVED:

Shannon Bennett, TRMC
City Secretary

Jerry Mouton, Jr.
Mayor



Legislation Details (With Text)

File #: TAXR 18-094 **Version:** 1 **Name:**
Type: Tax Refund **Status:** Agenda Ready
File created: 11/29/2018 **In control:** City Council
On agenda: 12/18/2018 **Final action:**
Title: Approval of tax refund to Safety RX Service in the amount of \$500.14 due to an overpayment.
Sponsors: Finance
Indexes:
Code sections:
Attachments:

| Date | Ver. | Action By | Action | Result |
|------------|------|--------------|--------|--------|
| 12/18/2018 | 1 | City Council | | |

Approval of tax refund to Safety RX Service in the amount of \$500.14 due to an overpayment.

Summary:

Section 31.11 of the Texas Property Tax Code requires that all refunds exceeding \$500 be approved by the governing body prior to the issuance of a check to the payee. The following refund is pending:

Safety RX Service in the total amount of \$500.14 due to an overpayment (Account #064-145-003-0001).

Fiscal/Budgetary Impact: None.

Approve tax refund to Safety RX Service.



Legislation Details (With Text)

File #: TAXR 18-095 **Version:** 1 **Name:**

Type: Tax Refund **Status:** Agenda Ready

File created: 11/29/2018 **In control:** City Council

On agenda: 12/18/2018 **Final action:**

Title: Approval of tax refund to Corelogic in the amount of \$787.62 due to a homestead exemption, an over-65 exemption, and a freeze change granted by Harris County Appraisal District.

Sponsors: Finance

Indexes:

Code sections:

Attachments:

| Date | Ver. | Action By | Action | Result |
|------------|------|--------------|--------|--------|
| 12/18/2018 | 1 | City Council | | |

Approval of tax refund to Corelogic in the amount of \$787.62 due to a homestead exemption, an over-65 exemption, and a freeze change granted by Harris County Appraisal District.

Summary:

Section 31.11 of the Texas Property Tax Code requires that all refunds exceeding \$500 be approved by the governing body prior to the issuance of a check to the payee. The following refund is pending:

Corelogic in the total amount of \$787.62 due to a homestead exemption, an over-65 exemption, and freeze change granted by Harris County Appraisal District on the 2016 Correction Roll #25 (Account #109-043-000-0024).

Fiscal/Budgetary Impact: None.

Approve the tax refund to Corelogic.



Legislation Details (With Text)

File #: TAXR 18-098 **Version:** 1 **Name:**
Type: Tax Refund **Status:** Agenda Ready
File created: 11/29/2018 **In control:** City Council
On agenda: 12/18/2018 **Final action:**
Title: Approval of tax refund to Patsy Stacey in the amount of \$503.68 due to an over-65 exemption and a freeze change granted by Harris County Appraisal District.
Sponsors: Finance
Indexes:
Code sections:
Attachments:

| Date | Ver. | Action By | Action | Result |
|------------|------|--------------|--------|--------|
| 12/18/2018 | 1 | City Council | | |

Approval of tax refund to Patsy Stacey in the amount of \$503.68 due to an over-65 exemption and a freeze change granted by Harris County Appraisal District.

Summary:

Section 31.11 of the Texas Property Tax Code requires that all refunds exceeding \$500 be approved by the governing body prior to the issuance of a check to the payee. The following refund is pending:

Patsy Stacey in the total amount of \$503.68 due to an over-65 exemption and a freeze change granted by Harris County Appraisal District on the 2017 Correction Roll #14 (Account #114-734-002-0013).

Fiscal/Budgetary Impact: None.

Approve the tax refund to Patsy Stacey.



Legislation Details (With Text)

File #: TAXR 18-099 **Version:** 1 **Name:**
Type: Tax Refund **Status:** Agenda Ready
File created: 11/29/2018 **In control:** City Council
On agenda: 12/18/2018 **Final action:**
Title: Approval of tax refund to Beatty Street Properties Inc. in the amount of \$655.76 due to a value decrease granted by Harris County Appraisal District.
Sponsors: Finance
Indexes:
Code sections:
Attachments:

| Date | Ver. | Action By | Action | Result |
|------------|------|--------------|--------|--------|
| 12/18/2018 | 1 | City Council | | |

Approval of tax refund to Beatty Street Properties Inc. in the amount of \$655.76 due to a value decrease granted by Harris County Appraisal District.

Summary:

Section 31.11 of the Texas Property Tax Code requires that all refunds exceeding \$500 be approved by the governing body prior to the issuance of a check to the payee. The following refund is pending:

Beatty Street Properties in the total amount of \$655.76 due to value decrease granted by Harris County Appraisal District on the 2017 Correction Roll #14 (Account #132-886-000-0016).

Fiscal/Budgetary Impact: None.

Approve the tax refund to Beatty Street Properties Inc.



Legislation Details (With Text)

File #: TAXR 18-100 **Version:** 1 **Name:**
Type: Tax Refund **Status:** Agenda Ready
File created: 11/29/2018 **In control:** City Council
On agenda: 12/18/2018 **Final action:**
Title: Approval of tax refund to SPM Flow Control Inc. in the amount of \$3,028.88 due to a value decrease granted by Harris County Appraisal District.
Sponsors: Finance
Indexes:
Code sections:
Attachments:

| Date | Ver. | Action By | Action | Result |
|------------|------|--------------|--------|--------|
| 12/18/2018 | 1 | City Council | | |

Approval of tax refund to SPM Flow Control Inc. in the amount of \$3,028.88 due to a value decrease granted by Harris County Appraisal District.

Summary:

Section 31.11 of the Texas Property Tax Code requires that all refunds exceeding \$500 be approved by the governing body prior to the issuance of a check to the payee. The following refund is pending:

SPM Flow Control Inc. in the total amount of \$3,028.88 due to a value decrease granted by Harris County Appraisal District on the 2017 Correction Roll #14 (Account #105-910-2).

Fiscal/Budgetary Impact: None.

Approve the tax refund to SPM Flow Control Inc.



Legislation Details (With Text)

File #: TAXR 18-101 **Version:** 1 **Name:**

Type: Tax Refund **Status:** Agenda Ready

File created: 11/30/2018 **In control:** City Council

On agenda: 12/18/2018 **Final action:**

Title: Approval of tax refund to Patricia Boone in the amount of \$2,088.00 due to a homestead exemption, an over-65 exemption, and a freeze change granted by Harris County Appraisal District.

Sponsors: Finance

Indexes:

Code sections:

Attachments:

| Date | Ver. | Action By | Action | Result |
|------------|------|--------------|--------|--------|
| 12/18/2018 | 1 | City Council | | |

Approval of tax refund to Patricia Boone in the amount of \$2,088.00 due to a homestead exemption, an over-65 exemption, and a freeze change granted by Harris County Appraisal District.

Summary:

Section 31.11 of the Texas Property Tax Code requires that all refunds exceeding \$500 be approved by the governing body prior to the issuance of a check to the payee. The following refund is pending:

Patricia Boone in the total amount of \$2,088.00 due to a homestead exemption, an over-65 exemption, and a freeze change granted by Harris County Appraisal District on the 2018 Correction Roll # 03 (Account #119-248-001-0017).

Fiscal/Budgetary Impact: None.

Approve the tax refund to Patricia Boone.



Legislation Details (With Text)

File #: TAXR 18-102 **Version:** 1 **Name:**
Type: Tax Refund **Status:** Agenda Ready
File created: 12/5/2018 **In control:** City Council
On agenda: 12/18/2018 **Final action:**
Title: Approval of tax refund to Corelogic in the amount of \$1,062.07 due to an overpayment.
Sponsors: Finance
Indexes:
Code sections:
Attachments:

| Date | Ver. | Action By | Action | Result |
|------------|------|--------------|--------|--------|
| 12/18/2018 | 1 | City Council | | |

Approval of tax refund to Corelogic in the amount of \$1,062.07 due to an overpayment.

Summary:

Section 31.11 of the Texas Property Tax Code requires that all refunds exceeding \$500 be approved by the governing body prior to the issuance of a check to the payee. The following refund is pending:

Corelogic in the total amount of \$1,062.07 due to an overpayment (Account #130-570-001-0017).

Fiscal/Budgetary Impact: None.

Approve the tax refund to Corelogic.



Legislation Details (With Text)

File #: TAXR 18-103 **Version:** 1 **Name:**
Type: Tax Refund **Status:** Agenda Ready
File created: 12/6/2018 **In control:** City Council
On agenda: 12/18/2018 **Final action:**
Title: Approval of tax refund to Alice Lux in the amount of \$787.62 due to a homestead, an over 65 and a freeze change granted by Harris County Appraisal District.
Sponsors: Finance
Indexes:
Code sections:
Attachments:

| Date | Ver. | Action By | Action | Result |
|------------|------|--------------|--------|--------|
| 12/18/2018 | 1 | City Council | | |

Approval of tax refund to Alice Lux in the amount of \$787.62 due to a homestead, an over 65 and a freeze change granted by Harris County Appraisal District.

Summary:

Section 31.11 of the Texas Property Tax Code requires that all refunds exceeding \$500 be approved by the governing body prior to the issuance of a check to the payee. The following refund is pending:

Alice Lux in the total amount of \$787.62 due to a homestead, an over 65 and a freeze change granted by Harris County Appraisal District on the 2017 Correction Roll #14 (Acct. #105-910-2).

Fiscal/Budgetary Impact: None.

Approve the tax refund to Alice Lux.



Legislation Details (With Text)

File #: CHO 18-007 **Version:** 1 **Name:**
Type: Change Orders **Status:** Agenda Ready
File created: 12/4/2018 **In control:** City Council
On agenda: 12/18/2018 **Final action:**
Title: Approval of change order number three on the New Animal Shelter project.
Sponsors: Public Works
Indexes:
Code sections:
Attachments: [Change Order 3](#)

| Date | Ver. | Action By | Action | Result |
|------------|------|--------------|--------|--------|
| 12/18/2018 | 1 | City Council | | |

Approval of change order number three on the New Animal Shelter project.

Summary: The contract for the construction of the New Animal Shelter was awarded to Construction LTD in the amount of \$2,240,668. To date there have been two change orders issued on the project, one for modifications to the foundations piers and a second for IT security and network cabling which brought the contract price to \$2,344,500.50.

Change order number three being proposed, in the amount of \$35,763.50, will be for an additional fence enclosed dog play area, key pad pedestal post, solid sod around the building and additional solid surface window sills.

This will bring the total cost of the project to \$2,380,264.00.

Fiscal/Budgetary Impact: This project is being funded out of Bond Fund 26. There are sufficient funds in this account to cover this additional expense.

Staff recommends approval of Change Order #3

Change Proposal Request No. CLTD 25

Project: Deer Park Animal Shelter
4213A Luella Ave, Deer Park, Texas

Date: 11/30/18

Description of Change: Add sod grass for areas around the building

| ITEM # | DESCRIPTION | QUAN | UNIT | SUB | GC MTL | GC LABOR | GC EQUIP | SUBTOTAL |
|---|---|------|------|-----------------------|-----------|---------------------|----------|--------------|
| 1 | Add sod grass to front, sides and back of project with no irrigation system | 1 | LS | \$16,760.00 | | | | \$16,760.00 |
| | | | | | | | | \$0.00 |
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| | | | | | | | | \$0.00 |
| SAFETY | | | | | | | | \$0.00 |
| AS BUILTS AND MYLAR COST | | | | | | | | \$0.00 |
| ENGINEERING LAYOUT | | | | | | | | \$0.00 |
| CLEAN UP | | | | | | | | \$0.00 |
| GENERAL CONDITIONS & \$665.50 per day x 5 days | | | | \$3,327.50 | | | | \$3,327.50 |
| SUPERVISION | | | | | | | | \$0.00 |
| | | | | | | | | \$0.00 |
| COLUMN TOTALS | | | | \$20,088 | \$0.00 | \$0.00 | \$0.00 | \$20,087.50 |
| SUBCONTRACTORS TOTAL | | | | | | | | \$ 20,087.50 |
| GENERAL CONTRACTORS MATERIAL | | | | | | | | \$0 |
| GENERAL CONTRACTORS LABOR | | | | | | | | \$0 |
| GENERAL CONTRACTORS EQUIPMENT | | | | | | | | \$0 |
| SS/INS/FRINGES @ .45 % | | | | | | | | \$0 |
| TAX ON EQUIPMENT | | | | | | | | \$0 |
| BUILDERS RISK AND OTHER INSURANCE 1% | | | | | | | | \$ 201 |
| GENERAL CONDITIONS @ 10% | | | | | | | | \$ 2,009 |
| | | | | | | | | \$ - |
| GENERAL CONTRACTORS PROFIT @ 5 % | | | | | | | | \$ 1,115 |
| TIME EXENTION OF FIVE (5) DAYS IS REQUIRED. | | | | | | | | |
| NOTE: PROPOSAL IS VALID FOR THIRTY (30) DA | | | | COST FOR CPR # | 25 | \$ 23,411.98 | | |
| Approved by: | | | | Date: | | | | |

Change Proposal Request No. CLTD 24

Project: Deer Park Animal Shelter

4213A Luella Ave, Deer Park, Texas

Description of Change: Add chain fence and grass for added Get to Know yard behind Sally Port

Date: 11/28/18

[illegible]

Change Proposal Request No. CLTD 23

Project: Deer Park Animal Shelter

4213A Luella Ave, Deer Park, Texas

Description of Change: Add for solid surface window sills for all windows

Date: 11/28/18

[illegible]



Legislation Details (With Text)

File #: AUT 18-116 **Version:** 1 **Name:**
Type: Authorization **Status:** Agenda Ready
File created: 12/4/2018 **In control:** City Council
On agenda: 12/18/2018 **Final action:**
Title: Authorization to advertise and receive bids on the Deer Park WetlandsTallow Mitigation Project.
Sponsors: Parks & Recreation
Indexes:
Code sections:
Attachments: [Tallow Mitigation Contract Document](#)

| Date | Ver. | Action By | Action | Result |
|------------|------|--------------|--------|--------|
| 12/18/2018 | 1 | City Council | | |

Authorization to advertise and receive bids on the Deer Park WetlandsTallow Mitigation Project.

Summary: As part of the Deer Park Nature Preserve Project staff is requesting to advertise and receive bids on the Deer Park Wetlands Tallow Mitigation Project.

As you recall the funding for the Nature Preserve included \$400,000 from a Texas Parks and Wildlife Grant along with \$500,000 from Proposition 2 Bond Funds for a total of \$900,000. The break down for the project was as follows:

| | |
|--------------|--|
| \$900,000.00 | Appropriated Funds for Phase I of the Deer Park Nature Preserve |
| \$554,809.00 | Lowest Responsible Bidder - Millis Development |
| \$137,000.00 | Professional Services - RVi |
| \$150,000.00 | <u>Wetlands Restoration</u> |
| \$841,809.00 | Total Cost for Phase I of the Deer Park Nature Preserve & Wetlands Restoration |

This leaves funding for the Deer Park WetlandsTallow Tree Mitigation Project. Upon Council approval this project would be posted for bids December 27th, we would receive bids on January 11th

and award the project on January 15th, 2019.

Fiscal/Budgetary Impact: Funding for this project would be paid out of Bond Fund 34

Staff recommends moving forward with this project in order to meet the Texas Parks and Wildlife's Grant deadline.

MAYOR:

Jerry Mouton, Jr.

COUNCIL MEMBERS:

Sherry Garrison

Thane Harrison

Tommy Ginn

Bill Patterson

Ron Martin

Rae A. Sinor

CITY MANAGER:

James J. Stokes

DIRECTOR OF
PARKS & RECREATION

Charlie Sandberg

CITY SECRETARY

Shannon Bennett

**CONTRACT DOCUMENTS AND
BID FORM**

City of Deer Park

Tallow Mitigation Project

Deer Park, Harris County, Texas
**December
2018**

CONTRACT DOCUMENTS AND TECHNICAL SPECIFICATIONS
FOR
TALLOW MITIGATION PROJECT

TABLE OF CONTENTS

PART I

CONTRACT DOCUMENTS

| <u>SECTION</u> | <u>TITLE</u> | <u>PAGE</u> |
|----------------|--|---------------------|
| NB | Notice to Bidders..... | NB-1 |
| IB | Instruction to Bidders..... | IB-1 to IB-5 |
| P | Scope of Work / Bid Proposal..... | P-1 to P-6 |
| SF | Standard Form of Agreement..... | SF-1 to SF-2 |
| CI | Certificate of Insurance..... | CI-1 to CI-3 |
| PB | Performance Bond..... | PB-1 to PB-2 |
| PB | Payment Bond..... | PB-3 to PB-4 |
| GC | General Conditions..... | 00700-1 to 00700-40 |
| SC | Supplementary Conditions of Agreement..... | SC-1 to SC-18 |
| BQ | Statement of Bidders Qualifications..... | BQ-1 to BQ-4 |
| CIQ | Conflict of Interest Questionnaire..... | CIQ-1 to CIQ-2 |

NOTICE TO BIDDERS

Sealed proposals, in triplicate, on the forms prescribed by and addressed to the City of Deer Park, Texas will be received at the office of the City Secretary, City Hall, 710 E. San Augustine Street, Deer Park, Harris County, Texas, until **2:00pm on January 11th, 2019** at which time the bids are to be opened and publicly read in the Council Chambers, for the following:

TALLOW TREE MITIGATION PROJECT

Scope of Work/Bid Proposal are available for viewing and downloading at www.civcastusa.com (civcast project ID #2018-P&R). A **mandatory** pre-bid meeting will be held at **10:00 a.m., January 3, 2019** at Deer Park City Hall located at 710 E. San Augustine, Deer Park, TX 77536.

No proposal may in any way qualify, modify, substitute or change any part of the plans, specifications or contract documents.

Cashiers check, certified check, or bidder's bond satisfactory to the City Council, payable to the City for at least 10% of the largest possible total for the bid submitted, must accompany each bid as a guarantee that the bidder will enter into a contract and execute performance and payment bonds within ten (10) days after the notice of award of contract to him. The requirement for a performance and payment bond will be waived if the successful bidder's total bid amount on the project is under \$100,000.00, and if no partial payment will be required.

The City reserves the right to reject any and all bids, or parts of bids to waive any and all technicalities, and to accept any bid, or part of bid, which it deems advantageous to itself. Contracts for work under the proposal will obligate the contractors and subcontractors not to discriminate in the employment practices.

BY ORDER OF THE CITY COUNCIL OF DEER PARK, TEXAS

Dated, this _____ day of _____ 2018.

Shannon Bennett, TRMC
City Secretary

TO BE PUBLISHED TWICE: December 26, 2018 AND January 2, 2019

INSTRUCTION TO BIDDERS

1. INTERPRETATION OF CONTRACT DOCUMENTS

If any bidder is in doubt as to the true meaning of any part of the Plans, Specifications, or other proposed Contract Documents, he may submit to the Engineer a written request for an interpretation thereof. The persons submitting the request will be responsible for its prompt delivery. Any interpretation of the bid documents will be made only by addendum duly issued, and a copy of each addendum will be mailed or delivered to each person receiving a set of such documents. The Engineer will not be responsible for any other explanation or interpretation of the proposed documents.

2. BIDS, PREPARATION AND SUBMITTAL

Bids will be submitted upon the standard form of bid proposal furnished, without modifications or provisions, except those required, and each proposal submitted must be completely filled out. Three separate copies of the proposal forms will be furnished to each bidder. The proposals shall be made out in triplicate, and the original and two copies shall be submitted to the Owner. Do not fill out and submit the proposal form in the bound book containing the Proposal, Specifications, and Contract Documents. The bids will be submitted in sealed envelopes. The envelopes shall be marked in the upper left hand corner with the name of the project.

If erasures or other changes appear on the forms, each such erasure or change must be initialed by the person signing the bid.

Each bid must contain the name of the bidder and the address of his place of business or his post office address, and be manually signed with the usual signature. Bids by partnership must contain the full names of all partners and must be signed with the partnership name by one of the partners or by an authorized representative. Bids by corporations must be signed with the legal name of the corporation, followed by the name of the state of incorporation, and by the signature and destination of the president, secretary, or other person authorized to bind it in the matter. Corporation seal must be attached following signatures.

The signing of the bid proposal submitted shall certify that the bid prices quoted have been carefully checked and are submitted as correct and final.

Each bid submitted will be tabulated for accuracy by using the middle column of the proposal as the one to control the unit prices written in words.

3. BID GUARANTEE

All proposals shall be accompanied by a Cashier's or Certified Check upon a National or State Bank in the amount of ten percent (10%) of the total maximum bid price, payable without

recourse to the Owner or a Bid Bond in the amount from a reliable surety company, as a guarantee that bidder will enter into a contract and execute Performance and Payment Bonds within ten (10) days after the notice of award of contract. The bid security must be enclosed in the same envelope with the bid. Bids without check or bid bond are not acceptable and will not be considered.

The bid bond shall be forfeited and become the property of the Owner in the event the bidder neglects or refuses to enter into contract and furnish bonds acceptable to the Owner within ten (10) days after notice of award of contract.

All bid securities will be returned to the respective bidders, within seven (7) working days after the bid opening, except the three (3) lowest responsible bidders, whose bids will be held by the Owner until the successful bidder has executed the Contract, and furnished Performance and Payment Bonds. Thereafter all remaining securities, including security of the successful bidder, will be returned within ten (10) working days.

4. PERFORMANCE AND PAYMENT BONDS

If required, the successful bidder must furnish a Performance and a Payment Bond on forms included herein, each in the amount of one hundred percent (100%) of the total contract price, from an approved surety company holding a permit from the State of Texas to act as a surety (and acceptable according to the latest list of companies holding certificates of authority from the Secretary of the Treasury of the United States), or other surety or sureties acceptable to the Owner.

The requirement for a Performance and Payment Bond will be waived if the successful bidder's total bid amount on the project is under \$100,000.00, and if no partial payment will be required.

5. STATEMENT OF BIDDER'S QUALIFICATIONS

After bids have been opened and prior to making an award, the Owner reserves the right to require the lowest bidder to furnish a statement on a form to be furnished for that purpose, of the bidders financial resources, his construction experience, and his organization for the work contemplated.

The Owner shall have the right to take such steps as he deems necessary to determine the ability of the bidder to perform the work and the bidder shall furnish to the Owner all such information and data for this purpose as the Owner may request. The right is reserved to reject any bid where an investigation of the evidence or information submitted by such bidder does not satisfy the Owner that the bidder is qualified to carry out properly the terms of this contract.

In determining the lowest responsible bidder, the following elements shall be considered: Whether the bidder involved (a) maintains a permanent place of business; (b) has adequate plant equipment to do the work properly and expeditiously; (c) has a suitable financial status to meet

obligations incidental to the work; (d) has appropriate technical experience, and (e) has a satisfactory past performance record.

The bidder, to be eligible for the award of the contract, must be able to show his financial ability to carry on the work until such time as he receives the first payment on the contract and to finance the work between payments.

6. MANDATORY PRE-BID CONFERENCE

A conference with prospective bidders will be held in the conference room of the City Hall, 710 E. San Augustine Street, on January 3, 2019 at 10:00 a.m. In order to assure that the requirements of this project are thoroughly understood, all contractors desiring to bid the work will be required to have a qualified representative attend the pre-bid conference. Failure of the contractor to attend the pre-bid conference will result in his bid being rejected.

7. DELIVERY OF BIDS

Bids received prior to the time of opening will be securely kept unopened. The office whose duty it is to open them will decide when the specified time has arrived for the opening of bids. No bids received thereafter will be considered, except those bids which arrive by mail after the time fixed for opening bids before the award is made and which show, to the satisfaction of the office authorized to make the award, that the non-arrival on time was due solely to delay in the mail for which the bidder was not responsible. No responsibility will attach to an officer for the premature opening of a bid not properly addressed and identified. Unless specifically authorized, telegraphic bids will not be considered, but modifications by telegraph of bids already submitted will be considered if received prior to the hour set for opening, provided that such modifications are confirmed in writing over the signature of the bidder within forty-eight (48) hours thereafter.

Bidders are cautioned that while telegraphic modifications of bids may be received as provided above, such modifications, if not explicit and if in any sense subject to misinterpretation, shall make the bid so modified or amended subject to rejection.

Bidders are cautioned to allow ample time for transmittal of bids by mail or otherwise. Bidders should secure correct information relative to the probable time of arrival and distribution of mail at the place where bids are to be opened, and so far as practicable, make due allowances for possible delays in receipt of bids.

8. WITHDRAWAL OF BIDS

Bids may be withdrawn by written or telegraphic requests dispatched by the bidder in time for delivery in the normal course of business prior to the time fixed for opening, provided that telegraphic withdrawal is confirmed in writing over the signature of the bidder within forty-eight (48) hours thereafter. Negligence on the part of the bidder in preparing the bid covers no rights for the withdrawal of the bid after it has been opened.

9. AWARD OF CONTRACT

The notice of award of contract shall be given by the Owner within thirty (30) days following the date of the opening of bids. The award will be made to the lowest responsible bidder whose bid, in the opinion of the Owner, is in the best interest, price and other factors considered, and is most advantageous to the Owner.

The right is reserved, as the interest of the Owner may require, to reject any and all bids, and to waive any informality in bids received.

If at the time this contract is to be awarded, the lowest base bid submitted by a responsible bidder does not exceed the amount of funds then estimated by the Owner as available to finance the contract, the contract will be awarded on the base bid only. If such bid exceeds such amount, the Owner may reject all bids or may award the contract on the base bid combined with such deductible alternates applied in numerical order in which they are listed in the Form of Bid, as produces a net amount which is within the available funds.

10. CONDITIONS OF SITE AND WORK

Bidders should carefully examine the Plans, Specifications and other documents, visit the site of the work, and fully inform themselves as to all conditions and matters which can in any way affect the work or costs thereof. Should a bidder find discrepancies in, or omissions from the Plans, Specifications or other documents, or should he be in doubt as to their meaning and intent, he should notify the Engineer at once and obtain clarification prior to submitting a bid. The submission of a bid by bidder shall be conclusive evidence that the bidder is fully acquainted and satisfied as to the character, quality and quantity of work to be performed and materials to be furnished.

11. LAWS AND REGULATIONS

The attention of all bidders is directed to the Federal, State and local laws and regulations, in reference to labor, materials, equipment, Contract Documents, proposal or bids, bonds, and all other matters pertaining to the relationship between the Owner, Contractor and Engineer.

12. UNBALANCED BIDS

Any bid which, in the opinion of the Engineer, is unbalanced and in which the total amount of the bid is not properly allocated and distributed to the respective items of work in the proposal may be rejected by the Owner.

13. PRICE OF MATERIALS AND STATE SALES TAX

Under the Amended Ruling No. 9 of the State Comptroller of Public Accounts with reference to the sales tax on city contracts, charges for skill and labor may be billed separately from charges for materials for the purpose of causing the exempt Owner to be the ultimate consumer of the materials. This does not apply to subdivisions.

After the award of the contract the successful bidder will be required to separate, on the forms furnished for that purpose, the amount of his bid which is charged for skill and labor from the amount of his bid which is charged for materials and tangible personal property.

The Owner will then furnish the contractor with a certificate of exemption from the Texas Limited Sales, Excise and Use Tax in the amount of that portion of his bid which is charged for materials and tangible work covered by the Contract, and in an amount not less than the actual cost of such materials to the Contractor.

14. TEMPORARY CONSTRUCTION OFFICE BUILDINGS

If the Contractor plans to have a temporary construction office building or any other temporary building for storage of materials, the contractor must first obtain written authorization from the Public Works Department, for additional information call our office at 281-478-7270.

15. PREQUALIFICATION

Manufacturers of materials, articles, or processes not named in these Technical Specifications must prequalify their equipment, material, article, or process by submitting to Engineer, at least ten (10) calendar days prior to bid date, detailed information on their equipment, material, article, or process. Information required to be submitted on each item to be prequalified must include a list of previous installation (including names and phone numbers of personnel who are familiar with specific equipment, material, article or process), catalog data, material list, published performance data, and typical installation drawings and specifications. Any deviation from Plans and Specifications must be noted and attached to information submitted for approval. Two (2) complete sets of information are required on each item. Five (5) calendar days prior to bid opening Engineer will advise, by Addendum, all Plan holders having Plan deposits on file of manufacturers whose equipment, material, article, or process has been prequalified for this project. No notice will be given to a manufacturer, supplier, or fabricator of failure to prequalify.

Tallow Mitigation Project

Scope of Work / Bid Proposal

1.0 Introduction

The City of Deer Park wishes to restore native wetland vegetation associated with an approximately 17-acre wetland located immediately east of East Boulevard between East Thirteenth Street and East X Street. This wetland is unique in that it is a historical swale and was placed under a restrictive easement as part of the mitigation required for the construction of East Boulevard. As such it requires special consideration for the restoration of vegetation.

The sections below describe existing conditions and requirements for restoring the vegetation of the wetland.

2.0 Existing Conditions

Existing vegetation within the wetland is typified by the presence of Chinese tallow trees (*Triadica sebifera*) with scattered native tree species including green ash (*Fraxinus pennsylvanica*), red maple (*Acer rubrum*), and laurel oak (*Quercus laurifolia*). The dominant tree species within the wetland (Chinese tallow) are primarily smaller individuals with diameter breast height (dbh) of roughly 2-5 inches with varying spacing (approximately 3-15 feet between centers); however, some larger individuals were present. Additionally, the dominant shrub species in the wetland is buttonbush (*Cephalanthus occidentalis*). Along the margins of the wetland, the non-native Cherokee rose (*Rosa laevigata*), yaupon (*Ilex vomitoria*), and blackberries (*Rubus* sp.) create relatively dense understory. Herbaceous vegetation within the wetland is quite dense and includes a number of obligate and facultative wetland species, including members of *Typha*, *Carex*, *Eleocharis*, and *Cyperus* genera. Total areal cover within the wetland was estimated to be >85%.

3.0 Vegetation Clearing Effort

With the goal of replacing non-native trees within the wetland with native species, the City of Deer Park will require the control of non-native tree species as a first step. Clearing efforts will be directed primarily at eliminating reproductive age Chinese tallow within the wetland and surrounding buffer. Doing so will require the strict use of hand clearing tools (e.g., chainsaw, hand saws, machete) to prevent the need for U.S. Army Corps of Engineers (USACE) permitting. No vehicular machinery can be used to remove vegetation. Therefore, all clearing efforts must be based on methods that do not constitute fill by the USACE Galveston District. Clearing must be carried out with the techniques described in Sections 3.1 through 3.3.

3.1 Girdle Treatment Method

Girdling is the preferred method to treat all Chinese tallow trees that are greater than 3 inches diameter at breast height (dbh). This method requires to exposing no less than a three-inch section of the tree's cambium within the lowest 24 inches of the trunk and immediately spraying the exposed cambium with herbicide (e.g., triclopyr, glyphosate, or similar) to speed the death of the tree. Although girdling may be performed at any time of the year, optimal mortality is generally achieved when herbicides can be applied during the growing season (May-August).

Treated trees will be left standing and allowed to decay as they stand. Although the density of trees in this age class ranges across the site, the bidder should expect to have to traverse the entire property. The City of Deer Park requires that no greater than 1% of the trees in this size class will survive more than 12 months after treatment.

3.2 Stump Spray Treatment Method

Stump spray treatment is the preferred method to treat Chinese tallow trees and saplings that are less than 2 inches dbh. This method involves manually cutting the stems of the trees using hand tools (e.g., loppers, machete, or similar) and immediately spraying the exposed stump with herbicide (e.g., triclopyr, glyphosate, or similar) to speed the death of the tree. Stumps should be cut to within 6 inches of the ground or water level to ensure that resprouting does not occur. Felling and stump treatment may be performed any time of year, although optimal mortality is generally achieved when herbicides can be applied during growing season (May-August).

Felled material should be manually removed by contractor. Although the density of trees in this age class ranges across the site, this tree class is found throughout the tract. The City of Deer Park requires that no greater than 10% of the trees in this size class will survive more than 12 months after treatment.

3.3 Foliar Application Method

Treating of seedlings will be through the use of foliar herbicide application. This method entails applying herbicide (e.g., triclopyr, glyphosate, or similar) directly to the leaves of target plants using a hand-held sprayer or similar means. This method will only be used on Chinese tallow seedlings for which the entire foliar crown can be treated. If the entire crown cannot be treated, the stump spray method will be used. Foliar application must be performed during the peak of the growing season (between the months of May and August) to maximize uptake of the herbicides and thereby optimize mortality rate.

Seedlings treated by foliar application will be left standing and allowed to decay. This age class is found throughout the site. The City of Deer Park requires that no more than 10% of the seedlings will be found alive by the end of the treatment year. Although not specifically required, the City of Deer Park recommends the use of herbicide surfactants to ensure that herbicide application is successful.

3.4 Additional Recommendations

Existing native trees will be incorporated into the final stem density of woody vegetation; therefore, surveying and visibly marking native tree species with flagging ribbon will be required before clearing to prevent their removal.

The herbaceous and shrub strata of the wetland areas are relatively high functioning and have high cover in portions of the wetland. Assuming the contractor does not significantly clear these strata, they should re-establish effectively following completion of planting efforts. Trimming or locally clearing shrub vegetation may be performed by the contractor at their discretion; however, shrubs such as buttonbush will not be considered in determining the efficacy of tree planting efforts survival.

4.0 Vegetation Planting Effort

Woody vegetation will be restored throughout the site using sapling tree species representative of Gulf Coastal Plain bottomlands. As stated previously, mechanical planting techniques are impermissible without a USACE permit; therefore, all trees must be planted using manual techniques. Sections 4.1 through 4.3 provide further information on the City of Deer Park's requirements for the planting areas.

4.1 Planting Zones and Stem Spacing

Minimum stem densities and appropriate species diversities are required to reach acceptable performance standards set forth by the USACE for the restoration of forested wetland areas. There are four general planting zones within the wetland:

- 1) Open water – approximately 0.25 acre with approximately 150 yards of perimeter
- 2) Saturated wetland – approximately 2.2 acres with approximately 500 yards of perimeter
- 3) Seasonally saturated wetland – approximately 7.2 acres with approximately 1,000 yards of perimeter
- 4) Wetland fringe – remainder of the wetland (approximately 8.1 acres) and the upland buffer, as described by the conservation easement boundaries

Open water areas will not require planting efforts; however, all other zones will require at least some tree planting. See Table 1 for a description revegetation requirements. The seasonally saturated and fringe areas will be planted on approximately 10-foot centers (approximately 436 stems per acre) whereas the saturated wetland will be planted on approximately 12-foot centers (approximately 303 stems per acre).

Table 1. Densities and quantities of individuals required per planting zone within the Deer Park Wetland Restoration site.

| Planting Zone | Approximate Acreage | Planting (Stems/Acre) | Density | Distance to Center | Approximate Individuals Needed |
|------------------------------|---------------------|-----------------------|---------|--------------------|--------------------------------|
| Saturated Wetland | 2.2 | 303 | | 12 | 672 |
| Seasonally Saturated Wetland | 7.2 | 436 | | 10 | 3,150 |
| Wetland Fringe | 8.1 | 436 | | 10 | 3,555 |
| Total | 17.5 | — | | — | 7,377 |

Where present, existing native trees should be kept intact and can be considered in the total stem count. However, due to the paucity of native tree species throughout the site, the City of Deer Park does not recommend the contract assume these are present. Non-desirable species (i.e., black willow [*Salix nigra*], sycamore [*Platanus occidentalis*], and cottonwood [*Populus deltoids*]) may not be included in the stem count for the property.

4.2 Species Selection and Diversity

To ensure survival of the trees, the City of Deer Park will require that trees planted in each zone comply with the planting zones in Table 2. This species list is derived from the 2016 Deer Park Restoration Plan and those species that are characteristically associated with bottomland habitats of the Western Gulf Coastal Plain ecoregion. Although the contractor may suggest additional species, the approval of alternative species must be approved by the City of Deer Park. Plant stock must be selected from sources in the Western Gulf Coastal Plains to ensure that local genotypes are planted and long-term survival is optimum. Non-native species as well as black willow, sycamore, and cottonwood trees are considered undesirable and must not be planted in any circumstance.

Table 2. Number of individuals to be planted for the Deer Park Wetland restoration site.

| Common Name | Species Name | Wetland Indicator Status | Saturated Wetland | Seasonally Saturated Wetland | Wetland Fringe |
|---------------|--------------------------------|--------------------------|-------------------|------------------------------|----------------|
| Red maple | <i>Acer rubrum</i> | FAC | | | 395 |
| Water hickory | <i>Carya aquatica</i> | OBL | 112 | | |
| Sugarberry | <i>Celtis laevigata</i> | FACW | | 450 | 395 |
| Carolina ash | <i>Fraxinus caroliniana</i> | OBL | 112 | | |
| Green ash | <i>Fraxinus pennsylvanica</i> | FACW | 112 | 450 | |
| Sweetgum | <i>Liquidambar styraciflua</i> | FAC | | | 395 |
| Water tupelo | <i>Nyssa aquatica</i> | OBL | 112 | | |
| Black tupelo | <i>Nyssa sylvatica</i> | FAC | | 450 | 395 |
| Red bay | <i>Persea borbonia</i> | FACW | | 450 | 395 |
| Overcup oak | <i>Quercus lyrata</i> | OBL | 112 | | |
| Water oak | <i>Quercus nigra</i> | FAC | | | 395 |
| Willow oak | <i>Quercus phellos</i> | FACW | | 450 | 395 |
| Texas red oak | <i>Quercus texana</i> | FACW | | 450 | |
| Bald cypress | <i>Taxodium distichum</i> | OBL | 112 | 450 | |
| American elm | <i>Ulmus americana</i> | FAC | | | 395 |
| Cedar elm | <i>Ulmus crassifolia</i> | FAC | | | 395 |

A minimum of 4 species should be selected per zone to attain acceptable diversity. Each chosen species should be planted in large enough quantities and interspersed such that each species represents at least 10% of the total stem composition per acre

4.3 Planting Procedures

The City of Deer Park does not dictate the timing of planting; however, contractors should bid on planting 1-gallon rooted stock. The contractor is encouraged to review the survival requirements in Section 5 to ensure that the plant stock are successful.

Tree tubes must be installed around newly planted seedlings that are 3 feet or less in height. Tree tubes must be staked and the bottom imbedded into the soil for stabilization. Planted trees must be visibly marked to allow survival to be determined and prevent accidental death during future Chinese tallow control activities.

5.0 Post-Effort Survival

Approximately 90 days following planting, the City of Deer Park will require a survival survey documenting no less than 90% survival of the planted stems. If this standard is not met, the contractor must replant areas at their own expense and demonstrate that these plantings are successful (at least 90% survival) within 30 days of any replanting.

Annual surveys of the property will be carried out annually for the five years following planting. Based on these surveys, the City of Deer Park requires the following:

- 1) Year 1 – no less than 80% survival of all planted stems throughout the site, of which at least 4 or more tree species represent 15% or more of the stems in the wetland; no more than 1% of the mature trees in the wetland are Chinese tallow.
- 2) Year 2 – no less than 70% survival of all planted stems throughout the site, of which at least 4 or more tree species represent 15% or more of the stems in the wetland.
- 3) Year 3 and 5 – no less than 60% survival of all planted stems throughout the site, of which at least 4 or more tree species represent 15% or more of the stems in the wetland.

The City of Deer Park reserves the right to require replanting of all or portions of the wetland areas if the survey requirements are not met. The City of Deer Park will manage on-going Chinese tallow control activities.

OFFICIAL BID

Bids are based off the scope of work detailed above:

Base Bid Amount..... \$ _____
(Numbers)

\$ _____ Dollars
(Words)

\$ _____ Cents
(Words)

The undersigned certifies that the bid prices quoted on the proposal have been carefully checked and are submitted as correct and final.

The undersigned proposes to complete the work quoted on or before _____ calendar days after the effective date of work order. The undersigned further agrees that the Owner will suffer damages if the above quoted work is not finished and completed within the time allotted for such work and that these damages will accrue to the Owner as liquidated damages in the amount per day as defined in the Supplementary Conditions of Agreement, Paragraph 6. LIQUIDATED DAMAGES FOR DELAYS.

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

| | | |
|----------------|-------------|----------------|
| Addendum No. 1 | Dated _____ | Received _____ |
| Addendum No. 2 | Dated _____ | Received _____ |
| Addendum No. 3 | Dated _____ | Received _____ |

Accompanying this proposal is a certified check, cashier's check, or bid bond in the amount of ten percent (10%) of the greatest amount bid and payable to the Owner.

Attest/Seal (If Corporation)
Witness (if not Corporation)

Bidder: _____
(Company Name)

By: _____
(Signature)

By: _____
(Signature)

Name: _____
(Printed or Typed)

By: _____
(Representative's Signature)

Title: _____

Title: _____

SEAL OF BIDDER CORPORATION:

Address: _____

Phone: _____

Email: _____

Date: _____

STANDARD FORM OF AGREEMENT
BETWEEN OWNER AND CONTRACTOR

TALLOW MITIGATION PROJECT

This Agreement is made and entered into as of the ____ day of _____, 2019 by and between the:

“OWNER”

The City of Deer Park
710 E. San Augustine
Deer Park, Texas 77536
281.479.2394 t
281.478.7217 f

and

“CONTRACTOR”

[name of Contractor]
[address]
[phone and fax numbers]

for the following Project:

[project name]

The **ENGINEER** for the Project is

[name of engineer]
[address]
[phone and fax numbers]

1.0 THE WORK OF THIS CONTRACT

Unless otherwise provided in these Contract Documents, the CONTRACTOR shall be responsible for performing or causing to be performed all Work including labor and materials, necessary to build, construct, erect and equip in accordance with the Contract Documents and at its own proper cost and expenses to furnish all the materials, supplies, machinery, equipment, tools, superintendence, labor, insurance, and other accessories and services necessary to complete the said construction, in accordance with the conditions and prices stated in the Proposal attached hereto.

The Contract Documents for this Project include this Standard Form of Agreement and the following documents, if applicable:

- Addenda issued by ENGINEER
- General Conditions
- Performance and Payment Bonds
- Request For Proposal and Contract Forms
- Bid Forms
- Technical Specifications
- Drawings

2.0 CONTRACT TIME AND COMPLETION

§ 2.1 The date of commencement of the Work shall be stated in a Notice to Proceed issued by the OWNER.

§ 2.2 Contract Time

§2.2.1 The Contract Time shall be measured from the date of commencement.

§2.2.2 Time is of the essence in all phases of the Work. Additionally, time limits and periods of time stated in the Contract Documents are of the essence. It is specifically understood and agreed to by and between OWNER and CONTRACTOR that time is of the essence in the Final Completion of the Work, and that failure to finally complete the Work within the designated period, or as it may be extended, shall be construed as a breach of this Agreement.

§ 2.3 Final Completion

The CONTRACTOR shall achieve Final Completion of the entire Work not later than [insert days to complete] calendar days from the date of commencement, subject to and adjustments of this Contract

Time as provided in the Contract Documents and Changer Orders modifying and extending this Agreement.

§ 2.4 Liquidated Damages

The CONTRACTOR acknowledges and recognizes that the OWNER is entitled to full and beneficial occupancy and use of the completed work following expiration of the Contract Time. The CONTRACTOR further acknowledges and agrees that, if the CONTRACTOR fails to achieve the Final Completion of any portion of the Work within the Contract time, the OWNER will sustain actual damages as a result of such failure. The exact amount of such damages will be difficult to ascertain. Therefore, the OWNER and CONTRACTOR agree that, if the CONTRACTOR shall neglect, fail, or refuse to achieve Final Completion of the Work by the Final Completion date, subject to proper extension granted by the OWNER, then the CONTRACTOR agrees to pay the OWNER the sum of

[insert written amount] ([insert numerical amount])

for each day in which such Work is not completed, not as penalty, but as liquidated damages, for the damages ("Liquidated Damages") that would be suffered by OWNER as a result of delay for each and every calendar day that the CONTRACTOR shall have failed to have completed the Work as required herein. The Liquidated Damages shall be in lieu of any and all other damages which may be incurred by OWNER as a result of the failure of CONTRACTOR to complete within the Contract Time.

§ 2.5 FINAL COMPLETION

§ 2.5.1 Timely Final Completion is an essential condition of this contract. CONTRACTOR agrees to achieve Final Completion by the designated or extended Final Completion date. The date of Final Completion shall be fixed by this Agreement, unless modified by Change Order, and memorialized by a letter of Final Acceptance as provided in the General Conditions to this Agreement.

§ 2.5.2 Final Completion means actual completion of the Work, including any extras or Change Orders reasonably required or contemplated under the Contract Documents other than warranty work that may be required pursuant to the Contract Documents.

§ 2.5.3 CONTRACTOR's general warranty period and guarantee will begin to run upon Final Completion as approved by OWNER, and following issuance of ENGINEER's letter of Final Acceptance.

3.0 CONTRACT SUM

§ 3.1 The OWNER shall pay the CONTRACTOR the Contract Sum in current funds for the CONTRACTOR's performance of the Contract. The Contract Sum shall be [insert written total] ([insert numerical total]) subject to additions and deductions as provided in the Contract Documents.

§ 3.2 The Contract Sum is based upon the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the OWNER:

[alternate __, if any]

[alternate __, if any]

§ 3.3 Unit prices, if any:

[insert any unit price items and descriptions] [or add reference to Proposal with unit prices and estimated quantities]

| Item | Units and Limitations | Price Per Unit (\$0.00) |
|-------------------|-----------------------|-------------------------|
| [unit price item] | [unit] | [price] |

4.0 PAYMENT

§ 4.1 APPLICATIONS FOR PAYMENT

Each Application for Payment shall be based on the most recent schedule of values submitted by the CONTRACTOR in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Amount among the various portions of the Work. The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the ENGINEER and OWNER may require. This schedule, unless objected to by the ENGINEER or OWNER, shall be used as a basis for reviewing the CONTRACTOR's Applications for Payment.

§ 4.1.1 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment. Unless otherwise noted, application for payment shall be done on a monthly basis.

§ 4.1.2 Subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

- 1 Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the Contract Sum allocated to that portion of the Work in the schedule of

values, less retainage of «Five» percent («5.00» %). Pending final determination of cost to the OWNER of changes in the Work, amounts not in dispute shall be included;

- .2 Add that portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or, if approved in advance by the OWNER, suitably stored off the site at a location agreed upon in writing), less retainage of «Five» percent («5.00» %);
- .3 Subtract the aggregate of previous payments made by the OWNER; and
- .4 Subtract amounts, if any, for which the ENGINEER has withheld or nullified a Certificate for Payment.

§ 4.1.3 If the total Contract Sum at the time of execution of this Agreement is less than \$400,000.00, the OWNER may elect to withhold retainage of ten percent (10%) from each progress payment in lieu of the retainage amounts set forth in Section 4.1.2.

§ 4.1.4 Reduction or limitation of retainage, if any, shall be as follows: Reduction or limitation of retainage shall be at the OWNER's sole discretion.

§ 4.1.5 Except with the OWNER's prior approval, the CONTRACTOR shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

§ 4.2 FINAL PAYMENT

§ 4.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the OWNER to the CONTRACTOR when

- .1 the CONTRACTOR has fully performed the Contract except for the CONTRACTOR's responsibility to correct Work as provided in the General Conditions, and to satisfy other requirements, if any, which extend beyond final payment; and
- .2 a letter of Final Acceptance has been issued by the ENGINEER and accepted by the OWNER.

§ 4.2.2 The OWNER's final payment to the CONTRACTOR shall be made no later than 30 days after the Work has been completed and accepted by the OWNER, in writing, following the issuance of the ENGINEER's final Certificate for Payment:

This Agreement is entered into as of the day and year written above (“The Date of Execution”):

OWNER

CONTRACTOR

By: _____

By: _____

Title: _____

Title: _____

Attested By: _____
City Secretary

SEAL:

CERTIFICATE OF INSURANCE

TO: CITY OF DEER PARK
P.O. BOX 700
DEER PARK, TEXAS 77536

DATE:

PROJECT: Tallow Mitigation Project

This is to certify that _____
(Name of Insured)

(Address of Insured)

is, at the date of this certificate, insured by this Company with respect to the business operating hereinafter described, for the types of Insurance and in accordance with the provisions of the standard policies used by this Company, and further hereinafter described. Exceptions to standard policy noted on reverse side hereof.

TYPE OF INSURANCE

WORKMEN'S COMPENSATION:

Policy No. : _____

Effective: _____ Expires: _____

Limit of Liability: _____

PUBLIC LIABILITY:

Policy No.: _____

Effective: _____ Expires: _____

Limit of Liability:
1 Person: \$ _____ 1 Accident: \$ _____

CONTINGENT LIABILITY:

Policy No.: _____

Effective: _____ Expires: _____

Limit of Liability:
1 Person:\$ _____ 1 Accident: _____

PROPERTY DAMAGE:

Policy No.: _____

Effective: _____ Expires: _____

Limit of Liability: _____

AUTOMOBILE:

Policy No.: _____

Effective: _____ Expires: _____

Limit of Liability: _____

The foregoing policies (do) (do not) cover all sub-contractors.

Locations covered: _____

Description of operations covered: _____

The above policies either in the body thereof or by appropriate endorsement provide that they may not be changed or cancelled by the insurer in less than fifteen (15) days after the insured has written notice of such change or cancellation.

Where applicable local laws or regulations require more than five days actual notice of change or cancellation to the assured, the above policies contain such special requirements, either in the body thereof or by appropriate endorsement thereto attached.

Name of Insurance Company: _____

Name of Agency Company: _____

Address of Agency: _____

Phone Number: (____) _____

Signature of Authorized Representative: _____

Exhibit A.
Owner's Insurance Requirements of Contractor (revised 7/25/2017)

1. Specific Insurance Requirements

The following insurance shall be maintained in effect with limits not less than those set forth below at all times during the term of this Agreement and thereafter as required:

| Insurance | Coverage/Limits | Other Requirements |
|---|---|---|
| Commercial General Liability (Occurrence Basis) | <p>Amounts of coverage shall be no less than:</p> <ul style="list-style-type: none"> ▪ \$1,000,000 Per Occurrence ▪ \$2,000,000 General Aggregate ▪ \$2,000,000 Products/Completed Operations Aggregate ▪ \$1,000,000 Personal And Advertising Injury ▪ Designated Construction Project(s) General Aggregate Limit | <ul style="list-style-type: none"> ▪ Current ISO edition of CG 00 01 ▪ Additional insured status shall be provided in favor of Owner Parties on a combination of ISO forms CG 20 10 04 13 and CG 20 37 04 13. ▪ This coverage shall be endorsed to provide primary and non-contributing liability coverage. It is the intent of the parties to this Agreement that all insurance coverage required herein shall be primary to and will not seek contribution from any other insurance held by Owner Parties, with Owner Parties' insurance being excess, secondary and non-contributing. ▪ Stop Gap coverage shall be provided if any work is to be performed in a monopolistic workers' compensation state. ▪ The following exclusions/limitations (or their equivalent(s), are prohibited: <ul style="list-style-type: none"> ○ Contractual Liability Limitation CG 21 39 ○ Amendment of Insured Contract Definition CG 24 26 ○ Limitation of Coverage to Designated Premises or Project, CG 21 44 ○ Exclusion-Damage to Work Performed by Subcontractors On Your Behalf, CG 22 94 or CG 22 95 ○ Exclusion-Explosion, Collapse and Underground Property Damage Hazard, CG 21 42 or CG 21 43 ○ Any Classification limitation ○ Any Construction Defect Completed Operations exclusion ○ Any endorsement modifying the Employer's Liability exclusion or deleting the exception to it ○ Any endorsement modifying or deleting Explosion, Collapse or Underground coverage ○ Any Habitational or Residential exclusion applicable to the Work ○ Any "Insured vs. Insured" exclusion except Named Insured vs. Named Insured ○ Any Punitive, Exemplary or Multiplied Damages exclusion ○ Any Subsidence exclusion |

| | | |
|--|---|--|
| Business Auto Liability | Amount of coverage shall be no less than: ▪ \$1,000,000 Per Accident | <ul style="list-style-type: none"> ▪ Current ISO edition of CA 00 01 ▪ Arising out of any auto (Symbol 1), including owned, hired and nonowned |
| Workers' Compensation and Employer's Liability | Amounts of coverage shall be no less than: <ul style="list-style-type: none"> ▪ Statutory Limits ▪ \$1,000,000 Each Accident and Disease ▪ Alternate Employer endorsement ▪ USL&H must be provided where such exposure exists. | <ul style="list-style-type: none"> ▪ The State in which work is to be performed must listed under Item 3.A. on the Information Page ▪ Such insurance shall cover liability arising out of the Contractor's employment of workers and anyone for whom the Contractor may be liable for workers' compensation claims. Workers' compensation insurance is required, and no "alternative" forms of insurance shall be permitted. ▪ Where a Professional Employer Organization (PEO) or "leased employees" are utilized, Contractor shall require its leasing company to provide Workers' Compensation insurance for said workers and such policy shall be endorsed to provide an Alternate Employer endorsement in favor of Contractor and Owner. Where Contractor uses leased employees with Workers' Compensation insurance provided by a PEO or employee leasing company, Contractor is strictly prohibited from subletting any of its work without the express written agreement of Owner. |
| Excess Liability (Occurrence Basis) | Amounts of coverage shall be no less than: <ul style="list-style-type: none"> ▪ \$5,000,000 Each Occurrence ▪ \$5,000,000 Annual Aggregate | <ul style="list-style-type: none"> ▪ Such insurance shall be excess over and be no less broad than all coverages described above. ▪ Drop-down coverage shall be provided for reduction and/or exhaustion of underlying aggregate limits and shall include a duty to defend any insured. |
| Contractors Pollution Liability | Amounts of coverage shall be no less than: <ul style="list-style-type: none"> ▪ \$1,000,000 Each Loss ▪ \$2,000,000 Annual Aggregate ▪ If a combined Contractor's Pollution Liability and Professional Liability policy is utilized, the limits shall be \$3,000,000 Each Loss and Aggregate. ▪ The policy must provide coverage for: <ul style="list-style-type: none"> ○ the full scope of the named insured's operations (on-going and completed) as described within the scope of work for this Agreement ○ loss arising from pollutants including but not limited to fungus, bacteria, biological substances, mold, microbial matter, asbestos, lead, silica and contaminated drywall ○ third party liability for bodily injury, property damage, clean up expenses, and defense arising from the operations; ○ diminution of value and Natural Resources damages ○ contractual liability | <ul style="list-style-type: none"> ▪ The policy must insure contractual liability, name Owner Parties as an Additional Insured, and be primary and noncontributory to all coverage available to the Additional Insured. ▪ This insurance is not permitted to include any type of exclusion or limitation of coverage applicable to claims arising from: <ul style="list-style-type: none"> ○ Insured vs. insured actions. However exclusion for claims made between insured within the same economic family are acceptable. ○ impaired property that has not been physically injured ○ materials supplied or handled by the named insured. However, exclusions for the sale and manufacture of products are allowed. Exclusionary language pertaining to materials supplied by the insured shall be reviewed by the certificate holder for approval. ○ property damage to the work performed by the contractor ○ faulty workmanship as it relates to clean up costs ○ punitive, exemplary or multiplied damages ○ work performed by subcontractors |

| | | |
|---------------|---|---|
| | <ul style="list-style-type: none"> ○ claims arising from non-owned disposal sites utilized in the performance of this Agreement. | <ul style="list-style-type: none"> ▪ If coverage is provided on a Claims Made basis, coverage will at least be retroactive to the earlier of the date of this Agreement or the commencement of contractor services relation to the Work. ▪ The policy will offer an extended discovery or extended reporting clause of at least three (3) years. ▪ Completed Operations coverage shall be maintained through the purchase of renewal policies to protect the insured and additional insured for at least two (2) years after the property owner accepts the project or this contract is terminated. The purchase of an extended discovery period or an extended reporting period on a Claims Made policy or the purchase of occurrence based Contractors Environmental Insurance will not be sufficient to meet the terms of this provision. |
| Builders Risk | <ul style="list-style-type: none"> ▪ Coverage shall be provided in an amount equal at all times to the full contract value, including change orders, and cost of debris removal for any single occurrence. ▪ Coverage shall be at least as broad as an unmodified ISO Special form, shall be provided on a completed-value basis, and shall be primary to any other insurance coverage available to the named insured parties, with that other insurance being excess, secondary and non-contributing. ▪ The policy must provide coverage for: <ul style="list-style-type: none"> ○ Agreed Value Included ○ Damage arising from error, omission or deficiency in construction methods, design, specifications, workmanship or materials, including collapse Included ○ Debris removal additional limit \$1,000,000 ○ Flood \$5,000,000 ○ Freezing Included ○ Mechanical breakdown including hot & cold testing Included ○ Ordinance or law \$1,000,000 ○ Pollutant clean-up and removal \$ 25,000 ○ Preservation of property Included ○ Theft Included • Deductible shall not exceed <ul style="list-style-type: none"> ○ All Risks of Direct Damage, Per Occurrence, except \$10,000 ○ Named Storm | <ul style="list-style-type: none"> ▪ Insureds shall include Owner, General Contractor, all Loss Payees and Mortgagees, and subcontractors of all tiers in the Work as Insureds. ▪ Such insurance shall cover: <ul style="list-style-type: none"> ○ all structure(s) under construction, including retaining walls, paved surfaces and roadways, bridges, glass, foundation(s), footings, underground pipes and wiring, excavations, grading, backfilling or filling; ○ all temporary structures (e.g., fencing, scaffolding, cribbing, false work, forms, site lighting, temporary utilities and buildings) located at the site; ○ all property including materials and supplies on site for installation; ○ all property including materials and supplies at other locations but intended for use at the site; ○ all property including materials and supplies in transit to the site for installation by all means of transportation other than ocean transit; and ○ other Work at the site identified in the Agreement to which this Exhibit is attached. • No protective safeguard warranty shall be permitted. • The termination of coverage provision shall be endorsed to permit occupancy of the covered property being constructed This insurance shall be maintained in effect, unless otherwise provided for the Agreement Documents, until the earliest of: <ul style="list-style-type: none"> ○ the date on which all persons and organizations who are insureds under the policy agree that it shall be terminated; ○ occupancy, in whole or in part; |

| | | | |
|--|---|--|---|
| | <ul style="list-style-type: none"> o Flood, Per Occurrence or excess of NFIP if in Flood Zone A or V | 2% subject to \$50,000 minimum \$100,000 | <ul style="list-style-type: none"> o the date on which release of substantial completion is executed; or o the date on which the insurable interests of Contractor in the Covered Property has ceased. • A waiver of subrogation provision shall be provided in favor of all insureds. |
|--|---|--|---|

2. General Insurance Requirements

A. Definitions. For purposes of this Agreement:

- i. "ISO" means Insurance Services Office.
- ii. "Contractor" shall include subcontractors of any tier.
- iii. "Owner Parties" means (a) the City of Deer Park ("Owner"), (b) the Project, (c) any lender whose loan is secured by a lien against the Work, (d) their respective shareholders, members, partners, joint venturers, affiliates, subsidiaries, successors and assigns, (e) any directors, officers, employees, or agents of such persons or entities, and (f) others as required by the Construction Documents.

B. Policies.

- i. Contractor shall maintain such General Liability, Excess Liability, Professional and Pollution insurance in identical coverage, form and amount, including required endorsements, for at least two (2) years following Date of Substantial Completion of the Work to be performed under this Agreement. Contractor shall provide written representation to Owner stating Work completion date.
- ii. All policies must:
 - a. Be written through insurance companies authorized to do business in the State in which the work is to be performed and rated no less than A-: VII in the most current edition of A. M. Best's Key Rating Guide at all times Work is to be performed.
 - b. Provide a waiver of subrogation in favor of Owner Parties on all insurance coverage carried by Contractor, whether required herein or not.
 - c. Contain an endorsement providing for thirty (30) days prior written notice of cancellation to Owner.
 - d. Be provided to the Owner Parties in compliance with the requirements herein and shall contain no endorsements that restrict, limit, or exclude coverage required herein in any manner without the prior express written approval of the Owner.
- iii. Failure of any Owner Party to demand such certificate or other evidence of full compliance with these insurance requirements or failure of any Owner Party to identify a deficiency from evidence that is provided shall not be construed as a waiver of the Contractor's obligation to maintain such insurance.
- iv. Contractor shall provide to the Owner a certified copy of all insurance policies required herein within ten (10) days of any such request. Renewal policies, if necessary, shall be delivered to the Owner prior to the expiration of the previous policy.
- v. Commencement of Work without provision of the required certificate of insurance, evidence of insurance and/or required endorsements, or without compliance with any other provision of this Agreement, shall not constitute a waiver by any Owner Party of any rights. The Owner shall have the right, but not the obligation, of prohibiting the Contractor or any subcontractor from performing any Work until such certificate of insurance, evidence of insurance and/or required endorsements are received and approved by the Owner.

C. Limits, Deductibles and Retentions

- i. The limits of liability may be provided by a single policy of insurance or by a combination of primary and excess policies, but in no event shall the total limits of liability available for any one occurrence or accident be less than the amount required herein.
- ii. No deductible or self-insured retention shall exceed \$25,000 without prior written approval of the Owner, except as otherwise specified herein. All deductibles and/or retentions shall be paid by, assumed by, for the account of, and at the Contractor's sole risk. The Contractor shall not be reimbursed for same.

D. Forms

- i. If the forms of policies, endorsements, certificates or evidence of insurance required by this Exhibit are superseded or discontinued, Owner will have the right to require other equivalent forms.
- ii. Any policy or endorsement form other than a form specified in this Exhibit must be approved in advance by Owner.

E. Evidence of Insurance. Insurance must be evidenced as follows:

- i. ACORD Form 25 Certificate of Liability Insurance for liability coverages.
- ii. ACORD Form 28 Evidence of Commercial Property Insurance for property coverages.
- iii. Evidence shall be provided to Owner prior to commencing Work and prior to the expiration of any required coverage.
- iv. ACORD Forms specify:
 - a. Owner as certificate holder at Owner's mailing address;
 - b. Insured's name, which must match that on this Agreement;
 - c. Insurance companies producing each coverage and the policy number and policy date of each coverage;
 - d. Producer of the certificate with correct address and phone number and have the signature of the authorized representative of the producer;
 - e. Additional Insured status in favor of Owner Parties;
 - f. Amount of any deductible or self-insured retention in excess of \$25,000;
 - g. Designated Construction Project(s) General Aggregate Limit;
 - h. Primary and non-contributory status;
 - i. Waivers of subrogation; and
 - j. All exclusions and limitations added by endorsement to the General Liability coverage. This can be achieved by attachment of the Schedule of Forms and Endorsements page.
- v. Copies of the following shall also be provided:
 - a. General Liability Additional insured endorsement(s);
 - b. General Liability Schedule of Forms and Endorsements page(s); and
 - c. 30 Day Notice of Cancellation endorsement applicable to all required policies.

F. Contractor Insurance Representations to Owner Parties

- i. It is expressly understood and agreed that the insurance coverages required herein (a) represent Owner Parties' minimum requirements and are not to be construed to void or limit the Contractor's indemnity obligations as contained in this Agreement nor represent in any manner a determination of the insurance coverages the Contractor should or should not maintain for its own protection; and (b) are being, or have been, obtained by the Contractor in support of the Contractor's liability and indemnity obligations under this Agreement. Irrespective of the requirements as to insurance to be carried as provided for herein, the insolvency, bankruptcy or failure of any insurance company carrying insurance of the Contractor, or the failure of any insurance company to pay claims accruing, shall not be held to affect, negate or waive any of the provisions of this Agreement.
- ii. Failure to obtain and maintain the required insurance shall constitute a material breach of, and default under, this Agreement. If the Contractor shall fail to remedy such breach within five (5) business days after notice by the Owner, the Contractor will be liable for any and all costs, liabilities, damages and penalties resulting to the Owner Parties from such breach, unless a written waiver of the specific insurance requirement(s) is provided to the Contractor by the Owner. In the event of any failure by the Contractor to comply with the provisions of this Agreement, the Owner may, without in any way compromising or waiving any right or remedy at law or in equity, on notice to the Contractor, purchase such insurance, at the Contractor's expense, provided that the Owner shall have no obligation to do so and if the Owner shall do so, the Contractor shall not be relieved of or excused from the obligation to obtain and maintain such insurance amounts and coverages.
- iii. This Exhibit is an independent contract provision and shall survive the termination or expiration of the Construction Agreement.

G. Insurance Requirements of Contractor's Subcontractors

- i. Insurance similar to that required of the Contractor shall be provided by all subcontractors (or provided by the Contractor on behalf of subcontractors) to cover operations performed under any subcontract agreement. The Contractor shall be held responsible for any modification in these insurance requirements as they apply to subcontractors. The Contractor shall maintain certificates of insurance from all subcontractors containing provisions similar to those listed herein (modified to recognize that the certificate is from subcontractor) enumerating, among other things, the waivers of

subrogation, additional insured status, and primary liability as required herein, and make them available to the Owner upon request.

- ii. The Contractor is fully responsible for loss and damage to its property on the site, including tools and equipment, and shall take necessary precautions to prevent damage to or vandalism, theft, burglary, pilferage and unexplained disappearance of property. Any insurance covering the Contractor's or its subcontractor's property shall be the Contractor's and its subcontractor's sole and complete means or recovery for any such loss. To the extent any loss is not covered by said insurance or subject to any deductible or co-insurance, the Contractor shall not be reimbursed for same. Should the Contractor or its subcontractors choose to self insure this risk, it is expressly agreed that the Contractor hereby waives, and shall cause its subcontractors to waive, any claim for damage or loss to said property in favor of the Owner Parties.

H. Use of the Owners Equipment

The Contractor, its agents, employees, subcontractors or suppliers shall use the Owners equipment only with express written permission of the Owners designated representative and in accordance with the Owners terms and condition for such use. If the Contractor or any of its agents, employees, subcontractors or suppliers utilize any of the Owners equipment for any purpose, including machinery, tools, scaffolding, hoists, lifts or similar items owned, leased or under the control of the Owner, the Contractor shall defend, indemnify and be liable to the Owner Parties for any and all loss or damage which may arise from such use.

I. Release and Waiver

The Contractor hereby releases, and shall cause its subcontractors to release, the Owner Parties from any and all claims or causes of action whatsoever which the Contractor and/or its subcontractors might otherwise now or hereafter possess resulting in or from or in any way connected with any loss covered by insurance, whether required herein or not, or which should have been covered by insurance required herein, including the deductible and/or uninsured portion thereof, maintained and/or required to be maintained by the Contractor and/or its subcontractors pursuant to this Agreement. **THE FOREGOING RELEASE AND WAIVER APPLY EVEN IF THE LOSS OR DAMAGE IS CAUSED IN WHOLE OR IN PART BY THE FAULT OR NEGLIGENCE OR STRICT LIABILITY OF THE OWNER PARTIES.**

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS:

That we, _____, as Principal herein, and [Surety], a corporation organized and existing under the laws of the State of [Surety's state of incorp] and who is authorized and admitted to issue surety bonds in the State of Texas, as surety, are held and firmly bound unto the City of Deer Park, Texas, a municipal corporation with its principal location of 710 E. San Augustine, Deer Park, Texas, Harris County, Obligee herein, in the sum of [printed amount of bond] Dollars (\$[numeric amount of bond]) for the payment of which sum we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, Principal has entered into a certain written contract with the Obligee dated the ____ day of _____, 20____, herein referred to as "the Contract" and incorporated herein and made a part hereof for all purposes, for the construction of the following project: [project name].

NOW, THEREFORE, the condition of this obligation is such, if the said Principal shall faithfully perform the work in accordance with the plans, specifications, and other Contract Documents and shall fully indemnify and hold harmless the Obligee from all costs and damages which Obligee may suffer by reason of Principal's failure to perform the Work in conformity with the Contract Documents, and reimburse and repay Obligee for all outlay and expense that Obligee may incur in making good such default, then this obligation shall be void; otherwise, to remain in full force and effect. Whenever Contractor shall be declared by Obligee to be in default under the Contract, the Surety shall, upon request of Obligee and within seven (7) calendar days from receipt of Obligee's notice of Contractor's default, commence and thereafter complete performance of Contractor's obligations under the Contract. This Bond covers all contractual obligations of Contractor under the Contract, including, without limitation, the indemnity, warranty and guaranty obligations. The Surety stipulates and agrees that no change, extension of time, alteration, omission, addition or other modification to the terms of any of the Contract will affect its obligations on this bond, and it hereby waives notice of any such changes, extensions of time, alterations, omissions, additions, or other modifications, to the Contract or to related subcontracts, purchase orders or other obligations, and any notices provided in such regard shall not create as to any party a duty related thereto. The penal limit of this bond shall

automatically be increased by the amount of any change order, supplemental agreement or amendment which increases the price of the Contract.

PROVIDED, HOWEVER, that this bond is executed pursuant to Chapter 2253 of the Texas Government Code, as amended, and all rights and liabilities on this bond shall be determined in accordance with the provisions of such statute, to the same extent as if it were copied at length herein. All notices shall be delivered in writing to the addresses shown below or to addresses provided in the Contract Documents.

IN WITNESS WHEREOF, the duly authorized representatives of the Principal and the Surety have executed this instrument.

SIGNED and SEALED this _____ day of _____, 20____.

The date of bond shall not be prior to date of Contract.

ATTEST:

(Principal) Secretary

(S E A L)

Witness as to Principal

ATTEST:

Secretary

(S E A L)

Witness as to Surety

PRINCIPAL

By: _____

Name: _____

Title: _____

Address: _____

Telephone Number: _____

SURETY

By: _____

Name: _____

Attorney in Fact

Address: _____

Telephone Number: _____

An original copy of Power of Attorney shall be attached to Bond by the Attorney-in-Fact.

Approved as to Form:

City of Deer Park
710 E. San Augustine
Deer Park, Texas 77536

By: _____

Title: _____

Date: _____

PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS:

That we, _____, as Principal herein, and [Surety], a corporation organized and existing under the laws of the State of [Surety's state of incorp] and who is authorized and admitted to issue surety bonds in the State of Texas, as surety, are held and firmly bound unto the City of Deer Park, Texas, a municipal corporation with its principal location of 710 E. San Augustine, Deer Park, Texas, Harris County, Obligee herein, in the sum of [printed amount of bond] Dollars (\$[numeric amount of bond]) for the payment of which sum we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents:

WHEREAS, Principal has entered into a certain written contract with the Obligee dated the ____ day of _____, 20____, which contract is hereby referred to herein as "the Contract" and is incorporated herein to the same extent as if copied at length, for the following project: [project name].

NOW, THEREFORE, the condition of this obligation is such, that if the said Principal shall directly or indirectly timely make payment to each and every claimant (as defined in Chapter 2253, Texas Government Code, as amended) supplying labor or materials in the prosecution of the work under the Contract, then this obligation shall be void; otherwise, to remain in full force and effect. *This obligation may be enforced by the Obligee in the event of bankruptcy or default by Principal in payments to suppliers of labor or materials in the prosecution of the work under the Contract, in either of which events the Surety shall make such payments as Principal has failed to pay and as may be required to complete the work under the contract.* The Surety stipulates and agrees that no change, extension of time, alteration, omission, addition or other modification to the terms of the Contract will affect its obligations on this bond, and it hereby waives notice of any such changes, extensions of time, alterations, omissions, additions, or other modifications, to the Contract or to related subcontracts, purchase orders or other obligations, and any notices provided in such regard shall not create as to any party a duty related thereto.

PROVIDED, HOWEVER, that this bond is executed pursuant to Chapter 2253 of the Texas Government Code, as amended, and all rights and liabilities on this bond shall be determined in accordance with the provisions of said statute, to the same extent as if it were

copied at length herein. All notices shall be delivered in writing to the addresses shown below or to addresses provided in the Contract Documents.

IN WITNESS WHEREOF, the duly authorized representatives of the Principal and the Surety have executed this instrument.

SIGNED and SEALED this _____ day of _____, 20____.

The date of bond shall not be prior to date of Contract.

ATTEST:

(Principal) Secretary

(S E A L)

Witness as to Principal

ATTEST:

Secretary

(S E A L)

Witness as to Surety

PRINCIPAL

By: _____

Name: _____

Title: _____

Address: _____

Telephone Number: _____

SURETY

By: _____

Name: _____

Attorney in Fact

Address: _____

Telephone Number: _____

An original copy of Power of Attorney shall be attached to Bond by the Attorney-in-Fact.

Approved as to Form:

City of Deer Park
710 E. San Augustine
Deer Park, Texas 77536

By: _____

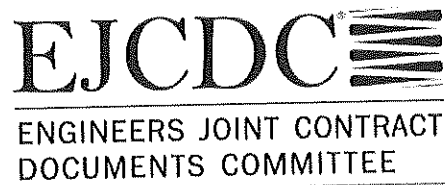
Title: _____

Date: _____

This document has important legal consequences; consultation with an attorney is encouraged with respect to its use or modification. This document should be adapted to the particular circumstances of the contemplated Project and the controlling Laws and Regulations.

STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

Prepared by



Issued and Published Jointly by



These General Conditions have been prepared for use with the Agreement Between Owner and Contractor for Construction Contract (EJCDC® C-520, Stipulated Sum, or C-525, Cost-Plus, 2013 Editions). Their provisions are interrelated and a change in one may necessitate a change in the other.

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ARTICLE 1 – DEFINITIONS AND TERMINOLOGY

1.01 *Defined Terms*

- A. Wherever used in the Bidding Requirements or Contract Documents, a term printed with initial capital letters, including the term's singular and plural forms, will have the meaning indicated in the definitions below. In addition to terms specifically defined, terms with initial capital letters in the Contract Documents include references to identified articles and paragraphs, and the titles of other documents or forms.
1. *Addenda*—Written or graphic instruments issued prior to the opening of Bids which clarify, correct, or change the Bidding Requirements or the proposed Contract Documents.
 2. *Agreement*—The written instrument, executed by Owner and Contractor, that sets forth the Contract Price and Contract Times, identifies the parties and the Engineer, and designates the specific items that are Contract Documents.
 3. *Application for Payment*—The form acceptable to Engineer which is to be used by Contractor during the course of the Work in requesting progress or final payments and which is to be accompanied by such supporting documentation as is required by the Contract Documents.
 4. *Bid*—The offer of a Bidder submitted on the prescribed form setting forth the prices for the Work to be performed.
 5. *Bidder*—An individual or entity that submits a Bid to Owner.
 6. *Bidding Documents*—The Bidding Requirements, the proposed Contract Documents, and all Addenda.
 7. *Bidding Requirements*—The advertisement or invitation to bid, Instructions to Bidders, Bid Bond or other Bid security, if any, the Bid Form, and the Bid with any attachments.
 8. *Change Order*—A document which is signed by Contractor and Owner and authorizes an addition, deletion, or revision in the Work or an adjustment in the Contract Price or the Contract Times, or other revision to the Contract, issued on or after the Effective Date of the Contract.
 9. *Change Proposal*—A written request by Contractor, duly submitted in compliance with the procedural requirements set forth herein, seeking an adjustment in Contract Price or Contract Times, or both.
 10. *Claim*—(a) A demand or assertion by Owner directly to Contractor, duly submitted in compliance with the procedural requirements set forth herein: seeking an adjustment of Contract Price or Contract Times, or both; contesting an initial decision by Engineer concerning the requirements of the Contract Documents or the acceptability of Work under the Contract Documents; contesting Engineer's decision regarding a Change Proposal; seeking resolution of a contractual issue that Engineer has declined to address; or seeking other relief with respect to the terms of the Contract. A demand for money or services by a third party is not a Claim.
 11. *Constituent of Concern*—Asbestos, petroleum, radioactive materials, polychlorinated biphenyls (PCBs), hazardous waste, and any substance, product, waste, or other material of any nature whatsoever that is or becomes listed, regulated, or addressed pursuant to (a) the Comprehensive Environmental Response, Compensation and

Liability Act, 42 U.S.C. §§9601 et seq. ("CERCLA"); (b) the Hazardous Materials Transportation Act, 49 U.S.C. §§5501 et seq.; (c) the Resource Conservation and Recovery Act, 42 U.S.C. §§6901 et seq. ("RCRA"); (d) the Toxic Substances Control Act, 15 U.S.C. §§2601 et seq.; (e) the Clean Water Act, 33 U.S.C. §§1251 et seq.; (f) the Clean Air Act, 42 U.S.C. §§7401 et seq.; or (g) any other federal, state, or local statute, law, rule, regulation, ordinance, resolution, code, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.

12. *Contract*—The entire and integrated written contract between the Owner and Contractor concerning the Work.
13. *Contract Documents*—Those items so designated in the Agreement, and which together comprise the Contract.
14. *Contract Price*—The money that Owner has agreed to pay Contractor for completion of the Work in accordance with the Contract Documents. .
15. *Contract Times*—The number of days or the dates by which Contractor shall: (a) achieve Milestones, if any; (b) achieve Substantial Completion; and (c) complete the Work.
16. *Contractor*—The individual or entity with which Owner has contracted for performance of the Work.
17. *Cost of the Work*—See Paragraph 13.01 for definition.
18. *Drawings*—The part of the Contract that graphically shows the scope, extent, and character of the Work to be performed by Contractor.
19. *Effective Date of the Contract*—The date, indicated in the Agreement, on which the Contract becomes effective.
20. *Engineer*—The individual or entity named as such in the Agreement.
21. *Field Order*—A written order issued by Engineer which requires minor changes in the Work but does not change the Contract Price or the Contract Times.
22. *Hazardous Environmental Condition*—The presence at the Site of Constituents of Concern in such quantities or circumstances that may present a danger to persons or property exposed thereto. The presence at the Site of materials that are necessary for the execution of the Work, or that are to be incorporated in the Work, and that are controlled and contained pursuant to industry practices, Laws and Regulations, and the requirements of the Contract, does not establish a Hazardous Environmental Condition.
23. *Laws and Regulations; Laws or Regulations*—Any and all applicable laws, statutes, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.
24. *Milestone*—A principal event in the performance of the Work that the Contract requires Contractor to achieve by an intermediate completion date or by a time prior to Substantial Completion of all the Work.
25. *Notice of Award*—The written notice by Owner to a Bidder of Owner's acceptance of the Bid.

26. *Notice to Proceed*—A written notice by Owner to Contractor fixing the date on which the Contract Times will commence to run and on which Contractor shall start to perform the Work.
27. *Owner*—The individual or entity with which Contractor has contracted regarding the Work, and which has agreed to pay Contractor for the performance of the Work, pursuant to the terms of the Contract.
28. *Progress Schedule*—A schedule, prepared and maintained by Contractor, describing the sequence and duration of the activities comprising the Contractor's plan to accomplish the Work within the Contract Times.
29. *Project*—The total undertaking to be accomplished for Owner by engineers, contractors, and others, including planning, study, design, construction, testing, commissioning, and start-up, and of which the Work to be performed under the Contract Documents is a part.
30. *Project Manual*—The written documents prepared for, or made available for, procuring and constructing the Work, including but not limited to the Bidding Documents or other construction procurement documents, geotechnical and existing conditions information, the Agreement, bond forms, General Conditions, Supplementary Conditions, and Specifications. The contents of the Project Manual may be bound in one or more volumes.
31. *Resident Project Representative*—The authorized representative of Engineer assigned to assist Engineer at the Site. As used herein, the term Resident Project Representative or "RPR" includes any assistants or field staff of Resident Project Representative.
32. *Samples*—Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and that establish the standards by which such portion of the Work will be judged.
33. *Schedule of Submittals*—A schedule, prepared and maintained by Contractor, of required submittals and the time requirements for Engineer's review of the submittals and the performance of related construction activities.
34. *Schedule of Values*—A schedule, prepared and maintained by Contractor, allocating portions of the Contract Price to various portions of the Work and used as the basis for reviewing Contractor's Applications for Payment.
35. *Shop Drawings*—All drawings, diagrams, illustrations, schedules, and other data or information that are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work. Shop Drawings, whether approved or not, are not Drawings and are not Contract Documents.
36. *Site*—Lands or areas indicated in the Contract Documents as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements, and such other lands furnished by Owner which are designated for the use of Contractor.
37. *Specifications*—The part of the Contract that consists of written requirements for materials, equipment, systems, standards, and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable to the Work.
38. *Subcontractor*—An individual or entity having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work.

39. *Substantial Completion*—The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms “substantially complete” and “substantially completed” as applied to all or part of the Work refer to Substantial Completion thereof.
40. *Successful Bidder*—The Bidder whose Bid the Owner accepts, and to which the Owner makes an award of contract, subject to stated conditions.
41. *Supplementary Conditions*—The part of the Contract that amends or supplements these General Conditions.
42. *Supplier*—A manufacturer, fabricator, supplier, distributor, materialman, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or a Subcontractor.
43. *Technical Data*—Those items expressly identified as Technical Data in the Supplementary Conditions, with respect to either (a) subsurface conditions at the Site, or physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities) or (b) Hazardous Environmental Conditions at the Site. If no such express identifications of Technical Data have been made with respect to conditions at the Site, then the data contained in boring logs, recorded measurements of subsurface water levels, laboratory test results, and other factual, objective information regarding conditions at the Site that are set forth in any geotechnical or environmental report prepared for the Project and made available to Contractor are hereby defined as Technical Data with respect to conditions at the Site under Paragraphs 5.03, 5.04, and 5.06.
44. *Underground Facilities*—All underground pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels, or other such facilities or attachments, and any encasements containing such facilities, including but not limited to those that convey electricity, gases, steam, liquid petroleum products, telephone or other communications, fiber optic transmissions, cable television, water, wastewater, storm water, other liquids or chemicals, or traffic or other control systems.
45. *Unit Price Work*—Work to be paid for on the basis of unit prices.
46. *Work*—The entire construction or the various separately identifiable parts thereof required to be provided under the Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction; furnishing, installing, and incorporating all materials and equipment into such construction; and may include related services such as testing, start-up, and commissioning, all as required by the Contract Documents.
47. *Work Change Directive*—A written directive to Contractor issued on or after the Effective Date of the Contract, signed by Owner and recommended by Engineer, ordering an addition, deletion, or revision in the Work.

1.02 Terminology

- A. The words and terms discussed in the following paragraphs are not defined but, when used in the Bidding Requirements or Contract Documents, have the indicated meaning.

B. *Day:*

1. The word "day" means a calendar day of 24 hours measured from midnight to the next midnight.

C. *Defective:*

1. The word "defective," when modifying the word "Work," refers to Work that is unsatisfactory, faulty, or deficient in that it:
 - a. does not conform to the Contract Documents; or
 - b. does not meet the requirements of any applicable inspection, reference standard, test, or approval referred to in the Contract Documents; or
 - c. has been damaged prior to Engineer's recommendation of final payment (unless responsibility for the protection thereof has been assumed by Owner at Substantial Completion.

D. *Furnish, Install, Perform, Provide:*

1. The word "furnish," when used in connection with services, materials, or equipment, shall mean to supply and deliver said services, materials, or equipment to the Site (or some other specified location) ready for use or installation and in usable or operable condition.
 2. The word "install," when used in connection with services, materials, or equipment, shall mean to put into use or place in final position said services, materials, or equipment complete and ready for intended use.
 3. The words "perform" or "provide," when used in connection with services, materials, or equipment, shall mean to furnish and install said services, materials, or equipment complete and ready for intended use.
 4. If the Contract Documents establish an obligation of Contractor with respect to specific services, materials, or equipment, but do not expressly use any of the four words "furnish," "install," "perform," or "provide," then Contractor shall furnish and install said services, materials, or equipment complete and ready for intended use.
- E. Unless stated otherwise in the Contract Documents, words or phrases that have a well-known technical or construction industry or trade meaning are used in the Contract Documents in accordance with such recognized meaning.

ARTICLE 2 – PRELIMINARY MATTERS

2.01 *Delivery of Bonds and Evidence of Insurance*

- A. *Bonds:* When Contractor delivers the executed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner such bonds as Contractor may be required to furnish.
- B. *Evidence of Contractor's Insurance:* When Contractor delivers the executed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner, with copies to each named insured and additional insured (as identified in the Supplementary Conditions or elsewhere in the Contract), the certificates and other evidence of insurance required to be provided by Contractor in accordance with Article 6.

2.02 *Copies of Documents*

- A. Owner shall furnish to Contractor four printed copies of the Contract (including one fully executed counterpart of the Agreement), and one copy in electronic portable document format (PDF). Additional printed copies will be furnished upon request at the cost of reproduction.
- B. Owner shall maintain and safeguard at least one original printed record version of the Contract, including Drawings and Specifications signed and sealed by Engineer and other design professionals.

2.03 *Before Starting Construction*

- A. *Preliminary Schedules:* Within 10 days after the Effective Date of the Contract (or as otherwise specifically required by the Contract Documents), Contractor shall submit to the Owner and Engineer:
 - 1. a preliminary Progress Schedule indicating the times (numbers of days or dates) for starting and completing the various stages of the Work, including any Milestones specified in the Contract;
 - 2. a preliminary Schedule of Submittals; and
 - 3. a preliminary Schedule of Values for all of the Work which includes quantities and prices of items which when added together equal the Contract Price and subdivides the Work into component parts in sufficient detail to serve as the basis for progress payments during performance of the Work. Such prices will include an appropriate amount of overhead and profit applicable to each item of Work.

2.04 *Preconstruction Conference*

- A. Before any Work at the Site is started, a conference attended by Owner, Contractor, Engineer, and others as appropriate will be held to establish a working understanding among the parties as to the Work and to discuss the schedules referred to in Paragraph 2.03.A, procedures for handling Shop Drawings, Samples, and other submittals, processing Applications for Payment, electronic or digital transmittals, and maintaining required records.

2.05 *Initial Acceptance of Schedules*

- A. At least 10 days before submission of the first Application for Payment a conference, attended by Contractor, Engineer, and others as appropriate, will be held to review for acceptability to Engineer as provided below the schedules submitted in accordance with Paragraph 2.03.A. Contractor shall have an additional 10 days to make corrections and adjustments and to complete and resubmit the schedules. No progress payment shall be made to Contractor until acceptable schedules are submitted to Engineer.
 - 1. The Progress Schedule will be acceptable to Engineer if it provides an orderly progression of the Work to completion within the Contract Times. Such acceptance will not impose on Engineer responsibility for the Progress Schedule, for sequencing, scheduling, or progress of the Work, nor interfere with or relieve Contractor from Contractor's full responsibility therefor.
 - 2. Contractor's Schedule of Submittals will be acceptable to Engineer if it provides a workable arrangement for reviewing and processing the required submittals.

3. Contractor's Schedule of Values will be acceptable to Engineer as to form and substance if it provides a reasonable allocation of the Contract Price to the component parts of the Work.

2.06 *Electronic Transmittals*

- A. Except as otherwise stated elsewhere in the Contract, the Owner, Engineer, and Contractor may transmit, and shall accept, Project-related correspondence, text, data, documents, drawings, information, and graphics, including but not limited to Shop Drawings and other submittals, in electronic media or digital format, either directly, or through access to a secure Project website.
- B. When transmitting items in electronic media or digital format, the transmitting party makes no representations as to long term compatibility, usability, or readability of the items resulting from the recipient's use of software application packages, operating systems, or computer hardware differing from those used in the drafting or transmittal of the items, or from those established in applicable transmittal protocols.

2.07 *Designation of Authorized Representatives*

- A. Prior to or within three (3) days of the Notice to Proceed, the Owner and Contractor shall designate, in writing, a specific individual to act as its authorized representative with respect to the services and responsibilities under the Contract. Such individuals shall have the authority to transmit and receive information, render decisions relative to the Contract, and otherwise act on behalf of each respective party.

ARTICLE 3 – DOCUMENTS: INTENT, REQUIREMENTS, REUSE

3.01 *Intent*

- A. The Contract Documents are complementary; what is required by one is as binding as if required by all.
- B. It is the intent of the Contract Documents to describe a functionally complete project (or part thereof) to be constructed in accordance with the Contract Documents.
- C. Unless otherwise stated in the Contract Documents, if there is a discrepancy between the electronic or digital versions of the Contract Documents (including any printed copies derived from such electronic or digital versions) and the printed record version, the printed record version shall govern.
- D. The Contract supersedes prior negotiations, representations, and agreements, whether written or oral.

3.02 *Reference Standards*

- A. Standards Specifications, Codes, Laws and Regulations
 1. Reference in the Contract Documents to standard specifications, manuals, reference standards, or codes of any technical society, organization, or association, or to Laws or Regulations, whether such reference be specific or by implication, shall mean the standard specification, manual, reference standard, code, or Laws or Regulations in effect at the time of opening of Bids (or on the Effective Date of the Contract if there were no Bids), except as may be otherwise specifically stated in the Contract Documents.

2. No provision of any such standard specification, manual, reference standard, or code, or any instruction of a Supplier, shall be effective to change the duties or responsibilities of Owner, Contractor, or Engineer, or any of their subcontractors, consultants, agents, or employees, from those set forth in the part of the Contract Documents prepared by or for Engineer. No such provision or instruction shall be effective to assign to Owner, Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, any duty or authority to supervise or direct the performance of the Work or any duty or authority to undertake responsibility inconsistent with the provisions of the part of the Contract Documents prepared by or for Engineer.

3.03 *Reporting and Resolving Discrepancies*

A. *Reporting Discrepancies:*

1. *Contractor's Verification of Figures and Field Measurements:* Before undertaking each part of the Work, Contractor shall carefully study the Contract Documents, and check and verify pertinent figures and dimensions therein, particularly with respect to applicable field measurements. Contractor shall promptly report in writing to Engineer any conflict, error, ambiguity, or discrepancy that Contractor discovers, or has actual knowledge of, and shall not proceed with any Work affected thereby until the conflict, error, ambiguity, or discrepancy is resolved, by a clarification or interpretation by Engineer, or by an amendment or supplement to the Contract Documents issued pursuant to Paragraph 11.01.
2. *Contractor's Review of Contract Documents:* If, before or during the performance of the Work, Contractor discovers any conflict, error, ambiguity, or discrepancy within the Contract Documents, or between the Contract Documents and (a) any applicable Law or Regulation, (b) actual field conditions, (c) any standard specification, manual, reference standard, or code, or (d) any instruction of any Supplier, then Contractor shall promptly report it to Engineer in writing. Contractor shall not proceed with the Work affected thereby (except in an emergency as required by Paragraph 7.15) until the conflict, error, ambiguity, or discrepancy is resolved, by a clarification or interpretation by Engineer, or by an amendment or supplement to the Contract Documents issued pursuant to Paragraph 11.01.
3. Should Contractors perform the Work after discovery of such a conflict without reporting the conflict or before receipt of a clarification or interpretation by Engineer, Contractor will be solely liable for any correction or other measures that may be required to overcome the conflict or bring the Work into compliance with the Contract Documents.

B. *Resolving Discrepancies:*

1. Except as may be otherwise specifically stated in the Contract Documents, the provisions of the part of the Contract Documents prepared by or for Engineer shall take precedence in resolving any conflict, error, ambiguity, or discrepancy between such provisions of the Contract Documents and:
 - a. the provisions of any standard specification, manual, reference standard, or code, or the instruction of any Supplier (whether or not specifically incorporated by reference as a Contract Document); or

- b. the provisions of any Laws or Regulations applicable to the performance of the Work (unless such an interpretation of the provisions of the Contract Documents would result in violation of such Law or Regulation).

3.04 *Requirements of the Contract Documents*

- A. During the performance of the Work and until final payment, Contractor and Owner shall submit to the Engineer all matters in question concerning the requirements of the Contract Documents (sometimes referred to as requests for information or interpretation—RFIs), or relating to the acceptability of the Work under the Contract Documents, as soon as possible after such matters arise. Engineer will be the initial interpreter of the requirements of the Contract Documents, and judge of the acceptability of the Work thereunder.
- B. Engineer will, with reasonable promptness, render a written clarification, interpretation, or decision on the issue submitted, or initiate an amendment or supplement to the Contract Documents. Engineer's written clarification, interpretation, or decision will be final and binding on Contractor, unless it appeals by submitting a Change Proposal, and on Owner, unless it appeals by filing a Claim.
- C. If a submitted matter in question concerns terms and conditions of the Contract Documents that do not involve (1) the performance or acceptability of the Work under the Contract Documents, (2) the design (as set forth in the Drawings, Specifications, or otherwise), or (3) other engineering or technical matters, then Engineer will promptly give written notice to Owner and Contractor that Engineer is unable to provide a decision or interpretation. If Owner and Contractor are unable to agree on resolution of such a matter in question, either party may pursue resolution as provided in Article 12.

ARTICLE 4 – COMMENCEMENT AND PROGRESS OF THE WORK

4.01 *Commencement of Contract Times; Notice to Proceed*

- A. The Contract Times will commence upon issuance of notice to proceed.

4.02 *Commencement of Performance*

- A. No Work shall be done at the Site prior to such date. Contractor may commence performance upon receipt of the Notice to Proceed and in accordance with any terms and dates contained therein.

4.03 *Reference Points*

- A. If applicable, Owner shall provide engineering surveys, or GPS control points to establish reference points for construction which in Engineer's judgment are necessary to enable Contractor to proceed with the Work. Contractor shall be responsible for laying out the Work, shall protect and preserve the established reference points and property monuments, and shall make no changes or relocations without the prior written approval of Owner. Contractor shall report to Engineer whenever any reference point or property monument is lost or destroyed or requires relocation because of necessary changes in grades or locations, and shall be responsible for the accurate replacement or relocation of such reference points or property monuments by professionally qualified personnel.
- B. Contractor shall note the location of all reference points and controls on a set of red-lined drawings or exhibits to be maintained at all time on the jobsite.

4.04 *Progress Schedule*

- A. Contractor shall adhere to the Progress Schedule established in accordance with Paragraph 2.05 as it may be adjusted from time to time as provided below.
 - 1. Contractor shall submit to Engineer for acceptance (to the extent indicated in Paragraph 2.05) proposed adjustments in the Progress Schedule that will not result in changing the Contract Times.
 - 2. Proposed adjustments in the Progress Schedule that will change the Contract Times shall be submitted in accordance with the requirements of Article 11.
- B. Contractor shall carry on the Work and adhere to the Progress Schedule during all disputes or disagreements with Owner. No Work shall be delayed or postponed pending resolution of any disputes or disagreements, or during any appeal process, except as permitted by Paragraph 16.04, or as Owner and Contractor may otherwise agree in writing.

4.05 *Delays in Contractor's Progress*

- A. If Owner, Engineer, or anyone for whom Owner is responsible, delays, disrupts, or interferes with the performance or progress of the Work, then Contractor shall be entitled to an equitable adjustment in the Contract Time. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times.
- B. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for delay, disruption, or interference caused by or within the control of Contractor. Delay, disruption, and interference attributable to and within the control of a Subcontractor or Supplier shall be deemed to be within the control of Contractor.
- C. If Contractor's performance or progress is delayed, disrupted, or interfered with by unanticipated causes not the fault of and beyond the control of Owner, Contractor, and those for which they are responsible, then Contractor shall be entitled to an equitable adjustment in Contract Times. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times. Such an adjustment shall be Contractor's sole and exclusive remedy for the delays, disruption, and interference described in this paragraph. Causes of delay, disruption, or interference that may give rise to an adjustment in Contract Times under this paragraph include but are not limited to the following:
 - 1. severe and unavoidable natural catastrophes such as fires, floods, epidemics, and earthquakes;
 - 2. abnormal weather conditions;
 - 3. acts or failures to act of utility owners (other than those performing other work at or adjacent to the Site by arrangement with the Owner, as contemplated in Article 8); and
 - 4. acts of war or terrorism.
- D. Delays, disruption, and interference to the performance or progress of the Work resulting from the existence of a differing subsurface or physical condition, an Underground Facility that was not shown or indicated by the Contract Documents, or not shown or indicated with reasonable accuracy, and those resulting from Hazardous Environmental Conditions, are governed by Article 5.

- E. Paragraph 8.03 governs delays, disruption, and interference to the performance or progress of the Work resulting from the performance of certain other work at or adjacent to the Site.
- F. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for any delay, disruption, or interference if such delay is concurrent with a delay, disruption, or interference caused by or within the control of Contractor.
- G. Contractor must submit any Change Proposal seeking an adjustment in Contract Times under this paragraph within 30 days of the commencement of the delaying, disrupting, or interfering event.
- H. Contractor expressly waives any right to an adjustment in Contract Price for any event of delay. Contractor's sole remedy for any delay shall be limited to an adjustment in Contract Time.

ARTICLE 5 – AVAILABILITY OF LANDS; SUBSURFACE AND PHYSICAL CONDITIONS; HAZARDOUS ENVIRONMENTAL CONDITIONS

5.01 *Availability of Lands*

- A. Owner shall furnish the Site. Owner shall notify Contractor of any encumbrances or restrictions not of general application but specifically related to use of the Site with which Contractor must comply in performing the Work.
- B. Upon reasonable written request, Owner shall furnish Contractor with a current statement of record legal title and legal description of the lands upon which permanent improvements are to be made and Owner's interest therein as necessary for giving notice of or filing a mechanic's or construction lien against such lands in accordance with applicable Laws and Regulations.
- C. Contractor shall provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment.

5.02 *Use of Site and Other Areas*

A. *Limitation on Use of Site and Other Areas:*

- 1. Contractor shall confine construction equipment, temporary construction facilities, the storage of materials and equipment, and the operations of workers to the Site, adjacent areas that Contractor has arranged to use through construction easements or otherwise, and other adjacent areas permitted by Laws and Regulations, and shall not unreasonably encumber the Site and such other adjacent areas with construction equipment or other materials or equipment. Contractor shall assume full responsibility for (a) damage to the Site; (b) damage to any such other adjacent areas used for Contractor's operations; (c) damage to any other adjacent land or areas; and (d) for injuries and losses sustained by the owners or occupants of any such land or areas; provided that such damage or injuries result from the performance of the Work or from other actions or conduct of the Contractor or those for which Contractor is responsible.
- 2. If a damage or injury claim is made by the owner or occupant of any such land or area because of the performance of the Work, or because of other actions or conduct of the Contractor or those for which Contractor is responsible, Contractor shall (a) take immediate corrective or remedial action as required by Paragraph 7.12, or otherwise; (b) promptly attempt to settle the claim as to all parties through negotiations with

such owner or occupant, or otherwise resolve the claim by arbitration or other dispute resolution proceeding, or at law; and (c) TO THE FULLEST EXTENT PERMITTED BY LAWS AND REGULATIONS, INDEMNIFY AND HOLD HARMLESS OWNER, ITS OFFICERS, DIRECTORS, MEMBERS, PARTNERS, EMPLOYEES, AGENTS, CONSULTANTS AND SUBCONTRACTORS FROM AND AGAINST ANY SUCH CLAIM, AND AGAINST ALL COSTS, LOSSES, AND DAMAGES (INCLUDING BUT NOT LIMITED TO ALL FEES AND CHARGES OF ENGINEERS, ARCHITECTS, ATTORNEYS, AND OTHER PROFESSIONALS AND ALL COURT OR ARBITRATION OR OTHER DISPUTE RESOLUTION COSTS) ARISING OUT OF OR RELATING TO ANY CLAIM OR ACTION, LEGAL OR EQUITABLE, BROUGHT BY ANY SUCH OWNER OR OCCUPANT AGAINST OWNER OR ANY OTHER PARTY INDEMNIFIED HEREUNDER TO THE EXTENT CAUSED DIRECTLY OR INDIRECTLY, IN WHOLE OR IN PART BY, OR BASED UPON, CONTRACTOR'S PERFORMANCE OF THE WORK, OR BECAUSE OF OTHER ACTIONS OR CONDUCT OF THE CONTRACTOR OR THOSE FOR WHICH CONTRACTOR IS RESPONSIBLE.

- B. *Removal of Debris During Performance of the Work:* During the progress of the Work the Contractor shall keep the Site and other adjacent areas free from accumulations of waste materials, rubbish, and other debris. Removal and disposal of such waste materials, rubbish, and other debris shall conform to applicable Laws and Regulations.
- C. *Cleaning:* Prior to Substantial Completion of the Work Contractor shall clean the Site and the Work and make it ready for utilization by Owner. At the completion of the Work Contractor shall remove from the Site and adjacent areas all tools, appliances, construction equipment and machinery, and surplus materials and shall restore to original condition all property not designated for alteration by the Contract Documents.
- D. *Loading of Structures:* Contractor shall not load nor permit any part of any structure to be loaded in any manner that will endanger the structure, nor shall Contractor subject any part of the Work or adjacent structures or land to stresses or pressures that will endanger them.

5.03 *Subsurface and Physical Conditions*

- A. Contractor accepts the responsibility to satisfy itself as to the soil conditions and nature and type of geological formations in and through which this Project will be constructed. Such information as may be obtained from the test borings and accompanying notations shown on the plans is merely for the guidance of the Contractor and is not to be construed in any manner as a guarantee by the Owner that such conditions of sub-surface strata are infallible.
- B. Contractor waives any and all rights to make a claim against Owner relating to representations related to geotechnical data provided in the contract documents, plans and specifications. The locations of the test holes, if applicable, are shown in the Geotechnical Report. Logs of these test holes are included in the Geotechnical Report. Test holes information represents subsurface characteristics to the extent indicated and only for the point location of the test hole. Contractor shall make its own interpretation of the character and condition of the materials, which will be encountered. Contractor may, at its own expense, make additional surveys and investigations as it may deem necessary to determine conditions, which will affect performance of the Work.
- C. *Reports and Drawings:* Owner will identify to the Contractor:
 - 1. any reports known to Owner of explorations and tests of subsurface conditions at or adjacent to the Site;

2. any drawings known to Owner of physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities); and
 3. Technical Data contained in such reports and drawings.
- D. *Reliance by Contractor on Technical Data Authorized:* Contractor may rely upon the accuracy of the Technical Data expressly identified by Owner with respect to such reports and drawings, but such reports and drawings are not Contract Documents. If no such express identification has been made, then Contractor may rely upon the accuracy of the Technical Data (as defined in Article 1) contained in any geotechnical or environmental report prepared for the Project and made available to Contractor. Except for such reliance on Technical Data, Contractor may not rely upon or make any claim against Owner with respect to:
1. the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, and safety precautions and programs incident thereto; or
 2. other data, interpretations, opinions, and information contained in such reports or shown or indicated in such drawings; or
 3. any Contractor interpretation of or conclusion drawn from any Technical Data or any such other data, interpretations, opinions, or information.

5.04 *Differing Subsurface or Physical Conditions*

- A. *Notice by Contractor:* If Contractor believes that any subsurface or physical condition that is uncovered or revealed at the Site either:
1. is of such a nature as to establish that any Technical Data on which Contractor is entitled to rely as provided in Paragraph 5.03 is materially inaccurate; or
 2. is of such a nature as to require a change in the Drawings or Specifications; or
 3. differs materially from that shown or indicated in the Contract Documents; or
 4. is of an unusual nature, and differs materially from conditions ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract Documents;

then Contractor shall, promptly after becoming aware thereof and before further disturbing the subsurface or physical conditions or performing any Work in connection therewith (except in an emergency as required by Paragraph 7.15), notify Owner and Engineer in writing about such condition. Contractor shall not further disturb such condition or perform any Work in connection therewith (except with respect to an emergency) until receipt of a written statement permitting Contractor to do so.

- B. *Engineer's Review:* After receipt of written notice as required by the preceding paragraph, Engineer will promptly review the subsurface or physical condition in question; conclude whether the condition falls within any one or more of the differing site condition categories in Paragraph 5.04.A above; obtain any pertinent cost or schedule information from Contractor; prepare recommendations to Owner regarding the Contractor's resumption of Work in connection with the subsurface or physical condition in question and the need for any change in the Drawings or Specifications; and advise Owner in writing of Engineer's findings, conclusions, and recommendations.

- C. *Owner's Statement to Contractor Regarding Site Condition:* After receipt of Engineer's written findings, conclusions, and recommendations, Owner shall issue a written statement to Contractor (with a copy to Engineer) regarding the subsurface or physical condition in question, addressing the resumption of Work in connection with such condition, indicating whether any change in the Drawings or Specifications will be made, and adopting or rejecting Engineer's written findings, conclusions, and recommendations, in whole or in part.
- D. *Possible Price and Times Adjustments:*
1. Contractor shall be entitled to an equitable adjustment in Contract Times to the extent that the existence of a differing subsurface or physical condition, or any related delay, disruption, or interference, causes an increase or decrease in Contractor's time required for performance of the Work; subject, however, to the following:
 - a. such condition must fall within any one or more of the categories described in Paragraph 5.04.A;
 - b. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times.
 2. Contractor shall not be entitled to any adjustment in the Contract Times with respect to a subsurface or physical condition if:
 - a. Contractor knew of the existence of such condition at the time Contractor submitted its Bid or entered into the Agreement with Owner for the Project; or
 - b. the existence of such condition reasonably could have been discovered or revealed as a result of any examination, investigation, exploration, test, or study of the Site and contiguous areas expressly required by the Bidding Requirements or Contract Documents to be conducted by or for Contractor prior to Contractor's making such commitment; or
 - c. Contractor failed to give the written notice as required by Paragraph 5.04.A.
 3. If Owner and Contractor agree regarding Contractor's entitlement to and the amount or extent of any adjustment in the Contract Times, then any such adjustment shall be set forth in a Change Order.
 4. Contractor may submit a Change Proposal regarding its entitlement to or the amount or extent of any adjustment in the Contract Times, no later than 30 days after Owner's issuance of the Owner's written statement to Contractor regarding the subsurface or physical condition in question.

5.05 *Underground Facilities*

- A. *Contractor's Responsibilities:* The information and data shown or indicated in the Contract Documents with respect to existing Underground Facilities at or adjacent to the Site is based on information and data furnished to Owner or Engineer by the owners of such Underground Facilities, including Owner, or by others. Unless it is otherwise expressly provided in the Contract Documents:
1. Owner and Engineer do not warrant or guarantee the accuracy or completeness of any such information or data provided by others; and

2. the cost of all of the following will be included in the Contract Price, and Contractor shall have full responsibility for:
 - a. reviewing and checking all information and data regarding existing Underground Facilities at the Site;
 - b. locating all Underground Facilities shown or indicated in the Contract Documents as being at the Site;
 - c. coordination of the Work with the owners (including Owner) of such Underground Facilities, during construction; and
 - d. the safety and protection of all existing Underground Facilities at the Site, and repairing any damage thereto resulting from the Work.
- B. *Notice by Contractor:* If Contractor believes that an Underground Facility that is uncovered or revealed at the Site was not shown or indicated in the Contract Documents, or was not shown or indicated with reasonable accuracy, then Contractor shall, promptly after becoming aware thereof and before further disturbing conditions affected thereby or performing any Work in connection therewith (except in an emergency as required by Paragraph 7.15), identify the owner of such Underground Facility and give written notice to that owner and to Owner and Engineer.
- C. *Engineer's Review:* Engineer will promptly review the Underground Facility and conclude whether such Underground Facility was not shown or indicated in the Contract Documents, or was not shown or indicated with reasonable accuracy; obtain any pertinent cost or schedule information from Contractor; prepare recommendations to Owner regarding the Contractor's resumption of Work in connection with the Underground Facility in question; determine the extent, if any, to which a change is required in the Drawings or Specifications to reflect and document the consequences of the existence or location of the Underground Facility; and advise Owner in writing of Engineer's findings, conclusions, and recommendations. During such time, Contractor shall be responsible for the safety and protection of such Underground Facility.
- D. *Owner's Statement to Contractor Regarding Underground Facility:* After receipt of Engineer's written findings, conclusions, and recommendations, Owner shall issue a written statement to Contractor (with a copy to Engineer) regarding the Underground Facility in question, addressing the resumption of Work in connection with such Underground Facility, indicating whether any change in the Drawings or Specifications will be made, and adopting or rejecting Engineer's written findings, conclusions, and recommendations in whole or in part.
- E. *Possible Times Adjustments:*
 1. Contractor shall be entitled to an equitable adjustment in the Contract Times, to the extent that any existing Underground Facility at the Site that was not shown or indicated in the Contract Documents, or was not shown or indicated with reasonable accuracy, or any related delay, disruption, or interference, causes an increase or decrease in Contractor's time required for, performance of the Work; subject, however, to the following:
 - a. Contractor did not know of and could not reasonably have been expected to be aware of or to have anticipated the existence or actual location of the Underground Facility in question;

- b. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times; and
 - c. Contractor gave the notice required in Paragraph 5.05.B.
- 2. If Owner and Contractor agree regarding Contractor's entitlement to and the amount or extent of any adjustment in the Contract Times then any such adjustment shall be set forth in a Change Order.
- 3. Contractor may submit a Change Proposal regarding its entitlement to or the amount or extent of any adjustment in the Contract Times no later than 30 days after Owner's issuance of the Owner's written statement to Contractor regarding the Underground Facility in question.

5.06 *Hazardous Environmental Conditions at Site*

- A. Contractor shall not be responsible for removing or remediating any Hazardous Environmental Condition encountered, uncovered, or revealed at the Site unless such removal or remediation is expressly identified in the Contract Documents to be within the scope of the Work.
- B. Contractor shall be responsible for controlling, containing, and duly removing all Constituents of Concern brought to the Site by Contractor, Subcontractors, Suppliers, or anyone else for whom Contractor is responsible, and for any associated costs; and for the costs of removing and remediating any Hazardous Environmental Condition created by the presence of any such Constituents of Concern.
- C. If Contractor encounters, uncovers, or reveals a Hazardous Environmental Condition whose removal or remediation is not expressly identified in the Contract Documents as being within the scope of the Work, or if Contractor or anyone for whom Contractor is responsible creates a Hazardous Environmental Condition, then Contractor shall immediately: (1) secure or otherwise isolate such condition; (2) stop all Work in connection with such condition and in any area affected thereby (except in an emergency as required by Paragraph 7.15); and (3) notify Owner and Engineer (and promptly thereafter confirm such notice in writing). Owner shall promptly consult with Engineer concerning the necessity for Owner to retain a qualified expert to evaluate such condition or take corrective action, if any. Promptly after consulting with Engineer, Owner shall take such actions as are necessary to permit Owner to timely obtain required permits and provide Contractor the written notice required by Paragraph 5.06.F. If Contractor or anyone for whom Contractor is responsible created the Hazardous Environmental Condition in question, then Owner may remove and remediate the Hazardous Environmental Condition, and deduct all costs incurred from the contract balance or if no contract balance, may file a claim for costs.
- D. Contractor shall not resume Work in connection with such Hazardous Environmental Condition or in any affected area until after Owner has obtained any required permits related thereto, and delivered written notice to Contractor either (1) specifying that such condition and any affected area is or has been rendered safe for the resumption of Work, or (2) specifying any special conditions under which such Work may be resumed safely.
- E. If Owner and Contractor cannot agree as to entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times, or both, as a result of such Work stoppage or such special conditions under which Work is agreed to be resumed by

Contractor, then within 30 days of Owner's written notice regarding the resumption of Work, Contractor may submit a Change Proposal, or Owner may impose a set-off.

- F. If after receipt of such written notice Contractor does not agree to resume such Work based on a reasonable belief it is unsafe, or does not agree to resume such Work under such special conditions, then Owner may order the portion of the Work that is in the area affected by such condition to be deleted from the Work, following the contractual change procedures in Article 11. Owner may have such deleted portion of the Work performed by Owner's own forces or others in accordance with Article 8.
- G. TO THE FULLEST EXTENT PERMITTED BY LAWS AND REGULATIONS, CONTRACTOR SHALL INDEMNIFY AND HOLD HARMLESS OWNER AND ITS OFFICERS, DIRECTORS, MEMBERS, PARTNERS, EMPLOYEES, AGENTS, AND CONSULTANTS FROM AND AGAINST ALL CLAIMS, COSTS, LOSSES, AND DAMAGES (INCLUDING BUT NOT LIMITED TO ALL FEES AND CHARGES OF ENGINEERS, ARCHITECTS, ATTORNEYS, AND OTHER PROFESSIONALS AND ALL COURT OR ARBITRATION OR OTHER DISPUTE RESOLUTION COSTS) ARISING OUT OF OR RELATING TO THE FAILURE TO CONTROL, CONTAIN, OR REMOVE A CONSTITUENT OF CONCERN BROUGHT TO THE SITE BY CONTRACTOR OR BY ANYONE FOR WHOM CONTRACTOR IS RESPONSIBLE, OR TO A HAZARDOUS ENVIRONMENTAL CONDITION CREATED BY CONTRACTOR OR BY ANYONE FOR WHOM CONTRACTOR IS RESPONSIBLE.
- H. The provisions of Paragraphs 5.03, 5.04, and 5.05 do not apply to the presence of Constituents of Concern or to a Hazardous Environmental Condition uncovered or revealed at the Site.

ARTICLE 6 – BONDS AND INSURANCE

6.01 *Performance, Payment, and Other Bonds*

- A. Contractor shall furnish a performance bond and a payment bond in accordance with chapter 2253 of the Texas Government Code. Contractor shall also furnish such other bonds as are required by other specific provisions of the Contract.
- B. A bond signed by an agent or attorney-in-fact must be accompanied by a certified copy of that individual's authority to bind the surety. The evidence of authority shall show that it is effective on the date the agent or attorney-in-fact signed the accompanying bond.
- C. Contractor shall obtain the required bonds in a form acceptable to Owner. The surety on the bonds must be duly licensed or authorized in the jurisdiction in which the Project is located to issue bonds in the required amounts.
- D. If the surety on a bond furnished by Contractor is declared bankrupt or becomes insolvent, or its right to do business is terminated in Texas, or the surety ceases to meet the requirements above, then Contractor shall promptly notify Owner and Engineer and shall, within 20 days after the event giving rise to such notification, provide bonds from another surety, all of which shall comply with the requirements above.
- E. If Contractor has failed to obtain a required bond, Owner may exclude the Contractor from the Site and exercise Owner's termination rights under Article 16.

6.02 *Insurance—General Provisions*

- A. Owner is self-insured as a municipality of the State of Texas.
- B. Contractor shall provide all insurance with required by Exhibit A to these General Conditions, Owner's Insurance Requirements.

ARTICLE 7 – CONTRACTOR'S RESPONSIBILITIES

7.01 *Supervision and Superintendence*

- A. Contractor shall supervise, inspect, and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents. Contractor shall be solely responsible for the means, methods, techniques, sequences, and procedures of construction.
- B. At all times during the progress of the Work, Contractor shall assign a competent resident superintendent who shall not be replaced without written consent of Owner. Such consent shall not be unreasonably withheld.

7.02 *Labor; Working Hours*

- A. Contractor shall provide competent, suitably qualified personnel to survey and lay out the Work and perform construction as required by the Contract Documents. Contractor shall at all times maintain good discipline and order at the Site.
- B. Except as otherwise required for the safety or protection of persons or the Work or property at the Site or adjacent thereto, and except as otherwise stated in the Contract Documents, all Work at the Site shall be performed during regular working hours, Monday through Friday. Contractor will not perform Work on a Saturday, Sunday, or any legal holiday. Contractor may perform Work outside regular working hours or on Saturdays, Sundays, or legal holidays only with Owner's written consent, which will not be unreasonably withheld.
- C. Contractor shall provide and pay for labor in accordance with the prevailing wage in the locality and shall not pay less than the prevailing wage.

7.03 *Services, Materials, and Equipment*

- A. Unless otherwise specified in the Contract Documents, Contractor shall provide and assume full responsibility for all services, materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities, and all other facilities and incidentals necessary for the performance, testing, start up, and completion of the Work, whether or not such items are specifically called for in the Contract Documents.
- B. All materials and equipment incorporated into the Work shall be of good quality and new, except as otherwise provided in the Contract Documents. All special warranties and guarantees required by the Specifications shall expressly run to the benefit of Owner. If required by Engineer, Contractor shall furnish satisfactory evidence (including reports of required tests) as to the source, kind, and quality of materials and equipment.
- C. All materials and equipment shall be stored, applied, installed, connected, erected, protected, used, cleaned, and conditioned in accordance with instructions of the applicable Supplier, except as otherwise may be provided in the Contract Documents.

7.04 *"Or Equals"*

- A. Whenever an item of material or equipment is specified or described in the Contract Documents by using the name of a proprietary item or the name of a particular Supplier, the Contract Price has been based upon Contractor furnishing such item as specified. The specification or description of such an item is intended to establish the type, function, appearance, and quality required. Unless the specification or description contains or is

followed by words reading that no like, equivalent, or "or equal" item is permitted, Contractor may request that Engineer authorize the use of other items of material or equipment, or items from other proposed suppliers under the circumstances described below.

1. If Engineer in its sole discretion determines that an item of material or equipment proposed by Contractor is functionally equal to that named and sufficiently similar so that no change in related Work will be required, Engineer shall deem it an "or equal" item. For the purposes of this paragraph, a proposed item of material or equipment will be considered functionally equal to an item so named if:
 - a. in the exercise of reasonable judgment Engineer determines that:
 - 1) it is at least equal in materials of construction, quality, durability, appearance, strength, and design characteristics;
 - 2) it will reliably perform at least equally well the function and achieve the results imposed by the design concept of the completed Project as a functioning whole;
 - 3) it has a proven record of performance and availability of responsive service; and
 - 4) it is not objectionable to Owner.
 - b. Contractor certifies that, if approved and incorporated into the Work:
 - 1) there will be no increase in cost to the Owner or increase in Contract Times; and
 - 2) it will conform substantially to the detailed requirements of the item named in the Contract Documents.
- B. *Contractor's Expense:* Contractor shall provide all data in support of any proposed "or equal" item at Contractor's expense.
- C. *Engineer's Evaluation and Determination:* Engineer will be allowed a reasonable time to evaluate each "or-equal" request. Engineer may require Contractor to furnish additional data about the proposed "or-equal" item. Engineer will be the sole judge of acceptability. No "or-equal" item will be ordered, furnished, installed, or utilized until Engineer's review is complete and Engineer determines that the proposed item is an "or-equal", which will be evidenced by an approved Shop Drawing or other written communication. Engineer will advise Contractor in writing of any negative determination. Use of an unapproved "or-equal" item will render such Work defective and will be subject to Article 14 provisions.
- D. *Effect of Engineer's Determination:* Neither approval nor denial of an "or-equal" request shall result in any change in Contract Price. The Engineer's denial of an "or-equal" request shall be final and binding, and may not be reversed through an appeal under any provision of the Contract Documents.
- E. *Treatment as a Substitution Request:* If Engineer determines that an item of material or equipment proposed by Contractor does not qualify as an "or-equal" item, Contractor may request that Engineer consider the proposed item as a substitute pursuant to Paragraph 7.05.

7.05 Substitutes

- A. Unless the specification or description of an item of material or equipment required to be furnished under the Contract Documents contains or is followed by words reading that no substitution is permitted, Contractor may request that Engineer authorize the use of other items of material or equipment under the circumstances described below. To the extent possible such requests shall be made before commencement of related construction at the Site.
1. Contractor shall submit sufficient information as provided below to allow Engineer to determine if the item of material or equipment proposed is functionally equivalent to that named and an acceptable substitute therefor. Engineer will not accept requests for review of proposed substitute items of material or equipment from anyone other than Contractor.
 2. The requirements for review by Engineer will be as set forth in Paragraph 7.05.B, as supplemented by the Specifications, and as Engineer may decide is appropriate under the circumstances.
 3. Contractor shall make written application to Engineer for review of a proposed substitute item of material or equipment that Contractor seeks to furnish or use. The application:
 - a. shall certify that the proposed substitute item will:
 - 1) perform adequately the functions and achieve the results called for by the general design,
 - 2) be similar in substance to that specified, and
 - 3) be suited to the same use as that specified.
 - b. will state:
 - 1) the extent, if any, to which the use of the proposed substitute item will necessitate a change in Contract Times,
 - 2) whether use of the proposed substitute item in the Work will require a change in any of the Contract Documents (or in the provisions of any other direct contract with Owner for other work on the Project) to adapt the design to the proposed substitute item, and
 - 3) whether incorporation or use of the proposed substitute item in connection with the Work is subject to payment of any license fee or royalty.
 - c. will identify:
 - 1) all variations of the proposed substitute item from that specified, and
 - 2) available engineering, sales, maintenance, repair, and replacement services.
 - d. shall contain an itemized estimate of all costs or credits that will result directly or indirectly from use of such substitute item, including but not limited to changes in Contract Price, shared savings, costs of redesign, and claims of other contractors affected by any resulting change.
- B. *Engineer's Evaluation and Determination:* Engineer will be allowed a reasonable time to evaluate each substitute request, and to obtain comments and direction from Owner. Engineer will be the sole judge of acceptability. No substitute will be ordered, furnished,

installed, or utilized until Engineer's review is complete and Engineer determines that the proposed item is an acceptable substitute. Engineer's determination will be evidenced by a Field Order or a proposed Change Order accounting for the substitution itself and all related impacts, including changes in Contract Price or Contract Times. Engineer will advise Contractor in writing of any negative determination.

- C. *Special Guarantee:* Owner may require Contractor to furnish at Contractor's expense a special performance guarantee or other surety with respect to any substitute.
- D. *Contractor's Expense:* Contractor shall provide all data in support of any proposed substitute at Contractor's expense.
- E. *Effect of Engineer's Determination:* If Engineer approves the substitution request, Contractor shall execute the proposed Change Order and proceed with the substitution. The Engineer's denial of a substitution request shall be final and binding, and may not be reversed through an appeal under any provision of the Contract Documents.

7.06 *Concerning Subcontractors, Suppliers, and Others*

- A. Prior to entry into any binding subcontract or purchase order, Contractor shall submit to Owner the identity of the proposed Subcontractor or Supplier (unless Owner has already deemed such proposed Subcontractor or Supplier acceptable, during the bidding process or otherwise). Such proposed Subcontractor or Supplier shall be deemed acceptable to Owner unless Owner raises a substantive, reasonable objection within five days.
- B. No acceptance by Owner of any such Subcontractor, Supplier, or other individual or entity, whether initially or as a replacement, shall constitute a waiver of the right of Owner to the completion of the Work in accordance with the Contract Documents.
- C. On a monthly basis Contractor shall submit to Engineer a complete list of all Subcontractors and Suppliers having a direct contract with Contractor, and of all other Subcontractors and Suppliers known to Contractor at the time of submittal.
- D. Contractor shall be fully responsible to Owner and Engineer for all acts and omissions of the Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work just as Contractor is responsible for Contractor's own acts and omissions.
- E. Contractor shall be solely responsible for scheduling and coordinating the work of Subcontractors, Suppliers, and all other individuals or entities performing or furnishing any of the Work.
- F. Contractor shall restrict all Subcontractors, Suppliers, and such other individuals or entities performing or furnishing any of the Work from communicating with Engineer or Owner, except through Contractor or in case of an emergency, or as otherwise expressly allowed herein.
- G. The divisions and sections of the Specifications and the identifications of any Drawings shall not control Contractor in dividing the Work among Subcontractors or Suppliers or delineating the Work to be performed by any specific trade.
- H. All Work performed for Contractor by a Subcontractor or Supplier shall be pursuant to an appropriate contractual agreement that specifically binds the Subcontractor or Supplier to the applicable terms and conditions of the Contract Documents for the benefit of Owner.
- I. Owner may furnish to any Subcontractor or Supplier, to the extent practicable, information about amounts paid to Contractor on account of Work performed for Contractor by the particular Subcontractor or Supplier.

7.07 *Patent Fees and Royalties*

- A. Contractor shall pay all license fees and royalties and assume all costs incident to the use in the performance of the Work or the incorporation in the Work of any invention, design, process, product, or device which is the subject of patent rights or copyrights held by others. If a particular invention, design, process, product, or device is specified in the Contract Documents for use in the performance of the Work and if, to the actual knowledge of Owner or Engineer, its use is subject to patent rights or copyrights calling for the payment of any license fee or royalty to others, the existence of such rights shall be disclosed by Owner in the Contract Documents.
- B. TO THE FULLEST EXTENT PERMITTED BY LAWS AND REGULATIONS, CONTRACTOR SHALL INDEMNIFY AND HOLD HARMLESS OWNER, ITS OFFICERS, DIRECTORS, MEMBERS, PARTNERS, EMPLOYEES, AGENTS, AND CONSULTANTS OF EACH AND ANY OF THEM FROM AND AGAINST ALL CLAIMS, COSTS, LOSSES, AND DAMAGES (INCLUDING BUT NOT LIMITED TO ALL FEES AND CHARGES OF ENGINEERS, ARCHITECTS, ATTORNEYS, AND OTHER PROFESSIONALS AND ALL COURT OR ARBITRATION OR OTHER DISPUTE RESOLUTION COSTS) ARISING OUT OF OR RELATING TO ANY INFRINGEMENT OF PATENT RIGHTS OR COPYRIGHTS INCIDENT TO THE USE IN THE PERFORMANCE OF THE WORK OR RESULTING FROM THE INCORPORATION IN THE WORK OF ANY INVENTION, DESIGN, PROCESS, PRODUCT, OR DEVICE NOT SPECIFIED IN THE CONTRACT DOCUMENTS.

7.08 *Permits*

- A. The Owner shall waive all construction permit fees and charges assessed by entities and agencies of the City. This section is not intended to waive any permit fees or charges assessed by the departments of the state, the county or federal government. To the extent such fees are not waived, Contractor shall pay all governmental charges and inspection fees necessary for the prosecution of the Work which are applicable at the time of the submission of Contractor's Bid (or when Contractor became bound under a negotiated contract).

7.09 *Taxes*

- A. The Owner enjoys tax-exempt status as a municipality. To enjoy the cost-savings benefits of its tax-exempt status, the Owner will provide a Tax Exemption Certificate to the Contractor for use on the Project. The Contractor shall use that certificate to exempt any purchases made for the Work from taxes. All savings for the tax-exempt status will be passed on to the Owner by the Contractor. The Contractor agrees to bind all Subcontractors of any tier to the obligation to present and use the Tax Exemption Certificate and pass all savings to the Owner.

7.10 *Laws and Regulations*

- A. Contractor shall give all notices required by and shall comply with all Laws and Regulations applicable to the performance of the Work. Except where otherwise expressly required by applicable Laws and Regulations, neither Owner nor Engineer shall be responsible for monitoring Contractor's compliance with any Laws or Regulations.
- B. If Contractor performs any Work or takes any other action knowing or having reason to know that it is contrary to Laws or Regulations, Contractor shall bear all resulting costs and losses. However, Contractor has no responsibility or liability for determining whether the Work as described in the Contract Documents complies with applicable Laws or Regulations.

7.11 *Record Documents*

- A. Contractor shall maintain in a safe place at the Site one printed record copy of all Drawings, Specifications, Addenda, Change Orders, Work Change Directives, Field Orders, written interpretations and clarifications, and approved Shop Drawings. Contractor shall keep such record documents in good order and annotate them to show changes made during construction. These record documents, together with all approved Samples, will be available to Engineer for reference. Upon completion of the Work, Contractor shall deliver these record documents to Owner. Delivery of a complete set of record documents to Owner is a condition precedent to Final Completion.

7.12 *Safety and Protection*

- A. Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Work. Contractor shall comply with all Laws and Regulations regarding safety and shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury, or loss to:
 - 1. all persons on the Site or who may be affected by the Work;
 - 2. all the Work and materials and equipment to be incorporated therein, whether in storage on or off the Site; and
 - 3. other property at the Site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, other work in progress, utilities, and Underground Facilities not designated for removal, relocation, or replacement in the course of construction.
- B. Contractor shall notify Owner; the owners of adjacent property, Underground Facilities, and other utilities; and other contractors and utility owners performing work at or adjacent to the Site, when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation, and replacement of their property or work in progress.
- C. Contractor shall comply with the applicable requirements of Owner's safety programs, if any.
- D. Contractor shall inform Owner and Engineer of the specific requirements of Contractor's safety program with which Owner's and Engineer's employees and representatives must comply while at the Site.
- E. All damage, injury, or loss to any property referred to in Paragraph 7.12.A.2 or 7.12.A.3 caused, directly or indirectly, in whole or in part, by Contractor, any Subcontractor, Supplier, or any other individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, shall be remedied by Contractor at its expense (except damage or loss attributable to the fault of Drawings or Specifications or to the acts or omissions of Owner or Engineer or anyone employed by any of them, or anyone for whose acts any of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of Contractor or any Subcontractor, Supplier, or other individual or entity directly or indirectly employed by any of them).
- F. Contractor's duties and responsibilities for safety and protection shall continue until such time as all the Work is completed and Engineer has issued a notice to Owner and Contractor in accordance with Paragraph 15.06.B that the Work is acceptable (except as otherwise expressly provided in connection with Substantial Completion).

- G. Contractor's duties and responsibilities for safety and protection shall resume whenever Contractor or any Subcontractor or Supplier returns to the Site to fulfill warranty or correction obligations, or to conduct other tasks arising from the Contract Documents.

7.13 *Safety Representative*

- A. Contractor shall designate a qualified and experienced safety representative at the Site whose duties and responsibilities shall be the prevention of accidents and the maintaining and supervising of safety precautions and programs.

7.14 *Hazard Communication Programs*

- A. Contractor shall be responsible for coordinating any exchange of material safety data sheets or other hazard communication information required to be made available to or exchanged between or among employers at the Site in accordance with Laws or Regulations.

7.15 *Emergencies*

- A. In emergencies affecting the safety or protection of persons or the Work or property at the Site or adjacent thereto, Contractor is obligated to act to prevent threatened damage, injury, or loss. Contractor shall give Engineer prompt written notice if Contractor believes that any significant changes in the Work or variations from the Contract Documents have been caused thereby or are required as a result thereof. If Engineer determines that a change in the Contract Documents is required because of the action taken by Contractor in response to such an emergency, a Work Change Directive or Change Order will be issued.
- B. In the event there is an accident involving injury to any individual on or near the Work, the Contractor shall notify Owner's Representative within twenty-four (24) hours of the event and shall be responsible for recording the location of the event and the circumstances surrounding the event through photographs, interviewing witnesses, obtaining medical reports and other documentation that describes the event. Copies of such documentation shall be provided to Owner, for the Owner's and Engineer's records, within forty-eight (48) hours of the event. Nothing in this section will relieve Contractor of its obligations and responsibilities with respect to an injury under any state and federal laws and regulations.

7.16 *Shop Drawings, Samples, and Other Submittals*

A. *Shop Drawing and Sample Submittal Requirements:*

1. Before submitting a Shop Drawing or Sample, Contractor shall have:
 - a. reviewed and coordinated the Shop Drawing or Sample with other Shop Drawings and Samples and with the requirements of the Work and the Contract Documents;
 - b. determined and verified all field measurements, quantities, dimensions, specified performance and design criteria, installation requirements, materials, catalog numbers, and similar information with respect thereto;
 - c. determined and verified the suitability of all materials and equipment offered with respect to the indicated application, fabrication, shipping, handling, storage, assembly, and installation pertaining to the performance of the Work; and
 - d. determined and verified all information relative to Contractor's responsibilities for means, methods, techniques, sequences, and procedures of construction, and safety precautions and programs incident thereto.

2. Each submittal shall bear a stamp or specific written certification that Contractor has satisfied Contractor's obligations under the Contract Documents with respect to Contractor's review of that submittal, and that Contractor approves the submittal.
 3. With each submittal, Contractor shall give Engineer specific written notice of any variations that the Shop Drawing or Sample may have from the requirements of the Contract Documents. This notice shall be set forth in a written communication separate from the Shop Drawings or Sample submittal; and, in addition, in the case of Shop Drawings by a specific notation made on each Shop Drawing submitted to Engineer for review and approval of each such variation.
- B. *Submittal Procedures for Shop Drawings and Samples:* Contractor shall submit Shop Drawings and Samples to Engineer for review and approval in accordance with the accepted Schedule of Submittals. Each submittal will be identified as Engineer may require.
1. *Shop Drawings:*
 - a. Contractor shall submit the number of copies required in the Specifications.
 - b. Data shown on the Shop Drawings will be complete with respect to quantities, dimensions, specified performance and design criteria, materials, and similar data to show Engineer the services, materials, and equipment Contractor proposes to provide and to enable Engineer to review the information for the limited purposes required by Paragraph 7.16.D.
 2. *Samples:*
 - a. Contractor shall submit the number of Samples required in the Specifications.
 - b. Contractor shall clearly identify each Sample as to material, Supplier, pertinent data such as catalog numbers, the use for which intended and other data as Engineer may require to enable Engineer to review the submittal for the limited purposes required by Paragraph 7.16.D.
 3. Where a Shop Drawing or Sample is required by the Contract Documents or the Schedule of Submittals, any related Work performed prior to Engineer's review and approval of the pertinent submittal will be at the sole expense and responsibility of Contractor.
- C. *Other Submittals:* Contractor shall submit other submittals to Engineer in accordance with the accepted Schedule of Submittals, and pursuant to the applicable terms of the Specifications.
- D. *Engineer's Review:*
1. Engineer will provide timely review of Shop Drawings and Samples in accordance with the Schedule of Submittals acceptable to Engineer. Engineer's review and approval will be only to determine if the items covered by the submittals will, after installation or incorporation in the Work, conform to the information given in the Contract Documents and be compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents.
 2. Engineer's review and approval of a Shop Drawing or Sample shall not relieve Contractor from responsibility for any variation from the requirements of the Contract Documents unless Contractor has complied with the requirements of Paragraph 7.16.A.3 and Engineer has given written approval of each such variation by specific written notation thereof incorporated in or accompanying the Shop Drawing or

Sample. Engineer will document any such approved variation from the requirements of the Contract Documents in a Field Order.

3. Engineer's review and approval of a Shop Drawing or Sample, or of a variation from the requirements of the Contract Documents, shall not, under any circumstances, change the Contract Times or Contract Price, unless such changes are included in a Change Order.
4. Neither Engineer's receipt, review, acceptance or approval of a Shop Drawing, Sample, or other submittal shall result in such item becoming a Contract Document.
5. Contractor shall perform the Work in compliance with the requirements and commitments set forth in approved Shop Drawings and Samples, subject to the provisions of Paragraph 7.16.D.4.

E. *Resubmittal Procedures:*

1. Contractor shall make corrections required by Engineer and shall return the required number of corrected copies of Shop Drawings and submit, as required, new Samples for review and approval. Contractor shall direct specific attention in writing to revisions other than the corrections called for by Engineer on previous submittals.
2. Contractor shall furnish required submittals with sufficient information and accuracy to obtain required approval of an item with no more than three submittals. Engineer will record Engineer's time for reviewing a fourth or subsequent submittal of a Shop Drawings, sample, or other item requiring approval, and Contractor shall be responsible for Engineer's charges to Owner for such time. Owner may impose a set-off against payments due to Contractor to secure reimbursement for such charges.
3. If Contractor requests a change of a previously approved submittal item, Contractor shall be responsible for Engineer's charges to Owner for its review time, and Owner may impose a set-off against payments due to Contractor to secure reimbursement for such charges, unless the need for such change is beyond the control of Contractor.

7.17 *Contractor's General Warranty and Guarantee*

- A. The Contractor warrants to the Owner that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Owner, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

- B. The Contractor warrants and guarantees for one (1) year from Final Completion, or for a longer period if expressly stated in the Contract Documents, the Work. This includes a Warranty and Guarantee against any and all defects. The Contractor must correct any and all defects in material and/or workmanship which may appear during the Warranty and Guarantee period, or any defects that occur within one (1) year of Final Completion even if discovered more than one (1) year after Final Completion, by repairing (or replacing with new items or new materials, if necessary) any such defect at no cost to the Owner, within a reasonable period of time, and to the Owner's satisfaction.
- C. Contractor's warranty and guarantee hereunder excludes defects or damage caused by:
1. abuse, modification, or improper maintenance or operation by persons other than Contractor, Subcontractors, Suppliers, or any other individual or entity for whom Contractor is responsible; or
 2. normal wear and tear under normal usage.
- D. Contractor's obligation to perform and complete the Work in accordance with the Contract Documents shall be absolute. None of the following will constitute an acceptance of Work that is not in accordance with the Contract Documents or a release of Contractor's obligation to perform the Work in accordance with the Contract Documents:
1. observations by Engineer;
 2. recommendation by Engineer or payment by Owner of any progress or final payment;
 3. the issuance of a certificate of Substantial Completion by Engineer or any payment related thereto by Owner;
 4. use or occupancy of the Work or any part thereof by Owner;
 5. any review and approval of a Shop Drawing or Sample submittal;
 6. the issuance of a notice of acceptability by Engineer;
 7. any inspection, test, or approval by others; or
 8. any correction of defective Work by Owner.

7.18 *Indemnification*

- A. TO THE FULLEST EXTENT PERMITTED BY LAW, AND IN ADDITION TO ANY OTHER OBLIGATIONS OF CONTRACTOR UNDER THE CONTRACT OR OTHERWISE, CONTRACTOR SHALL INDEMNIFY AND HOLD HARMLESS OWNER, ITS OFFICERS, DIRECTORS, MEMBERS, PARTNERS, EMPLOYEES, AGENTS, AND CONSULTANTS FROM AND AGAINST ALL CLAIMS, COSTS, LOSSES, AND DAMAGES (INCLUDING BUT NOT LIMITED TO ALL FEES AND CHARGES OF ENGINEERS, ARCHITECTS, ATTORNEYS, AND OTHER PROFESSIONALS AND ALL COURT OR ARBITRATION OR OTHER DISPUTE RESOLUTION COSTS) ARISING OUT OF OR RELATING TO THE PERFORMANCE OF THE WORK, PROVIDED THAT ANY SUCH CLAIM, COST, LOSS, OR DAMAGE IS ATTRIBUTABLE TO BODILY INJURY, SICKNESS, DISEASE, OR DEATH, OR TO INJURY TO OR DESTRUCTION OF TANGIBLE PROPERTY (OTHER THAN THE WORK ITSELF), INCLUDING THE LOSS OF USE RESULTING THEREFROM BUT ONLY TO THE EXTENT CAUSED BY ANY NEGLIGENT ACT OR OMISSION OF CONTRACTOR, ANY SUBCONTRACTOR, ANY SUPPLIER, OR ANY INDIVIDUAL OR ENTITY DIRECTLY OR INDIRECTLY EMPLOYED BY ANY OF THEM TO PERFORM ANY OF THE WORK OR ANYONE FOR WHOSE ACTS ANY OF THEM MAY BE LIABLE.

7.19 *Delegation of Professional Design Services*

- A. Contractor shall not be responsible for nor warrant the adequacy of the design, performance, criteria, or design criteria specified by Owner or Engineer in the Contract Documents, Plans, and Specifications.
- B. Contractor will not be required to provide professional design services unless such services are specifically required by the Contract Documents for a portion of the Work or unless such services are required to carry out Contractor's responsibilities for construction means, methods, techniques, sequences and procedures. Contractor shall not be required to provide professional services in violation of applicable Laws and Regulations.
- C. If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of Contractor by the Contract Documents, Owner and Engineer will specify all performance and design criteria that such services must satisfy. Contractor shall cause such services or certifications to be provided by a properly licensed professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, and other submittals prepared by such professional. Shop Drawings and other submittals related to the Work designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to Engineer.
- D. Owner shall be entitled to rely upon the adequacy, accuracy, and completeness of the services, certifications, or approvals performed by such design professionals, provided Owner and Engineer have specified to Contractor all performance and design criteria that such services must satisfy.
- E. Pursuant to this paragraph, Engineer's review and approval of design calculations and design drawings will be only for the limited purpose of checking for conformance with performance and design criteria given and the design concept expressed in the Contract Documents. Engineer's review and approval of Shop Drawings and other submittals (except design calculations and design drawings) will be only for the purpose stated in Paragraph 7.16.D.1.

ARTICLE 8 – OTHER WORK AT THE SITE

8.01 *Other Work*

- A. In addition to and apart from the Work under the Contract Documents, the Owner may perform other work at or adjacent to the Site. Such other work may be performed by Owner's employees, or through contracts between the Owner and third parties. Owner may also arrange to have third-party utility owners perform work on their utilities and facilities at or adjacent to the Site.
- B. If Owner performs other work at or adjacent to the Site, then Owner shall give Contractor written notice thereof prior to starting any such other work. If Owner has advance information regarding the start of any utility work at or adjacent to the Site, Owner shall provide such information to Contractor.
- C. Contractor shall afford each other contractor that performs such other work, each utility owner performing other work, and Owner, if Owner is performing other work with Owner's employees, proper and safe access to the Site, and provide a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such other work. Contractor shall do all cutting, fitting, and patching of the Work that may be required to properly connect or otherwise make its several parts come together and properly

integrate with such other work. Contractor shall not endanger any work of others by cutting, excavating, or otherwise altering such work; provided, however, that Contractor may cut or alter others' work with the written consent of Engineer and the others whose work will be affected.

- D. If the proper execution or results of any part of Contractor's Work depends upon work performed by others under this Article 8, Contractor shall inspect such other work and promptly report to Engineer in writing any delays, defects, or deficiencies in such other work that render it unavailable or unsuitable for the proper execution and results of Contractor's Work. Contractor's failure to so report will constitute an acceptance of such other work as fit and proper for integration with Contractor's Work except for latent defects and deficiencies in such other work.

8.02 *Coordination*

- A. If Owner intends to contract with others for the performance of other work at or adjacent to the Site, to perform other work at or adjacent to the Site with Owner's employees, or to arrange to have utility owners perform work at or adjacent to the Site, the following will be set forth in the Supplementary Conditions or provided to Contractor prior to the start of any such other work:
 - 1. the identity of the individual or entity that will have authority and responsibility for coordination of the activities among the various contractors;
 - 2. an itemization of the specific matters to be covered by such authority and responsibility; and
 - 3. the extent of such authority and responsibilities.
- B. Unless otherwise provided in the Supplementary Conditions, Owner shall have sole authority and responsibility for such coordination.

8.03 *Legal Relationships*

- A. If, in the course of performing other work at or adjacent to the Site for Owner, the Owner's employees, any other contractor working for Owner, or any utility owner causes damage to the Work or to the property of Contractor or its Subcontractors, or delays, disrupts, interferes with, or increases the scope or cost of the performance of the Work, through actions or inaction, then Contractor shall be entitled to an equitable adjustment in the Contract Times. Contractor must submit any Change Proposal seeking an equitable adjustment in the Contract Price or the Contract Times under this paragraph within 30 days of the damaging, delaying, disrupting, or interfering event. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times.
- B. Contractor shall take reasonable and customary measures to avoid damaging, delaying, disrupting, or interfering with the work of Owner, any other contractor, or any utility owner performing other work at or adjacent to the Site. If Contractor fails to take such measures and as a result damages, delays, disrupts, or interferes with the work of any such other contractor or utility owner, then Owner may impose a set-off against payments due to Contractor.
- C. If Contractor damages, delays, disrupts, or interferes with the work of any other contractor, or any utility owner performing other work at or adjacent to the Site, through Contractor's failure to take reasonable and customary measures to avoid such impacts, or if any claim arising out of Contractor's actions, inactions, or negligence in performance of the Work at

or adjacent to the Site is made by any such other contractor or utility owner against Contractor, Owner, or Engineer, then Contractor shall (1) promptly attempt to settle the claim as to all parties through negotiations with such other contractor or utility owner, or otherwise resolve the claim by arbitration or other dispute resolution proceeding or at law, and (2) INDEMNIFY AND HOLD HARMLESS OWNER, ITS OFFICERS, DIRECTORS, MEMBERS, PARTNERS, EMPLOYEES, AGENTS, AND CONSULTANTS FROM AND AGAINST ANY SUCH CLAIMS, AND AGAINST ALL COSTS, LOSSES, AND DAMAGES (INCLUDING BUT NOT LIMITED TO ALL FEES AND CHARGES OF ENGINEERS, ARCHITECTS, ATTORNEYS, AND OTHER PROFESSIONALS AND ALL COURT OR ARBITRATION OR OTHER DISPUTE RESOLUTION COSTS) ARISING OUT OF OR RELATING TO SUCH DAMAGE, DELAY, DISRUPTION, OR INTERFERENCE.

ARTICLE 9 – OWNER’S RESPONSIBILITIES

9.01 *Communications to Contractor*

- A. For all Project and performance of Work matters, Owner will issue communications to Contractor through Engineer. However, Owner may, at its discretion, issue communications related to the Project directly to Contractor. In all such direct communications, Owner will endeavor to copy Engineer.

9.02 *Replacement of Engineer*

- A. Owner may at its discretion appoint an engineer to replace Engineer. The replacement engineer’s status under the Contract Documents shall be that of the former Engineer.

9.03 *Furnish Data*

- A. Owner shall promptly furnish the data required of Owner under the Contract Documents.

9.04 *Pay When Due*

- A. Owner shall make payments to Contractor when they are due as provided in the Agreement.

9.05 *Lands and Easements; Reports, Tests, and Drawings*

- A. Owner’s duties with respect to providing lands and easements are set forth in Paragraph 5.01.
- B. Owner’s duties with respect to providing engineering surveys to establish reference points are set forth in Paragraph 4.03.

9.06 *Limitations on Owner’s Responsibilities*

- A. The Owner shall not supervise, direct, or have control or authority over, nor be responsible for, Contractor’s means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Owner will not be responsible for Contractor’s failure to perform the Work in accordance with the Contract Documents.

9.07 *Evidence of Financial Arrangements*

- A. Within Thirty (30) days of executing the Agreement, Contractor may request, and Owner shall furnish, reasonable evidence that financial arrangements have been made to satisfy Owner’s obligations under the Contract Documents.

9.08 *Safety Programs*

- A. While at the Site, Owner's employees and representatives shall comply with the specific applicable requirements of Contractor's safety programs of which Owner has been informed.
- B. Owner shall furnish copies of any applicable Owner safety programs to Contractor.

ARTICLE 10 – ENGINEER'S STATUS DURING CONSTRUCTION

10.01 *Owner's Representative*

- A. Engineer will act as the Owner's representative for Project administration during the construction period. Engineer shall not have the authority to bind the Owner as that authority lies with the Owner's designated representative, but Engineer may communicate on behalf of Owner in all Project matters.

10.02 *Visits to Site*

- A. Engineer will make visits to the Site at intervals appropriate to the various stages of construction as Engineer deems necessary in order to observe as an experienced and qualified design professional the progress that has been made and the quality of the various aspects of Contractor's executed Work. Based on information obtained during such visits and observations, Engineer, for the benefit of Owner, will determine, in general, if the Work is proceeding in accordance with the Contract Documents. Engineer's efforts will be directed toward providing for Owner a greater degree of confidence that the completed Work will conform generally to the Contract Documents. On the basis of such visits and observations, Engineer will keep Owner informed of the progress of the Work and will endeavor to guard Owner against defective Work.
- B. Engineer's visits and observations are subject to all the limitations on Engineer's authority and responsibility set forth in Paragraph 10.08. Particularly, but without limitation, during or as a result of Engineer's visits or observations of Contractor's Work, Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work.

10.03 *Project Representative*

- A. If Owner and Engineer have agreed that Engineer will furnish a Resident Project Representative to represent Engineer at the Site and assist Engineer in observing the progress and quality of the Work, then the authority and responsibilities of any such Resident Project Representative will be as provided in this article 10.

10.04 *Rejecting Defective Work*

- A. Engineer has the authority to reject Work in accordance with Article 14.

10.05 *Shop Drawings, Change Orders and Payments*

- A. Engineer's authority, and limitations thereof, as to Shop Drawings and Samples, are set forth in Paragraph 7.16.
- B. Engineer's authority, and limitations thereof, as to design calculations and design drawings submitted in response to a delegation of professional design services, if any, are set forth in Paragraph 7.19.

- C. Engineer's authority as to Change Orders is set forth in Article 11.
 - D. Engineer's authority as to Applications for Payment is set forth in Article 15.
- 10.06 *Determinations for Unit Price Work*
- A. Engineer will determine the actual quantities and classifications of Unit Price Work performed by Contractor as set forth in Paragraph 13.03.
- 10.07 *Decisions on Requirements of Contract Documents and Acceptability of Work*
- A. Engineer will render decisions regarding the requirements of the Contract Documents, and judge the acceptability of the Work, pursuant to the specific procedures set forth herein for initial interpretations, Change Proposals, and acceptance of the Work. In rendering such decisions and judgments, Engineer will not show partiality to Owner or Contractor.
- 10.08 *Limitations on Engineer's Authority and Responsibilities*
- A. Engineer's authority, responsibility and actions as Owner's representative shall not give rise to any liability to Contractor. Contractor expressly waives any claims it has against Engineer for the performance of its responsibilities as Owner's representative.
 - B. Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto.
 - C. Engineer's review of the final Application for Payment and accompanying documentation and all maintenance and operating instructions, schedules, guarantees, bonds, certificates of inspection, tests and approvals, and other documentation required to be delivered by Paragraph 15.06.A will only be to determine generally that their content complies with the requirements of, and in the case of certificates of inspections, tests, and approvals, that the results certified indicate compliance with the Contract Documents.
 - D. The limitations upon authority and responsibility set forth in this Paragraph 10.08 shall also apply to the Resident Project Representative, if any.
- 10.09 *Compliance with Safety Program*
- A. While at the Site, Engineer's employees and representatives will comply with the specific applicable requirements of Owner's and Contractor's safety programs (if any) of which Engineer has been informed.

ARTICLE 11 – AMENDING THE CONTRACT DOCUMENTS; CHANGES IN THE WORK

11.01 *Amending and Supplementing Contract Documents*

- A. The Contract Documents may be amended or supplemented by a Change Order, a Work Change Directive, or a Field Order.
 - 1. *Change Orders:*
 - a. A Change Order shall be used to amend or supplement the Contract Documents when the Parties agree to the amendment, supplement, modification to the scope of work, or change in the Contract Price or the Contract Times.
 - 2. *Work Change Directives:* A Work Change Directive may be issued by the Owner if the Parties cannot agree on a Change Order or if:
 - a. The parties expect that the modification ordered or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order,

following negotiations by the parties as to the Work Change Directive's effect, if any, on the Contract Price and Contract Times; or, if negotiations are unsuccessful, by a determination under the terms of the Contract Documents governing adjustments, expressly including Paragraph 11.04 regarding change of Contract Price.

- b. Contractor must submit any Change Proposal seeking an adjustment of the Contract Price or the Contract Times, or both, no later than 30 days after the completion of the Work set out in the Work Change Directive. Owner must submit any Claim seeking an adjustment of the Contract Price or the Contract Times, or both, no later than 60 days after issuance of the Work Change Directive.
 - c. Upon receipt of a Change Directive, Contractor shall promptly proceed with the change in the Work involved.
3. *Field Orders:* Owner or Engineer may authorize minor changes in the Work if the changes do not involve an adjustment in the Contract Price or the Contract Times and are compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. Such changes will be accomplished by a Field Order and will be binding on Owner and also on Contractor, which shall perform the Work involved promptly. If Contractor believes that a Field Order justifies an adjustment in the Contract Price or Contract Times, or both, then before proceeding with the Work at issue, Contractor shall submit a Change Proposal as provided herein.

11.02 *Owner-Authorized Changes in the Work*

- A. Without invalidating the Contract and without notice to any surety, Owner may, at any time or from time to time, order additions, deletions, or revisions in the Work. Such changes shall be supported by Engineer's recommendation, to the extent the change involves the design (as set forth in the Drawings, Specifications, or otherwise), or other engineering or technical matters. Such changes may be accomplished by a Change Order, if Owner and Contractor have agreed as to the effect, if any, of the changes on Contract Times or Contract Price; or by a Work Change Directive. Upon receipt of any such document, Contractor shall promptly proceed with the Work involved; or, in the case of a deletion in the Work, promptly cease construction activities with respect to such deleted Work. Added or revised Work shall be performed under the applicable conditions of the Contract Documents. Nothing in this paragraph shall obligate Contractor to undertake work that Contractor reasonably concludes cannot be performed in a manner consistent with Contractor's safety obligations under the Contract Documents or Laws and Regulations.

11.03 *Unauthorized Changes in the Work*

- A. Contractor shall not be entitled to an increase in the Contract Price or an extension of the Contract Times with respect to any work performed that is not required by the Contract Documents, as amended, modified, or supplemented, except in the case of an emergency as provided in Paragraph 7.15 or in the case of uncovering Work as provided in Paragraph 14.05.

11.04 *Change of Contract Price*

- A. The Contract Price may only be changed by a Change Order. Any Change Proposal for an adjustment in the Contract Price shall comply with the provisions of Paragraph 11.06. Any Claim for an adjustment of Contract Price shall comply with the provisions of Article 12.

- B. An adjustment in the Contract Price will be determined as follows:
1. where the Work involved is covered by unit prices contained in the Contract Documents, then by application of such unit prices to the quantities of the items involved (subject to the provisions of Paragraph 13.03); or
 2. where the Work involved is not covered by unit prices contained in the Contract Documents, then by a mutually agreed lump sum (which may include an allowance for overhead and profit not necessarily in accordance with Paragraph 11.04.C.2); or
 3. where the Work involved is not covered by unit prices contained in the Contract Documents and the parties do not reach mutual agreement to a lump sum, then on the basis of the Cost of the Work (determined as provided in Paragraph 13.01) plus a Contractor's fee for overhead and profit (determined as provided in Paragraph 11.04.C).
- C. *Contractor's Fee*: When applicable, the Contractor's fee for overhead and profit shall be determined as follows:
1. a mutually acceptable fixed fee; or
 2. if a fixed fee is not agreed upon, then a fee based on the following percentages of the various portions of the Cost of the Work:
 - a. for costs incurred under Paragraphs 13.01.B.1 and 13.01.B.2, the Contractor's fee shall be 15 percent;
 - b. for costs incurred under Paragraph 13.01.B.3, the Contractor's fee shall be five percent;
 - c. where one or more tiers of subcontracts are on the basis of Cost of the Work plus a fee and no fixed fee is agreed upon, the intent of Paragraphs 11.01.C.2.a and 11.01.C.2.b is that the Contractor's fee shall be based on: (1) a fee of 15 percent of the costs incurred under Paragraphs 13.01.A.1 and 13.01.A.2 by the Subcontractor that actually performs the Work, at whatever tier, and (2) with respect to Contractor itself and to any Subcontractors of a tier higher than that of the Subcontractor that actually performs the Work, a fee of five percent of the amount (fee plus underlying costs incurred) attributable to the next lower tier Subcontractor; provided, however, that for any such subcontracted work the maximum total fee to be paid by Owner shall be no greater than 27 percent of the costs incurred by the Subcontractor that actually performs the work;
 - d. no fee shall be payable on the basis of costs itemized under Paragraphs 13.01.B.4, 13.01.B.5, and 13.01.C;
 - e. the amount of credit to be allowed by Contractor to Owner for any change which results in a net decrease in cost will be the amount of the actual net decrease in cost plus a deduction in Contractor's fee by an amount equal to five percent of such net decrease; and
 - f. when both additions and credits are involved in any one change, the adjustment in Contractor's fee shall be computed on the basis of the net change in accordance with Paragraphs 11.04.C.2.a through 11.04.C.2.e, inclusive.

11.05 *Change of Contract Times*

- A. The Contract Times may only be changed by a Change Order. Any Change Proposal for an adjustment in the Contract Times shall comply with the provisions of Paragraph 11.06. Any

Claim for an adjustment in the Contract Times shall comply with the provisions of Article 12.

- B. An adjustment of the Contract Times shall be subject to the limitations set forth in Paragraph 4.05, concerning delays in Contractor's progress.

11.06 *Change Proposals*

- A. Contractor shall submit a Change Proposal to Engineer to request an adjustment in the Contract Times or Contract Price; appeal an initial decision by Engineer concerning the requirements of the Contract Documents or relating to the acceptability of the Work under the Contract Documents; contest a set-off against payment due; or seek other relief under the Contract. The Change Proposal shall specify any proposed change in Contract Times or Contract Price, or both, or other proposed relief, and explain the reason for the proposed change, with citations to any governing or applicable provisions of the Contract Documents.
 - 1. *Procedures:* Contractor shall submit each Change Proposal to Engineer promptly (but in no event later than 30 days) after the start of the event giving rise thereto, or after such initial decision. The Contractor shall submit supporting data, including the proposed change in Contract Price or Contract Time (if any), to the Engineer and Owner within 15 days after the submittal of the Change Proposal. The supporting data shall be accompanied by a written statement that the supporting data are accurate and complete, and that any requested time or price adjustment is the entire adjustment to which Contractor believes it is entitled as a result of said event. Engineer will advise Owner regarding the Change Proposal, and consider any comments or response from Owner regarding the Change Proposal.
 - 2. *Engineer's Action:* Engineer will review each Change Proposal with Owner and, within 30 days after receipt of the Contractor's supporting data, either deny the Change Proposal in whole, approve it in whole, or deny it in part and approve it in part. Engineer's action on a Change Proposal will not have the effect of adjusting the Contract Time or Contract Price without express written approval of Owner and a memorialization of Engineer's Action in a Change Order. Such actions shall be in writing, with a copy provided to Owner and Contractor. If Engineer does not take action on the Change Proposal within 30 days, then either Owner or Contractor may at any time thereafter submit a letter to the other party indicating that as a result of Engineer's inaction the Change Proposal is deemed denied, thereby commencing the time for appeal of the denial under Article 12.
 - 3. *Binding Decision:* Engineer's decision will be final and binding upon Contractor, unless Contractor appeals the decision by filing a Claim under Article 12.
- B. *Resolution of Certain Change Proposals:* If the Change Proposal does not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters, then Engineer will notify the parties that the Engineer is unable to resolve the Change Proposal. For purposes of further resolution of such a Change Proposal, such notice shall be deemed a denial, and Contractor may choose to seek resolution under the terms of Article 12.

11.07 *Execution of Change Orders*

- A. Owner and Contractor shall execute appropriate Change Orders covering:
 - 1. changes in the Contract Price or Contract Times which are agreed to by the parties, including any undisputed sum or amount of time for Work actually performed in accordance with a Work Change Directive;

2. changes in Contract Price resulting from an Owner set-off, unless Contractor has duly contested such set-off;
3. changes in the Work which are: (a) ordered by Owner pursuant to Paragraph 11.02, (b) required because of Owner's acceptance of defective Work under Paragraph 14.04 or Owner's correction of defective Work under Paragraph 14.07; and
4. changes in the Contract Price or Contract Times, or other changes, which embody the substance of any final and binding results under Paragraph 11.06, or Article 12.

11.08 *Notification to Surety*

- A. If the provisions of any bond require notice to be given to a surety of any change affecting the general scope of the Work or the provisions of the Contract Documents (including, but not limited to, Contract Price or Contract Times), the giving of any such notice will be Contractor's responsibility. The amount of each applicable bond will be adjusted to reflect the effect of any such change.

ARTICLE 12 – CLAIMS

12.01 *Claims*

- A. *Claims Process:* The following disputes between Owner and Contractor shall be submitted to the Claims process set forth in this Article:
 1. Appeals by Owner or Contractor of Engineer's decisions regarding Change Proposals;
 2. Owner demands for adjustments in the Contract Price or Contract Times, or other relief under the Contract Documents; and
 3. Disputes that Engineer has been unable to address because they do not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters.
- B. *Submittal of Claim:* The party submitting a Claim shall deliver it directly to the other party to the Contract promptly (but in no event later than 30 days) after the start of the event giving rise thereto; in the case of appeals regarding Change Proposals within 30 days of the decision under appeal. The responsibility to substantiate a Claim shall rest with the party making the Claim.
- C. *Review and Resolution:* The party receiving a Claim shall review it thoroughly, giving full consideration to its merits. The two parties shall seek to resolve the Claim through the exchange of information and direct negotiations. The parties may extend the time for resolving the Claim by mutual agreement. All actions taken on a Claim shall be stated in writing and submitted to the other party, with a copy to Engineer.
- D. *Mediation:*
 1. At any time after initiation of a Claim, Owner and Contractor may mutually agree to mediation of the underlying dispute. The agreement to mediate shall stay the Claim submittal and response process.
 2. If Owner and Contractor agree to mediation, the mediation shall occur within 60 days of the agreement to mediate. However, the mediation may be stayed and its scope and schedule may be amended, provided that the mediation occur no later than 60 days following Final Completion.
 3. Owner and Contractor shall each pay one-half of the mediator's fees and costs.

4. Mediation is a condition precedent to litigation before a court of competent jurisdiction or tribunal.
- E. *Denial of Claim:* If efforts to resolve a Claim are not successful, the party receiving the Claim may deny it by giving written notice of denial to the other party.
- F. *Final and Binding Results:* If the parties reach a mutual agreement regarding a Claim, whether through approval of the Claim, direct negotiations, mediation, or otherwise, that agreement should be memorialized in a Change Order if the Project is ongoing at the time of resolution and the agreement affects the Contract scope, price, or time.

ARTICLE 13 – COST OF THE WORK; ALLOWANCES; UNIT PRICE WORK

13.01 *Cost of the Work*

- A. *Purposes for Determination of Cost of the Work:* The term Cost of the Work means the sum of all costs necessary for the proper performance of the Work at issue, as further defined below. The provisions of this Paragraph 13.01 are used for two distinct purposes:
 1. To determine Cost of the Work when Cost of the Work is a component of the Contract Price, under cost-plus-fee, time-and-materials, or other cost-based terms; or
 2. To determine the value of a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price. When the value of any such adjustment is determined on the basis of Cost of the Work, Contractor is entitled only to those additional or incremental costs required because of the change in the Work or because of the event giving rise to the adjustment.
- B. *Costs Included:* Except as otherwise may be agreed to in writing by Owner, costs included in the Cost of the Work shall be in amounts no higher than those prevailing in the locality of the Project, shall not include any of the costs itemized in Paragraph 13.01.C, and shall include only the following items:
 1. Payroll costs for employees in the direct employ of Contractor in the performance of the Work. Such employees shall include, without limitation, superintendents, foremen, and other personnel employed full time. Payroll costs shall include, but not be limited to, salaries and wages plus the cost of fringe benefits, which shall include social security contributions, unemployment, excise, and payroll taxes, workers' compensation, health and retirement benefits, bonuses, sick leave, and vacation and holiday pay applicable thereto.
 2. Cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage thereof, and Suppliers' field services required in connection therewith. All cash discounts shall accrue to Contractor unless Owner deposits funds with Contractor with which to make payments, in which case the cash discounts shall accrue to Owner, and Contractor shall make provisions so that they may be obtained.
 3. Payments made by Contractor to Subcontractors for Work performed by Subcontractors. If any subcontract provides that the Subcontractor is to be paid on the basis of Cost of the Work plus a fee, the Subcontractor's Cost of the Work and fee shall be determined in the same manner as Contractor's Cost of the Work and fee as provided in this Paragraph 13.01.

- C. Costs of special consultants (including but not limited to engineers, architects, testing laboratories, surveyors, attorneys, and accountants) employed for services specifically related to the Work.
1. Supplemental costs including the following:
 - a. The proportion of necessary transportation, travel, and subsistence expenses of Contractor's employees incurred in discharge of duties connected with the Work.
 - b. Cost, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office, and temporary facilities at the Site, and hand tools not owned by the workers, which are consumed in the performance of the Work, and cost, less market value, of such items used but not consumed which remain the property of Contractor.
 - c. Rentals of all construction equipment and machinery, and the parts thereof, approved by Owner, and the costs of transportation, loading, unloading, assembly, dismantling, and removal thereof. All such costs shall be in accordance with the terms of said rental agreements. The rental of any such equipment, machinery, or parts shall cease when the use thereof is no longer necessary for the Work.
 - d. The cost of utilities, fuel, and sanitary facilities at the Site.
 - e. The costs of premiums for all bonds and insurance that Contractor is required by the Contract Documents to purchase and maintain.
- D. *Costs Excluded:* The term Cost of the Work shall not include any of the following items:
1. Payroll costs and other compensation of Contractor's employees, agents and other personnel not included in Paragraph 13.01.B, whether at the Site or in Contractor's principal or branch office for general administration of the Work. The payroll costs and other compensation excluded here are to be considered administrative costs covered by the Contractor's fee.
 2. Expenses of Contractor's principal and branch offices other than Contractor's office at the Site.
 3. Any part of Contractor's capital expenses, including interest on Contractor's capital employed for the Work and charges against Contractor for delinquent payments.
 4. Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in Paragraph 13.01.B.
- E. *Contractor's Fee:* When the Work as a whole is performed on the basis of cost-plus, Contractor's fee shall be determined as set forth in the Agreement. When the value of any Work covered by a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price is determined on the basis of Cost of the Work, Contractor's fee shall be determined as set forth in Paragraph 11.04.C.
- F. *Documentation:* Whenever the Cost of the Work for any purpose is to be determined pursuant to this Article 13, Contractor will establish and maintain records thereof in accordance with generally accepted accounting practices and submit in a form acceptable to Engineer an itemized cost breakdown together with supporting data.

13.02 Allowances

- A. It is understood that Contractor has included in the Contract Price all allowances so named in the Contract Documents and shall cause the Work so covered to be performed for such sums and by such persons or entities as may be acceptable to Owner and Engineer.
- B. *Cash Allowances:* Contractor agrees that:
 - 1. the cash allowances include the cost to Contractor (less any applicable trade discounts) of materials and equipment required by the allowances to be delivered at the Site, and all applicable taxes; and
 - 2. Contractor's costs for unloading and handling on the Site, labor, installation, overhead, profit, and other expenses contemplated for the cash allowances have been included in the Contract Price and not in the allowances, and no demand for additional payment on account of any of the foregoing will be valid.
- C. *Contingency Allowance:* Contractor agrees that a contingency allowance, if any, is for the sole use of Owner to cover unanticipated costs.
- D. Prior to final payment, an appropriate Change Order will be issued as recommended by Engineer to reflect actual amounts due Contractor on account of Work covered by allowances, and the Contract Price shall be correspondingly adjusted.

13.03 Unit Price Work

- A. Where the Contract Documents provide that all or part of the Work is to be Unit Price Work, initially the Contract Price will be deemed to include for all Unit Price Work an amount equal to the sum of the unit price for each separately identified item of Unit Price Work times the estimated quantity of each item as indicated in the Agreement.
- B. The estimated quantities of items of Unit Price Work are not guaranteed and are solely for the purpose of comparison of Bids and determining an initial Contract Price. Payments to Contractor for Unit Price Work will be based on actual quantities.
- C. Each unit price will be deemed to include an amount considered by Contractor to be adequate to cover Contractor's overhead and profit for each separately identified item.
- D. Engineer will determine the actual quantities and classifications of Unit Price Work performed by Contractor. Engineer will review with Contractor the Engineer's preliminary determinations on such matters before rendering a written decision thereon (by recommendation of an Application for Payment or otherwise). Engineer's written decision thereon will be final and binding (except as modified by Engineer to reflect changed factual conditions or more accurate data) upon Owner and Contractor, subject to the provisions of the following paragraph.
- E. Within 30 days of Engineer's written decision under the preceding paragraph, Contractor may submit a Change Proposal, or Owner may file a Claim, seeking an adjustment in the Contract Price if:
 - 1. the quantity of any item of Unit Price Work performed by Contractor differs materially and significantly from the estimated quantity of such item indicated in the Agreement;
 - 2. there is no corresponding adjustment with respect to any other item of Work; and
 - 3. Contractor believes that it is entitled to an increase in Contract Price as a result of having incurred additional expense or Owner believes that Owner is entitled to a

decrease in Contract Price, and the parties are unable to agree as to the amount of any such increase or decrease.

ARTICLE 14 – TESTS AND INSPECTIONS; CORRECTION, REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK

14.01 Access to Work

- A. Owner, Engineer, their consultants and other representatives and personnel of Owner, independent testing laboratories, and authorities having jurisdiction will have access to the Site and the Work at reasonable times for their observation, inspection, and testing. Contractor shall provide them proper and safe conditions for such access and advise them of Contractor's safety procedures and programs so that they may comply therewith as applicable.

14.02 Tests, Inspections, and Approvals

- A. Contractor shall give Engineer timely notice of readiness of the Work (or specific parts thereof) for all required inspections and tests, and shall cooperate with inspection and testing personnel to facilitate required inspections and tests.
- B. Owner shall be responsible for providing the services of an independent inspection and testing lab if the Contract Documents and Specifications so require.
- C. Contractor shall be responsible for arranging, obtaining, and paying for all inspections and tests required:
 - 1. by the Contract Documents, unless the Contract Documents expressly allocate responsibility for a specific inspection or test to Owner;
 - 2. to attain Owner's and Engineer's acceptance of materials or equipment to be incorporated in the Work;
 - 3. by manufacturers of equipment furnished under the Contract Documents;
 - 4. for testing, adjusting, and balancing of mechanical, electrical, and other equipment to be incorporated into the Work; and
 - 5. for acceptance of materials, mix designs, or equipment submitted for approval prior to Contractor's purchase thereof for incorporation in the Work.

Such inspections and tests shall be performed by independent inspectors, testing laboratories, or other qualified individuals or entities acceptable to Owner.

- D. If the Contract Documents require the Work (or part thereof) to be approved by Owner, Engineer, or another designated individual or entity; then Contractor shall assume full responsibility for arranging and obtaining such approvals.
- E. If any Work (or the work of others) that is to be inspected, tested, or approved is covered by Contractor without written concurrence of Engineer, Contractor shall, if requested by Engineer, uncover such Work for observation. Such uncovering shall be at Contractor's expense unless Contractor had given Engineer timely notice of Contractor's intention to cover the same and Engineer had not acted with reasonable promptness in response to such notice.

14.03 Defective Work

- A. *Contractor's Obligation:* It is Contractor's obligation to assure that the Work is not defective.

- B. *Engineer's Authority*: Engineer has the authority to determine whether Work is defective, and to reject defective Work.
- C. *Notice of Defects*: Prompt notice of all defective Work of which Owner or Engineer has actual knowledge will be given to Contractor.
- D. *Correction, or Removal and Replacement*: Promptly after receipt of written notice of defective Work, Contractor shall correct all such defective Work, whether or not fabricated, installed, or completed, or, if Engineer has rejected the defective Work, remove it from the Project and replace it with Work that is not defective.
- E. *Preservation of Warranties*: When correcting defective Work, Contractor shall take no action that would void or otherwise impair Owner's special warranty and guarantee, if any, on said Work.
- F. *Costs and Damages*: Contractor shall pay all claims, costs, losses, and damages arising out of or relating to defective Work, including but not limited to the cost of the inspection, testing, correction, removal, replacement, or reconstruction of such defective Work, and the costs of repair or replacement of work of others resulting from defective Work. Prior to final payment, if Owner and Contractor are unable to agree as to the measure of such claims, costs, losses, and damages resulting from defective Work, then Owner may impose a reasonable set-off against payments due under Article 15.

14.04 *Acceptance of Defective Work*

- A. If, instead of requiring correction or removal and replacement of defective Work, Owner prefers to accept it, Owner may do so. Contractor shall pay all claims, costs, losses, and damages attributable to Owner's evaluation of and determination to accept such defective Work. If any such acceptance occurs prior to final payment, the necessary revisions in the Contract Documents with respect to the Work shall be incorporated in a Change Order. If the parties are unable to agree as to the decrease in the Contract Price, reflecting the diminished value of Work so accepted, then Owner may impose a reasonable set-off against payments due under Article 15. If the acceptance of defective Work occurs after final payment, Contractor shall pay an appropriate amount to Owner.

14.05 *Uncovering Work*

- A. Engineer has the authority to require special inspection or testing of the Work, whether or not the Work is fabricated, installed, or completed.
- B. If any Work is covered contrary to the written request of Engineer, then Contractor shall, if requested by Engineer, uncover such Work for Engineer's observation, and then replace the covering, all at Contractor's expense.
- C. If Engineer considers it necessary or advisable that covered Work be observed by Engineer or inspected or tested by others, then Contractor, upon Owner's approval and Engineer's request, shall uncover, expose, or otherwise make available for observation, inspection, or testing as Engineer may require, that portion of the Work in question, and provide all necessary labor, material, and equipment.
 - 1. If it is found that the uncovered Work is defective, Contractor shall be responsible for all claims, costs, losses, and damages arising out of or relating to such uncovering, exposure, observation, inspection, and testing, and of satisfactory replacement or reconstruction (including but not limited to all costs of repair or replacement of work of others); and pending Contractor's full discharge of this responsibility the Owner shall be entitled to impose a reasonable set-off against payments due under Article 15.

2. If the uncovered Work is not found to be defective, Contractor shall be allowed an increase in the Contract Price or an extension of the Contract Times, or both, directly attributable to such uncovering, exposure, observation, inspection, testing, replacement, and reconstruction. If the parties are unable to agree as to the amount or extent thereof, then Contractor may submit a Change Proposal within 30 days of the determination that the Work is not defective.

14.06 *Owner May Stop the Work*

- A. If the Work is defective, or Contractor fails to supply sufficient skilled workers or suitable materials or equipment, or fails to perform the Work in such a way that the completed Work will conform to the Contract Documents, then Owner may order Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated.

14.07 *Owner May Correct Defective Work*

- A. If Contractor fails within a reasonable time after written notice from Engineer to correct defective Work, or to remove and replace rejected Work as required by Engineer, or if Contractor fails to perform the Work in accordance with the Contract Documents, or if Contractor fails to comply with any other provision of the Contract Documents, then Owner may, after seven days written notice to Contractor, correct or remedy any such deficiency.
- B. In exercising the rights and remedies under this Paragraph 14.07, Owner shall proceed expeditiously. In connection with such corrective or remedial action, Owner may exclude Contractor from all or part of the Site, take possession of all or part of the Work and suspend Contractor's services related thereto, and incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere. Contractor shall allow Owner, Owner's representatives, agents and employees, Owner's other contractors, and Engineer and Engineer's consultants access to the Site to enable Owner to exercise the rights and remedies under this paragraph.
- C. All claims, costs, losses, and damages incurred or sustained by Owner in exercising the rights and remedies under this Paragraph 14.07 will be charged against Contractor as set-offs against payments due under Article 15. Such claims, costs, losses and damages will include but not be limited to all costs of repair, or replacement of work of others destroyed or damaged by correction, removal, or replacement of Contractor's defective Work.
- D. Contractor shall not be allowed an extension of the Contract Times because of any delay in the performance of the Work attributable to the exercise by Owner of Owner's rights and remedies under this Paragraph 14.07.

ARTICLE 15 – PAYMENTS TO CONTRACTOR; SET-OFFS; COMPLETION; CORRECTION PERIOD

15.01 *Progress Payments*

- A. *Basis for Progress Payments:* The Schedule of Values established as provided in Article 2 will serve as the basis for progress payments and will be incorporated into a form of Application for Payment acceptable to Engineer. Progress payments on account of Unit Price Work will be based on the number of units completed during the pay period, as determined under the provisions of Paragraph 13.03. Progress payments for cost-based Work will be based on Cost of the Work completed by Contractor during the pay period.
- B. *Applications for Payments:*
 1. At least 20 days before the date established in the Agreement for each progress payment (but not more often than once a month), Contractor shall submit to Engineer

for review an Application for Payment filled out and signed by Contractor covering the Work completed as of the date of the Application and accompanied by such supporting documentation as is required by the Contract Documents. If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at the Site or at another location agreed to in writing, the Application for Payment shall also be accompanied by a bill of sale, invoice, or other documentation warranting that Owner has received the materials and equipment free and clear of all Liens, and evidence that the materials and equipment are covered by appropriate property insurance, a warehouse bond, or other arrangements to protect Owner's interest therein, all of which must be satisfactory to Owner.

2. Beginning with the second Application for Payment, each Application shall include an affidavit of Contractor stating that all previous progress payments received on account of the Work have been applied on account to discharge Contractor's legitimate obligations associated with prior Applications for Payment.
3. The amount of retainage with respect to progress payments will be as stipulated in the Agreement.

C. *Review of Applications:*

1. Engineer will, within 10 days after receipt of each Application for Payment, including each resubmittal, either indicate in writing a recommendation of payment and present the Application to Owner, or return the Application to Contractor indicating in writing Engineer's reasons for refusing to recommend payment. In the latter case, Contractor may make the necessary corrections and resubmit the Application.
2. Engineer's recommendation of any payment requested in an Application for Payment will constitute a representation by Engineer to Owner, based on Engineer's observations of the executed Work as an experienced and qualified design professional, and on Engineer's review of the Application for Payment and the accompanying data and schedules, that to the best of Engineer's knowledge, information and belief:
 - a. the Work has progressed to the point indicated;
 - b. the quality of the Work is generally in accordance with the Contract Documents; and
 - c. the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is Engineer's responsibility to observe the Work.
3. By recommending any such payment Engineer will not thereby be deemed to have represented that:
 - a. inspections made to check the quality or the quantity of the Work as it has been performed have been exhaustive, extended to every aspect of the Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in the Contract; or
 - b. there may not be other matters or issues between the parties that might entitle Contractor to be paid additionally by Owner or entitle Owner to withhold payment to Contractor.

4. Engineer will recommend reductions in payment (set-offs) necessary in Engineer's opinion to protect Owner from loss because:
 - a. the Work is defective, requiring correction or replacement;
 - b. the Contract Price has been reduced by Change Orders;
 - c. Owner has been required to correct defective Work in accordance with Paragraph 14.07, or has accepted defective Work pursuant to Paragraph 14.04;
 - d. Owner has been required to remove or remediate a Hazardous Environmental Condition for which Contractor is responsible; or
 - e. Engineer has actual knowledge of the occurrence of any of the events that would constitute a default by Contractor and therefore justify termination for cause under the Contract Documents.

D. Reductions in Payment by Owner:

1. In addition to any reductions in payment (set-offs) recommended by Engineer, Owner is entitled to impose a set-off against payment based on any of the following:
 - a. claims have been made against Owner on account of Contractor's conduct in the performance or furnishing of the Work, or Owner has incurred costs, losses, or damages on account of Contractor's conduct in the performance or furnishing of the Work;
 - b. Contractor has failed to take reasonable and customary measures to avoid damage, delay, disruption, and interference with other work at or adjacent to the Site;
 - c. Contractor has failed to provide and maintain required bonds or insurance;
 - d. Owner has been required to remove or remediate a Hazardous Environmental Condition for which Contractor is responsible;
 - e. Owner has incurred extra charges or engineering costs related to submittal reviews, evaluations of proposed substitutes, tests and inspections, or return visits to manufacturing or assembly facilities;
 - f. the Work is defective, requiring correction or replacement;
 - g. liquidated damages have accrued as a result of Contractor's failure to achieve Milestones, Substantial Completion, or final completion of the Work;
 - h. there are other items entitling Owner to a set off against the amount recommended.
2. If Owner imposes any set-off against payment, whether based on its own knowledge or on the written recommendations of Engineer, Owner will give Contractor immediate written notice (with a copy to Engineer) stating the reasons for such action and the specific amount of the reduction, and promptly pay Contractor any amount remaining after deduction of the amount so withheld. Owner shall promptly pay Contractor the amount so withheld, or any adjustment thereto agreed to by Owner and Contractor, if Contractor remedies the reasons for such action. The reduction imposed shall be binding on Contractor unless it duly submits a Change Proposal contesting the reduction.

15.02 *Contractor's Warranty of Title*

- A. Contractor warrants and guarantees that title to all Work, materials, and equipment furnished under the Contract will pass to Owner free and clear of (1) all Liens and other title defects, and (2) all patent, licensing, copyright, or royalty obligations, no later than seven days after the time of payment by Owner.

15.03 *Substantial Completion*

- A. When Contractor considers the entire Work ready for its intended use Contractor shall notify Owner and Engineer in writing that the entire Work is substantially complete and request that Engineer issue a certificate of Substantial Completion. Contractor shall at the same time submit to Owner and Engineer an initial draft of punch list items to be completed or corrected before final payment.
- B. Promptly after Contractor's notification, Owner, Contractor, and Engineer shall make an inspection of the Work to determine the status of completion. At that inspection, Owner and Engineer will review, supplement, and edit the initial punch list prepared by Contractor or prepare an additional punch list if Contractor has not yet provided a punch list. If Owner or Engineer does not consider the Work substantially complete, Engineer will notify Contractor in writing giving the reasons therefor.
- C. If Owner and Engineer consider the Work substantially complete, Engineer will deliver to Owner a preliminary certificate of Substantial Completion which shall fix the date of Substantial Completion. Engineer shall attach to the certificate a punch list of items to be completed or corrected before final payment. If Owner and Engineer do not consider the Work substantially complete, the Engineer shall notify Contractor of such, in writing, with a specific explanation of those portions of the Work that are the basis for determining the Work is not substantially complete.
- D. After Substantial Completion the Contractor shall promptly begin work on the punch list of items to be completed or corrected prior to final payment. In appropriate cases Contractor may submit monthly Applications for Payment for completed punch list items, following the progress payment procedures set forth above.

15.04 *Partial Use or Occupancy*

- A. Prior to Substantial Completion of all the Work, Owner may use or occupy any substantially completed part of the Work which has specifically been identified in the Contract Documents, or which Owner, Engineer, and Contractor agree constitutes a separately functioning and usable part of the Work that can be used by Owner for its intended purpose without significant interference with Contractor's performance of the remainder of the Work, subject to the following conditions:
 - 1. At any time Owner may request in writing that Contractor permit Owner to use or occupy any such part of the Work that Owner believes to be substantially complete. If and when Contractor agrees that such part of the Work is substantially complete, Contractor, Owner, and Engineer will follow the procedures of Paragraph 15.03 for that part of the Work.
 - 2. At any time Contractor may notify Owner and Engineer in writing that Contractor considers any such part of the Work substantially complete and request Engineer to issue a certificate of Substantial Completion for that part of the Work.
 - 3. Within a reasonable time after either such request, Owner, Contractor, and Engineer shall make an inspection of that part of the Work to determine its status of

completion. If Owner or Engineer does not consider that part of the Work to be substantially complete, Engineer will notify Owner and Contractor in writing giving the reasons therefor. If Owner or Engineer considers that part of the Work to be substantially complete, the provisions of Paragraph 15.03 will apply with respect to certification of Substantial Completion of that part of the Work.

4. No use or occupancy or separate operation of part of the Work by Owner will relieve Contractor of its insurance obligations under these Contract Documents.
- B. The Owner, at the Owner's sole option, shall have the right to take possession of and use any completed or partially completed portion of the Work regardless of the time for completing the entire Work. The Owner's exercise of such use and possession shall not be construed to mean that the Owner acknowledges that any part of the Work so possessed and used is substantially complete or that it is accepted by Owner, and the Owner's exercise of such use and possession shall not relieve the Contractor of its responsibility to complete all Work in accordance with the Contract Documents.

15.05 *Final Inspection*

- A. Upon written notice from Contractor that the entire Work or an agreed portion thereof is complete, Engineer will promptly make a final inspection with Owner and Contractor and will notify Contractor in writing of all particulars in which this inspection reveals that the Work, or agreed portion thereof, is incomplete or defective. Contractor shall immediately take such measures as are necessary to complete such Work or remedy such deficiencies.

15.06 *Final Payment*

A. *Application for Payment:*

1. After Contractor has, in the opinion of Engineer, satisfactorily completed all corrections identified during the final inspection and has delivered, in accordance with the Contract Documents, all maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance, certificates of inspection, annotated record documents (as provided in Paragraph 7.11), and other documents, Contractor may make application for final payment.
2. The final Application for Payment shall be accompanied (except as previously delivered) by:
 - a. all documentation called for in the Contract Documents;
 - b. consent of the surety, if any, to final payment;
 - c. satisfactory evidence that all title issues have been resolved such that title to all Work, materials, and equipment has passed to Owner free and clear of any Liens or other title defects, or will so pass upon final payment.
 - d. a list of all disputes that Contractor believes are unsettled; and
 - e. complete and legally effective releases or waivers (satisfactory to Owner) of all Lien rights arising out of the Work, and of Liens filed in connection with the Work.
3. In lieu of the releases or waivers of Liens specified in Paragraph 15.06.A.2 and as approved by Owner, Contractor may furnish receipts or releases in full and an affidavit of Contractor that: (a) the releases and receipts include all labor, services, material, and equipment for which a Lien could be filed; and (b) all payrolls, material and equipment bills, and other indebtedness connected with the Work for which Owner might in any way be responsible, or which might in any way result in liens or other

burdens on Owner's property, have been paid or otherwise satisfied. If any Subcontractor or Supplier fails to furnish such a release or receipt in full, Contractor may furnish a bond or other collateral satisfactory to Owner to indemnify Owner against any Lien, or Owner at its option may issue joint checks payable to Contractor and specified Subcontractors and Suppliers.

B. *Engineer's Review of Application and Acceptance:*

1. If, on the basis of Engineer's observation of the Work during construction and final inspection, and Engineer's review of the final Application for Payment and accompanying documentation as required by the Contract Documents, Engineer is satisfied that the Work has been completed and Contractor's other obligations under the Contract have been fulfilled, Engineer will, within ten days after receipt of the final Application for Payment, indicate in writing Engineer's recommendation of final payment and present the Application for Payment to Owner for payment. Such recommendation shall account for any set-offs against payment that are necessary to protect Owner from loss for the reasons stated above with respect to progress payments. Otherwise, Engineer will return the Application for Payment to Contractor, indicating in writing the reasons for refusing to recommend final payment, in which case Contractor shall make the necessary corrections and resubmit the Application for Payment.

C. *Completion of Work:* The Work is complete (subject to surviving obligations) when it is ready for final payment as established by the Engineer's written recommendation of final payment.

D. *Payment Becomes Due:* Thirty days after the presentation to Owner of the final Application for Payment and accompanying documentation, the amount recommended by Engineer (less any further sum Owner is entitled to set off) will become due and shall be paid by Owner to Contractor.

E. *Contractor's Warranty and Guarantee:* Contractor's general warranty period and guarantee will begin to run upon Final Completion as approved by City Council, and following Engineer's written recommendation.

15.07 *Waiver of Claims*

- A. The making of final payment will not constitute a waiver by Owner of claims or rights against Contractor. Owner expressly reserves claims and rights arising from defective Work appearing after final inspection, from Contractor's failure to comply with the Contract Documents or the terms of any special guarantees specified therein, from outstanding Claims by Owner, or from Contractor's continuing obligations under the Contract Documents.
- B. The acceptance of final payment by Contractor will constitute a waiver by Contractor of all claims and rights against Owner other than those pending matters that have been duly submitted, expressly reserved, or appealed under the provisions of Article 17.

15.08 *Correction Period*

- A. If within one year after the date of Final Completion (or such longer period of time as may be prescribed by the terms of any applicable special guarantee required by the Contract Documents, or by any specific provision of the Contract Documents), any Work is in need of repair, adjustment, modification, correction, or found to be defective, or if the repair of any damages to the Site, adjacent areas that Contractor has arranged to use through construction easements or otherwise, and other adjacent areas used by Contractor as

permitted by Laws and Regulations, is found to be defective, then Contractor shall promptly, without cost to Owner and in accordance with Owner's written instructions:

1. correct the defective repairs to the Site or such other adjacent areas;
 2. correct such defective Work;
 3. if the defective Work has been rejected by Owner, remove it from the Project and replace it with Work that is not defective, and
 4. satisfactorily correct or repair or remove and replace any damage to other Work, to the work of others, or to other land or areas resulting therefrom.
- B. If Contractor does not promptly comply with the terms of Owner's written instructions, or in an emergency where delay would cause serious risk of loss or damage, Owner may have the defective Work corrected or repaired or may have the rejected Work removed and replaced. Contractor shall pay all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or repair or such removal and replacement (including but not limited to all costs of repair or replacement of work of others).
- C. In special circumstances where a particular item of equipment is placed in continuous service before Substantial Completion of all the Work, the correction period for that item may start to run from an earlier date if so provided in the Specifications.
- D. Where defective Work (and damage to other Work resulting therefrom) has been corrected or removed and replaced under this paragraph, the correction period hereunder with respect to such Work will be extended for an additional period of one year after such correction or removal and replacement has been satisfactorily completed.
- E. Contractor's obligations under this paragraph are in addition to all other obligations and warranties. The provisions of this paragraph shall not be construed as a substitute for, or a waiver of, the provisions of any applicable statute of limitation or repose.

ARTICLE 16 – SUSPENSION OF WORK AND TERMINATION

16.01 *Owner May Suspend Work*

- A. At any time and without cause, Owner may suspend the Work or any portion thereof by written notice to Contractor and Engineer. Such notice will fix the date on which Work will be resumed. Contractor shall resume the Work on the date so fixed. Contractor shall be entitled to an adjustment in the Contract Price or an extension of the Contract Times, or both, directly attributable to any such suspension. Any Change Proposal seeking such adjustments shall be submitted no later than 30 days after the date fixed for resumption of Work.

16.02 *Owner May Terminate for Cause*

- A. The occurrence of any one or more of the following events will constitute a default by Contractor and justify termination for cause:
1. Contractor's persistent failure to perform the Work in accordance with the Contract Documents (including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment or failure to adhere to the Progress Schedule);

2. Failure of Contractor to perform or otherwise to comply with a material term of the Contract Documents; or
 3. Contractor's repeated disregard of the authority of Owner or Engineer.
- B. If one or more of the events identified in Paragraph 16.02.A occurs, then after giving Contractor ten days written notice that Owner is considering a declaration that Contractor is in default and termination of the contract, Owner may proceed to:
1. declare Contractor to be in default, and give Contractor notice that the Contract is terminated; and
 2. enforce the rights available to Owner under any applicable performance bond.
- C. If Owner has terminated the Contract for cause, Owner may exclude Contractor from the Site, take possession of the Work, incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere, and complete the Work as Owner may deem expedient. If Owner chooses to complete the Work in accordance with this provision, Owner and Contractor expressly agree that Owner shall be exempt from publicly bidding the completion work pursuant to Section 252.022 of the Texas Local Government Code.
- D. Owner may not proceed with termination of the Contract under Paragraph 16.02.B if Contractor within seven days of receipt of notice of intent to terminate begins to correct its failure to perform and proceeds diligently to cure such failure.
- E. If Owner proceeds to complete the Work and/or correct the default, Contractor shall not be entitled to receive any further payment until the Work is completed. If the unpaid balance of the Contract Price exceeds the cost to complete the Work, including all related claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals) sustained by Owner, such excess will be paid to Contractor. If the cost to complete the Work including such related claims, costs, losses, and damages exceeds such unpaid balance, Contractor shall pay the difference to Owner.
- F. Where Contractor's services have been so terminated by Owner, the termination will not affect any rights or remedies of Owner against Contractor then existing or which may thereafter accrue, or any rights or remedies of Owner against Contractor or any surety.

16.03 *Owner May Terminate For Convenience*

- A. Upon seven days written notice to Contractor, Owner may, without cause and without prejudice to any other right or remedy of Owner, terminate the Contract. In such case, Contractor shall be paid for:
1. completed and acceptable Work executed in accordance with the Contract Documents prior to the effective date of termination;
 2. expenses sustained prior to the effective date of termination in performing services and furnishing labor, materials, or equipment as required by the Contract Documents in connection with uncompleted Work;
 3. demobilization expenses; and
 4. overhead and profit on unperformed work. .
- B. Contractor shall not be paid for any economic loss arising out of or resulting from such termination, except for those costs expressly identified above..

16.04 *Contractor May Stop Work or Terminate*

- A. If, through no act or fault of Contractor, (1) the Work is suspended for more than 180 consecutive days by Owner or under an order of court or other public authority, or (2) Engineer fails to act on any Application for Payment within 30 days after it is submitted, or (3) Owner fails for 30 days to pay Contractor any sum finally determined to be due, then Contractor may, upon seven days written notice to Owner and Engineer, and provided Owner or Engineer do not remedy such suspension or failure within that time, terminate the contract and recover from Owner payment on the same terms as provided in Paragraph 16.03.
- B. In lieu of terminating the Contract and without prejudice to any other right or remedy, if Engineer has failed to act on an Application for Payment within 30 days after it is submitted, or Owner has failed for 30 days to pay Contractor any sum finally determined to be due, Contractor may, seven days after written notice to Owner and Engineer, stop the Work until payment is made of all such amounts due Contractor. The provisions of this paragraph are not intended to preclude Contractor from submitting a Change Proposal for an adjustment in Contract Price or Contract Times or otherwise for expenses or damage directly attributable to Contractor's stopping the Work as permitted by this paragraph.

ARTICLE 17 – FINAL RESOLUTION OF DISPUTES

17.01 *Methods and Procedures*

- A. *Disputes Subject to Final Resolution:* The following disputed matters are subject to final resolution under the provisions of this Article:
 - 1. A timely appeal of an approval in part and denial in part of a Claim, or of a denial in full; and
 - 2. Disputes between Owner and Contractor concerning the Work or obligations under the Contract Documents, and arising after final payment has been made.
 - 3. Reserved claims of Owner or Contractor under these Control Documents, including Article 12.
- B. *Final Resolution of Disputes:*
 - 1. For any disputes subject to this article, Owner and Contractor shall endeavor to resolve their Claims by mediation. The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction. Mediation is a condition precedent to litigation before a court of competent jurisdiction.
 - 2. For any claim not resolved by mediation, the parties agree to submit such claims to the jurisdiction of the District Court of Harris County, Texas for final dispute resolution.

ARTICLE 18 – MISCELLANEOUS

18.01 *Giving Notice*

- A. Whenever any provision of the Contract Documents requires the giving of written notice, it will be deemed to have been validly given if:
1. delivered in person, by a commercial courier service or otherwise, to the individual or to a member of the firm or to an officer of the corporation for which it is intended;
 2. delivered at or sent by registered or certified mail, postage prepaid, to the last business address known to the sender of the notice; or
 3. delivered by electronic means with a corresponding confirmation of delivery or read receipt.

18.02 *Computation of Times*

- A. When any period of time is referred to in the Contract by days, it will be computed to exclude the first and include the last day of such period. If the last day of any such period falls on a Saturday, Sunday or a legal holiday, the computation of time will conclude on the next business day.

18.03 *Cumulative Remedies*

- A. The duties and obligations imposed by these General Conditions and the rights and remedies available hereunder to the parties hereto are in addition to, and are not to be construed in any way as a limitation of, any rights and remedies available to any or all of them which are otherwise imposed or available, by special warranty or guarantee, or by other provisions of the Contract.

18.04 *Limitation of Damages*

- A. The Contractor and Owner waive claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes:
1. damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and
 2. damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, bonding capacity, business and reputation, and for loss of profit except anticipated profit arising directly from the Work.

18.05 *No Waiver*

- A. A party's non-enforcement of any provision shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Contract.

18.06 *Survival of Obligations*

- A. All representations, indemnifications, warranties, and guarantees made in, required by, or given in accordance with the Contract, as well as all continuing obligations indicated in the Contract, will survive final payment, completion, and acceptance of the Work or termination or completion of the Contract or termination of the services of Contractor.

18.07 *Controlling Law*

- A. This Contract is to be governed by the law of the state of Texas.

18.08 *Headings*

- A. Article and paragraph headings are inserted for convenience only and do not constitute parts of these General Conditions.

18.09 *Prevailing Wage*

- A. Contractor shall provide and pay for labor in accordance with the prevailing wage in the locality and shall not pay less than the prevailing wage.

18.10 *Right to Audit:*

- A. Whenever the Owner enters into any type of contractual arrangement with the Contractor, then the Contractor's "records" shall upon reasonable notice be open to inspection and subject to audit and/or reproduction during normal business working hours. The Owner's representative, or an outside representative engaged by the Owner, may perform such audits. The Contractor shall maintain all records relating to this Agreement for four (4) years from the date of final payment under this Agreement.
- B. The Owner shall have the exclusive right to examine the records of the Contractor. The term "records" as referred to herein shall include any and all information, materials and data of every kind and character, including without limitation records, books, papers, documents, contracts, schedules, commitments, arrangements, notes, daily diaries, reports, drawings, receipts, vouchers and memoranda, and any and all other agreements, sources of information and matters that may, in the Owner's judgment, have any bearing on or pertain to any matters, rights, duties or obligations under or covered by any contract document. Such records shall include (hard copy, as well as computer-readable data if it can be made available), written policies and procedures, time sheets, payroll registers, cancelled checks, personnel file data, correspondence, general ledger entries, and any other record in the Contractor's possession which may have a bearing on matters of interest to the Owner in connection with the Contractor's dealings with the Owner (all of the foregoing are hereinafter referred to as "records"). In addition, the Contractor shall permit interviews of employees as well as agents, representatives, vendors, subcontractors and other third parties paid by the Contractor to the extent necessary to adequately permit evaluation and verification of the following:
 - 1. The Contractor's compliance with contract requirements;
 - 2. The Contractor's compliance with the Owner's business ethics policies; and
 - 3. If necessary, the extent of the Work performed by the Contractor at the time of contract termination.
- C. The Contractor shall require all payees (examples of payees include subcontractors, insurance agents, material suppliers, etc.) to comply with the provisions of this Article 18.01 by securing the requirements hereof in a written agreement between the Contractor and payee. Such requirements include a flow-down right of audit provision in contracts with payees that also apply to subcontractors and sub-subcontractors, material suppliers, etc. The Contractor shall cooperate fully and shall require Related Parties and all of the Contractor's subcontractors to cooperate fully in furnishing or in making available to the Owner from time to time whenever requested, in an expeditious manner, any and all such information, materials, and data.

- D. The Owner's authorized representative or designee shall have reasonable access to the Contractor's facilities, shall be allowed to interview all current or former employees to discuss matters pertinent to the performance of this Agreement, and shall be provided adequate and appropriate work space in order to conduct audits in compliance with this Article 18.10.
- E. If an audit inspection or examination in accordance with this Article 18.10 discloses overpricing or overcharges of any nature by the Contractor to the Owner in excess of one-half of one percent (.5%) of the total contract billings, then the reasonable actual cost of the Owner's audit shall be reimbursed to the Owner by the Contractor. Any adjustments and/or payments, which must be made as a result of any such audit or inspection of the Contractor's invoices and/or records, shall be made within a reasonable amount of time (not to exceed 90 days) from presentation of the Owner's findings to the Contractor.

SUPPLEMENTARY CONDITIONS OF AGREEMENT

1. GENERAL

1.1 The provisions of this part of the specifications shall govern in the event of any conflict between this part and the General Conditions.

2. DEFINITIONS

2.1 Owner: Where in the Specifications the term "Owner" is used, it is understood to refer to the City of Deer Park, Texas.

2.2 Engineer: The work "Engineer" in these specifications shall be understood to refer to the City Engineer or his designated representative of the City of Deer Park and authorized to act as an agent for the Owner.

2.3 Contractor: Wherever in these Specifications the term "Contractor" is used, it is understood to mean the person, persons, co-partnership or corporation who has or have agreed to perform the work contained in this Contract, or his, or their authorized representative.

2.4 Extra Work: The term "Extra Work" as defined in the General Conditions of Agreement is hereby clarified with relation to the Extra Work Orders. All orders shall be signed by the "Owner".

3. LOCATION OF WORK

3.1 The site of work is located within the City Limits of Deer Park, Texas. The drawings will show more specific locations.

4. SCOPE OF WORK

4.1 The Contractor is to provide and complete all requirements as defined within the Contract Documents, as set forth in the detailed Specifications and Instructions herein. All work shall be completed and all materials furnished in strict conformity with the Contract Documents.

5. COMPLETION TIME

5.1 The entire project as indicated herein, and provided in the Contract Documents and Plans, shall be completed as indicated in the Proposal and beginning ten (10) days after the date of notice to proceed. Unless otherwise stipulated, the work shall begin no later than ten (10) days after written notice to proceed is issued. Time charges will commence either on the tenth (10th) day after the stipulated notice date or when the contractor moves in on the job site, whichever occurs first.

6. LIQUIDATED DAMAGES FOR DELAYS

6.1 Time is of utmost essence for this Contract; it being important that this public improvement be quickly completed. The Contractor and Owner understand and agree that a breach of this Contract as to completion on time will cause damage to Owner, but further agree that such damages can not be accurately measured, or that ascertainment will be difficult. Therefore, parties agree that for each and every calendar day work, or any portion thereof, shall remain uncompleted after expiration of time limit set in Contract, or as extended, Contractor shall pay as minimum liquidated damages the following amount:

| Amount of Contract | Damages Per Calendar Day |
|--------------------------------|--------------------------|
| Under \$1,000.00 | \$ 10.00 |
| \$1,000.00 to 10,000.00 | 20.00 |
| \$10,001.00 to 50,000.00 | 50.00 |
| \$50,001.00 to 100,000.00 | 100.00 |
| \$100,001.00 to 250,000.00 | 150.00 |
| \$250,001.00 to 500,000.00 | 250.00 |
| \$500,001.00 to 750,000.00 | 325.00 |
| \$750,001.00 to 1,000,000.00 | 400.00 |
| \$1,000,001.00 to 1,500,000.00 | 525.00 |
| \$1,500,001.00 to 2,000,000.00 | 650.00 |
| \$2,000,001.00 to 3,000,000.00 | 900.00 |
| \$Over \$ 3,000,000.00 | 1,100.00 |

6.2 However, foregoing agreement as to liquidated damages constitutes only an agreement by Owner and Contractor as to minimum amount of damages which Owner will sustain in any event by reason of Contractor's failure to complete work within specified time. Should Owner suffer damage over and above minimum amount specified by reason of Contractor's failure to begin work when ordered, carry it forward uninterruptedly after beginning, or complete it within specified time in strict accordance with Plans and Specification, Owner may recover such additional amount. Owner has right to deduct and withhold amount of any and all such damages, whether it be the minimum amount agreed upon or otherwise, from any moneys owing by it to said Contractor or Owner may recover such amount from Contractor and sureties on his bond; all of such remedies shall be cumulative and Owner shall not be required to elect any one, nor be deemed to have made an election by proceeding to enforce any one remedy.

7. GUARANTEE AGAINST DEFECTIVE WORK

7.1 The Contractor shall deliver to the Owner upon completion of all work provided herein, his written guarantee, made out to the Owner and in a form satisfactory to the Owner and guaranteeing (and he does hereby guarantee) all the work performed under this Contract is new

and free from faulty materials in every particular, and free from faulty workmanship, and agreeing (and he does hereby agree) to replace or re-execute without additional cost to the Owner such work as may be found to be unsatisfactory, and to make good all damage to his, or work by others, as a result of improper workmanship and materials or due to such required replacement or re-execution.

7.2 This guarantee shall be made to cover (and does cover) a period of one (1) year from the date of acceptance of all work performed under this Contract. Upon completion of the project for final acceptance, the Contractor shall submit a written guarantee as indicated above with his final estimate of payment to the Owner for approval and acceptance. The guarantee and Final Estimate will be approved when the project is completed as indicated and to the Owner's satisfaction. A "final Certificate" will be issued by the Engineer, as evidence. Neither the "Final Certificate" nor payment, nor any provisions in the Contract Documents shall relieve the Contractor of the guarantee provisions, or his responsibility for neglect or the replacement of faulty materials, or workmanship, or any other items of defect during the period of time covered by the guarantee.

8. INSURANCE REQUIREMENTS

8.1 The successful Contractor shall submit to the Owner, prior to start of work, certificates of insurance of separate endorsements obtained to his existing insurance policies in force, and acceptable to the Owner, and shall meet the minimum insurance requirements as follows:

8.1.1 Workmen's Compensation and Employer's Liability Insurance (policy must include coverage for the Texas Workman's Compensation act).

8.1.1.1 New Texas Worker's Compensation Commission Rule 28 TAC 110.110 relating to REPORTING REQUIREMENTS FOR BUILDING OR CONSTRUCTION PROJECTS FOR GOVERNMENTAL ENTITIES.

A. Definitions:

Certificate of coverage ("certificate")-A copy of a certificate of insurance, a certificate of authority to self-insure issued by the commission, or a coverage AGREEMENT (TWCC-81, TWCC-82, TWCC-83, or TWCC-84), showing statutory worker's compensation insurance coverage for the person's or entity's employees providing services on a project, for the duration of the project.

Duration of the project-includes the time from the beginning of the work on the project until the contractor's/person's work on the project has been completed and accepted by the governmental entity.

Persons providing services on the project ("subcontractor" in 406.096)-includes all persons or entities performing all or part of the services the contractor has undertaken to perform on the project, regardless of whether that person contracted directly with the contractor and regardless of whether that person has employees. This includes, without

limitation, independent contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity which furnished persons to provide services on the project. "Services" does not include activities unrelated to the project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.

B. The contractor shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all employees of the contractor providing services on the project, for the duration of the project.

C. The Contractor must provide a certificate of coverage to the governmental entity prior to being awarded the contract.

D. If the coverage period shown on the contractor's current certificate of coverage ends during the duration of the project, the contractor must, prior to the end of the coverage period, file a new certificate of coverage with the governmental entity showing that coverage has been extended.

E. The contractor shall obtain from each person providing services on a project, and provide to the governmental entity.

(1) a certificate of coverage, prior to that person beginning work on the project, so the governmental entity will have on file certificates of coverage showing coverage for all persons providing services on the project; and

(2) no later than seven days after receipt by the contractor, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project.

F. The contractor shall retain all required certificates of coverage for the duration of the project and for one year thereafter.

G. The contractor shall notify the governmental entity in writing by certified mail or personal delivery, within 10 days after the contractor knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project.

H. The contractor shall post on each project site a notice, in the text, form and manner prescribed by the Texas Workers' Compensation Commission, informing all persons providing services on the project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.

I. The contractor shall contractually require each person with whom it contracts to provide services on a project, to:

(1) provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.00(44) for all of its employees providing services on the project, for the duration of the project;

(2) provide to the contractor, prior to that person beginning work on the project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the project, for the duration of the project;

(3) provide the contractor, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project;

(4) Obtain from each other person with whom it contracts, and provide to the contractor:

(a) a certificate of coverage, prior to the other person beginning work on the project, and

(b) a new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the project;

(5) retain all required certificates of coverage on file for the duration of the project and for one year thereafter;

(6) notify the governmental entity in writing by certified mail of personal delivery, within 10 days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project; and

(7) Contractually require each person with whom it contracts, to perform as required by paragraphs (1) – (7), with the certificates of coverage to be provided to the person for whom they are providing services.

J. By signing this contract or providing or causing to be provided a certificate of coverage, the contractor is representing to the governmental entity that all employees of the contractor who will provide services on the project will be covered by workers' compensation coverage for the duration of the project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage

agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the commission's Division of self-Insurance Regulations. Providing false or misleading information may subject the contractor to administrative penalties, criminal penalties, civil penalties, or other civil actions.

K. The contractor's failure to comply with any of these provisions is a breach of contract by the contractor which entitles the governmental entity to declare the contract void if the contractor does not remedy the breach within ten days after receipt of notice of breach from the governmental entity.

(I) A contractor shall:

(1) provide coverage for its employees providing services on a project, for the duration of the project based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements;

(2) Provide a certificate of coverage showing workers' compensation coverage to the governmental entity prior beginning work on the project;

(3) Provide the governmental entity, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the contractor's current certificate of coverage ends during the duration of the project.

(4) Obtain from each person providing services on a project, and provide to the governmental entity:

(A) a certificate of coverage, prior to that person beginning work on the project, so the governmental entity will have on file certificates of coverage showing coverage for all persons providing services on the project; and

(B) no later than seven days after receipt by the contractor, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project;

(5) Retain all required certificates of coverage on file for the duration of the project and for one year thereafter;

(6) Notify the governmental entity in writing by certified mail or personal delivery, within 10 days after the contractor knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project;

(7) Post a notice on each project site informing all persons providing services on the project that they are required to be covered, and stating how a person may verify current coverage and report failure to provide coverage. This notice does not satisfy other posting requirements imposed by the Act or other commission rules. This notice must be printed with a title in at least 30 point bold type and text in at least 19 point normal type, and shall be in both English and Spanish and any other language common to the worker population. The text for the notices shall be the following text in Figure 2 provided by the commission on the sample notice, without any additional words or changes.

REQUIRED WORKER'S COMPENSATION COVERAGE

"The law requires that each person working on this site or providing services related to this construction project must be covered by workers' compensation insurance. This includes person providing hauling, or delivering equipment or materials, or providing labor or transportation or other service related to the project, regardless of the identity of their employer or status as an employee."

"Call the Texas Workers' Compensation Commission at 512-440-3789 to receive information on the legal requirements for coverage, to verify whether your employer has provided the required coverage, or to report an employer's failure to provide coverage."

(8) Contractually require each coverage, or to report an employer's failure to provide services on a project to:

(A) provide coverage based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements for all of its employees providing services on the project, for the duration of the project;

(B) provide a certificate of coverage to the contractor prior to that person beginning work on the project;

(C) include in all contracts to provide services on the project the language in subsection (e)(3) of this rule;

(D) provide the contractor, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project;

(E) obtain from each other person with whom it contracts, and provide to the contractor:

(i) a certificate of coverage, prior to the other person beginning work on the project; and

(ii) prior to the end of the coverage period, a new certificate of coverage showing extension of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the project;

(F) retain all required certificates of coverage on file for the duration of the project and for one year thereafter;

(G) notify the governmental entity in writing by certified mail or personal delivery, within 10 days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project; and

(H) contractually require each other person with whom it contracts, to perform as required by paragraphs (A)-(H), with the certificate of coverage to be provided to the person for whom they are providing services.

(II) A person providing services on a project, other than a contractor, shall:

(1) provide coverage for its employees providing services on a project, for the duration of the project based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements;

(2) provide a certificate of coverage as required by its contract to provide services on the project, prior to beginning work on the project;

(3) have the following language in its contract to provide services on the project:

“By signing this contract or providing or causing to be provided a certificate of coverage, the person signing this contract who will provide services on the project will be covered by workers’ compensation coverage for the duration of the project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier of, in the case of a self-insured, with the commission’s Division of Self-Insurance Regulation. Providing false or misleading information may subject the contractor to administrative penalties, criminal penalties, civil penalties, or other civil actions.”

(4) provide the person for whom it is providing services on the project, prior to the end of the coverage period shown on its current certificate of coverage, a new certificate showing extension of coverage, if the coverage period shown on the certificate ends during the duration of the project:

(5) obtain from each person providing services on a project under contract to it, and provide as required by its contract:

(A) a certificate of coverage, prior to the other person beginning work on the project; and

(B) prior to the end of the coverage period, a new certificate of coverage showing extension of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the project;

(6) retain all required certificates of coverage on file for the duration of the project and for one year thereafter;

(7) notify the governmental entity in writing by certified mail or personal delivery, of any change that materially affects the provision of coverage of any person providing services on the project and send the notice within 10 days after the person knew or should have known of the change;

(8) contractually require each other person with whom it contracts to:

(A) provide coverage based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements for all of its employees providing services on the project, for the duration of the project;

(B) provide a certificate of coverage to it prior to that person beginning work on the project;

(C) include in all contracts to provide services on the project the language in subsection (e)(3) of this rule;

(D) provide, prior to the end of the coverage period, a new certificate of coverage showing extension of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the project;

(E) obtain from each other person under contract to it to provide services on the project, and provide as required by its contract;

(i) a certificate of coverage, prior to the other person beginning work on the project; and

(ii) prior to the end of the coverage period, a new certificate of coverage showing extension of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the contract;

(F) retain all required certificates of coverage on file for the duration of the project and for one year thereafter;

(G) notify the governmental entity in writing by certified mail or personal delivery, within 10 days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project; and

(H) contractually require each person with whom it contracts, to perform as required by paragraphs (A)-(H), with the certificate of coverage to be provided to the person for whom they are providing services.

(III) If any provision of this rule or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this rule that can be given effect without the invalid provisions of this rule are declared to be severable.

(IV) This rule is applicable for building or construction contracts advertised for bid by a governmental entity on or after September 1, 1994.

8.1.2 Comprehensive General Liability with Limits not less than:

| | |
|-------------------------|--|
| Bodily Injury Liability | \$100,000/person \$300,000/accident |
|-------------------------|--|

| | |
|---------------------------|--|
| Property Damage Liability | \$50,000/accident \$100,000/aggregate |
|---------------------------|--|

8.1.3 Comprehensive Automobile Liability with Limits not less than:

| | |
|-------------------------|--|
| Bodily Injury Liability | \$100,000/person \$300,000/accident |
|-------------------------|--|

| | |
|---------------------------|-------------------|
| Property Damage Liability | \$25,000/accident |
|---------------------------|-------------------|

8.1.4 The remaining term of all policies shall extend at least to the completion date of the Contract; if the expiration date shall occur prior to final completion of all operations hereunder, Contractor shall, not less than 15 days prior to expiration date, furnish evidence to renewal or of extension of such insurance. All such evidence of insurance shall provide for 15 days prior notice to be given to Owner in the event of cancellation.

8.1.5 The Contractor agrees to indemnify and to hold the Owner and the Engineer harmless from and against any and all damages, claims, demands, suits, judgments, and costs including attorney's fees and expenses for or on account of damage to property of any person or persons (including property and employees of the Owner, the Contractor and employees of the Contractor) directly or indirectly arising out of, or caused by or in connection with the performance of or failure to perform any work provided for hereunder by the Contractor, his sub-contractors, or their or the Contractors agents, servants or employees.

9. SANITARY FACILITIES

9.1 Adequate facilities shall be provided not less than 150 feet from any existing or proposed water well and shall be properly maintained in good sanitary conditions at a location for use by all employees and by the Engineer. The sanitary facilities shall be well ventilated, provided with proper concealment, and shall be kept clean at all times. Upon completion of the work, the facilities shall be removed, and the site restored to its original condition, and to the Owner's complete satisfaction.

10. EXISTING TOPOGRAPHY

10.1 The natural ground contours and topographic features indicated on the drawings are based on latest topographic surveys available, and have been used to estimate quantities; however, the degree of accuracy of this information shall in no way relieve the Contractor or others of any responsibility for the proper performance of the work, or obligations of the Contract Documents.

11 PROPERTY LINES AND MONUMENTS

11.1 The Contractor shall be responsible for protecting reference markers, property line markers, monuments and engineering stakes, and shall reset any such markers, monuments, or stakes damaged or obliterated by the construction crews under this authority, at his own expense, and shall reset same to the satisfaction of the Engineer.

12 OTHER CONTRACTS

12.1 The Owner reserves the right to let other contractors in connection with this work. The Contractor shall afford other Contractors reasonable opportunity for the introduction and storage of their materials and the execution of their work, and where required, shall properly connect and coordinate his work with theirs.

13. PERMITS AND LICENSES

13.1 All permits and licenses of a temporary nature necessary for the prosecution of the work shall be secured and paid for by the Contractor.

14. CONTRACTOR'S SUPERVISORS AND REPRESENTATIVES

14.1 Provisions shall be made for all personnel and material to perform necessary administration, supervision, coordination, and field engineering required for the performance of the work peculiar to the Contract. Only competent and skilled supervision will be permitted at the job site throughout all phases of the project execution. Their supervisors shall be experienced in and familiar with, the particular type of work under their charge, and shall be fully capable of completely directing the work in accordance with the intent of the Plans and specifications. The Contractor shall also insure that qualified representatives are available at all times to answer questions or to otherwise represent the Contractor for the Engineer and Owner.

15. MATERIALS AND WORKMANSHIP

15.1 All equipment and materials to be provided shall be new and unused. Where materials or equipment are specified by a trade or brand name, it is not the Owner's intention to discriminate against an equal product of another manufacturer, but is intended to set a definite standard of quality or performance, and to establish an equal basis for the evaluation of bids. Where the words, "equivalent", "proper", "approved equal", or "equal to" are used, they shall be understood to mean the item referred to shall be proper, the equivalent of, or equal to the desired type rather than brand in the opinion or judgement of the Engineer. Notwithstanding that the words "or equal to" or other such expressions may be used in the Specifications in connection with a material, manufactured article or process specifically designated shall be used, unless a substitute shall be approved in writing by the Engineer. The Engineer shall have the right to require the use of such specifically designated material, article or process, if in his opinion it is to the Owner's best interest.

16. STORAGE OF MATERIALS

16.1 Suitable water-tight storage facilities, of ample sizes with floors raised above the ground, shall be provided for all types of materials that are liable to damage caused from exposure to the weather. Other materials shall be stored on blocks or platforms above the ground. Materials shall be so placed as to permit easy access for the proper inspection and identification. Any material which is deteriorated, damaged or otherwise unsatisfactory for use, shall be removed from the site of work. Upon completion of all work and when directed, the storage facilities shall be removed from the site.

17. PROTECTION OF FACILITIES

17.1 Pipelines and other existing underground installations and structures in the vicinity of the work are indicated on the drawings according to the best information available to the Engineer. The Owner or the Engineer does not guarantee the accuracy of such information. Every effort shall be made to locate all underground pipelines, conduits, and structures by contracting owners of underground utilities, and by prospecting in advance of all trench excavation. Any existing utilities that are damaged directly or indirectly by the Contractor shall be repaired at the expense of the Contractor.

17.2 Any delay or extra cost to the contractor caused by pipelines, or other underground structures, or obstructions not shown on the drawings, or found in locations different from that indicated, shall not constitute a claim for extra work, additional payment, or damages.

18. CONSTRUCTION SCHEDULE

18.1 All bidders shall include with their proposal a preliminary construction schedule for the Contract. Within fifteen (15) days after award of contract, the successful Contractor shall submit to the Owner a completely detailed construction schedule.

19. PERIODAL AND FINAL CLEAN-UP

19.1 When necessary, and at least once a month, the premises shall be cleaned of all rubbish and waste material, regardless as to whether the accumulation is caused by his employees, sub-contractors, or by the work. Clean-up shall be subject to approval by the Inspector. If the premises are not cleaned up within twenty-four (24) hours after the clean-up is directed by the Inspector, the Owner does hereby reserve the right to clean the premises and withhold the expenditure from payments due the Contractor.

19.2 Upon completion of project construction, and prior to final payment, as directed by the Inspector and at no added cost to the Owner, all tools, equipment, surplus materials, debris and rubbish shall be removed from the site of work and the surrounding premises. All properties (including work areas, and access roads) shall be restored to their original condition.

20. MEASUREMENT AND PAYMENT

20.1 The contractor shall furnish the Engineer and the Owner a breakdown of major classes of work and materials as an aid in determining the amount of monthly pay estimates. This breakdown shall be submitted thirty (30) days after work has commenced and on the first day of each month thereafter, for all work performed and materials supplied, for the Engineer's approval and payment, until the project is completed and final acceptance is made. The Owner shall be responsible for all authorized charges and payments made in connection with the provisions of the Contract Documents of Proposal.

21. PAYMENT – RETAINAGE

21.1 The Owner shall pay the Contractor, on or before the 30th day of the current month, the total amount of the approved statement, less 10% retainage, which shall be retained until final payment, and further less all previous payments and all further sums that may be retained by the Owner under the terms of this Agreement. If the total Contract Price at time of contract execution is Four Hundred Thousand Dollars (\$400,000.00), or more, if approved by the City Engineer, retainage can be reduced to five percent (5%). A Contract that exceeds \$400,000.00 and 10% retainage is with-held, interest earned on the 5% extra retainage will be due to the Prime Contract upon completion of the contract.

22. AVAILABILITY OF UTILITIES

22.1 The Contractor shall pay all expenses for the necessary utilities connected with the construction of this project.

23. EXAMINATION OF SITE

23.1 It shall be the responsibility of the Contractor to make his own survey of the site of the work and to familiarize himself with all characteristics and conditions existing throughout the full extent of the work. No claim for extra compensation will be approved that is based on the fact that the Contractor failed to estimate the amount of labor and materials required to complete the project in accordance with the Plans and Specifications.

24. ASSIGNMENT AND SUBLETTING

24.1 The contractor shall perform with his own organization and with the assistance of workmen under his immediate superintendence, work of a value not less than 50 percent of the value of all work embraced in the contract exclusive of items not commonly found in contracts for similar work, or which require highly specialized knowledge, craftsmanship and/or equipment not ordinarily available in the organizations of Contractors performing work of the character embraced in the contract. Written consent to sublet, assign or otherwise dispose of any portion of the contract shall not be construed to relieve the Contractor of any responsibility for the fulfillment of the contract.

25. LABOR CLASSIFICATION AND MINIMUM WAGE SCALE

25.1 Wage Scale: Article 5159-a of the revised Civil statutes of Texas, passed by the 43rd Legislature Acts of 1993, Page 91, Chapter 45, provides that any government subdivision shall ascertain the general prevailing rate of per diem wages in the locality in which the work is to be performed for each craft or type of workman or mechanic and shall specify in the call for bids and in the contract the prevailing rate of per diem wages which shall be paid for each craft type of workman. This article further provides that the Contract shall forfeit, as penalty, to the City, County, or State, or other political subdivision, Ten Dollars (\$10.00) per day for each laborer, workman, or mechanic who is not paid the stipulated wage for the type of work performed by him as set up in the wage scale. The OWNER is authorized to withhold from the Contractor the amount of this penalty in any payment that might be claimed by the Contractor or subcontractor, The Act makes the Contractor responsible for the acts of the subcontractor in this respect.

The article, likewise, required that the Contractor and subcontractor keep an accurate record of the names and occupations of all persons employed by him and show the actual per diem wages paid to each worker and these records are open to the inspection of the OWNER.

The attached wage rate "GENERAL DECISION: TX140042 01/03/2014 TX42" is hereby made part of the contract.

General Decision Number: TX140042 01/03/2014 TX42

Superseded General Decision Number: TX20130042

State: Texas

Construction Type: Heavy

County: Harris County in Texas.

HEAVY CONSTRUCTION PROJECTS Including Water and Sewer Lines
(Does Not Include Flood Control).

Modification Number Publication Date
0 01/03/2014

* SFTX0669-001 07/01/2013

| | Rates | Fringes |
|--|----------|---------|
| SPRINKLER FITTER (Fire Sprinklers)..... | \$ 26.36 | 16.62 |
| ----- | | |
| SUTX2005-019 08/16/2005 | | |

| | Rates | Fringes |
|-----------------------------------|----------|---------|
| CARPENTER..... | \$ 14.04 | 0.00 |
| CEMENT MASON/CONCRETE FINISHER... | \$ 12.50 | 1.17 |
| ELECTRICIAN..... | \$ 17.00 | 0.04 |
| Formbuilder/Formsetter..... | \$ 13.84 | 1.17 |
| IRONWORKER, REINFORCING..... | \$ 11.28 | 0.00 |
| Laborers: | | |
| Common..... | \$ 8.94 | 0.00 |
| Landscape..... | \$ 7.35 | 0.00 |
| Mason Tender Cement..... | \$ 9.94 | 0.00 |
| Pipelayer..... | \$ 10.14 | 0.00 |
| PIPEFITTER..... | \$ 17.00 | 0.04 |
| POWER EQUIPMENT OPERATOR: | | |
| Backhoe..... | \$ 13.47 | 0.00 |
| Bulldozer..... | \$ 12.58 | 0.00 |
| Crane..... | \$ 15.33 | 0.57 |
| Excavator..... | \$ 16.37 | 0.00 |
| Front End Loader..... | \$ 12.16 | 0.00 |
| Grader..... | \$ 12.20 | 1.48 |
| Tractor..... | \$ 15.00 | 0.00 |
| TRUCK DRIVER..... | \$ 12.02 | 1.02 |
| ----- | | |

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

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

The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of "identifiers" that indicate whether the particular rate is union or non-union.

Union Identifiers

An identifier enclosed in dotted lines beginning with characters other than "SU" denotes that the union classification and rate have found to be prevailing for that classification. Example: PLUM0198-005 07/01/2011. The first four letters, PLUM, indicate the international union and the four-digit number, 0198, that follows indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. The date, 07/01/2011, following these characters is the effective date of the most current negotiated rate/collective bargaining agreement which would be July 1, 2011 in the above example.

Union prevailing wage rates will be updated to reflect any changes in the collective bargaining agreements governing the rates.

0000/9999: weighted union wage rates will be published annually each January.

Non-Union Identifiers

Classifications listed under an "SU" identifier were derived from survey data by computing average rates and are not union rates; however, the data used in computing these rates may include both union and non-union data. Example: SULA2004-007 5/13/2010. SU indicates the rates are not union majority rates, LA indicates the State of Louisiana; 2004 is the year of the

survey; and 007 is an internal number used in producing the wage determination. A 1993 or later date, 5/13/2010, indicates the classifications and rates under that identifier were issued as a General Wage Determination on that date.

Survey wage rates will remain in effect and will not change until a new survey is conducted.

WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- * an existing published wage determination
- * a survey underlying a wage determination
- * a Wage and Hour Division letter setting forth a position on a wage determination matter
- * a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative

Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

=====

END OF GENERAL DECISION

The attached wage rate "GENERAL DECISION: TX140056 01/03/2014 TX56" is hereby made part of the contract.

General Decision Number: TX140056 01/03/2014 TX56

Superseded General Decision Number: TX20130056

State: Texas

Construction Type: Highway

Counties: Austin, Brazoria, Chambers, Fort Bend, Galveston, Hardin, Harris, Jefferson, Liberty, Montgomery, Orange, San Jacinto and Waller Counties in Texas.

HIGHWAY CONSTRUCTION PROJECTS (excluding tunnels, building structures in rest area projects & railroad construction; bascule, suspension & spandrel arch bridges designed for commercial navigation, bridges involving marine construction; and other major bridges).

| | |
|---------------------|------------------|
| Modification Number | Publication Date |
| 0 | 01/03/2014 |

* SUTX2011-013 08/10/2011

| | Rates | Fringes |
|---|----------|---------|
| CEMENT MASON/CONCRETE FINISHER (Paving and Structures)..... | \$ 12.98 | |
| ELECTRICIAN..... | \$ 27.11 | |

FORM BUILDER/FORM SETTER

Paving & Curb.....\$ 12.34
Structures.....\$ 12.23

LABORER

Asphalt Raker.....\$ 12.36
Flagger.....\$ 10.33
Laborer, Common.....\$ 11.02
Laborer, Utility.....\$ 11.73
Pipelayer.....\$ 12.12
Work Zone Barricade
Servicer.....\$ 11.67

PAINTER (Structures).....\$ 18.62

POWER EQUIPMENT OPERATOR:

Asphalt Distributor.....\$ 14.06
Asphalt Paving Machine.....\$ 14.32
Broom or Sweeper.....\$ 12.68
Concrete Pavement
Finishing Machine.....\$ 13.07
Concrete Paving, Curing,
Float, Texturing Machine....\$ 11.71
Concrete Saw.....\$ 13.99
Crane, Hydraulic 80 Tons
or less.....\$ 13.86
Crane, Lattice boom 80
tons or less.....\$ 14.97
Crane, Lattice boom over
80 Tons.....\$ 15.80
Crawler Tractor.....\$ 13.68
Excavator, 50,000 pounds
or less.....\$ 12.71
Excavator, Over 50,000
pounds.....\$ 14.53
Foundation Drill, Crawler
Mounted.....\$ 17.43
Foundation Drill, Truck
Mounted.....\$ 15.89
Front End Loader 3 CY or
Less.....\$ 13.32
Front End Loader, Over 3 CY.\$ 13.17
Loader/Backhoe.....\$ 14.29
Mechanic.....\$ 16.96
Milling Machine.....\$ 13.53
Motor Grader, Fine Grade....\$ 15.69
Motor Grader, Rough.....\$ 14.23
Off Road Hauler.....\$ 14.60
Pavement Marking Machine....\$ 11.18
Piledriver.....\$ 14.95
Roller, Asphalt.....\$ 11.95
Roller, Other.....\$ 11.57
Scraper.....\$ 13.47
Spreader Box.....\$ 13.58

Servicer.....\$ 13.97

Steel Worker
Reinforcing Steel.....\$ 15.15
Structural Steel Welder.....\$ 12.85
Structural Steel.....\$ 14.39

TRUCK DRIVER
Low Boy Float.....\$ 16.03
Single Axle.....\$ 11.46
Single or Tandem Axle Dump..\$ 11.48
Tandem Axle Tractor w/Semi
Trailer.....\$ 12.27

WELDERS - Receive rate prescribed for craft performing
operation to which welding is incidental.
=====

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

The body of each wage determination lists the classification
and wage rates that have been found to be prevailing for the
cited type(s) of construction in the area covered by the wage
determination. The classifications are listed in alphabetical
order of "identifiers" that indicate whether the particular
rate is union or non-union.

Union Identifiers

An identifier enclosed in dotted lines beginning with
characters other than "SU" denotes that the union
classification and rate have been found to be prevailing for that
classification. Example: PLUM0198-005 07/01/2011. The first
four letters , PLUM, indicate the international union and the
four-digit number, 0198, that follows indicates the local union
number or district council number where applicable , i.e.,
Plumbers Local 0198. The next number, 005 in the example, is
an internal number used in processing the wage determination.
The date, 07/01/2011, following these characters is the
effective date of the most current negotiated rate/collective
bargaining agreement which would be July 1, 2011 in the above
example.

Union prevailing wage rates will be updated to reflect any
changes in the collective bargaining agreements governing the
rates.

0000/9999: weighted union wage rates will be published annually

each January.

Non-Union Identifiers

Classifications listed under an "SU" identifier were derived from survey data by computing average rates and are not union rates; however, the data used in computing these rates may include both union and non-union data. Example: SULA2004-007 5/13/2010. SU indicates the rates are not union majority rates, LA indicates the State of Louisiana; 2004 is the year of the survey; and 007 is an internal number used in producing the wage determination. A 1993 or later date, 5/13/2010, indicates the classifications and rates under that identifier were issued as a General Wage Determination on that date.

Survey wage rates will remain in effect and will not change until a new survey is conducted.

WAGE DETERMINATION APPEALS PROCESS

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- * a survey underlying a wage determination
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2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

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U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

END OF GENERAL DECISION

STATEMENT OF BIDDERS QUALIFICATIONS

Submitted to City of Deer Park

By _____ (Contractor)

The signatory of this questionnaire guarantees the truth and accuracy of all statements and of all answers to interrogatories hereinafter made.

1. How many years has your organization been in business as a general contractor under your present business name? _____

2. How many years experience in this type of construction work has your organization had:
(a) as a general contractor? _____
(b) as a sub-contractor? _____
3. What are some of the similar projects your firm has completed? (list: a) contract amount b) class of work c) date completed d) name, address and phone number of Owner)

4. Have you ever failed to complete any work awarded to you?

If so, where and why? _____

5. In what manner have you inspected this proposed work? Explain in detail.

6. Explain your plan or layout for performing the proposed work, by separate sketches if necessary.

7. The work, if awarded to you, will have the personal supervision of whom?

(a) For administrative management? _____

(b) For resident construction superintendence? _____

(c) What experience has your superintendent had in the type work proposed?

8. What portions of the work do you intend to sublet and to whom?

9. What equipment do you own that is available for the proposed work?
(list: a) quantity b) items c) description, size, capacity, etc. d) condition e) years of service f) present location)

10. Have you received firm offers for all major items of equipment within prices used in preparing your proposal?

11. List the construction projects your organization has under way on this date: [indicate a) contract amount b) class of work c) percent completed d) name and address of owner or contracting officer]

Date: _____

By: _____
Officer

CONFLICT OF INTEREST QUESTIONNAIRE

In accordance with H.B. 914 the City of Deer Park is required to file the enclosed form (CIQ), Conflict of Interest Questionnaire with the City Secretary's office with any vendor that the City will contract with for purchases and services of any kind.

In order to comply with this State Requirement the City is requesting that your company as a potential contracted vendor with the City of Deer Park complete this form and submit it with your bid documents. This form will be considered part of the bid package. Failure to complete and submit this form with your bid could delay the award of your bid should you meet all other requirements.

CONFLICT OF INTEREST QUESTIONNAIRE

For vendor doing business with local governmental entity

FORM CIQ

OFFICE USE ONLY

Date Received

This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.

This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).

By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. See Section 176.006(a-1), Local Government Code.

A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.

1 Name of vendor who has a business relationship with local governmental entity.

2 ☐ Check this box if you are filing an update to a previously filed questionnaire. (The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)

3 Name of local government officer about whom the information is being disclosed.

Name of Officer

4 Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relationship with the local government officer. Complete subparts A and B for each employment or business relationship described. Attach additional pages to this Form CIQ as necessary.

A. Is the local government officer or a family member of the officer receiving or likely to receive taxable income, other than investment income, from the vendor?

☐ Yes

☐ No

B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer or a family member of the officer AND the taxable income is not received from the local governmental entity?

☐ Yes

☐ No

5 Describe each employment or business relationship that the vendor named in Section 1 maintains with a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership interest of one percent or more.

6 ☐ Check this box if the vendor has given the local government officer or a family member of the officer one or more gifts as described in Section 176.003(a)(2)(B), excluding gifts described in Section 176.003(a-1).

7

Signature of vendor doing business with the governmental entity

Date

CONFLICT OF INTEREST QUESTIONNAIRE

For vendor doing business with local governmental entity

A complete copy of Chapter 176 of the Local Government Code may be found at <http://www.statutes.legis.state.tx.us/Docs/LG/htm/LG.176.htm>. For easy reference, below are some of the sections cited on this form.

Local Government Code § 176.001(1-a): "Business relationship" means a connection between two or more parties based on commercial activity of one of the parties. The term does not include a connection based on:

- (A) a transaction that is subject to rate or fee regulation by a federal, state, or local governmental entity or an agency of a federal, state, or local governmental entity;
- (B) a transaction conducted at a price and subject to terms available to the public; or
- (C) a purchase or lease of goods or services from a person that is chartered by a state or federal agency and that is subject to regular examination by, and reporting to, that agency.

Local Government Code § 176.003(a)(2)(A) and (B):

(a) A local government officer shall file a conflicts disclosure statement with respect to a vendor if:

(2) the vendor:

(A) has an employment or other business relationship with the local government officer or a family member of the officer that results in the officer or family member receiving taxable income, other than investment income, that exceeds \$2,500 during the 12-month period preceding the date that the officer becomes aware that

(i) a contract between the local governmental entity and vendor has been executed;

or

(ii) the local governmental entity is considering entering into a contract with the vendor;

(B) has given to the local government officer or a family member of the officer one or more gifts that have an aggregate value of more than \$100 in the 12-month period preceding the date the officer becomes aware that:

- (i) a contract between the local governmental entity and vendor has been executed; or
- (ii) the local governmental entity is considering entering into a contract with the vendor.

Local Government Code § 176.006(a) and (a-1)

(a) A vendor shall file a completed conflict of interest questionnaire if the vendor has a business relationship with a local governmental entity and:

(1) has an employment or other business relationship with a local government officer of that local governmental entity, or a family member of the officer, described by Section 176.003(a)(2)(A);

(2) has given a local government officer of that local governmental entity, or a family member of the officer, one or more gifts with the aggregate value specified by Section 176.003(a)(2)(B), excluding any gift described by Section 176.003(a-1); or

(3) has a family relationship with a local government officer of that local governmental entity.

(a-1) The completed conflict of interest questionnaire must be filed with the appropriate records administrator not later than the seventh business day after the later of:

(1) the date that the vendor:

(A) begins discussions or negotiations to enter into a contract with the local governmental entity; or

(B) submits to the local governmental entity an application, response to a request for proposals or bids, correspondence, or another writing related to a potential contract with the local governmental entity; or

(2) the date the vendor becomes aware:

(A) of an employment or other business relationship with a local government officer, or a family member of the officer, described by Subsection (a);

(B) that the vendor has given one or more gifts described by Subsection (a); or

(C) of a family relationship with a local government officer.

PART

2

1.0 Introduction

The City of Deer Park wishes to restore native wetland vegetation associated with an approximately 17-acre wetland located immediately east of East Boulevard between East Thirteenth Street and East X Street. This wetland is unique in that it is a historical swale and was placed under a restrictive easement as part of the mitigation required for the construction of East Boulevard. As such it requires special consideration for the restoration of vegetation.

The sections below describe existing conditions and requirements for restoring the vegetation of the wetland.

2.0 Existing Conditions

Existing vegetation within the wetland is typified by the presence of Chinese tallow trees (*Triadica sebifera*) with scattered native tree species including green ash (*Fraxinus pennsylvanica*), red maple (*Acer rubrum*), and laurel oak (*Quercus laurifolia*). The dominant tree species within the wetland (Chinese tallow) are primarily smaller individuals with diameter breast height (dbh) of roughly 2-5 inches with varying spacing (approximately 3-15 feet between centers); however, some larger individuals were present. Additionally, the dominant shrub species in the wetland is buttonbush (*Cephalanthus occidentalis*). Along the margins of the wetland, the non-native Cherokee rose (*Rosa laevigata*), yaupon (*Ilex vomitoria*), and blackberries (*Rubus* sp.) create relatively dense understory. Herbaceous vegetation within the wetland is quite dense and includes a number of obligate and facultative wetland species, including members of *Typha*, *Carex*, *Eleocharis*, and *Cyperus* genera. Total areal cover within the wetland was estimated to be >85%.

3.0 Vegetation Clearing Effort

With the goal of replacing non-native trees within the wetland with native species, the City of Deer Park will require the control of non-native tree species as a first step. Clearing efforts will be directed primarily at eliminating reproductive age Chinese tallow within the wetland and surrounding buffer. Doing so will require the strict use of hand clearing tools (e.g., chainsaw, hand saws, machete) to prevent the need for U.S. Army Corps of Engineers (USACE) permitting. No vehicular machinery can be used to remove vegetation. Therefore, all clearing efforts must be based on methods that do not constitute fill by the USACE Galveston District. Clearing must be carried out with the techniques described in Sections 3.1 through 3.3.

3.1 Girdle Treatment Method

Girdling is the preferred method to treat all Chinese tallow trees that are greater than 3 inches diameter at breast height (dbh). This method requires to exposing no less than a three-inch section of the tree's cambium within the lowest 24 inches of the trunk and immediately spraying the exposed cambium with herbicide (e.g., triclopyr, glyphosate, or similar) to speed the death of the tree. Although girdling may be performed at any time of the year, optimal mortality is generally achieved when herbicides can be applied during the growing season (May-August).

Treated trees will be left standing and allowed to decay as they stand. Although the density of trees in this age class ranges across the site, the bidder should expect to have to traverse the entire property. The

City of Deer Park requires that no greater than 1% of the trees in this size class will survive more than 12 months after treatment.

3.2 Stump Spray Treatment Method

Stump spray treatment is the preferred method to treat Chinese tallow trees and saplings that are less than 2 inches dbh. This method involves manually cutting the stems of the trees using hand tools (e.g., loppers, machete, or similar) and immediately spraying the exposed stump with herbicide (e.g., triclopyr, glyphosate, or similar) to speed the death of the tree. Stumps should be cut to within 6 inches of the ground or water level to ensure that resprouting does not occur. Felling and stump treatment may be performed any time of year, although optimal mortality is generally achieved when herbicides can be applied during growing season (May-August).

Felled material should be manually removed by contractor. Although the density of trees in this age class ranges across the site, this tree class is found throughout the tract. The City of Deer Park requires that no greater than 10% of the trees in this size class will survive more than 12 months after treatment.

3.3 Foliar Application Method

Treating of seedlings will be through the use of foliar herbicide application. This method entails applying herbicide (e.g., triclopyr, glyphosate, or similar) directly to the leaves of target plants using a hand-held sprayer or similar means. This method will only be used on Chinese tallow seedlings for which the entire foliar crown can be treated. If the entire crown cannot be treated, the stump spray method will be used. Foliar application must be performed during the peak of the growing season (between the months of May and August) to maximize uptake of the herbicides and thereby optimize mortality rate.

Seedlings treated by foliar application will be left standing and allowed to decay. This age class is found throughout the site. The City of Deer Park requires that no more than 10% of the seedlings will be found alive by the end of the treatment year. Although not specifically required, the City of Deer Park recommends the use of herbicide surfactants to ensure that herbicide application is successful.

3.4 Additional Recommendations

Existing native trees will be incorporated into the final stem density of woody vegetation; therefore, surveying and visibly marking native tree species with flagging ribbon will be required before clearing to prevent their removal.

The herbaceous and shrub strata of the wetland areas are relatively high functioning and have high cover in portions of the wetland. Assuming the contractor does not significantly clear these strata, they should re-establish effectively following completion of planting efforts. Trimming or locally clearing shrub vegetation may be performed by the contractor at their discretion; however, shrubs such as buttonbush will not be considered in determining the efficacy of tree planting efforts survival.

4.0 Vegetation Planting Effort

Woody vegetation will be restored throughout the site using sapling tree species representative of Gulf Coastal Plain bottomlands. As stated previously, mechanical planting techniques are impermissible without a USACE permit; therefore, all trees must be planted using manual techniques. Sections 4.1 through 4.3 provide further information on the City of Deer Park's requirements for the planting areas.

4.1 Planting Zones and Stem Spacing

Minimum stem densities and appropriate species diversities are required to reach acceptable performance standards set forth by the USACE for the restoration of forested wetland areas. There are four general planting zones within the wetland:

- 1) Open water – approximately 0.25 acre with approximately 150 yards of perimeter
- 2) Saturated wetland – approximately 2.2 acres with approximately 500 yards of perimeter
- 3) Seasonally saturated wetland – approximately 7.2 acres with approximately 1,000 yards of perimeter
- 4) Wetland fringe – remainder of the wetland (approximately 8.1 acres) and the upland buffer, as described by the conservation easement boundaries

Open water areas will not require planting efforts; however, all other zones will require at least some tree planting. See Table 1 for a description revegetation requirements. The seasonally saturated and fringe areas will be planted on approximately 10-foot centers (approximately 436 stems per acre) whereas the saturated wetland will be planted on approximately 12-foot centers (approximately 303 stems per acre).

Table 1. Densities and quantities of individuals required per planting zone within the Deer Park Wetland Restoration site.

| Planting Zone | Approximate Acreage | Planting (Stems/Acre) | Density | Distance to Center | Approximate Individuals Needed |
|------------------------------|---------------------|-----------------------|---------|--------------------|--------------------------------|
| Saturated Wetland | 2.2 | 303 | | 12 | 672 |
| Seasonally Saturated Wetland | 7.2 | 436 | | 10 | 3,150 |
| Wetland Fringe | 8.1 | 436 | | 10 | 3,555 |
| Total | 17.5 | — | | — | 7,377 |

Where present, existing native trees should be kept intact and can be considered in the total stem count. However, due to the paucity of native tree species throughout the site, the City of Deer Park does not recommend the contract assume these are present. Non-desirable species (i.e., black willow [*Salix nigra*], sycamore [*Platanus occidentalis*], and cottonwood [*Populus deltoids*]) may not be included in the stem count for the property.

4.2 Species Selection and Diversity

To ensure survival of the trees, the City of Deer Park will require that trees planted in each zone comply with the planting zones in Table 2. This species list is derived from the 2016 Deer Park Restoration Plan and those species that are characteristically associated with bottomland habitats of the Western Gulf Coastal Plain ecoregion. Although the contractor may suggest additional species, the approval of alternative species must be approved by the City of Deer Park. Plant stock must be selected from sources in the Western Gulf Coastal Plains to ensure that local genotypes are planted and long-term survival is optimum. Non-native species as well as black willow, sycamore, and cottonwood trees are considered undesirable and must not be planted in any circumstance.

Table 2. Number of individuals to be planted for the Deer Park Wetland restoration site.

| Common Name | Species Name | Wetland Indicator Status | Saturated Wetland | Seasonally Saturated Wetland | Wetland Fringe |
|---------------|--------------------------------|--------------------------|-------------------|------------------------------|----------------|
| Red maple | <i>Acer rubrum</i> | FAC | | | 395 |
| Water hickory | <i>Carya aquatica</i> | OBL | 112 | | |
| Sugarberry | <i>Celtis laevigata</i> | FACW | | 450 | 395 |
| Carolina ash | <i>Fraxinus caroliniana</i> | OBL | 112 | | |
| Green ash | <i>Fraxinus pennsylvanica</i> | FACW | 112 | 450 | |
| Sweetgum | <i>Liquidambar styraciflua</i> | FAC | | | 395 |
| Water tupelo | <i>Nyssa aquatica</i> | OBL | 112 | | |
| Black tupelo | <i>Nyssa sylvatica</i> | FAC | | 450 | 395 |
| Red bay | <i>Persea borbonia</i> | FACW | | 450 | 395 |
| Overcup oak | <i>Quercus lyrata</i> | OBL | 112 | | |
| Water oak | <i>Quercus nigra</i> | FAC | | | 395 |
| Willow oak | <i>Quercus phellos</i> | FACW | | 450 | 395 |
| Texas red oak | <i>Quercus texana</i> | FACW | | 450 | |
| Bald cypress | <i>Taxodium distichum</i> | OBL | 112 | 450 | |
| American elm | <i>Ulmus americana</i> | FAC | | | 395 |
| Cedar elm | <i>Ulmus crassifolia</i> | FAC | | | 395 |

A minimum of 4 species should be selected per zone to attain acceptable diversity. Each chosen species should be planted in large enough quantities and interspersed such that each species represents at least 10% of the total stem composition per acre.

4.3 Planting Procedures

The City of Deer Park does not dictate the timing of planting; however, contractors should bid on planting 1-gallon rooted stock. The contractor is encouraged to review the survival requirements in Section 5 to ensure that the plant stock are successful.

Tree tubes must be installed around newly planted seedlings that are 3 feet or less in height. Tree tubes must be staked and the bottom imbedded into the soil for stabilization. Planted trees must be visibly marked to allow survival to be determined and prevent accidental death during future Chinese tallow control activities.

5.0 Post-Effort Survival

Approximately 90 days following planting, the City of Deer Park will require a survival survey documenting no less than 90% survival of the planted stems. If this standard is not met, the contractor must replant areas at their own expense and demonstrate that these plantings are successful (at least 90% survival) within 30 days of any replanting.

Annual surveys of the property will be carried out annually for the five years following planting. Based on these surveys, the City of Deer Park requires the following:

- 1) Year 1 – no less than 80% survival of all planted stems throughout the site, of which at least 4 or more tree species represent 15% or more of the stems in the wetland; no more than 1% of the mature trees in the wetland are Chinese tallow.
- 2) Year 2 – no less than 70% survival of all planted stems throughout the site, of which at least 4 or more tree species represent 15% or more of the stems in the wetland.
- 3) Year 3 and 5 – no less than 60% survival of all planted stems throughout the site, of which at least 4 or more tree species represent 15% or more of the stems in the wetland.

The City of Deer Park reserves the right to require replanting of all or portions of the wetland areas if the survey requirements are not met. The City of Deer Park will manage on-going Chinese tallow control activities.



Legislation Details (With Text)

File #: AUT 18-119 **Version:** 1 **Name:**
Type: Authorization **Status:** Agenda Ready
File created: 12/6/2018 **In control:** City Council
On agenda: 12/18/2018 **Final action:**
Title: Authorization to reduce Tandem's retainage from 5% to 2% for the soccer fields.
Sponsors:
Indexes:
Code sections:
Attachments:

| Date | Ver. | Action By | Action | Result |
|------------|------|--------------|--------|--------|
| 12/18/2018 | 1 | City Council | | |

Authorization to reduce Tandem's retainage from 5% to 2% for the soccer fields.

Reducing the retainage amount from 5% to 2% permits the contractor to compensate all of his subcontractors due to inclement weather and project modifications. The 2% retainage will be held until close out and completion of the project.

| | |
|----------------|---|
| \$3,325,655.65 | Total amount budgeted for project |
| \$166,282.78 | 5% Retainage from total amount budgeted for project |
| \$66,513.11 | 2% Retainage held until final close out and completion of project |

Authorize to reduce Tandem's retainage from 5% to 2% for the soccer fields



Legislation Details (With Text)

File #: ACT 18-040 **Version:** 1 **Name:**
Type: Acceptance **Status:** Agenda Ready
File created: 11/12/2018 **In control:** City Council
On agenda: 12/18/2018 **Final action:**
Title: Acceptance of the Quarterly Financial Report for the Fiscal Year 2017-2018 fourth quarter ending September 30, 2018.
Sponsors: Finance
Indexes:
Code sections:
Attachments: [2018 4Q Financial Report](#)

| Date | Ver. | Action By | Action | Result |
|------------|------|--------------|--------|--------|
| 12/18/2018 | 1 | City Council | | |

Acceptance of the Quarterly Financial Report for the Fiscal Year 2017-2018 fourth quarter ending September 30, 2018.

Summary:

The City's quarterly financial report for the Fiscal Year 2017-2018 fourth quarter ended September 30, 2018 reports the preliminary and unaudited results for the fiscal year (October 2017 - September 2018). In summary, the fiscal year-to-date revenues of the Governmental Funds - the General, Debt Service, Golf Course Lease, Special Revenue, and Capital Improvement Bond Funds - are approximately \$52.8 million. The annual budget for these revenues, as amended, is \$53.1 million, which includes a \$3.6 million transfer from prior year fund balance not yet recorded. Total revenues also include approximately \$3.7 million in the bond funds (note: these revenues are not budgeted). Governmental Fund revenues primarily represent ad valorem (property) taxes. These tax collections for residential and commercial properties, including delinquent taxes and associated penalties and interest, are \$18.8 million for the fiscal year and exceed the annual budget by 3.62 percent. The industrial in-lieu of taxes revenues of approximately \$11.3 million represent 99.95 percent of the amount budgeted for these revenues. The City's sales tax revenues of \$6.6 million for the fiscal year are approximately 3.33 percent higher than the prior year's results. Total expenditures of the Governmental Funds are approximately \$66.0 million for the fiscal year, which includes approximately \$23.3 million of bond fund expenditures. Since bond fund expenditures are not budgeted, the total expenditure variance is misleading as the other individual governmental fund expenditures for the fiscal year are all less than budgeted. Utility Fund revenues, including the Water/Sewer Fund and the Storm Water Fund, total approximately \$12.2 million for the fiscal year similar to the prior year's preliminary results. Total expenses of these enterprise funds are approximately \$9.7 million for the fiscal year. Expenditures in the Capital Improvements Fund total approximately \$5.8 million for the fiscal year and include \$3.6 million for the new City Hall, \$1.7 million for streets and sidewalks, and \$157,000 for the roof replacement at Fire Station #1. Revenues for the special revenue districts (Crime Control and Prevention District and the Fire Control

Prevention and EMS District), primarily represent sales tax collections. For the fiscal year, combined revenues for both districts total approximately \$3.3 million and combined expenditures total approximately \$2.7 million. The City's Type B Corporation, the Deer Park Community Development Corporation ("Corporation"), fiscal year revenues of approximately \$3.3 million represent sales tax collections of the dedicated 0.50% Type B sales tax that became effective on October 1, 2015. Expenditures of the Corporation total approximately \$2.8 million, including approximately \$2.0 million for debt service and \$751,000 for pay-as-you-go expenditures for Dow Park.

The revenue and expenditure accounts for all funds do not yet include final entries for year-end accruals, interfund transfers, or final audit adjustments. The auditors plan to begin the final audit work in early February 2019. The final results of the FY 2017-2018 audit will be presented to City Council no later than the March 19, 2019 meeting.

Fiscal/Budgetary Impact:

N/A.

Accept the quarterly financial report for the Fiscal Year 2017-2018 fourth quarter ending September 30, 2018.



**QUARTERLY FINANCIAL REPORT
FOR THE FOURTH QUARTER ENDED
December 31, 2018
(Unaudited)**

**CITY OF DEER PARK
QUARTERLY FINANCIAL REPORT
FOURTH QUARTER ENDED DECEMBER 31, 2018
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CITY OF DEER PARK
SUMMARY STATEMENT OF REVENUES & EXPENDITURES
TWELVE MONTHS ENDED SEPTEMBER 30, 2018 (UNAUDITED)

| | Quarter Results | | | | Year-to-Date vs. Annual Budget | | | |
|--|----------------------|-----------------------|-----------------------|------------------------|--------------------------------|---------------------|---------------------|-----------------------|
| | Qtr 1 12/31/2017 | Qtr 2 3/31/2018 | Qtr 3 6/30/2018 | Qtr 4 9/30/2018 | YTD Actual | Amended Budget | Remaining Budget | Remaining Budget % |
| GOVERNMENTAL FUNDS | | | | | | | | |
| REVENUE SUMMARY: | | | | | | | | |
| General Fund | \$ 20,091,281 | \$ 10,785,852 | \$ 4,260,475 | \$ 5,840,886 | \$ 40,978,494 | \$ 43,912,302 | \$ 2,933,808 | 6.68% |
| Debt Service Fund | 2,566,075 | 2,218,003 | 2,097,640 | 150,534 | 7,032,252 | 7,018,928 | (13,324) | ** |
| Golf Course Lease Fund | - | 5,949 | 38,070 | - | 44,019 | 178,000 | 131,981 | 74.98% |
| Special Revenue Funds | 68,782 | 258,015 | 263,497 | 508,310 | 1,098,604 | 1,979,780 | 881,176 | 44.51% |
| Capital Improvement Bond Funds | 107,202 | 460,274 | 2,061,041 | 1,064,282 | 3,692,799 | - | (3,692,799) | - |
| Total Governmental Funds Revenue | 22,833,340 | 13,728,093 | 8,720,723 | 7,564,012 | 52,846,168 | 53,087,010 | 240,842 | 0.45% |
| EXPENDITURE SUMMARY: | | | | | | | | |
| General Fund | | | | | | | | |
| General & Administrative | 1,549,071 | 1,903,533 | 1,562,946 | 2,251,649 | 7,267,199 | 9,954,594 | 2,687,395 | 27.00% |
| Police Department | 2,022,587 | 2,504,584 | 2,217,706 | 2,769,307 | 9,514,184 | 9,859,231 | 345,047 | 3.50% |
| Fire Department & Emergency Services | 467,374 | 658,283 | 643,137 | 802,479 | 2,571,273 | 2,618,907 | 47,634 | 1.82% |
| Planning & Development | 350,951 | 432,972 | 480,529 | 485,319 | 1,749,771 | 1,959,794 | 210,023 | 10.72% |
| Sanitation | 865,108 | 1,093,651 | 925,983 | 1,066,438 | 3,951,180 | 4,207,065 | 255,885 | 6.08% |
| Street Maintenance | 232,095 | 315,328 | 244,069 | 385,533 | 1,177,025 | 1,928,225 | 749,200 | 38.89% |
| Parks & Recreation | 1,184,809 | 1,600,307 | 1,537,323 | 2,238,546 | 6,560,985 | 7,477,961 | 916,976 | 12.26% |
| Library | 215,294 | 274,434 | 235,249 | 289,736 | 1,014,713 | 1,150,882 | 136,169 | 11.83% |
| Other | 176,693 | 208,063 | 257,410 | 287,818 | 909,984 | 1,085,203 | 175,219 | 16.15% |
| Employee Benefits | - | - | - | - | - | - | - | * |
| Operating Transfers | - | - | - | - | - | 3,672,440 | 3,672,440 | 100.00% |
| Total General Fund | 7,063,982 | 8,991,155 | 8,104,352 | 10,556,825 | 34,716,314 | 43,912,302 | 9,195,988 | 20.94% |
| Debt Service Fund | 861 | 5,842,708 | (174,761) | 711,775 | 6,380,583 | 7,018,928 | 638,345 | 9.09% |
| Golf Course Lease Fund | 20,621 | 75,761 | 37,163 | 36,160 | 169,705 | 176,000 | 6,295 | 3.58% |
| Special Revenue Funds | 288,980 | 158,186 | 274,433 | 697,818 | 1,419,417 | 1,975,718 | 556,301 | 28.16% |
| Capital Improvement Bond Funds | 668,298 | 3,866,094 | 9,270,309 | 9,262,887 | 23,267,588 | - | (23,267,588) | * |
| Total Governmental Funds Expenditures | 8,242,742 | 18,933,904 | 17,511,496 | 21,265,465 | 65,953,607 | 53,082,948 | (12,870,659) | ** |
| Governmental Funds Revenues O/(U) Expenditures | \$ 14,590,598 | \$ (5,205,811) | \$ (8,790,773) | \$ (13,701,453) | \$ (13,107,439) | \$ 4,062 | | |
| UTILITY FUNDS | | | | | | | | |
| REVENUE SUMMARY: | | | | | | | | |
| Water/Sewer Fund | \$ 1,842,138 | \$ 2,586,169 | \$ 2,617,322 | \$ 4,048,197 | \$ 11,093,826 | \$ 11,170,466 | \$ 76,640 | 0.69% |
| Storm Water Fund | 57,111 | 85,247 | 84,665 | 112,739 | 339,762 | 337,500 | (2,262) | ** |
| Other | 93 | 107,789 | 582,372 | 51,637 | 741,891 | - | (741,891) | * |
| Total Utility Fund Revenue | 1,899,342 | 2,779,205 | 3,284,359 | 4,212,573 | 12,175,479 | 11,507,966 | (667,513) | ** |
| EXPENSES SUMMARY: | | | | | | | | |
| General & Administrative | 267,124 | 338,819 | 218,585 | 236,143 | 1,060,671 | 1,093,241 | 32,570 | 2.98% |
| Water Expenses | 664,188 | 1,429,032 | 1,143,300 | 1,559,200 | 4,795,720 | 5,949,834 | 1,154,114 | 19.40% |
| Sewer Expenses | 207,704 | 318,800 | 224,149 | 381,333 | 1,131,986 | 1,433,972 | 301,986 | 21.06% |
| Storm Water Expenses | 59,770 | 43,077 | 63,494 | 29,105 | 195,446 | 337,500 | 142,054 | 42.09% |
| Debt Service & Related Fees | 1,889 | 1,345,321 | 174,761 | 405,679 | 1,927,650 | 2,176,142 | 248,492 | 11.42% |
| Operating Transfers | - | 107,681 | - | - | 107,681 | 99,421 | (8,260) | ** |
| Other | 66,144 | 82,538 | 134,730 | 140,593 | 424,005 | 327,426 | (96,579) | ** |
| Employee Benefits | 33,385 | 9,487 | 9,818 | 6,606 | 59,296 | 90,430 | 31,134 | 34.43% |
| Total Utility Fund Expenses | 1,300,204 | 3,674,755 | 1,966,837 | 2,758,659 | 9,702,455 | 11,507,966 | 1,805,511 | 15.69% |
| Utility Fund Revenues O/(U) Expenses | \$ 599,138 | \$ (895,550) | \$ 1,315,522 | \$ 1,453,914 | \$ 2,473,024 | \$ - | | |
| CAPITAL IMPROVEMENTS FUND | | | | | | | | |
| REVENUE SUMMARY: | | | | | | | | |
| Capital Improvements Fund Revenue | \$ 378 | \$ 474 | \$ 601 | \$ 681 | \$ 2,134 | \$ 7,226,200 | \$ 7,224,066 | 99.97% |
| Total Capital Improvements Fund Revenue | \$ 378 | \$ 474 | \$ 601 | \$ 681 | \$ 2,134 | \$ 7,226,200 | \$ 7,224,066 | 99.97% |
| EXPENDITURE SUMMARY: | | | | | | | | |
| General Government | 918,229 | 1,320,623 | 654,892 | 745,487 | 3,639,231 | 3,622,440 | (16,791) | ** |
| Fire Department | - | - | 157,000 | - | 157,000 | 157,000 | - | ** |
| Planning & Development | - | - | - | - | - | - | - | * |
| Street Maintenance | 22,655 | 107,666 | 356,086 | 1,255,602 | 1,742,009 | 1,933,813 | 191,804 | 9.92% |
| Storm Water | - | - | - | - | - | - | - | * |
| Park Maintenance | - | - | 55,898 | 53,958 | 109,856 | 919,947 | 810,091 | 88.06% |
| Recreation | - | - | 48,762 | - | 48,762 | 56,000 | 7,238 | 12.93% |
| Athletics & Aquatics | - | - | 29,978 | - | 29,978 | 125,000 | 95,022 | 76.02% |
| Building Maintenance | - | - | - | - | - | 200,000 | 200,000 | 100.00% |
| Drama | - | 22,850 | 25,913 | - | 48,763 | 56,000 | 7,237 | 12.92% |
| Library | - | 22,850 | 25,913 | - | 48,763 | 56,000 | 7,237 | 12.92% |
| Contingency | - | - | - | - | - | 100,000 | 100,000 | 100.00% |
| Total Capital Improvements Fund Expenditures | 940,884 | 1,473,989 | 1,354,442 | 2,055,047 | 5,824,362 | 7,226,200 | 1,401,838 | 19.40% |
| Capital Improvements Fund Revenues O/(U) Expenditures | \$ (562,506) | \$ (1,000,515) | \$ (753,841) | \$ (1,374,366) | \$ (3,692,228) | \$ - | | |

* Line item not budgeted.
** YTD actual exceeds budget.

CITY OF DEER PARK
SUMMARY STATEMENT OF REVENUES & EXPENDITURES
TWELVE MONTHS ENDED SEPTEMBER 30, 2018 (UNAUDITED)

| | Quarter Results | | | | Year-to-Date vs. Annual Budget | | | |
|--|----------------------|----------------------|-----------------------|----------------------|--------------------------------|-------------------|---------------------|-----------------------|
| | Qtr 1 12/31/2017 | Qtr 2 3/31/2018 | Qtr 3 6/30/2018 | Qtr 4 9/30/2018 | YTD Actual | Amended Budget | Remaining Budget | Remaining Budget % |
| <u>FIDUCIARY FUNDS</u> | | | | | | | | |
| REVENUE SUMMARY: | | | | | | | | |
| LEPC Fund | \$ 23,936 | \$ 28,374 | \$ 58 | \$ - | \$ 52,368 | \$ - | \$ (52,368) | * |
| Senior Citizens Fund | 308 | 386 | 489 | 554 | 1,737 | - | (1,737) | * |
| Total Fiduciary Funds Revenue | 24,244 | 28,760 | 547 | 554 | 54,105 | - | (54,105) | * |
| EXPENDITURE SUMMARY: | | | | | | | | |
| LEPC Fund | 15,592 | 34,598 | 137,438 | - | 187,628 | - | (187,628) | * |
| Senior Citizens Fund | - | - | - | - | - | - | - | * |
| Total Fiduciary Funds Expenditures | 15,592 | 34,598 | 137,438 | - | 187,628 | - | (187,628) | * |
| Fiduciary Funds Revenues O/(U) Expenditures | \$ 8,652 | \$ (5,838) | \$ (136,891) | \$ 554 | \$ (133,523) | \$ - | | |
| <u>SPECIAL REVENUE DISTRICTS</u> | | | | | | | | |
| REVENUE SUMMARY: | | | | | | | | |
| Crime Control and Prevention District | \$ 144,793 | \$ 421,656 | \$ 436,730 | \$ 639,609 | \$ 1,642,788 | \$ 2,042,096 | \$ 399,308 | 19.55% |
| Fire Control Prevention and EMS District | 158,869 | 433,139 | 452,177 | 648,622 | 1,692,807 | 3,810,343 | 2,117,536 | 55.57% |
| Total Special Revenue Districts Revenue | 303,662 | 854,795 | 888,907 | 1,288,231 | 3,335,595 | 5,852,439 | 2,516,844 | 43.01% |
| EXPENDITURE SUMMARY: | | | | | | | | |
| Crime Control and Prevention District | 332,722 | 187,696 | 388,868 | 226,593 | 1,135,879 | 2,042,096 | 906,217 | 44.38% |
| Fire Control Prevention and EMS District | 308,733 | 388,890 | 331,688 | 570,316 | 1,599,627 | 3,810,343 | 2,210,716 | 58.02% |
| Total Special Revenue Districts Expenditures | 641,455 | 576,586 | 720,556 | 796,909 | 2,735,506 | 5,852,439 | 3,116,933 | 53.26% |
| Special Revenue Districts Revenues O/(U) Expenditures | \$ (337,793) | \$ 278,209 | \$ 168,351 | \$ 491,322 | \$ 600,089 | \$ - | | |
| <u>TYPE B CORPORATION</u> | | | | | | | | |
| REVENUE SUMMARY: | | | | | | | | |
| Deer Park Community Development Corporation | \$ 302,139 | \$ 851,901 | \$ 856,615 | \$ 1,304,883 | \$ 3,315,538 | \$ 2,700,900 | \$ (614,638) | ** |
| Total DPCDC Fund Revenue | 302,139 | 851,901 | 856,615 | 1,304,883 | 3,315,538 | 2,700,900 | (614,638) | ** |
| EXPENDITURE SUMMARY: | | | | | | | | |
| Deer Park Community Development Corporation | - | 317,466 | 2,064,180 | 396,192 | 2,777,838 | 2,700,900 | (76,938) | ** |
| Total DPCDC Fund Expenditures | - | 317,466 | 2,064,180 | 396,192 | 2,777,838 | 2,700,900 | (76,938) | ** |
| DPCDC Revenues O/(U) Expenditures | \$ 302,139 | \$ 534,435 | \$ (1,207,565) | \$ 908,691 | \$ 537,700 | \$ - | | |
| <u>FUND BALANCE</u> | | | | | | | | |
| Beginning Fund Balance - General Fund | \$ 37,104,658 | \$ 50,131,957 | \$ 51,926,654 | \$ 48,082,777 | \$ 37,104,658 | | | |
| Revenues Over/(Under) Expenditures | 13,027,299 | 1,794,697 | (3,843,877) | (4,715,939) | 6,262,180 | | | |
| Ending Fund Balance - General Fund | \$ 50,131,957 | \$ 51,926,654 | \$ 48,082,777 | \$ 43,366,838 | \$ 43,366,838 | | | |
| Beginning Fund Balance - Water Sewer Fund | \$ 21,245,441 | \$ 21,847,202 | \$ 20,805,943 | \$ 21,581,185 | \$ 21,245,441 | | | |
| Revenues Over/(Under) Expenditures | 601,761 | (1,041,259) | 775,242 | 1,370,262 | 1,706,006 | | | |
| Ending Fund Balance - Water Sewer Fund | \$ 21,847,202 | \$ 20,805,943 | \$ 21,581,185 | \$ 22,951,447 | \$ 22,951,447 | | | |

* Line item not budgeted.
** YTD actual exceeds budget.

**CITY OF DEER PARK
SUMMARY STATEMENT OF REVENUES & EXPENDITURES
TWELVE MONTHS ENDED SEPTEMBER 30, 2018 (UNAUDITED)**

| | Quarter Results | | | | Year-to-Date vs. Prior Fiscal Year | | | |
|--|----------------------|-----------------------|-----------------------|------------------------|------------------------------------|-----------------------|-------------------------------|-----------------------|
| | Qtr 1 12/31/2017 | Qtr 2 3/31/2018 | Qtr 3 6/30/2018 | Qtr 4 9/30/2018 | FY18 YTD Actual | FY17 YTD Actual | Difference O/(U) Prior YTD | FY17 FYE Total |
| GOVERNMENTAL FUNDS | | | | | | | | |
| REVENUE SUMMARY: | | | | | | | | |
| General Fund | \$ 20,091,281 | \$ 10,785,852 | \$ 4,260,475 | \$ 5,840,886 | \$ 40,978,494 | \$ 41,221,303 | \$ (242,809) | \$ 41,221,303 |
| Debt Service Fund | 2,566,075 | 2,218,003 | 2,097,640 | 150,534 | 7,032,252 | 7,194,757 | (162,505) | 7,194,757 |
| Golf Course Lease Fund | - | 5,949 | 38,070 | - | 44,019 | 121,678 | (77,659) | 121,678 |
| Special Revenue Funds | 68,782 | 258,015 | 263,497 | 508,310 | 1,098,604 | 1,496,341 | (397,737) | 1,496,341 |
| Capital Improvement Bond Funds | 107,202 | 460,274 | 2,061,041 | 1,064,282 | 3,692,799 | 5,578,859 | (1,886,060) | 5,578,859 |
| Total Governmental Funds Revenue | 22,833,340 | 13,728,093 | 8,720,723 | 7,564,012 | 52,846,168 | 55,612,938 | (2,766,770) | 55,612,938 |
| EXPENDITURE SUMMARY: | | | | | | | | |
| <u>General Fund</u> | | | | | | | | |
| General & Administrative | 1,549,071 | 1,903,533 | 1,562,946 | 2,251,649 | 7,267,199 | 15,104,567 | (7,837,368) | 15,104,567 |
| Police Department | 2,022,587 | 2,504,584 | 2,217,706 | 2,769,307 | 9,514,184 | 8,977,716 | 536,468 | 8,977,716 |
| Fire Department & Emergency Services | 467,374 | 658,283 | 643,137 | 802,479 | 2,571,273 | 2,341,902 | 229,371 | 2,341,902 |
| Planning & Development | 350,951 | 432,972 | 480,529 | 485,319 | 1,749,771 | 1,836,614 | (86,843) | 1,836,614 |
| Sanitation | 865,108 | 1,093,651 | 925,983 | 1,066,438 | 3,951,180 | 4,178,419 | (227,239) | 4,178,419 |
| Street Maintenance | 232,095 | 315,328 | 244,069 | 385,533 | 1,177,025 | 1,188,997 | (11,972) | 1,188,997 |
| Parks & Recreation | 1,184,809 | 1,600,307 | 1,537,323 | 2,238,546 | 6,560,985 | 7,072,574 | (511,589) | 7,072,574 |
| Library | 215,294 | 274,434 | 235,249 | 289,736 | 1,014,713 | 973,450 | 41,263 | 973,450 |
| Other | 176,693 | 208,063 | 257,410 | 267,818 | 909,984 | 1,027,745 | (117,761) | 1,027,745 |
| Employee Benefits | - | - | - | - | - | - | - | - |
| Operating Transfers | - | - | - | - | - | - | - | - |
| Total General Fund | 7,063,982 | 8,991,155 | 8,104,352 | 10,556,825 | 34,716,314 | 42,701,984 | (7,985,670) | 42,701,984 |
| <u>Debt Service Fund</u> | 861 | 5,842,708 | (174,761) | 711,775 | 6,380,583 | 6,296,867 | 83,716 | 6,296,867 |
| <u>Golf Course Lease Fund</u> | 20,621 | 75,761 | 37,163 | 36,160 | 169,705 | 127,539 | 42,166 | 127,539 |
| <u>Special Revenue Funds</u> | 288,980 | 158,186 | 274,433 | 697,818 | 1,419,417 | 2,780,185 | (1,360,768) | 2,780,185 |
| <u>Capital Improvement Bond Funds</u> | 868,298 | 3,866,094 | 9,270,309 | 9,262,887 | 23,267,588 | 7,408,629 | 15,858,959 | 7,408,629 |
| Total Governmental Funds Expenditures | 8,242,742 | 18,933,904 | 17,511,496 | 21,265,465 | 65,953,607 | 59,315,204 | 6,638,403 | 59,315,204 |
| Governmental Funds Revenues O/(U) Expenditures | \$ 14,590,598 | \$ (5,205,811) | \$ (8,790,773) | \$ (13,701,453) | \$ (13,107,439) | \$ (3,702,266) | \$ (9,405,173) | \$ (3,702,266) |
| UTILITY FUNDS | | | | | | | | |
| REVENUE SUMMARY: | | | | | | | | |
| Water/Sewer Fund | \$ 1,842,138 | \$ 2,586,169 | \$ 2,617,322 | \$ 4,048,197 | \$ 11,093,826 | \$ 10,823,487 | \$ 270,339 | \$ 10,823,487 |
| Storm Water Fund | 57,111 | 85,247 | 84,665 | 112,739 | 339,762 | 301,981 | 37,781 | 301,981 |
| Other | 93 | 107,789 | 582,372 | 51,637 | 741,891 | 980,859 | (238,968) | 980,859 |
| Total Utility Funds Revenue | 1,899,342 | 2,779,205 | 3,284,359 | 4,212,573 | 12,175,479 | 12,106,327 | 69,152 | 12,106,327 |
| EXPENSES SUMMARY: | | | | | | | | |
| General & Administrative | 267,124 | 338,819 | 218,585 | 236,143 | 1,060,671 | 314,038 | 746,633 | 314,038 |
| Water Expenses | 664,166 | 1,429,032 | 1,143,300 | 1,559,200 | 4,795,720 | 4,240,952 | 554,768 | 4,240,952 |
| Sewer Expenses | 207,704 | 316,800 | 224,149 | 381,333 | 1,131,986 | 1,129,619 | 2,367 | 1,129,619 |
| Storm Water Expenses | 59,770 | 43,077 | 63,494 | 29,105 | 195,446 | 104,399 | 91,047 | 104,399 |
| Debt Service & Related Fees | 1,889 | 1,345,321 | 174,761 | 405,679 | 1,927,650 | 98,200 | 1,829,450 | 98,200 |
| Operating Transfers | - | 107,681 | - | - | 107,681 | 4,031,213 | (3,923,532) | 4,031,213 |
| Other | 66,144 | 82,538 | 134,730 | 140,593 | 424,005 | 1,335,190 | (911,185) | 1,335,190 |
| Employee Benefits | 33,385 | 9,487 | 9,818 | 6,606 | 59,296 | 63,876 | (4,580) | 63,876 |
| Total Utility Funds Expenses | 1,300,204 | 3,674,755 | 1,968,837 | 2,758,659 | 9,702,455 | 11,317,487 | (1,615,032) | 11,317,487 |
| Utility Funds Revenues O/(U) Expenses | \$ 599,138 | \$ (895,550) | \$ 1,315,522 | \$ 1,453,914 | \$ 2,473,024 | \$ 788,840 | \$ 1,684,184 | \$ 788,840 |
| CAPITAL IMPROVEMENTS FUND | | | | | | | | |
| REVENUE SUMMARY: | | | | | | | | |
| Capital Improvements Fund Revenue | \$ 378 | \$ 474 | \$ 601 | \$ 681 | \$ 2,134 | \$ 7,790,100 | \$ 7,787,966 | \$ 7,790,100 |
| Total Capital Improvements Fund Revenue | \$ 378 | \$ 474 | \$ 601 | \$ 681 | \$ 2,134 | \$ 7,790,100 | \$ 7,787,966 | \$ 7,790,100 |
| EXPENDITURE SUMMARY: | | | | | | | | |
| General Government | 918,229 | 1,320,623 | 654,892 | 745,487 | 3,639,231 | 3,384,486 | 254,745 | 3,384,486 |
| Fire Department | - | - | 157,000 | - | 157,000 | - | 157,000 | - |
| Planning & Development | - | - | - | - | - | 160,265 | (160,265) | 160,265 |
| Street Maintenance | 22,655 | 107,666 | 356,086 | 1,255,602 | 1,742,009 | 711,115 | 1,030,894 | 711,115 |
| Storm Water | - | - | - | - | - | 129,721 | (129,721) | 129,721 |
| Park Maintenance | - | - | 55,898 | 53,958 | 109,856 | - | 109,856 | - |
| Recreation | - | - | 48,762 | - | 48,762 | - | 48,762 | - |
| Athletics & Aquatics | - | - | 29,978 | - | 29,978 | - | 29,978 | - |
| Building Maintenance | - | - | - | - | - | - | - | - |
| Drama | - | 22,850 | 25,913 | - | 48,763 | - | 48,763 | - |
| Library | - | 22,850 | 25,913 | - | 48,763 | - | 48,763 | - |
| Contingency | - | - | - | - | - | 19,250 | (19,250) | 19,250 |
| Total Capital Improvements Fund Expenditures | 940,884 | 1,473,989 | 1,354,442 | 2,055,047 | 5,824,362 | 4,404,837 | 1,419,525 | 4,404,837 |
| Capital Improvements Fund Revenues O/(U) Expenditures | \$ (940,506) | \$ (1,473,515) | \$ (1,353,841) | \$ (2,054,366) | \$ (5,822,228) | \$ 3,385,263 | \$ 6,368,441 | \$ 3,385,263 |

CITY OF DEER PARK
SUMMARY STATEMENT OF REVENUES & EXPENDITURES
TWELVE MONTHS ENDED SEPTEMBER 30, 2018 (UNAUDITED)

| | Quarter Results | | | | Year-to-Date vs. Prior Fiscal Year | | | |
|--|---------------------|--------------------|-----------------------|--------------------|------------------------------------|---------------------|-------------------------------|---------------------|
| | Qtr 1 12/31/2017 | Qtr 2 3/31/2018 | Qtr 3 6/30/2018 | Qtr 4 9/30/2018 | FY18 YTD Actual | FY17 YTD Actual | Difference O/(U) Prior YTD | FY17 FYE Total |
| <u>FIDUCIARY FUNDS</u> | | | | | | | | |
| REVENUE SUMMARY: | | | | | | | | |
| LEPC Fund | \$ 23,936 | \$ 28,374 | \$ 58 | \$ - | \$ 52,368 | \$ 109,554 | \$ (57,186) | \$ 109,554 |
| Senior Citizens Fund | 308 | 386 | 489 | 554 | 1,737 | 775 | 962 | 775 |
| Total Fiduciary Funds Revenue | 24,244 | 28,760 | 547 | 554 | 54,105 | 110,329 | (56,224) | 110,329 |
| EXPENDITURE SUMMARY: | | | | | | | | |
| LEPC Fund | 15,592 | 34,598 | 137,438 | - | 187,628 | 101,131 | 86,497 | 101,131 |
| Senior Citizens Fund | - | - | - | - | - | - | - | - |
| Total Fiduciary Funds Expenditures | 15,592 | 34,598 | 137,438 | - | 187,628 | 101,131 | 86,497 | 101,131 |
| Fiduciary Funds Revenues O/(U) Expenditures | \$ 8,652 | \$ (5,838) | \$ (136,891) | \$ 554 | \$ (133,523) | \$ 9,198 | \$ (142,721) | \$ 9,198 |
| <u>SPECIAL REVENUE DISTRICTS</u> | | | | | | | | |
| REVENUE SUMMARY: | | | | | | | | |
| Crime Control and Prevention District | \$ 144,793 | \$ 421,656 | \$ 436,730 | \$ 639,809 | \$ 1,642,788 | \$ 1,649,598 | \$ (6,810) | \$ 1,649,598 |
| Fire Control Prevention and EMS District | 158,869 | 433,139 | 452,177 | 648,622 | 1,692,807 | 1,640,721 | 52,086 | 1,640,721 |
| Total Special Revenue Districts Revenue | 303,662 | 854,795 | 888,907 | 1,288,231 | 3,335,595 | 3,290,319 | 45,276 | 3,290,319 |
| EXPENDITURE SUMMARY: | | | | | | | | |
| Crime Control and Prevention District | 332,722 | 187,696 | 388,868 | 226,593 | 1,135,879 | 805,405 | 330,474 | 805,405 |
| Fire Control Prevention and EMS District | 308,733 | 388,890 | 331,688 | 570,316 | 1,599,627 | 1,276,142 | 323,485 | 1,276,142 |
| Total Special Revenue Districts Expenditures | 641,455 | 576,586 | 720,556 | 796,909 | 2,735,506 | 2,081,547 | 653,959 | 2,081,547 |
| Special Revenue Districts Revenues O/(U) Expenditures | \$ (337,793) | \$ 278,209 | \$ 168,351 | \$ 491,322 | \$ 600,089 | \$ 1,208,772 | \$ (608,683) | \$ 1,208,772 |
| <u>TYPE B CORPORATION</u> | | | | | | | | |
| REVENUE SUMMARY: | | | | | | | | |
| Deer Park Community Development Corporation | \$ 302,139 | \$ 851,901 | \$ 856,615 | \$ 1,304,883 | \$ 3,315,538 | \$ 3,208,765 | \$ 106,773 | \$ 3,208,765 |
| Total DPCDC Fund Revenue | 302,139 | 851,901 | 856,615 | 1,304,883 | \$ 3,315,538 | \$ 3,208,765 | \$ 106,773 | \$ 3,208,765 |
| EXPENDITURE SUMMARY: | | | | | | | | |
| Deer Park Community Development Corporation | - | 317,466 | 2,064,180 | 396,192 | 2,777,838 | 3,009,583 | (231,745) | 3,009,583 |
| Total DPCDC Fund Expenditures | - | 317,466 | 2,064,180 | 396,192 | 2,777,838 | 3,009,583 | (231,745) | 3,009,583 |
| DPCDC Revenues O/(U) Expenditures | \$ 302,139 | \$ 534,435 | \$ (1,207,565) | \$ 908,691 | \$ 537,700 | \$ 199,182 | \$ 338,518 | \$ 199,182 |

CITY OF DEER PARK
SUMMARY STATEMENT OF REVENUES & EXPENDITURES
TWELVE MONTHS ENDED SEPTEMBER 30, 2018 (UNAUDITED)

| | Quarter Results | | | | Year-to-Date vs. Annual Budget | | | |
|--|---------------------|--------------------|--------------------|--------------------|--------------------------------|-------------------|---------------------|-----------------------|
| | Qtr 1 12/31/2017 | Qtr 2 3/31/2018 | Qtr 3 6/30/2018 | Qtr 4 9/30/2018 | YTD Actual | Amended Budget | Remaining Budget | Remaining Budget % |
| GENERAL FUND | | | | | | | | |
| REVENUE SUMMARY: | | | | | | | | |
| Taxes | \$ 18,718,187 | \$ 9,362,349 | \$ 2,603,912 | \$ 3,309,534 | \$ 33,993,982 | \$ 32,746,741 | \$ (1,247,241) | ** |
| Service Fees | 211,516 | 339,049 | 332,144 | 424,594 | 1,307,303 | 1,215,000 | (92,303) | ** |
| Fines | 351,742 | 395,765 | 320,850 | 354,262 | 1,422,619 | 1,504,200 | 81,581 | 5.42% |
| Permits & Licenses | 79,805 | 118,236 | 149,795 | 142,981 | 490,817 | 501,300 | 10,483 | 2.09% |
| User Fees | 447,128 | 506,415 | 598,398 | 692,347 | 2,244,268 | 1,894,250 | (350,038) | ** |
| Other | 282,903 | 59,884 | 254,963 | 910,011 | 1,507,761 | 6,040,811 | 4,533,050 | 75.04% |
| Special Revenue | - | 4,154 | 413 | 7,157 | 11,724 | 10,000 | (1,724) | ** |
| Total Revenue | 20,091,281 | 10,785,852 | 4,260,475 | 5,640,886 | 40,978,494 | 43,912,302 | 2,933,808 | 6.68% |
| EXPENDITURE SUMMARY: | | | | | | | | |
| Mayor & Council | 7,287 | 6,212 | 7,458 | 9,973 | 30,930 | 63,550 | 32,620 | 51.33% |
| City Manager | 183,034 | 233,036 | 217,441 | 268,852 | 902,363 | 951,810 | 49,447 | 5.20% |
| Boards & Commissions | 4,433 | 2,991 | 2,360 | 2,994 | 12,778 | 15,408 | 2,630 | 17.07% |
| Municipal Court | 90,442 | 111,406 | 99,099 | 123,561 | 424,508 | 444,901 | 20,393 | 4.58% |
| General Government | 648,256 | 745,131 | 543,062 | 940,297 | 2,876,746 | 5,021,577 | 2,144,831 | 42.71% |
| Legal Services | 27,783 | 39,113 | 39,429 | 51,059 | 157,384 | 152,000 | (5,384) | ** |
| Personnel | 68,787 | 89,607 | 96,010 | 98,571 | 352,975 | 382,418 | 29,443 | 7.70% |
| IT Services | 307,320 | 400,360 | 314,913 | 453,022 | 1,475,615 | 1,833,067 | 357,452 | 19.50% |
| Finance | 135,317 | 173,885 | 149,321 | 194,495 | 653,018 | 687,220 | 34,202 | 4.98% |
| City Secretary | 76,412 | 101,792 | 93,853 | 108,825 | 380,882 | 402,643 | 21,761 | 5.40% |
| Police | 2,022,587 | 2,504,584 | 2,217,706 | 2,769,307 | 9,514,184 | 9,859,231 | 345,047 | 3.50% |
| Emergency Management | 91,081 | 106,953 | 105,044 | 130,286 | 433,364 | 460,660 | 27,296 | 5.93% |
| Fire Department | 79,810 | 163,574 | 181,706 | 214,633 | 639,723 | 659,608 | 19,885 | 3.01% |
| Ambulance Services | 257,898 | 353,647 | 312,270 | 417,069 | 1,340,884 | 1,340,986 | 102 | 0.01% |
| Fire Marshal | 38,585 | 34,109 | 44,117 | 40,491 | 157,302 | 157,653 | 351 | 0.22% |
| Central Warehouse | 16,212 | 19,385 | 17,899 | 23,328 | 76,824 | 77,954 | 1,130 | 1.45% |
| Planning & Development | 350,951 | 432,972 | 480,529 | 485,319 | 1,749,771 | 1,959,794 | 210,023 | 10.72% |
| Sanitation | 865,108 | 1,093,651 | 925,983 | 1,066,438 | 3,951,180 | 4,207,065 | 255,885 | 6.08% |
| Street Maintenance | 232,095 | 315,328 | 244,069 | 385,533 | 1,177,025 | 1,926,225 | 749,200 | 38.89% |
| Fleet Maintenance | 104,334 | 120,234 | 175,108 | 170,621 | 570,297 | 744,177 | 173,880 | 23.37% |
| Humane Services | 56,147 | 68,444 | 64,403 | 73,869 | 262,863 | 263,072 | 209 | 0.08% |
| Beautification | 6,865 | - | - | - | 6,865 | 45,000 | 38,135 | 84.74% |
| Park Maintenance | 368,425 | 530,573 | 508,912 | 921,046 | 2,328,956 | 2,716,249 | 387,293 | 14.26% |
| Recreation | 307,355 | 395,728 | 314,051 | 384,064 | 1,401,198 | 1,614,593 | 213,395 | 13.22% |
| Athletics & Aquatics | 122,721 | 174,240 | 269,173 | 373,035 | 939,169 | 875,642 | (63,527) | ** |
| Building Maintenance | 125,456 | 173,547 | 152,020 | 197,426 | 648,449 | 667,180 | 18,731 | 2.81% |
| Senior Services | 90,386 | 148,012 | 114,856 | 119,215 | 472,469 | 654,077 | 181,608 | 27.77% |
| After School Program | 70,630 | 74,508 | 76,066 | 98,955 | 320,159 | 401,988 | 81,829 | 20.36% |
| Drama | 92,971 | 103,699 | 102,245 | 144,805 | 443,720 | 503,232 | 59,512 | 11.83% |
| Library | 215,294 | 274,434 | 235,249 | 289,736 | 1,014,713 | 1,150,882 | 136,169 | 11.83% |
| Employee Benefits | - | - | - | - | - | - | - | * |
| Operating Transfer to Golf Course Lease | - | - | - | - | - | 106,000 | 106,000 | 100.00% |
| Operating Transfer to Capital Improvement Fund | - | - | - | - | - | 3,566,440 | 3,566,440 | 100.00% |
| Total Expenditures | 7,063,982 | 8,991,155 | 8,104,352 | 10,556,825 | 34,716,314 | 43,912,302 | 9,195,988 | 20.94% |
| General Fund Revenues O/(U) Expenditures | \$ 13,027,299 | \$ 1,794,697 | \$ (3,843,877) | \$ (4,715,939) | \$ 6,262,180 | \$ - | | |

FUND BALANCE

| | | | | | |
|------------------------------------|---------------|---------------|---------------|---------------|---------------|
| Beginning Fund Balance | \$ 37,104,658 | \$ 50,131,957 | \$ 51,926,654 | \$ 48,082,777 | \$ 37,104,658 |
| Revenues Over/(Under) Expenditures | 13,027,299 | 1,794,697 | (3,843,877) | (4,715,939) | 6,262,180 |
| Ending Fund Balance | \$ 50,131,957 | \$ 51,926,654 | \$ 48,082,777 | \$ 43,366,838 | \$ 43,366,838 |

* Line item not budgeted.
** YTD actual exceeds budget.

CITY OF DEER PARK
SUMMARY STATEMENT OF REVENUES & EXPENDITURES
TWELVE MONTHS ENDED SEPTEMBER 30, 2018 (UNAUDITED)

| | Quarter Results | | | | Year-to-Date vs. Annual Budget | | | |
|---|---------------------|-----------------------|---------------------|---------------------|--------------------------------|-------------------|---------------------|-----------------------|
| | Qtr 1 12/31/2017 | Qtr 2 3/31/2018 | Qtr 3 6/30/2018 | Qtr 4 9/30/2018 | YTD Actual | Amended Budget | Remaining Budget | Remaining Budget % |
| DEBT SERVICE FUND | | | | | | | | |
| REVENUE SUMMARY: | | | | | | | | |
| Taxes | \$ 2,529,975 | \$ 2,173,152 | \$ 90,372 | \$ 32,877 | \$ 4,826,376 | \$ 4,539,566 | \$ (286,810) | ** |
| Other | 36,100 | 44,851 | 2,007,268 | 117,657 | 2,205,876 | 2,479,362 | 273,486 | 11.03% |
| Total Revenue | 2,566,075 | 2,218,003 | 2,097,640 | 150,534 | 7,032,252 | 7,018,928 | (13,324) | ** |
| EXPENDITURE SUMMARY: | | | | | | | | |
| Paying Agent Fees/Escrow Payment/Issuance Costs | 861 | 3,392 | - | 1,250 | 5,503 | 100,000 | 94,497 | 94.50% |
| Principal Payments | - | 4,984,425 | (77,401) | - | 4,907,024 | 5,240,425 | 333,401 | 6.36% |
| Interest Payments | - | 854,891 | (97,360) | 710,525 | 1,468,056 | 1,678,503 | 210,447 | 12.54% |
| Total Expenditures | 861 | 5,842,708 | (174,761) | 711,775 | 6,380,583 | 7,018,928 | 638,345 | 9.09% |
| Debt Service Fund Revenues O(U) Expenditures | \$ 2,565,214 | \$ (3,624,705) | \$ 2,272,401 | \$ (561,241) | \$ 651,669 | \$ - | | |
| <hr/> | | | | | | | | |
| FUND BALANCE | | | | | | | | |
| Beginning Fund Balance | \$ 4,634,051 | \$ 7,199,265 | \$ 3,574,560 | \$ 5,846,961 | \$ 4,634,051 | | | |
| Revenues Over/(Under) Expenditures | 2,565,214 | (3,624,705) | 2,272,401 | (561,241) | 651,669 | | | |
| Ending Fund Balance | \$ 7,199,265 | \$ 3,574,560 | \$ 5,846,961 | \$ 5,285,720 | \$ 5,285,720 | | | |

* Line item not budgeted.

** YTD actual exceeds budget.

CITY OF DEER PARK
SUMMARY STATEMENT OF REVENUES & EXPENDITURES
TWELVE MONTHS ENDED SEPTEMBER 30, 2018 (UNAUDITED)

| | Quarter Results | | | | Year-to-Date vs. Annual Budget | | | |
|---------------------------------------|---------------------|--------------------|--------------------|--------------------|--------------------------------|-------------------|---------------------|-----------------------|
| | Qtr 1 12/31/2017 | Qtr 2 3/31/2018 | Qtr 3 6/30/2018 | Qtr 4 9/30/2018 | YTD Actual | Amended Budget | Remaining Budget | Remaining Budget % |
| <u>GOLF COURSE LEASE FUND</u> | | | | | | | | |
| REVENUE SUMMARY: | | | | | | | | |
| User Fees | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | * |
| Other Revenue | - | - | 1,480 | - | 1,480 | 106,000 | 104,520 | 98.60% |
| Restricted Revenue | - | 5,949 | 36,590 | - | 42,539 | 70,000 | 27,461 | 39.23% |
| Total Revenue | - | 5,949 | 38,070 | - | 44,019 | 176,000 | 131,981 | 74.99% |
| EXPENDITURE SUMMARY: | | | | | | | | |
| Operating Expenditures | 20,621 | 40,885 | 11,251 | 36,160 | 108,917 | 120,000 | 11,083 | 9.24% |
| Capital Expenditures | - | 34,876 | 25,912 | - | 60,788 | 56,000 | (4,788) | ** |
| Total Expenditures | 20,621 | 75,761 | 37,163 | 36,160 | 169,705 | 176,000 | 6,295 | 3.58% |
| Golf Course Lease Fund Revenues O/(U) | | | | | | | | |
| Expenditures | \$ (20,621) | \$ (69,812) | \$ 907 | \$ (36,160) | \$ (125,686) | \$ - | | |
| <hr/> | | | | | | | | |
| <u>FUND BALANCE</u> | | | | | | | | |
| Beginning Fund Balance | \$ 141,289 | \$ 120,668 | \$ 50,856 | \$ 51,763 | \$ 141,289 | | | |
| Revenues Over/(Under) Expenditures | (20,621) | (69,812) | 907 | (36,160) | (125,686) | | | |
| Ending Fund Balance | \$ 120,668 | \$ 50,856 | \$ 51,763 | \$ 15,603 | \$ 15,603 | | | |

* Line item not budgeted.

** YTD actual exceeds budget.

CITY OF DEER PARK
SUMMARY STATEMENT OF REVENUES & EXPENDITURES
TWELVE MONTHS ENDED SEPTEMBER 30, 2018 (UNAUDITED)

| | Quarter Results | | | | Year-to-Date vs. Annual Budget | | | |
|---|---------------------|--------------------|--------------------|--------------------|--------------------------------|-------------------|---------------------|-----------------------|
| | Qtr 1 12/31/2017 | Qtr 2 3/31/2018 | Qtr 3 6/30/2018 | Qtr 4 9/30/2018 | YTD Actual | Amended Budget | Remaining Budget | Remaining Budget % |
| SPECIAL REVENUE FUNDS | | | | | | | | |
| REVENUE SUMMARY: | | | | | | | | |
| Hotel Occupancy Tax Fund | \$ - | \$ 170,490 | \$ 177,972 | \$ 314,623 | \$ 663,085 | \$ 1,075,982 | \$ 412,897 | 38.37% |
| Police Forfeiture Fund | 11,144 | 1,746 | 7,116 | 6,988 | 26,994 | 14,403 | (12,591) | ** |
| Other | 5,403 | 32,384 | 26,188 | 42,177 | 106,152 | - | (106,152) | * |
| Municipal Court Fund | 51,965 | 53,043 | 51,776 | 144,017 | 300,791 | 359,810 | 59,019 | 16.40% |
| Disaster Declarations | - | - | - | - | - | - | - | * |
| Grant Fund | - | - | - | - | - | 529,585 | 529,585 | 100.00% |
| Street Assessment Fund | 206 | 259 | 328 | 372 | 1,165 | - | (1,165) | * |
| East Blvd Fund | 74 | 93 | 117 | 133 | 417 | - | (417) | * |
| Chapter 380 | - | - | - | - | - | - | - | * |
| Total Revenue | 68,782 | 258,015 | 263,497 | 508,310 | 1,098,604 | 1,979,780 | 881,176 | 44.51% |
| EXPENDITURE SUMMARY: | | | | | | | | |
| Hotel Occupancy Tax Fund | 138,031 | 50,117 | 62,260 | 176,215 | 426,623 | 1,075,982 | 649,359 | 60.35% |
| Police Forfeiture Fund | 5,983 | 3,244 | 4,654 | - | 13,881 | 14,403 | 522 | 3.62% |
| Other | 24,042 | 37,064 | 157,740 | 102,099 | 320,945 | - | - | * |
| Municipal Court Fund | 52,736 | 39,660 | 49,662 | 29,813 | 171,871 | 355,748 | 183,877 | 51.69% |
| Disaster Declarations | 42,885 | 4,828 | - | - | 47,713 | - | - | * |
| Grant Fund | 25,229 | 23,180 | - | - | 48,409 | 529,585 | 481,176 | 90.86% |
| Street Assessment Fund | - | - | - | - | - | - | - | * |
| East Blvd Fund | 74 | 93 | 117 | 133 | 417 | - | 1 | * |
| Chapter 380 | - | - | - | 389,558 | 389,558 | - | (389,558) | * |
| Total Expenditures | 288,980 | 158,186 | 274,433 | 697,818 | 1,419,417 | 1,975,718 | 925,377 | 46.84% |
| Special Revenue Funds Revenues O/(U) Expenditures | \$ (220,198) | \$ 99,829 | \$ (10,936) | \$ (189,508) | \$ (320,813) | \$ 4,062 | | |

FUND BALANCE

| | | | | | |
|------------------------------------|--------------|--------------|--------------|--------------|--------------|
| Beginning Fund Balance | \$ 1,326,456 | \$ 1,106,258 | \$ 1,206,087 | \$ 1,195,151 | \$ 1,326,456 |
| Revenues Over/(Under) Expenditures | (220,198) | 99,829 | (10,936) | (189,508) | (320,813) |
| Ending Fund Balance | \$ 1,106,258 | \$ 1,206,087 | \$ 1,195,151 | \$ 1,005,643 | \$ 1,005,643 |

Ending Fund Balance by Fund:

| | | | | | |
|------------------------------------|---------------------|---------------------|---------------------|---------------------|---------------------|
| 11 - Hotel Occupancy Tax Fund | \$ 867,072 | \$ 987,444 | \$ 1,103,157 | \$ 1,241,565 | \$ 1,241,565 |
| 12 - Police Forfeiture Fund | 33,855 | 32,357 | 34,818 | 41,806 | 41,806 |
| 14 - Other | 605,073 | 600,393 | 468,841 | 408,919 | 408,919 |
| 19 - Municipal Court Fund | 241,698 | 255,081 | 257,195 | 371,399 | 371,399 |
| 22 - Disaster Declarations | (766,404) | (771,232) | (771,232) | (771,232) | (771,232) |
| 24 - Grant Fund | 2,575 | (20,604) | (20,604) | (20,604) | (20,604) |
| 30 - Street Assessment Fund | 95,413 | 95,672 | 96,000 | 96,372 | 96,372 |
| 38 - East Blvd Fund | 26,976 | 26,976 | 26,976 | 26,976 | 26,976 |
| 86 - Chapter 380 | - | - | - | (389,558) | (389,558) |
| Total Special Revenue Funds | \$ 1,106,258 | \$ 1,206,087 | \$ 1,195,151 | \$ 1,005,643 | \$ 1,005,643 |

* Line item not budgeted.

** YTD actual exceeds budget.

CITY OF DEER PARK
SUMMARY STATEMENT OF REVENUES & EXPENDITURES
TWELVE MONTHS ENDED SEPTEMBER 30, 2018 (UNAUDITED)

| | Quarter Results | | | | Year-to-Date vs. Annual Budget | | | |
|---|---------------------|-----------------------|-----------------------|-----------------------|--------------------------------|-------------------|---------------------|-----------------------|
| | Qtr 1 12/31/2017 | Qtr 2 3/31/2018 | Qtr 3 6/30/2018 | Qtr 4 9/30/2018 | YTD Actual | Amended Budget | Remaining Budget | Remaining Budget % |
| CAPITAL IMPROVEMENT BOND FUNDS | | | | | | | | |
| REVENUE SUMMARY: | | | | | | | | |
| CIBF 2005 | \$ 881 | \$ 1,105 | \$ 1,399 | \$ 1,577 | \$ 4,962 | \$ - | \$ (4,962) | * |
| CIBF 2007 | 5,047 | 6,323 | 7,663 | 6,647 | 25,680 | - | (25,680) | * |
| CIBF 2010 | 4,644 | 5,819 | 4,827 | - | 15,290 | - | (15,290) | * |
| CIBF 2011 | 1,851 | 2,318 | 209,389 | 50,906 | 264,464 | - | (264,464) | * |
| CIBF 2012 | 6,252 | 7,833 | 214,329 | 57,136 | 285,550 | - | (285,550) | * |
| CIBF 2013 | 1,064 | 1,312 | 251,928 | 109,465 | 363,769 | - | (363,769) | * |
| CIBF 2014 (CO) | 4,860 | 5,997 | 348,918 | 106,219 | 465,994 | - | (465,994) | * |
| CIBF 2014 (GO) | 125 | 155 | 196 | 214 | 690 | - | (690) | * |
| CIBF 2015 | 20,005 | 24,687 | 30,116 | 29,643 | 104,451 | - | (104,451) | * |
| CIBF 2015-A | 14,283 | 17,627 | 344,701 | 123,626 | 500,237 | - | (500,237) | * |
| CIBF 2016 & 2017 (DPCDC) | 23,765 | 344,866 | 143,567 | 348,869 | 861,067 | - | (861,067) | * |
| CIBF 2016-A | 19,844 | 24,490 | 312,219 | 138,165 | 494,718 | - | (494,718) | * |
| CIBF 2017-A | 4,581 | 17,742 | 191,789 | 91,815 | 305,927 | - | (305,927) | * |
| Total Revenue | 107,202 | 460,274 | 2,061,041 | 1,064,282 | 3,692,799 | - | (3,692,799) | * |
| EXPENDITURE SUMMARY: | | | | | | | | |
| CIBF 2005 | 881 | 1,105 | 1,399 | 2,220 | 5,605 | - | (5,605) | * |
| CIBF 2007 | 19,883 | 59,015 | 304,632 | 416,228 | 799,758 | - | (799,758) | * |
| CIBF 2010 | 204,644 | 5,819 | 1,782,167 | 172,227 | 2,164,857 | - | (2,164,857) | * |
| CIBF 2011 | - | 310,650 | 70,300 | 50,363 | 431,313 | - | (431,313) | * |
| CIBF 2012 | - | 1,982,956 | 331,234 | 55,976 | 2,370,166 | - | (2,370,166) | * |
| CIBF 2013 | - | 47,850 | 274,400 | 333,973 | 656,223 | - | (656,223) | * |
| CIBF 2014 (CO) | 6,970 | - | 1,917,373 | 149,769 | 2,074,112 | - | (2,074,112) | * |
| CIBF 2014 (GO) | 125 | 155 | 196 | 214 | 690 | - | (690) | * |
| CIBF 2015 | 203,365 | 476,181 | 257,672 | 765,701 | 1,702,919 | - | (1,702,919) | * |
| CIBF 2015-A | 19,405 | 4,633 | 102,412 | 2,313,669 | 2,440,119 | - | (2,440,119) | * |
| CIBF 2016 & 2017 (DPCDC) | 275,684 | 666,794 | 3,153,877 | 4,212,918 | 8,309,273 | - | (8,309,273) | * |
| CIBF 2016-A | 18,380 | 234,828 | 106,663 | 109,368 | 469,239 | - | (469,239) | * |
| CIBF 2017-A | 118,961 | 76,108 | 967,984 | 680,261 | 1,843,314 | - | (1,843,314) | * |
| Total Expenditures | 868,298 | 3,866,094 | 9,270,309 | 9,262,887 | 23,267,588 | - | (23,267,588) | * |
| CIBF Revenues O/(U) Expenditures | \$ (781,096) | \$ (3,405,820) | \$ (7,209,268) | \$ (8,198,605) | \$ (19,574,789) | \$ - | | |

FUND BALANCE

| | | | | | |
|------------------------------------|----------------------|----------------------|---------------------|---------------------|---------------------|
| Beginning Fund Balance | \$ 20,764,290 | \$ 20,003,194 | \$ 16,597,374 | \$ 9,388,106 | \$ 20,764,290 |
| Revenues Over/(Under) Expenditures | (781,096) | (3,405,820) | (7,209,268) | (8,198,605) | (19,574,789) |
| Ending Fund Balance | \$ 20,003,194 | \$ 16,597,374 | \$ 9,388,106 | \$ 1,189,501 | \$ 1,189,501 |

Ending Fund Balance by Fund:

| | | | | | |
|---------------------------------|----------------------|----------------------|---------------------|---------------------|---------------------|
| 23 - Series 2016 & 2017 (DPCDC) | \$ 8,229,321 | \$ 7,907,393 | \$ 4,897,083 | \$ 1,033,034 | \$ 1,033,034 |
| 26 - Series 2015 | 6,874,482 | 6,422,989 | 6,195,432 | 5,459,374 | 5,459,374 |
| 27 - Series 2014 GO | - | - | - | - | - |
| 28 - Series 2013 | (173,978) | (220,516) | (242,988) | (467,496) | (467,496) |
| 29 - Series 2012 | 118,475 | (1,856,649) | (1,973,553) | (1,972,393) | (1,972,393) |
| 32 - Series 2010 | 2,384,951 | 2,384,951 | 607,612 | 435,384 | 435,384 |
| 34 - Series 2007 | 1,704,340 | 1,651,648 | 1,354,679 | 945,098 | 945,098 |
| 35 - Series 2005 | 321,268 | 321,268 | 321,268 | 320,625 | 320,625 |
| 39 - Series 2011 | 274,532 | (33,800) | 105,289 | 105,832 | 105,832 |
| 48 - Series 2014 CO | 129,401 | 135,398 | (1,433,057) | (1,476,607) | (1,476,607) |
| 49 - Series 2015-A | 171,367 | 184,362 | 426,650 | (1,763,392) | (1,763,392) |
| 51 - Series 2016-A | 83,414 | (126,925) | 78,632 | 107,429 | 107,429 |
| 52 - Series 2017-A | (114,379) | (172,745) | (948,941) | (1,537,387) | (1,537,387) |
| Total CIBF | \$ 20,003,194 | \$ 16,597,374 | \$ 9,388,106 | \$ 1,189,501 | \$ 1,189,501 |

* Line item not budgeted.

** YTD actual exceeds budget.

CITY OF DEER PARK
SUMMARY STATEMENT OF REVENUES & EXPENDITURES
TWELVE MONTHS ENDED SEPTEMBER 30, 2018 (UNAUDITED)

| | Quarter Results | | | | Year-to-Date vs. Annual Budget | | | |
|---|---------------------|-----------------------|--------------------|---------------------|--------------------------------|-------------------|---------------------|-----------------------|
| | Qtr 1 12/31/2017 | Qtr 2 3/31/2018 | Qtr 3 6/30/2018 | Qtr 4 9/30/2018 | YTD Actual | Amended Budget | Remaining Budget | Remaining Budget % |
| <u>WATER/SEWER FUND</u> | | | | | | | | |
| REVENUE SUMMARY: | | | | | | | | |
| Service Fees | \$ 1,822,749 | \$ 2,569,514 | \$ 2,592,702 | \$ 4,015,706 | \$ 11,000,671 | \$ 10,821,161 | \$ (179,510) | ** |
| Permits & Licenses | 6,647 | 9,841 | 15,507 | 11,876 | 43,871 | 75,000 | 31,129 | 41.51% |
| Other | 12,742 | 6,814 | 9,113 | 20,615 | 49,284 | 274,305 | 225,021 | 82.03% |
| Total Revenue | 1,842,138 | 2,586,169 | 2,617,322 | 4,048,197 | 11,093,826 | 11,170,466 | 76,640 | 0.69% |
| EXPENDITURE SUMMARY: | | | | | | | | |
| Public Works Administration | 156,615 | 156,530 | 55,803 | 74,326 | 443,274 | 414,365 | (28,909) | ** |
| Water Maintenance | 255,206 | 589,731 | 310,938 | 536,221 | 1,692,096 | 2,120,463 | 428,367 | 20.20% |
| Central Collections | 110,509 | 182,289 | 162,782 | 161,817 | 617,397 | 678,876 | 61,479 | 9.06% |
| Meter Readers | 66,087 | 78,288 | 71,467 | 88,974 | 304,816 | 327,426 | 22,610 | 6.91% |
| Wastewater Treatment | 207,704 | 318,800 | 224,149 | 381,333 | 1,131,986 | 1,433,972 | 301,986 | 21.06% |
| Water Treatment Plant | 408,982 | 839,301 | 832,362 | 1,022,979 | 3,103,624 | 3,829,371 | 725,747 | 18.95% |
| Employee Benefits | 33,385 | 9,487 | 9,818 | 6,606 | 59,296 | 90,430 | 31,134 | 34.43% |
| Paying Agent Fees | 1,889 | 299 | - | 5,200 | 7,388 | 6,500 | (888) | ** |
| Principal Payments | - | 954,540 | 168,436 | - | 1,122,976 | 1,289,575 | 166,599 | 12.92% |
| Interest Expense | - | 390,482 | 6,325 | 400,479 | 797,286 | 880,067 | 82,781 | 9.41% |
| Transfer to Debt Service Fund | - | - | - | - | - | - | - | * |
| Transfer to General Fund | - | - | - | - | - | - | - | * |
| Transfer to Funds 46 & 47 | - | 107,681 | - | - | 107,681 | 99,421 | (8,260) | ** |
| Total Expenditures | 1,240,377 | 3,627,428 | 1,842,080 | 2,677,935 | 9,387,820 | 11,170,466 | 1,782,646 | 15.96% |
| Water/Sewer Fund Revenues O/(U) Expenditures | \$ 601,761 | \$ (1,041,259) | \$ 775,242 | \$ 1,370,262 | \$ 1,706,006 | \$ - | | |

FUND BALANCE

| | | | | | |
|------------------------------------|----------------------|----------------------|----------------------|----------------------|----------------------|
| Beginning Fund Balance | \$ 21,245,441 | \$ 21,847,202 | \$ 20,805,943 | \$ 21,581,185 | \$ 21,245,441 |
| Revenues Over/(Under) Expenditures | 601,761 | (1,041,259) | 775,242 | 1,370,262 | 1,706,006 |
| Ending Fund Balance | \$ 21,847,202 | \$ 20,805,943 | \$ 21,581,185 | \$ 22,951,447 | \$ 22,951,447 |

* Line item not budgeted.

** YTD actual exceeds budget.

CITY OF DEER PARK
SUMMARY STATEMENT OF REVENUES & EXPENDITURES
TWELVE MONTHS ENDED SEPTEMBER 30, 2018 (UNAUDITED)

| | Quarter Results | | | | Year-to-Date vs. Annual Budget | | | |
|--|---------------------|--------------------|--------------------|--------------------|--------------------------------|-------------------|---------------------|-----------------------|
| | Qtr 1 12/31/2017 | Qtr 2 3/31/2018 | Qtr 3 6/30/2018 | Qtr 4 9/30/2018 | YTD Actual | Amended Budget | Remaining Budget | Remaining Budget % |
| <u>OTHER UTILITY FUNDS</u> | | | | | | | | |
| REVENUE SUMMARY: | | | | | | | | |
| TWDB Series 2002 | \$ 17 | \$ 107,693 | \$ 17,732 | \$ 17,732 | \$ 143,174 | \$ - | \$ (143,174) | * |
| Wastewater/Sanitary Sewer - Series 2002 | 76 | 96 | 564,640 | 33,905 | 598,717 | - | (598,717) | * |
| Storm Water Utility Fund | 57,111 | 85,247 | 84,655 | 112,739 | 339,762 | 337,500 | (2,262) | ** |
| Total Revenue | 57,204 | 193,036 | 667,037 | 164,376 | 1,081,653 | 337,500 | (744,153) | ** |
| EXPENDITURE SUMMARY: | | | | | | | | |
| TWDB Series 2002 | - | 4,250 | 20,682 | 17,732 | 42,664 | - | (42,664) | * |
| Wastewater/Sanitary Sewer - Series 2002 | 57 | - | 42,581 | 33,887 | 76,525 | - | (76,525) | * |
| Storm Water Utility Fund | 59,770 | 43,077 | 63,494 | 29,105 | 195,446 | 337,500 | 142,054 | 42.09% |
| Total Expenditures | 59,827 | 47,327 | 126,757 | 80,724 | 314,635 | 337,500 | 22,865 | 6.77% |
| Other Utility Funds Revenues O/(U) Expenditures | \$ (2,623) | \$ 145,709 | \$ 540,280 | \$ 83,652 | \$ 767,018 | \$ - | | |

FUND BALANCE

| | | | | | |
|------------------------------------|---------------------|---------------------|---------------------|---------------------|---------------------|
| Beginning Fund Balance | \$ 3,861,275 | \$ 3,858,652 | \$ 4,004,361 | \$ 4,544,641 | \$ 3,861,275 |
| Revenues Over/(Under) Expenditures | (2,623) | 145,709 | 540,280 | 83,652 | 767,018 |
| Ending Fund Balance | \$ 3,858,652 | \$ 4,004,361 | \$ 4,544,641 | \$ 4,628,293 | \$ 4,628,293 |

Ending Fund Balance by Fund:

| | | | | | |
|-------------------------------|---------------------|---------------------|---------------------|---------------------|---------------------|
| 25 - Storm Water Utility Fund | \$ (15,320) | \$ 26,850 | \$ 48,021 | \$ 131,655 | \$ 131,655 |
| 43 - 2000 Sewer Rehab | 511,088 | 511,088 | 511,088 | 511,088 | 511,088 |
| 46 - 2002 TWDB | 2,175,251 | 2,278,694 | 2,275,744 | 2,275,744 | 2,275,744 |
| 47 - 2002 WW SS | 1,187,633 | 1,187,729 | 1,709,788 | 1,709,806 | 1,709,806 |
| | \$ 3,858,652 | \$ 4,004,361 | \$ 4,544,641 | \$ 4,628,293 | \$ 4,628,293 |

* Line item not budgeted.

** YTD actual exceeds budget.

CITY OF DEER PARK
SUMMARY STATEMENT OF REVENUES & EXPENDITURES
TWELVE MONTHS ENDED SEPTEMBER 30, 2018 (UNAUDITED)

| | Quarter Results | | | | Year-to-Date vs. Annual Budget | | | |
|--|---------------------|--------------------|--------------------|--------------------|--------------------------------|-------------------|---------------------|-----------------------|
| | Qtr 1 12/31/2017 | Qtr 2 3/31/2018 | Qtr 3 6/30/2018 | Qtr 4 9/30/2018 | YTD Actual | Amended Budget | Remaining Budget | Remaining Budget % |
| CAPITAL IMPROVEMENTS FUND | | | | | | | | |
| REVENUE SUMMARY: | | | | | | | | |
| Other | \$ 378 | \$ 474 | \$ 601 | \$ 681 | \$ 2,134 | \$ 7,226,200 | \$ 7,224,066 | 99.97% |
| Total Revenue | 378 | 474 | 601 | 681 | 2,134 | 7,226,200 | 7,224,066 | 99.97% |
| EXPENDITURE SUMMARY: | | | | | | | | |
| General Government | 918,229 | 1,320,623 | 654,892 | 745,487 | 3,639,231 | 3,622,440 | (16,791) | ** |
| Fire Department | - | - | 157,000 | - | 157,000 | 157,000 | - | ** |
| Planning & Development | - | - | - | - | - | - | - | * |
| Street Maintenance | 22,655 | 107,666 | 356,086 | 1,255,602 | 1,742,009 | 1,933,813 | 191,804 | 9.92% |
| Storm Water | - | - | - | - | - | - | - | * |
| Park Maintenance | - | - | 55,898 | 53,958 | 109,856 | 919,947 | 810,091 | 88.06% |
| Recreation | - | - | 48,762 | - | 48,762 | 56,000 | 7,238 | 12.93% |
| Athletics & Aquatics | - | - | 29,978 | - | 29,978 | 125,000 | 95,022 | 76.02% |
| Building Maintenance | - | - | - | - | - | 200,000 | 200,000 | 100.00% |
| Drama | - | 22,850 | 25,913 | - | 48,763 | 56,000 | 7,237 | 12.92% |
| Library | - | 22,850 | 25,913 | - | 48,763 | 56,000 | 7,237 | 12.92% |
| Contingency | - | - | - | - | - | 100,000 | 100,000 | 100.00% |
| Total Expenditures | 940,884 | 1,473,989 | 1,354,442 | 2,055,047 | 5,824,362 | 7,226,200 | 1,401,838 | 19.40% |
| Capital Improvements Fund Revenues O/(U) | | | | | | | | |
| Expenditures | \$ (940,506) | \$ (1,473,515) | \$ (1,353,841) | \$ (2,054,366) | \$ (5,822,228) | \$ - | | |

FUND BALANCE

| | | | | | |
|------------------------------------|---------------------|---------------------|---------------------|---------------------|---------------------|
| Beginning Fund Balance | \$ 8,114,128 | \$ 7,173,622 | \$ 5,700,107 | \$ 4,346,266 | \$ 8,114,128 |
| Revenues Over/(Under) Expenditures | (940,506) | (1,473,515) | (1,353,841) | (2,054,366) | (5,822,228) |
| Ending Fund Balance | \$ 7,173,622 | \$ 5,700,107 | \$ 4,346,266 | \$ 2,291,900 | \$ 2,291,900 |

* Line item not budgeted.

** YTD actual exceeds budget.

CITY OF DEER PARK
DETAIL OF CAPITAL IMPROVEMENTS FUND EXPENDITURES
TWELVE MONTHS ENDED SEPTEMBER 30, 2018 (UNAUDITED)

| | Quarter Results | | | | Year-to-Date vs. Annual Budget | | | |
|---|-----------------------------------|---------------------------------|----------------------------------|----------------------------------|--------------------------------|---------------------------------|-----------------------------------|-------------------------------------|
| | <u>Qtr 1</u> <u>12/31/2017</u> | <u>Qtr 2</u> <u>1/0/1900</u> | <u>Qtr 3</u> <u>6/30/2018</u> | <u>Qtr 4</u> <u>9/30/2018</u> | <u>YTD</u> <u>Actual</u> | <u>Amended</u> <u>Budget</u> | <u>Remaining</u> <u>Budget</u> | <u>Remaining</u> <u>Budget %</u> |
| <u>General Government</u> | | | | | | | | |
| New City Hall | \$ 918,229 | \$ 1,255,480 | \$ 651,258 | \$ 745,487 | \$ 3,570,454 | \$ 3,122,440 | \$ (448,014) | -14.35% |
| New City Hall - Furniture | - | 65,142 | 3,635 | - | 68,777 | 500,000 | 431,223 | 86.24% |
| <u>Fire Department</u> | | | | | | | | |
| Roof Replacement - Fire Station #1 | - | - | 157,000 | - | 157,000 | 157,000 | - | 0.00% |
| <u>Street Maintenance</u> | | | | | | | | |
| Street Replacement Program | 20,535 | 7,273 | 203,090 | 1,255,602 | 1,486,500 | 1,633,813 | 147,313 | 9.02% |
| Sidewalks | 2,120 | 100,394 | 152,995 | - | 255,509 | 300,000 | 44,491 | 14.83% |
| <u>Park Maintenance</u> | | | | | | | | |
| Shade Structure at Bayou Bend Park | - | - | - | 53,958 | 53,958 | 100,000 | 46,042 | 46.04% |
| Repave Pony Field Parking Lot (P-Street) | - | - | - | - | - | 100,000 | 100,000 | 100.00% |
| Girls Softball Renovations | - | - | - | - | - | 449,631 | 449,631 | 100.00% |
| Soccer Field Development | - | - | - | - | - | 107,197 | 107,197 | 100.00% |
| Dow Park Pavilion & Improvements | - | - | 55,898 | - | 55,898 | 163,119 | 107,221 | 65.73% |
| <u>Recreation</u> | | | | | | | | |
| Replace Marquee Sign - Community Center | - | - | 48,762 | - | 48,762 | 56,000 | 7,238 | 12.93% |
| <u>Athletics & Aquatics</u> | | | | | | | | |
| New Slide Structure | - | - | 29,978 | - | 29,978 | 125,000 | 95,022 | 76.02% |
| <u>Building Maintenance</u> | | | | | | | | |
| Restore Roof - Community Center | - | - | - | - | - | 200,000 | 200,000 | 100.00% |
| <u>Drama</u> | | | | | | | | |
| Replace Marquee Sign - Court & Theater Building | - | 22,850 | 25,913 | - | 48,763 | 56,000 | 7,237 | 12.92% |
| <u>Library</u> | | | | | | | | |
| Replace Marquee Sign - Library | - | 22,850 | 25,913 | - | 48,763 | 56,000 | 7,237 | 12.92% |
| <u>Contingency</u> | | | | | | | | |
| Unallocated funds | - | - | - | - | - | 100,000 | 100,000 | 100.00% |
| Total Expenditures | <u>\$ 940,884</u> | <u>\$ 1,473,989</u> | <u>\$ 1,354,442</u> | <u>\$ 2,055,047</u> | <u>\$ 5,824,362</u> | <u>\$ 7,226,200</u> | <u>\$ 1,401,838</u> | <u>19.40%</u> |

* Line item not budgeted.

** YTD actual exceeds budget.

CITY OF DEER PARK
SUMMARY STATEMENT OF REVENUES & EXPENDITURES
TWELVE MONTHS ENDED SEPTEMBER 30, 2018 (UNAUDITED)

| | Quarter Results | | | | Year-to-Date vs. Annual Budget | | | |
|--|---------------------|--------------------|---------------------|--------------------|--------------------------------|-------------------|---------------------|-----------------------|
| | Qtr 1 12/31/2017 | Qtr 2 3/31/2018 | Qtr 3 6/30/2018 | Qtr 4 9/30/2018 | YTD Actual | Amended Budget | Remaining Budget | Remaining Budget % |
| <u>FIDUCIARY FUNDS</u> | | | | | | | | |
| REVENUE SUMMARY: | | | | | | | | |
| LEPC Fund | \$ 23,936 | \$ 28,374 | \$ 58 | \$ - | \$ 52,368 | \$ - | \$ (52,368) | * |
| Senior Citizens Fund | 308 | 386 | 489 | 554 | 1,737 | - | (1,737) | * |
| Total Revenue | 24,244 | 28,760 | 547 | 554 | 54,105 | - | (54,105) | * |
| EXPENDITURE SUMMARY: | | | | | | | | |
| LEPC Fund | 15,592 | 34,598 | 137,438 | - | 187,628 | - | (187,628) | * |
| Senior Citizens Fund | - | - | - | - | - | - | - | * |
| Total Expenditures | 15,592 | 34,598 | 137,438 | - | 187,628 | - | (187,628) | * |
| Fiduciary Funds Revenues O/(U) Expenditures | \$ 8,652 | \$ (5,838) | \$ (136,891) | \$ 554 | \$ (133,523) | \$ - | | |

FUND BALANCE

| | | | | | |
|---|-------------------|-------------------|-------------------|-------------------|-------------------|
| Beginning Fund Balance - LEPC Fund | \$ 135,308 | \$ 143,652 | \$ 137,428 | \$ 48 | \$ 135,308 |
| Revenues Over/(Under) Expenditures | 8,344 | (6,224) | (137,380) | - | (135,260) |
| Ending Fund Balance - LEPC Fund | \$ 143,652 | \$ 137,428 | \$ 48 | \$ 48 | \$ 48 |
| Beginning Fund Balance - Senior Citizens Fund | \$ 113,104 | \$ 113,412 | \$ 113,798 | \$ 114,287 | \$ 113,104 |
| Revenues Over/(Under) Expenditures | 308 | 386 | 489 | 554 | 1,737 |
| Ending Fund Balance - Senior Citizens Fund | \$ 113,412 | \$ 113,798 | \$ 114,287 | \$ 114,841 | \$ 114,841 |

* Line item not budgeted.

** YTD actual exceeds budget.

CITY OF DEER PARK
SUMMARY STATEMENT OF REVENUES & EXPENDITURES
TWELVE MONTHS ENDED SEPTEMBER 30, 2018 (UNAUDITED)

| | Quarter Results | | | | Year-to-Date vs. Annual Budget | | | |
|--|---------------------|---------------------|---------------------|---------------------|--------------------------------|-------------------|---------------------|-----------------------|
| | Qtr 1 12/31/2017 | Qtr 2 3/31/2018 | Qtr 3 6/30/2018 | Qtr 4 9/30/2018 | YTD Actual | Amended Budget | Remaining Budget | Remaining Budget % |
| SPECIAL REVENUE DISTRICTS | | | | | | | | |
| REVENUE SUMMARY: | | | | | | | | |
| Crime Control and Prevention District | \$ 144,793 | \$ 421,656 | \$ 436,730 | \$ 639,609 | \$ 1,642,788 | \$ 2,042,096 | \$ 399,308 | 19.55% |
| Fire Control Prevention and EMS District | 158,869 | 433,139 | 452,177 | 648,622 | 1,692,807 | 3,810,343 | 2,117,536 | 55.57% |
| Total Revenue | 303,662 | 854,795 | 888,907 | 1,288,231 | 3,335,595 | 5,852,439 | 2,516,844 | 43.01% |
| EXPENDITURE SUMMARY: | | | | | | | | |
| Crime Control and Prevention District | 332,722 | 187,696 | 388,868 | 226,593 | 1,135,879 | 2,042,096 | 906,217 | 44.38% |
| Fire Control Prevention and EMS District | 308,733 | 388,890 | 331,688 | 570,316 | 1,599,627 | 3,810,343 | 2,210,716 | 58.02% |
| Total Expenditures | 641,455 | 576,586 | 720,556 | 796,909 | 2,735,506 | 5,852,439 | 3,116,933 | 53.26% |
| Special Revenue Districts Revenues O/(U) Expenditures | \$ (337,793) | \$ 278,209 | \$ 168,351 | \$ 491,322 | \$ 600,089 | \$ - | | |
| <hr/> | | | | | | | | |
| FUND BALANCE | | | | | | | | |
| Beginning Fund Balance - CCPD | \$ 4,393,534 | \$ 4,205,605 | \$ 4,439,565 | \$ 4,487,427 | \$ 4,393,534 | | | |
| Revenues Over/(Under) Expenditures | (187,929) | 233,960 | 47,862 | 413,016 | 506,909 | | | |
| Ending Fund Balance - CCPD | \$ 4,205,605 | \$ 4,439,565 | \$ 4,487,427 | \$ 4,900,443 | \$ 4,900,443 | | | |
| Beginning Fund Balance - FCPEMSD | \$ 3,110,284 | \$ 2,960,420 | \$ 3,004,669 | \$ 3,125,158 | \$ 3,110,284 | | | |
| Revenues Over/(Under) Expenditures | (149,864) | 44,249 | 120,489 | 78,306 | 93,180 | | | |
| Ending Fund Balance - FCPEMSD | \$ 2,960,420 | \$ 3,004,669 | \$ 3,125,158 | \$ 3,203,464 | \$ 3,203,464 | | | |

* Line item not budgeted.

** YTD actual exceeds budget.

CITY OF DEER PARK
SUMMARY STATEMENT OF REVENUES & EXPENDITURES
TWELVE MONTHS ENDED SEPTEMBER 30, 2018 (UNAUDITED)

| | Quarter Results | | | | Year-to-Date vs. Annual Budget | | | |
|--|---------------------|--------------------|-----------------------|--------------------|--------------------------------|-------------------|---------------------|-----------------------|
| | Qtr 1 12/31/2017 | Qtr 2 3/31/2018 | Qtr 3 6/30/2018 | Qtr 4 9/30/2018 | YTD Actual | Amended Budget | Remaining Budget | Remaining Budget % |
| DEER PARK COMMUNITY DEVELOPMENT CORPORATION | | | | | | | | |
| REVENUE SUMMARY: | | | | | | | | |
| Taxes | \$ 301,832 | \$ 851,596 | \$ 856,383 | \$ 1,304,229 | \$ 3,314,040 | \$ 2,700,000 | \$ (614,040) | -- |
| Other | 307 | 305 | 232 | 654 | 1,498 | 900 | (598) | -- |
| Total Revenue | 302,139 | 851,901 | 856,615 | 1,304,883 | 3,315,538 | 2,700,900 | (614,638) | -- |
| EXPENDITURE SUMMARY: | | | | | | | | |
| Operating Expenditures | - | 2,000 | - | - | 2,000 | 123,900 | 121,900 | 98.39% |
| Transfer for Pay-As-You-Go Expenditures | - | 315,466 | 109,687 | 326,327 | 751,480 | 182,638 | (568,842) | -- |
| Transfer to Debt Service Fund | - | - | 1,954,493 | 69,865 | 2,024,358 | 2,394,362 | 370,004 | 15.45% |
| Total Expenditures | - | 317,466 | 2,064,180 | 396,192 | 2,777,838 | 2,700,900 | (76,938) | -- |
| Deer Park Community Development Corporation | | | | | | | | |
| Fund Revenues O/(U) Expenditures | \$ 302,139 | \$ 534,435 | \$ (1,207,565) | \$ 908,691 | \$ 537,700 | \$ - | | |

FUND BALANCE

| | | | | | |
|------------------------------------|---------------------|---------------------|---------------------|---------------------|---------------------|
| Beginning Fund Balance | \$ 3,241,872 | \$ 3,544,011 | \$ 4,078,446 | \$ 2,870,881 | \$ 3,241,872 |
| Revenues Over/(Under) Expenditures | 302,139 | 534,435 | (1,207,565) | 908,691 | 537,700 |
| Ending Fund Balance | \$ 3,544,011 | \$ 4,078,446 | \$ 2,870,881 | \$ 3,779,572 | \$ 3,779,572 |

* Line item not budgeted.

** YTD actual exceeds budget.

**CITY OF DEER PARK
SUMMARY OF AD VALOREM (PROPERTY) TAX
FISCAL YEAR 2016 - FISCAL YEAR 2018**

| Fiscal Month | FY 2016 | | FY 2017 | | FY 2018 | |
|------------------|----------------------|----------------------|----------------------|----------------------|----------------------|----------------------|
| | Ad Valorem * | Industrial | Ad Valorem * | Industrial | Ad Valorem * | Industrial |
| Oct | \$ 23,462 | \$ - | \$ 348,751 | \$ - | \$ 471,868 | \$ - |
| Nov | 968,115 | - | 1,044,652 | 112,192 | 1,254,064 | 31,839 |
| Dec | 6,913,356 | 13,178,476 | 7,111,516 | 12,804,889 | 8,048,053 | 10,423,927 |
| Jan | 6,399,747 | 260,783 | 7,688,458 | 65,586 | 6,722,377 | 809,817 |
| Feb | 1,332,727 | 213,330 | 1,067,393 | 65,825 | 1,384,431 | 37,478 |
| Mar | 283,338 | (14,501) | 422,982 | 6,032 | 356,288 | - |
| Apr | 99,882 | (9,966) | 138,187 | 2,393 | 152,842 | 2,887 |
| May | 205,323 | - | 188,096 | 1,679 | 116,603 | 4,469 |
| Jun | 110,979 | - | 63,231 | - | 112,912 | 5,781 |
| Jul | 50,116 | - | 39,116 | - | 85,127 | - |
| Aug | 32,164 | - | 15,318 | - | 47,472 | - |
| Sep | 25,100 | - | (226,111) | - | 19,008 | - |
| Total | <u>\$ 16,444,309</u> | <u>\$ 13,628,122</u> | <u>\$ 17,901,589</u> | <u>\$ 13,058,596</u> | <u>\$ 18,771,045</u> | <u>\$ 11,316,198</u> |
| YTD | <u>\$ 16,444,309</u> | <u>\$ 13,628,122</u> | <u>\$ 17,901,589</u> | <u>\$ 13,058,596</u> | <u>\$ 18,771,045</u> | <u>\$ 11,316,198</u> |
| % of Budget | 105.86% | 106.48% | 101.87% | 113.27% | 103.62% | 99.95% |
| Budget | \$ 15,533,821 | \$ 12,798,700 | \$ 17,572,173 | \$ 11,528,238 | \$ 18,114,583 | \$ 11,321,524 |
| % of Budget | 105.86% | 106.48% | 101.87% | 113.27% | 103.62% | 99.95% |
| <u>Tax Rate:</u> | <u>\$ 0.714352</u> | / \$100 valuation | <u>\$ 0.720000</u> | / \$100 valuation | <u>\$ 0.720000</u> | / \$100 valuation |
| General | \$ 0.515711 | / \$100 valuation | \$ 0.519943 | / \$100 valuation | \$ 0.533514 | / \$100 valuation |
| Debt Service | \$ 0.198641 | / \$100 valuation | \$ 0.200057 | / \$100 valuation | \$ 0.186486 | / \$100 valuation |

* Includes delinquent taxes and penalties and interest for the General and Debt Service Funds.

**CITY OF DEER PARK
SUMMARY OF SALES & MIXED BEVERAGE TAX
FISCAL YEAR 2016 - FISCAL YEAR 2018**

| Payment | | City of Deer Park | | | CCPD | | | FCPEMSD | | |
|-------------|-----------|---------------------|---------------------|---------------------|---------------------|---------------------|---------------------|---------------------|---------------------|---------------------|
| Received | Collected | FY 2016 | FY 2017 | FY 2018 | FY 2016 | FY 2017 | FY 2018 | FY 2016 | FY 2017 | FY 2018 |
| Oct | Aug | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |
| Nov | Sep | 671 | 681 | 737 | - | - | - | - | - | - |
| Dec | Oct | 516,217 | 521,199 | 602,950 | 130,669 | 144,618 | 144,488 | 129,317 | 143,495 | 158,447 |
| Jan | Nov | 484,135 | 512,669 | 584,456 | 130,882 | 129,899 | 144,324 | 130,051 | 129,091 | 151,916 |
| Feb | Dec | 571,825 | 657,915 | 666,769 | 141,347 | 164,199 | 164,040 | 140,670 | 164,826 | 166,067 |
| Mar | Jan | 475,306 | 415,192 | 453,779 | 121,029 | 103,194 | 113,103 | 120,327 | 104,229 | 114,881 |
| Apr | Feb | 518,740 | 474,902 | 603,046 | 128,215 | 118,942 | 162,427 | 127,669 | 121,077 | 171,509 |
| May | Mar | 573,297 | 694,899 | 604,228 | 142,314 | 168,850 | 148,331 | 141,788 | 171,752 | 155,168 |
| Jun | Apr | 553,393 | 475,515 | 508,044 | 138,995 | 120,859 | 125,780 | 137,732 | 125,816 | 125,249 |
| Jul | May | 573,882 | 571,967 | 517,106 | 146,670 | 137,048 | 120,073 | 145,729 | 138,851 | 124,630 |
| Aug | Jun | 722,409 | 539,270 | 534,090 | 192,621 | 133,257 | 131,922 | 191,471 | 139,741 | 134,837 |
| Sep | Jul | 1,563,678 | 1,561,136 | 1,563,853 | 415,998 | 387,025 | 381,722 | 409,516 | 400,241 | 388,734 |
| Total | | <u>\$ 6,553,553</u> | <u>\$ 6,425,345</u> | <u>\$ 6,639,058</u> | <u>\$ 1,688,740</u> | <u>\$ 1,607,891</u> | <u>\$ 1,636,210</u> | <u>\$ 1,674,270</u> | <u>\$ 1,639,119</u> | <u>\$ 1,691,438</u> |
| YTD | | <u>\$ 6,553,553</u> | <u>\$ 6,425,345</u> | <u>\$ 6,639,058</u> | <u>\$ 1,688,740</u> | <u>\$ 1,607,891</u> | <u>\$ 1,636,210</u> | <u>\$ 1,674,270</u> | <u>\$ 1,639,119</u> | <u>\$ 1,691,438</u> |
| % of Budget | | 117.03% | 110.78% | 113.49% | 134.03% | 121.81% | 119.71% | 132.88% | 124.18% | 123.75% |
| Budget | | \$ 5,600,000 | \$ 5,800,000 | \$ 5,850,000 | \$ 1,260,000 | \$ 1,320,000 | \$ 1,366,800 | \$ 1,260,000 | \$ 1,320,000 | \$ 1,366,800 |
| % of Budget | | 117.03% | 110.78% | 113.49% | 134.03% | 121.81% | 119.71% | 132.88% | 124.18% | 123.75% |

| Payment | | DPCDC | | |
|-------------|-----------|---------------------|---------------------|---------------------|
| Received | Collected | FY 2016 | FY 2017 | FY 2018 |
| Oct | Aug | \$ - | \$ - | \$ - |
| Nov | Sep | 324 | 329 | 356 |
| Dec | Oct | 258,098 | 260,600 | 301,475 |
| Jan | Nov | 241,165 | 255,458 | 291,347 |
| Feb | Dec | 285,901 | 328,946 | 333,372 |
| Mar | Jan | 237,642 | 207,584 | 226,877 |
| Apr | Feb | 257,999 | 236,160 | 300,273 |
| May | Mar | 286,637 | 347,438 | 302,101 |
| Jun | Apr | 276,685 | 237,745 | 254,009 |
| Jul | May | 285,222 | 284,163 | 256,298 |
| Aug | Jun | 361,193 | 269,622 | 267,032 |
| Sep | Jul | 780,916 | 779,680 | 780,900 |
| Total | | <u>\$ 3,271,782</u> | <u>\$ 3,207,725</u> | <u>\$ 3,314,040</u> |
| YTD | | <u>\$ 3,271,782</u> | <u>\$ 3,207,725</u> | <u>\$ 3,314,040</u> |
| % of Budget | | 142.25% | 133.66% | 122.74% |
| Budget | | \$ 2,300,000 | \$ 2,400,000 | \$ 2,700,000 |
| % of Budget | | 142.25% | 133.66% | 122.74% |

The following is an approximation of sales tax revenue by category based on a 16-year average from 2002-2017. This represents the most recent data available for the City and provides a relative scale for the source of the City's sales tax revenue.

| | |
|----------------------------|--------|
| Retail | 33.74% |
| Wholesale | 17.68% |
| Manufacturing | 13.92% |
| Accommodation/Food Service | 10.97% |
| Construction | 8.33% |
| Real Estate/Rental/Leasing | 6.68% |
| All Other | 8.68% |

**CITY OF DEER PARK
SUMMARY OF FRANCHISE TAXES
FISCAL YEAR 2016 - FISCAL YEAR 2018**

| | <u>FY 2016</u> | <u>FY 2017</u> | <u>FY 2018</u> |
|-------------|---------------------|---------------------|---------------------|
| Oct | \$ 185,304 | \$ 97,905 | \$ 100,369 |
| Nov | 8,102 | 101,466 | 103,012 |
| Dec | 189,587 | 191,582 | 200,022 |
| Jan | 83,095 | 66,588 | 45,804 |
| Feb | 261,162 | 271,448 | 271,515 |
| Mar | 95,748 | 191,961 | 195,030 |
| Apr | 259,264 | 56,521 | 46,304 |
| May | 200,441 | 291,241 | 319,161 |
| Jun | 108,489 | 207,791 | 209,573 |
| Jul | 168,060 | 50,683 | 44,952 |
| Aug | 258,628 | 265,450 | 358,842 |
| Sep | <u>311,173</u> | <u>302,882</u> | <u>151,364</u> |
| Total | <u>\$ 2,129,053</u> | <u>\$ 2,095,518</u> | <u>\$ 2,045,948</u> |
| | | | |
| YTD | <u>\$ 2,129,053</u> | <u>\$ 2,095,518</u> | <u>\$ 2,045,948</u> |
| % of Budget | 96.78% | 102.22% | 104.92% |
| | | | |
| Budget | <u>\$ 2,200,000</u> | <u>\$ 2,050,000</u> | <u>\$ 1,950,000</u> |
| % of Budget | 96.78% | 102.22% | 104.92% |

Franchise taxes represent fees to use the public right-of-way for a private purpose.

**CITY OF DEER PARK
SUMMARY OF DEBT SERVICE PAYMENTS BY TYPE
FISCAL YEAR 2018**

| <u>Series</u> | <u>Original</u> | <u>Debt</u> | <u>Fiscal Year Debt Service Payments</u> | | | |
|-----------------------------------|-----------------|----------------------|--|------------------------|------------------------|------------------------|
| | <u>Issuance</u> | <u>Outstanding</u> | <u>Principal</u> | <u>Interest 3/15</u> | <u>Interest 9/15</u> | <u>Total</u> |
| 2007 GO Bonds | \$ 7,465,000 | \$ 320,000 * | \$ 320,000.00 | \$ 6,080.00 | \$ - | \$ 326,080.00 |
| 2007 Certificates of Obligation | 2,300,000 | 105,000 * | 105,000.00 | 2,231.25 | - | 107,231.25 |
| 2010 Certificates of Obligation | 7,805,000 | 6,070,000 | 400,000.00 | 134,487.50 | 125,487.50 | 659,975.00 |
| 2010 GO & GO Refunding Bonds | 6,295,000 | 2,020,000 | 545,000.00 | 44,475.00 | 32,212.50 | 621,687.50 |
| 2011 Certificates of Obligation | 3,390,000 | 2,900,000 | 155,000.00 | 52,300.00 | 50,362.50 | 257,662.50 |
| 2011 GO Refunding Bonds | 3,490,000 | 1,760,000 | 305,000.00 | 24,875.00 | 21,062.50 | 350,937.50 |
| 2012 Certificates of Obligation | 4,725,000 | 4,450,000 | 150,000.00 | 57,476.25 | 55,976.25 | 263,452.50 |
| 2012 GO Refunding Bonds | 4,510,000 | 3,845,000 | 590,000.00 | 45,275.00 | 39,375.00 | 674,650.00 |
| 2013 Certificates of Obligation | 6,925,000 | 6,765,000 | 140,000.00 | 110,400.00 | 108,650.00 | 359,050.00 |
| 2014 Certificates of Obligation | 6,275,000 | 6,025,000 | 235,000.00 | 108,112.50 | 104,587.50 | 447,700.00 |
| 2014 GO & GO Refunding Bonds | 2,920,000 | 2,800,000 | 40,000.00 | 44,537.50 | 43,937.50 | 128,475.00 |
| 2015 Certificates of Obligation | 7,310,000 | 5,995,000 | 680,000.00 | 86,625.00 | 79,825.00 | 846,450.00 |
| 2015-A Certificates of Obligation | 7,110,000 | 6,810,000 | 220,000.00 | 102,412.50 | 100,212.50 | 422,625.00 |
| 2016 Certificates of Obligation | 9,450,000 | 7,430,000 | 1,780,000.00 | 59,068.50 | 44,917.50 | 1,883,986.00 |
| 2016 Limited Tax Refunding | 6,260,000 | 6,260,000 | - | 103,762.50 | 103,762.50 | 207,525.00 |
| 2016-A Certificates of Obligation | 6,885,000 | 6,715,000 | 175,000.00 | 106,662.50 | 104,912.50 | 386,575.00 |
| 2017 Certificates of Obligation | 2,700,000 | 2,700,000 | 60,000.00 | 25,515.00 | 24,948.00 | 110,463.00 |
| 2017-A Certificates of Obligation | 5,150,000 | 5,150,000 | 130,000.00 | 40,041.67 | 70,775.00 | 240,816.67 |
| Total General Obligation Debt | | <u>\$ 78,120,000</u> | <u>\$ 6,030,000.00</u> | <u>\$ 1,154,337.67</u> | <u>\$ 1,111,004.25</u> | <u>\$ 8,295,341.92</u> |

| <u>Series</u> | <u>Original</u> | <u>Debt</u> | <u>Fiscal Year Debt Service Payments</u> | | | |
|---------------------|-----------------|--------------------|--|---------------------|---------------------|----------------------|
| | <u>Issuance</u> | <u>Outstanding</u> | <u>Principal</u> | <u>Interest 3/1</u> | <u>Interest 9/1</u> | <u>Total</u> |
| 2002 Revenue Bonds | \$ 5,000,000 | \$ 250,000 | \$ 250,000.00 | \$ 4,250.00 | \$ - | \$ 254,250.00 |
| Total Revenue Bonds | | <u>\$ 250,000</u> | <u>\$ 250,000.00</u> | <u>\$ 4,250.00</u> | <u>\$ -</u> | <u>\$ 254,250.00</u> |

* \$5,040,000 and \$1,440,000 of these Bonds and Certificates, respectively, for the years 2019-2027 were defeased by the Series 2016, Limited Tax Refunding and were called on 3/15/17.

**CITY OF DEER PARK
SUMMARY OF DEBT SERVICE PAYMENTS
FISCAL YEAR 2018**

| Series | Original | Debt | Fiscal Year Debt Service Payments | | | |
|-----------------------------------|--------------|---------------|-----------------------------------|-----------------|-----------------|-----------------|
| | Issuance | Outstanding | Principal | Interest - Mar | Interest - Sep | Total |
| 2002 Revenue Bonds | \$ 5,000,000 | \$ 250,000 | \$ 250,000.00 | \$ 4,250.00 | \$ - | \$ 254,250.00 |
| 2007 GO Bonds | 7,465,000 | 320,000 | 320,000.00 | 6,080.00 | - | 326,080.00 |
| 2007 Certificates of Obligation | 2,300,000 | 105,000 | 105,000.00 | 2,231.25 | - | 107,231.25 |
| 2010 Certificates of Obligation | 7,805,000 | 6,070,000 | 400,000.00 | 134,487.50 | 125,487.50 | 659,975.00 |
| 2010 GO & GO Refunding Bonds | 6,295,000 | 2,020,000 | 545,000.00 | 44,475.00 | 32,212.50 | 621,687.50 |
| 2011 Certificates of Obligation | 3,390,000 | 2,900,000 | 155,000.00 | 52,300.00 | 50,362.50 | 257,662.50 |
| 2011 GO Refunding Bonds | 3,490,000 | 1,760,000 | 305,000.00 | 24,875.00 | 21,062.50 | 350,937.50 |
| 2012 Certificates of Obligation | 4,725,000 | 4,450,000 | 150,000.00 | 57,476.25 | 55,976.25 | 263,452.50 |
| 2012 GO Refunding Bonds | 4,510,000 | 3,845,000 | 590,000.00 | 45,275.00 | 39,375.00 | 674,650.00 |
| 2013 Certificates of Obligation | 6,925,000 | 6,765,000 | 140,000.00 | 110,400.00 | 108,650.00 | 359,050.00 |
| 2014 Certificates of Obligation | 6,275,000 | 6,025,000 | 235,000.00 | 108,112.50 | 104,587.50 | 447,700.00 |
| 2014 GO & GO Refunding Bonds | 2,920,000 | 2,800,000 | 40,000.00 | 44,537.50 | 43,937.50 | 128,475.00 |
| 2015 Certificates of Obligation | 7,310,000 | 5,995,000 | 680,000.00 | 86,625.00 | 79,825.00 | 846,450.00 |
| 2015-A Certificates of Obligation | 7,110,000 | 6,810,000 | 220,000.00 | 102,412.50 | 100,212.50 | 422,625.00 |
| 2016 Certificates of Obligation | 9,450,000 | 7,430,000 | 1,780,000.00 | 59,068.50 | 44,917.50 | 1,883,986.00 |
| 2016 Limited Tax Refunding | 6,260,000 | 6,260,000 | - | 103,762.50 | 103,762.50 | 207,525.00 |
| 2016-A Certificates of Obligation | 6,885,000 | 6,715,000 | 175,000.00 | 106,662.50 | 104,912.50 | 386,575.00 |
| 2017 Certificates of Obligation | 2,700,000 | 2,700,000 | 60,000.00 | 25,515.00 | 24,948.00 | 110,463.00 |
| 2017-A Certificates of Obligation | 5,150,000 | 5,150,000 | 130,000.00 | 40,041.67 | 70,775.00 | 240,816.67 |
| Total Debt Service | | \$ 78,370,000 | \$ 6,280,000.00 | \$ 1,158,587.67 | \$ 1,111,004.25 | \$ 8,549,591.92 |

ALLOCATION OF DEBT SERVICE BY FUND

| Series | Issuance | Outstanding | Principal | Interest - Mar | Interest - Sep | Total |
|-----------------------------------|--------------|---------------|-----------------|-----------------|-----------------|-----------------|
| General Fund | | | | | | |
| 2007 GO Bonds | \$ 7,465,000 | \$ 320,000 | \$ 320,000.00 | \$ 6,080.00 | \$ - | \$ 326,080.00 |
| 2007 Certificates of Obligation | 2,300,000 | 105,000 | 105,000.00 | 2,231.25 | - | 107,231.25 |
| 2010 Certificates of Obligation | 7,805,000 | 6,070,000 | 400,000.00 | 134,487.50 | 125,487.50 | 659,975.00 |
| 2010 GO & GO Refunding Bonds | 3,777,000 | 1,502,677 # | 405,425.00 | 33,084.95 | 23,962.88 | 462,472.83 |
| 2011 Certificates of Obligation | 3,390,000 | 1,160,000 # | 62,000.00 | 20,920.00 | 20,145.00 | 103,065.00 |
| 2011 GO Refunding Bonds | 3,490,000 | 704,000 # | 122,000.00 | 9,950.00 | 8,425.00 | 140,375.00 |
| 2012 Certificates of Obligation | 4,725,000 | 1,780,000 # | 60,000.00 | 22,990.50 | 22,390.50 | 105,381.00 |
| 2012 GO Refunding Bonds | 4,510,000 | 3,845,000 | 590,000.00 | 45,275.00 | 39,375.00 | 674,650.00 |
| 2013 Certificates of Obligation | 6,925,000 | 2,706,000 # | 56,000.00 | 44,160.00 | 43,460.00 | 143,620.00 |
| 2014 Certificates of Obligation | 6,275,000 | 2,410,000 # | 94,000.00 | 43,245.00 | 41,835.00 | 179,080.00 |
| 2014 GO & GO Refunding Bonds | 1,738,445 | 1,618,445 # | 40,000.00 | 26,814.17 | 26,214.17 | 93,028.34 |
| 2015 Certificates of Obligation | 7,310,000 | 5,995,000 | 680,000.00 | 86,625.00 | 79,825.00 | 846,450.00 |
| 2015-A Certificates of Obligation | 7,110,000 | 2,724,000 # | 88,000.00 | 40,965.00 | 40,085.00 | 169,050.00 |
| 2016 Certificates of Obligation | 9,450,000 | 7,430,000 | 1,780,000.00 | 59,068.50 | 44,917.50 | 1,883,986.00 |
| 2016-A Certificates of Obligation | 6,885,000 | 2,686,000 # | 70,000.00 | 42,665.00 | 41,965.00 | 154,630.00 |
| 2016 Limited Tax Refunding | 6,260,000 | 6,260,000 | - | 103,762.50 | 103,762.50 | 207,525.00 |
| 2017 Certificates of Obligation | 2,700,000 | 2,700,000 | 60,000.00 | 25,515.00 | 24,948.00 | 110,463.00 |
| 2017-A Certificates of Obligation | 5,150,000 | 2,060,000 # | 52,000.00 | 16,167.07 | 28,310.00 | 96,477.07 |
| | | 52,076,122 | 4,984,425.00 | 764,006.44 | 715,108.05 | 6,463,539.49 |
| Water/Sewer Fund | | | | | | |
| 2002 Revenue Bonds | \$ 5,000,000 | \$ 250,000 | 250,000.00 | 4,250.00 | - | 254,250.00 |
| 2010 GO & GO Refunding Bonds | 2,518,000 | 517,323 # | 139,575.00 | 11,390.05 | 8,249.62 | 159,214.67 |
| 2011 Certificates of Obligation | 3,390,000 | 1,740,000 # | 93,000.00 | 31,380.00 | 30,217.50 | 154,597.50 |
| 2011 GO Refunding Bonds | 3,490,000 | 1,056,000 # | 183,000.00 | 14,925.00 | 12,637.50 | 210,562.50 |
| 2012 Certificates of Obligation | 4,725,000 | 2,670,000 # | 90,000.00 | 34,485.75 | 33,585.75 | 158,071.50 |
| 2013 Certificates of Obligation | 6,925,000 | 4,059,000 # | 84,000.00 | 66,240.00 | 65,190.00 | 215,430.00 |
| 2014 Certificates of Obligation | 6,275,000 | 3,615,000 # | 141,000.00 | 64,867.50 | 62,752.50 | 268,620.00 |
| 2014 GO & GO Refunding Bonds | 1,181,555 | 1,181,555 # | - | 17,723.33 | 17,723.33 | 35,446.66 |
| 2015-A Certificates of Obligation | 7,110,000 | 4,086,000 # | 132,000.00 | 61,447.50 | 60,127.50 | 253,575.00 |
| 2016-A Certificates of Obligation | 6,885,000 | 4,029,000 # | 105,000.00 | 63,997.50 | 62,947.50 | 231,945.00 |
| 2017-A Certificates of Obligation | 5,150,000 | 3,090,000 # | 78,000.00 | 23,874.60 | 42,465.00 | 144,339.60 |
| | | 26,293,878 | 1,295,575.00 | 394,581.23 | 395,896.20 | 2,086,052.43 |
| | | \$ 78,370,000 | \$ 6,280,000.00 | \$ 1,158,587.67 | \$ 1,111,004.25 | \$ 8,549,591.92 |

Allocation to General and Water/Sewer Fund

**CITY OF DEER PARK
SUMMARY OF WATER & SEWER CONSUMPTION BILLED
FISCAL YEAR 2016 - FISCAL YEAR 2018**

| Fiscal Month | FY 2016 | | FY 2017 | | FY 2018 | |
|-----------------|------------------------------------|----------------|------------------------------------|----------------|------------------------------------|----------------|
| | <u>Consumption (1,000 gallons)</u> | | <u>Consumption (1,000 gallons)</u> | | <u>Consumption (1,000 gallons)</u> | |
| | <u>Water *</u> | <u>Sewer</u> | <u>Water *</u> | <u>Sewer</u> | <u>Water *</u> | <u>Sewer</u> |
| Oct | 105,564 | 90,097 | 95,884 | 84,671 | 96,359 | 85,569 |
| Nov | 93,490 | 79,815 | 96,356 | 83,852 | 94,515 | 83,389 |
| Dec | 99,313 | 86,954 | 98,265 | 84,346 | 89,559 | 79,484 |
| Jan | 78,934 | 73,033 | 92,031 | 81,597 | 94,056 | 85,029 |
| Feb | 86,172 | 80,905 | 81,251 | 81,597 | 79,719 | 73,955 |
| Mar | 73,159 | 68,657 | 83,196 | 77,150 | 75,531 | 70,705 |
| Apr | 81,824 | 75,084 | 79,787 | 73,047 | 77,202 | 73,050 |
| May | 93,908 | 85,489 | 87,516 | 78,969 | 83,179 | 75,117 |
| Jun | 84,094 | 76,465 | 92,061 | 81,247 | 93,516 | 83,304 |
| Jul | 84,020 | 77,878 | 97,902 | 85,402 | 115,051 | 98,802 |
| Aug | 101,828 | 89,926 | 95,562 | 82,190 | 95,891 | 80,527 |
| Sep | <u>104,285</u> | <u>88,342</u> | <u>92,253</u> | <u>80,658</u> | <u>115,808</u> | <u>88,528</u> |
| Total | <u>1,086,591</u> | <u>972,645</u> | <u>1,092,064</u> | <u>974,726</u> | <u>1,110,386</u> | <u>977,459</u> |
| YTD | <u>1,086,591</u> | <u>972,645</u> | <u>1,092,064</u> | <u>974,726</u> | <u>1,110,386</u> | <u>977,459</u> |

* Includes water and irrigation meters



Legislation Details (With Text)

File #: AMD 18-015 **Version:** 1 **Name:**
Type: Amendment **Status:** Agenda Ready
File created: 12/13/2018 **In control:** City Council
On agenda: 12/18/2018 **Final action:**
Title: Consideration of and action on an amendment to the Youth Sports Organization Utilization Agreements.

Sponsors:

Indexes:

Code sections:

Attachments: [Sports Organization Utilization Agreement - Softball - FINAL112918](#)
[Sports Organization Utilization Agreement - Soccer - FINAL112918](#)
[ADDENDUM TO CONTRACT - DPSFC](#)
[ADDENDUM TO CONTRACT - DPGS](#)

| Date | Ver. | Action By | Action | Result |
|------------|------|--------------|--------|--------|
| 12/18/2018 | 1 | City Council | | |

Consideration of and action on an amendment to the Youth Sports Organization Utilization Agreements.

The attached addendums are required to meet facility usage due to prolonged construction on the renovated Deer Park Girls Softball complex and the newly constructed Deer Park Soccer Complex.

None at this time.

Approve the Youth Organization Utilization Agreement addendums



City of Deer Park

Parks and Recreation Department

Sport Organization Utilization Agreement

Softball

This agreement for the use of athletic facilities is designed to ensure that athletic facilities owned and/or operated by the City of Deer Park, hereinafter referred to as “City” and the Parks and Recreation Department, hereinafter referred to as “Department”, are utilized efficiently and safely. All Deer Park sports programs recognized by the City and all Sports Organizations, hereinafter referred to as “Organization”, and are intended to enhance and enrich the interest of our citizens and to promote participation in wholesome recreational activities; in addition to an agreement to share the responsibility of caring, improving, and maintaining the facilities.

In order to establish a mutual understanding and working relationship between various Organizations and the City, the following is agreed to by all parties concerned. The City enters into agreements that will best serve the athletes. Any and all fields can be assigned or reassigned to use by any contracted organization on a yearly basis depending on the participation and needs.

A. Term

1. This agreement shall be for a term of up to one (1) calendar year beginning on the date of full execution hereof concluding on December 31 of each calendar year, unless terminated by either party upon sixty (60) days advanced written notice to the other party. Any Organization that holds a current valid agreement, in compliance with the City, for the use of any athletic facility (ies) for the previous year will have the opportunity to renew that agreement for the following year. Agreements will be taken before City Council annually each December to approve for the following calendar year.

B. Option to renew

1. Renewal of this agreement for an additional term shall be conditioned upon the following terms:
 - i. That a request for renewal be initiated by the signing of a new agreement by the Organization’s president, with a copy of the comprehensive annual report, prior to October 31st of each year.
 - ii. That the Organization provide the annual report prior to the start of the season:
 - a. Copy of approved current constitution and by-laws for Organization.

- b. List of current Organization officers and board members with addresses, phone numbers, and email.
 - c. Proposed Organization schedule of events.
 - d. Copy of Organization's general liability insurance policy and have the City of Deer Park as additional insured.
- iii. Seek recommendation for approval by City Council from the Parks and Recreation Commission in November of each year.
- iv. Approval by the City Council in December of each year.

C. General Agreements

1. **The Organization understands that the City is the sole owner of the facilities and any contribution of services, amenities and cash or donation on the part of the Organization does not imply ownership on behalf of the Organization.**
2. Use of City facilities are primarily for the use of citizens living within the incorporated city limits and/or attends a Deer Park ISD school.
3. The Organization is required to provide a minimum service of Recreational League play.
4. It is suggested that the Organization prioritize usage of the fields in the following manner:
 - i. Recreational league games
 - ii. League sponsored tournaments
 - iii. Select league games
 - iv. Select tournaments
 - v. Third party usage
5. Other priority users include any persons living within the Deer Park Independent School District boundary lines.
 - i. 70% of the Recreational League participation must be comprised of either City of Deer Park residents or those living within the Deer Park Independent School District boundary lines.
6. If an Organization does not meet the above criteria, the Organization must provide annually the "Plan of Action" to increase the local participation percentage in an effort to achieve the criteria.
7. All persons within the established boundaries will be offered the opportunity to participate in all the Organization's programs regardless of gender, race, national origin, religion or disability in accordance with present state and federal law.
8. Non-recreational teams who are associated with the league through approved written consent from the Organization's board may utilize facilities at the discretion of the Organization.
 - i. If the Organization has identified non-recreational teams to utilize facilities, than the Organization's In-Lieu of payment will cover those associated cost with the non-recreational team usage.
9. Organization must operate as a non-profit association, as set forth by the Internal Revenue Service.
 - i. All financial documents and records are subject to audit per request of the City.
 - ii. Only camps or clinics authorized by the City, with all proceeds benefiting the Organization or the City are permitted. The City has first right of refusal.

10. The Organization WILL NOT collect admission fees nor require the public to pay other charges to attend practice, games or recreational and non-recreational tournaments at City facilities per City ordinance.
11. Annually, The Organization must submit with the annual agreement renewal either of the following:
 - i. In Lieu of proposal for capital improvements to their designated facility in the minimum amount of \$5,000. Capital improvements may consist of, but are not limited to:
 - a. Fence repairs
 - b. Irrigation repairs and installation
 - c. Field grading work
 - d. Concession stand infrastructure
 - e. Field light repairs and installation
 - f. Other items related to sports field improvements
 - ii. A payment in the amount of \$5,000 for future projects at the Organizations designated facility.
 - a. Funds will be held in a designated City of Deer Park account.
 - b. It is recommended that funds are used prior to reaching an account balance of \$50,000.
 - c. The City of Deer Park may utilize funds at their discretion with recommendation from the Parks and Recreation Commission and approval from the City Council.
12. Should the Organization choose to submit an In Lieu of project or payment exceeding the \$5,000 minimum; the following terms would apply:
 - i. The difference of the minimum amount can be applied to the following year's agreement.
 - ii. Should the Organization decide to make a payment towards a specific capital project, funds can be deferred up to three consecutive (3) years or up to an account balance of \$50,000. Three (3) consecutive years begins at initial deferred payment.
 - a. The specific capital project must be recommended by the Parks and Recreation Commission and presented and approved by City Council at initial deferment.
13. No construction or alterations may be done on City property/facility without the authorization of the City. Any approved construction will become the sole property of the City at the conclusion of construction and acceptance by the City. All capital improvement projects will go through the relevant formal City process.
14. Advertising is permitted at City facilities only with the prior approval of the Parks and Recreation Department.
15. The Organization will not allow any other organization, association or group to use the facility without prior approval of the Parks and Recreation Department.
 - i. The City of Deer Park reserve the right to regulate field usage at any time.
16. Anyone wishing to utilize the fields outside the organization must go through the City in order to rent the facilities. All Board of Directors members and managers are recommended to have completed a current applicable training program from a recognized state or national youth sports association. It is required that all head coaches involved in the league have such up to date training.

17. All league officials, coaches, managers, umpires and any other person(s) involved with the Organization's activities shall have a valid personal background check performed annually and with the results being kept in a confidential file by the Board of Directors.

D. Obligation of the City

1. To provide athletic facilities to be utilized efficiently and safely to enhance and enrich the interest of our youth and to promote participation in wholesome athletic activities.
2. To ensure the Organization has first rights of refusal.
3. To oversee, manage, and accept all capital improvement projects for athletic facilities.
4. To approve advertising permitted at athletic facilities.
5. The City reserves the right to close any field for routine maintenance for up to seven consecutive calendars days and will provide the Organization with a minimum of two week's written notice.
 - i. In the event of an emergency maintenance, the City may close the fields with less than two week's written notice to the Organization.
6. The City will provide maintenance and repairs to athletic facilities and more specifically as follows:
 - i. Will prepare all playing surfaces, buildings and grounds on City owned property prior to the beginning of the league season and as deemed necessary by the Department.
 - a. Maintain playing surfaces to include leveling and drainage work deemed necessary by the Department.
 - b. Maintain all, fences, bleachers and gates in a safe and secure condition.
 - c. Maintain structural integrity of concession stands, restrooms and storage buildings including repair or replacement of damaged roofs, doors and windows.
 - d. Make major plumbing repairs for restrooms, sinks, urinals and commodes as deemed necessary by the Department.
 - e. Make major electrical and air conditioning unit repairs as deemed necessary by the Department.
 - f. Paint all structures as deemed necessary by the Department.
 - g. Maintain all area and field lighting. Repair and replace lights, poles, wiring, fuses, transformers and other equipment related to the lighting of each field.
 - a. Attempt to maintain at least 75% of the potential lighting for field or pole during regularly scheduled season.
 - b. The Department will maintain lighting schedules for facilities with automatic lighting system.
 - h. The Organization will appoint three officials at the beginning of each calendar year to have access to the automatic light schedule. The Organization is responsible for notifying the City of permission changes throughout the year. Maintain all field irrigation system(s).
 - a. Watering schedules are managed and authorized by the Department.
 - b. The Department reserves the right to restrict watering schedules if conditions deem it necessary.
 - i. To provide, inspect and maintain AED units, fire extinguishers and pest control service at all City facilities.

7. Maintain all turf areas on the fields to include, but not limited to mowing, weed control, fertilization and herbicide spraying.
 - i. Department mowing routines allow for mowing of playing surfaces twice a week during scheduled season play.
 - ii. Department mowing routines allow for surrounding grounds mowing once every other week.
 - iii. Mowing routines are subject to change based on field conditions or as deemed necessary by the department.
 - iv. If any organization wants a more frequent mowing routine, it becomes their responsibility.
 - a. The Organization must receive prior approval before beginning additional mowing.
 - b. The Organization will be responsible for all damages occurring from additional mowing if damages should occur.
 - v. All additional herbicide, fertilization and overseeding applications will be performed by the Department upon request and with funds provided by the Organization.
8. Furnish trash receptacles and trash liners.
 - i. Remove all trash deposited in containers minimum twice a week or as deemed necessary the Department.
9. Clean and stock restrooms.
 - i. Daily, Monday through Friday, during regularly scheduled season.
 - ii. Saturdays and Sundays when deemed necessary by the Department.
 - iii. Once weekly during off-season.
10. Maintain all parking areas.
11. Provide utility services for facilities including electrical, water and sewer where required.
12. The City will supply support poles and an electrical source for scoreboards.
 - i. Routine maintenance and repairs to scoreboards becomes the responsibility of the Organization after installation.
13. The City retains the right and privilege to enter and inspect all buildings and premises at any time.
14. The Department will abide by and establish a line of communication between the Organization's President, or designated representative, and a City appointed liaison.
15. The City will provide a liaison to attend Organization board meetings as deemed necessary by the Department.
16. The Department's obligations under this agreement will be performed as soon as, and to the extent that, budgeted funds and resources are available for performance of its obligations.
 - i. The Department, to the best of our ability, will address all maintenance and repair requests in priority order.
17. The City will include promotional opportunities through the Fall/Winter, Spring and Summer Parks and Recreation Brochures, electronic marquees, website and Facebook page.
18. The City is obligated to provide a facility location, dependent on availability, with advanced notice, depending on facility and purpose of usage.

E. Obligation of Youth Sports Organization

1. To utilize athletic facilities efficiently and safely to enhance and enrich the interest of our youth and to promote participation in athletic activities.
2. Utilize City facilities for the primary use of citizens living within the incorporated city limits. It is suggested that the Organization prioritize usage of the fields in the following manner
 - i. Recreational league games
 - ii. League sponsored tournaments
 - iii. Select league games
 - iv. Select tournaments
 - v. Third party usage
3. The Organization shall furnish the Department an annual report, by October 31st of each year, which includes the total number of participants, including the number of resident and non-resident participants and any other information requested by the Department.
4. To seek approval from the Department for any capital improvement projects for athletic facilities.
5. To seek approval from the Department for advertising permitted at athletic facilities.
6. The Organization is obligated to provide the City with a schedule of all City facility usage. This is to include, but not limited to schedules for, games, tournaments, and league ceremonies. Schedules are due quarterly (January 1st, April 1st, July 1st, October 1st).
7. The Organization agrees NOT to expand schedules, length of league play, number of tournaments nor add seasons without prior written approval from the City.
8. Usage of facilities from November 1 through January 30 may result in a breach of contract.
9. The Organization shall at all times during the term of this agreement maintain, in effect general public liability insurance covering the Organization's program(s) at the facility against claims for personal injury, death or damage to property to the limit of not less than one-million (\$1,000,000). The City shall be named as additional insured on such policy and shall be entitled to thirty (30) day notice of cancellation or changes of any kind regarding such insurance and certificates of insurance shall be provided to the City prior to the agreement becoming valid.
10. By the execution of this agreement, the Organization does hereby indemnify and hold harmless the City and its officers, agents and employees from and against any and all suits, actions or claims of any character, type or description, including all expenses of litigation, court cost and attorney's fees, brought or made for or on account of any injuries or damages received or sustained by any person or persons or property, arising out of, or occasioned by, the act or failure to act by the Organization or its agents, volunteers or employees in the use of the facilities as set forth in the agreement.
11. All Board of Directors elections shall be conducted as prescribed by the Organization's by-laws. The election of offices shall be open to any and all qualified individuals. The Organization shall provide public notice of all Board of Directors elections. Notice shall be posted prior to the election. Every reasonable effort shall be made to notify all interested parties prior to the election date.
 - i. The City will provide a liaison to attend Organization board meetings as deemed necessary by the Department.

12. Each Organization is deemed responsible for the conduct of its participants, coaches and spectators. The Department can require an organization to hire an off duty officer for security if they feel it is in the best interest of the City.
13. It shall be the Organization's responsibility to ensure that no alcoholic beverages are permitted on the premises, per City Ordinance. This policy is to be inclusive of any individual under the influence of alcohol. League officials will request any such person to leave the premises and if necessary contact the Police.
14. The use of tobacco products such as cigars, cigarettes, smokeless tobacco and pipes is prohibited in all indoor City property venues including, but not limited to, the building entrance and exit ways. Tobacco use is allowed in designated areas which will be clearly marked with signage and markings.
15. During the term of this agreement the Organization shall operate its own concession stand and all revenues generated from such shall be for the sole and exclusive use of the Organization.
 - i. The Organization shall furnish and maintain all equipment needed and/or used in the concession stand. The Organization shall abide and comply by all city, county and state health and fire code requirements.
 - ii. It shall be the responsibility of the Organization to contact the Harris County Health Department for an annual inspection of the concession stand and to acquire all necessary health code licenses prior to opening for any season.
 - a. Dependent upon the issue, it shall be the responsibility of the Organization to make any alterations or repairs required by the Harris County Health Department.
 - b. It shall be the responsibility of the Organization to provide an annual report to the Department as proof of meeting Harris County Health Department code requirements.
 - iii. The Organization may sublet its concessions based on the following conditions:
 - a. Receive written permission to sublet concessions from the Department.
 - b. Concession contractor will be required to acquire a vendor permit from the Department.
16. The Organization will be responsible for all game preparations of fields.
 - i. No one under 16 years of age is allowed to operate any motorized equipment used in field preparation or materials transport, to include but not limited to golf carts, infield groomers, 4-wheelers, riding lawnmowers and motorized vehicles.
17. The Organization shall provide all bases and base stubs, pitching rubbers, marking chalk/paint and application equipment. The installation of pitching rubbers, bases and base stubs are to be installed per the manufactures instructions.
18. At anytime a mechanical batting machine or batting cage is being used, for instruction or practice, an adult league authorized official over the age of 21 must be present to supervise. It shall be the responsibility of the organization to ensure that any league official operating or supervising the use of a mechanical batting machine has been instructed in the proper operation procedures and with all safety precautions.
 - i. The Organization maintains first right of refusal on the usage of batting cages at their contracted facilities.

- ii. The Organization is responsible for securing batting cages and maintenance of batting cage nets.
- 19. The Organization shall report any facility damage, dangerous or unsafe conditions, or unusual or suspicious situations to the Department as soon as possible but no longer than the next business day.
 - i. At no time or under any circumstances is any organization official or bystander allowed to attempt to correct any of these problems.
- 20. The Organization has the right to sell and install signs along the fences and scoreboards of certain designated fields located on the facility. All revenues generated from such use shall be for the sole and exclusive use of the Organization. The Department, before installation, shall approve signs including installation materials and methods.
- 21. The Organization shall:
 - i. Prohibit its coaches and players from hitting balls into any fences unless it occurs in the natural course of a game. This policy is also to include surrounding structures and buildings. Failure to enforce this policy may result in the Organization incurring costs associated with the repairs of the fencing, structures and buildings.
 - ii. Be responsible for keeping the area clean of all trash, paper, boxes, cartons, cans, containers, etc. generated by the concessions stand, spectators, or participants. All such items shall be placed in City provided trash receptacles. This includes, but not limited to, all fields, dugouts, restrooms, concession stands, storage areas, commons areas and parking lots.
 - iii. The Organization is responsible for changing out trash bags in trash receptacles if the trash bag is more than half-full. Trash bags are to be placed in dumpsters located at each City owned facility.
 - iv. Supply all locks necessary and provide the Department with either code or keys for locks. At their discretion, the Organization has the right to lock access gates to protect prepped fields. The City reserves the right to remove any locks as deemed necessary by the Department and at the Organization's expense.
 - a. Prepped fields are defined as Game-Ready, which includes infields dragged, batter boxes chalked, foul lines chalked and bases placed in their proper locations.
 - b. Organization shall not lock a prepped field more than three (3) hours before the start of a game or tournament.
 - c. Organizations may lock fields during inclement weather when field conditions are not conducive for play.
 - v. Fields are to remain open following the conclusion of practices, games and tournaments and are to remain open until permissible by the above conditions. Do all watering of fields as needed and allowed by the Department.
 - vi. Supply all scoreboards and maintain all boards including bulb replacement.
 - vii. Keep buildings and rooms clean and free of litter. Storerooms shall be maintained in an orderly and safe condition. Restrooms are not to be used as storerooms for any equipment or supplies.

- viii. Maintain the premises in a safe and aesthetic manner, i.e. keep all drags and other equipment stored and inaccessible to children.
- 22. Organizations are responsible for observing proper flag etiquette when displaying state and national flags on facility property.
- 23. The Organization shall have at least two identified league officials, over the age of 21, to be on duty at all games to supervise activities and conduct including supervision of parking lots.
- 24. The Organization shall have an official inspect every field (playing surfaces) prior to the first game each day/night of league play for any safety concerns such as holes in the infield or outfield, secure bases, fences, backstops or anything that might be a hazard. All corrections shall be made by the Organization prior to the start of the first game and if this cannot be accomplished play will be suspended until the Department is notified and any repairs can be made.
- 25. The Organization shall have a written “emergency situation” plan in effect. This plan shall include the shelter in-place plans, evacuation plans and routes and all necessary supervisory assignments and duties.
 - i. At least one board member shall be assigned as an Emergency Response Officer to be in charge of all procedures, equipment and shall be responsible for the training of all board members, coaches and volunteers.
 - ii. The Organization shall make “emergency situation” response information available to any out of town teams playing in league play, league tournaments or post-season play. Such information shall be included in any and all packets or information given to visiting coaches or managers.
- 26. Organization officials, coaches or volunteers are restricted from driving vehicles of any description on park walkways or turf areas without prior permission.
- 27. The operation of motor vehicles and/or parking vehicles on turf areas is prohibited by City ordinance. It is the organization’s responsibility to make sure all of their officials, coaches, spectators, participants and volunteers are aware of and comply with this ordinance.**
- 28. The Organization will abide by and establish a line of communication between the Organization’s President, or designated representative, and a City appointed liaison.
 - i. The Organization’s President, or designated representative, is required to attend all scheduled City sports organization meetings.
- 29. The Organization may provide information to be included in promotional opportunities through the Fall/Winter, Spring and Summer Parks and Recreation Brochures, electronic marquees, website and Facebook page.
- 30. The Organization is authorized to use a City facility location, dependent on availability, and approval from the Parks and Recreation Department. :
- 31. The Organization should utilize the following recommendations in the event of severe weather:
 - i. Postpone or suspend activity if a thunderstorm appears imminent before or during an activity or contest (irrespective of whether lightning is seen or thunder heard) until the hazard has passed. Signs of imminent thunderstorm activity are darkening clouds, high winds, and thunder or lightning activity.
 - ii. Have a means of monitoring local weather forecasts and warnings.

- iii. When thunder is heard within 30 seconds of a visible lightning strike, or a cloud-to-ground lightning bolt is seen, the thunderstorm is close enough to strike your location with lightning. Suspend play for thirty minutes and take shelter immediately.
- iv. Once activities have been suspended, wait at least thirty minutes following the last sound of thunder or lightning flash prior to resuming an activity or returning outdoors.
- v. All individuals have the right to leave an athletic site in order to seek a safe structure if the person feels in danger of impending lightning activity, without fear of repercussions or penalty from anyone.

F. Tournaments

- 1. The Department will be notified of all tournaments by the Organization no later than two (2) weeks prior to tournament taking place. Notification of tournament to include dates, who is hosting the tournament, contact information for tournament host, and whom any and all net proceeds benefit.
- 2. Organization may allow any teams affiliated with organization to utilize facilities for tournaments beginning February 1 – October 31 of each year.
- 3. Facilities may be utilized outside of the allotted time period for tournaments with prior permission from the Parks and Recreation Department. The Organization sponsoring such a tournament will be responsible for all field preparation including any required marking paint, field maintenance, litter control and crowd control during the duration of the tournament.
- 4. Concession operations will remain with the Organization or as authorized through this agreement.
- 5. All policies and regulations that apply to the Organization listed in the lease agreement apply to all select teams and hosting entities.

G. Third party usage

- 1. Use of any City facility is restricted to Organizations that are members of and/or affiliated with a City Council approved Sports Organization Utilization Agreement.
- 2. Outside third party usage must be contracted and approved through the Parks and Recreation Department.
 - a. All Third party usage must carry general liability insurance with limits no less than one (1) million dollars.
 - b. The Organization who has entered into this agreement with the City may not authorize the usage of the facilities to Third Party Users or Organizations without the expressed written consent from the City.
- 3. The Organizations regular league play, practices and associated events take precedence over all third party team play, practices, games, tournaments and associated events.
- 4. Facilities for tournaments are available for rental beginning March 1 – October 31 of each year.
 - i. Usage of facilities from November 1 through January 30 may result in breach of contract.
- 5. The Association's Board of Directors have the first right of refusal on the availability of fields and dates of all games, practices and tournaments.
- 6. Concession operations will remain with the Organization or as authorized through this agreement.

- i. Third Party user may bring in their own private concessions vendor, but not utilize on site concession facility without prior approval from the organization and the Parks and Recreation Department.
 - ii. Private concessions vendor must carry all required Harris County health permits in order to sell concessions.
7. Third Party user will be responsible for all field preparation including any required marking paint, field maintenance, litter control and crowd control.
8. All policies and regulations that apply to the Organization listed in the lease agreement apply to all.
9. The City may allow third party users to utilize facilities for practices, games and tournaments beginning March 1 – October 31 of each year.
 - i. If approved by the Parks and Recreation Department, facilities may be utilized outside of the scheduled use.
10. The Department will receive notification of third party usage of facilities no later than two (2) weeks prior to utilization for tournaments and games. Practices are subject to availability and approval of by the Department until 12:00 pm on day of rental.
11. Payments: The City will receive from the third party renter payment prior to usage.

Field Rental Costs (RESIDENTS/NON-TOURNAMENT USAGE):

Field Usage: \$25 for 2 hours

Tournament usage: \$25 per hour per field

Deposit: \$250

Field Lights: \$10 hour per field

Field Rental Costs (NON-RESIDENT USAGE):

Field Usage: \$50 for 2 hours

Deposit: \$250

Field Lights: \$10 hour per field

Field Rental Costs (THIRD PARTY TOURNAMENT USAGE):

Field Usage: \$250 per field per day

Tournament deposit: \$500

Field Lights: \$10 hour per field

H. Rain-out Policy

1. Organization must abide by the City adopted Rainout Policy dated August 1, 2016 (Exhibit A).

I. Default

1. If any event of default of any of the obligations or in the performance of any of the terms, conditions, or provisions of any instrument or document evidencing the obligations secured by this agreement or in the performance of any covenant contained herein shall occur; then the following course of action shall be taken:

- i. Documentation and discussion with the organization of non-compliance from the Parks and Recreation Department.
- ii. Written notice of non-compliance from the Parks and Recreation Department.
- iii. Second written notice of non-compliance from the Parks and Recreation Department with stipulation requiring corrective action within in thirty (30) days of issuance.
- iv. Failure to take corrective actions after the second written notice of non-compliance will result in a staff discussion with City of Deer Park Administration.
- v. Recommended course of action from City of Deer Park Administration may be presented to the Parks and Recreation commission by staff should a suitable solution not be determined.
- vi. Parks and Recreation Commission will recommend to City Council a suitable course of action.
- vii. City Council will make a recommendation up to possible termination of the Sports Organization Utilization Agreement.

J. Annual Report Attachments:

- 1. Current Copy of board approved Organization constitution and by-laws.
- 2. Proof of Insurance.
- 3. List of current officers and Board of Directors.
- 4. Proposed annual calendar of events.
- 5. Copies of all receipts for any current agreement's contributions must be provided to determine the total funds contributed to the facilities in lieu of payment for current agreement.
- 6. If requesting, written contribution request in lieu of payment.
- 7. Signed copy of Lease Agreement for each athletic complex associated with this agreement.

K. Facility Usage

The following facilities will be used for this contractual agreement:

- 1. Six (6) fields located at Girls Softball Complex (upon completion)
- 2. Batting cages located at Girls Softball Complex
- 3. The Concession/Restroom/Meeting room building
- 4. Maintenance/Storage buildings located at Girls Softball Complex
- 5. Three (3) Softball fields located at the Adult Sports Complex (If needed and with written approval from Parks and Recreation Department)

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, such invalidity, illegality, or unenforceability shall not affect any other provision

thereof and this agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

Nothing in this agreement shall be construed to make the City or its respective agents or representatives liable in situations it is otherwise immune from liability.

Each party represents to the other that the individual signing this agreement below has been duly authorized to do so by its respective governing body and that this agreement is binding and enforceable as to each party.

I have read and I understand the policies and regulations stated herein and agree to abide by them. Failure to abide by these policies and/or regulations may be cause for the revocation of the agreement.

The City of Deer Park enters an agreement with: _____ for the sole purpose of playing games and/or tournaments and related activities upon the above agreement, terms and conditions, that certain tract(s) of land in the City of Deer Park, Harris County, Texas to wit:

The City of Deer Park, Texas _____ located in _____ in said city. This agreement shall be effective from January 1, 20__ through December 31, 20__ but may be sooner.

Signed in duplicate, this _____ day of _____ 20__.

Authorized organization:

Parks and Recreation Department Director

Name: _____

Name: _____

Signature: _____

Signature: _____

Park Board Chairman:

City of Deer Park Mayor

Name: _____

Name: _____

Signature: _____

Signature: _____

EXHIBIT A

Deer Park Athletic Field

Rain-out Policy

Practices and games will be held, as long as conditions are safe for participants and do not violate our rules or park guidelines. As a standard, the City of Deer Park will do our best to alert the leagues and rentals via email or phone call with as much notice as possible on practice/game day should fields be unplayable. Please keep in mind that Park closures and practice/game cancellations are determined by the City of Deer Park Parks and Recreation Department which reserves the right to cancel practices/games at any time depending on the current weather and field conditions.

Please call 281-478-2099 for a recorded message that will provide information in reference to Rainouts and Cancellations during the week after 3:00pm or visit the City of Deer Park Athletics Website at: www.deerparktx.gov/athletics for status updates. City of Deer Park staff will work with league officials, citizen field rentals, and tournament directors when making decisions on field conditions and the playability of fields at the various athletic sports complexes. League and tournament officials make the final call if their event will play or not based on 1) current weather conditions and 2) if the fields have not been previously closed by the City of Deer Park.

City of Deer Park Athletic Sports Complexes - Determining Field Playability

Standing water occurs because the ground is saturated. Removing standing water does not eliminate the saturation. It is the saturation, and not standing water, that causes damage and unsafe conditions. Determining the playability of an athletic field is crucial to the continued health of the turf and the sustainability of the field throughout the season. More importantly, determining the playability is vital to the safety and best interests of the participants and patrons to the City of Deer Park athletic sports complexes. The Department will close its athletic fields if City of Deer Park staff determines that fields are too wet for play, or if other issues arise that would compromise patron safety.

League officials have the responsibility to close fields for play when safety and/or field damage is possible.

An athletic field should be considered closed for play if any part of the field becomes unsafe for field users or if conditions exist where use will cause damage to the field.

An athletic field should be considered closed if any of the following conditions exist:

1. There is standing water present on any part of the field that cannot be removed without causing damage to the field.
2. There are muddy conditions present that will not dry by the start of the game.
3. While walking on the field water can be seen or heard with any footstep.

4. If water gathers around the sole of a shoe or boot on any portion of the field.
5. While walking in turf areas any impression of your footprint is left in the surface.
6. While walking on the infield portion of the field, an impression of ½” deep or more is left by a footprint.

Additional reasons for cancelling games:

1. It has rained most of the day of the scheduled game and there is standing water on the field.
2. It has rained for several days prior to the scheduled game and the fields are wet to the point where playing the game will destroy the playing surface.
3. It is raining at the time of the scheduled game and the temperature is low enough to make conditions unbearable for the children.
4. The presence of lightning - 3 strikes and you're out. The first lightning strike will cause a 30-minute delay, with subsequent strikes re-setting the 30-minute delay. Three strikes within 30 minutes will result in cancellation.
5. The potential for severe weather is significant enough that it warrants cancellation for the safety of participants and patrons.

EXHIBIT B

Glossary of Terms

1. **Recognized Organization** – A recognized sports organization with the City of Deer Park is an organization that has been formally recognized by City Council as an established sports group within the City. Recognized organizations are eligible to use City facilities or Deer Park ISD facilities at discount fee rates or at no cost per the inter-local agreement. A recognized organization must have:
 - a. Established structure
 - b. Recommendation from Parks and Recreation Commission
 - c. Approval from City Council
2. **Sports Organization Utilization Agreement**- An agreement to establish a mutual understanding and working relationship between various organizations and the City.
3. **Recreation(al) Play**: An interclub league in which the use of invitations, recruiting, or any similar process to roster players to any team on the basis of talent or ability is prohibited and a system or rostering players is used to establish a fair or balanced distribution of playing talent among all teams participating.
4. **Non-Recreation (al) Play**: Teams and Tournaments that do not meet the established criteria of “Glossary of Terms, Item 3” are to be considered non-recreation(al).
5. **First Right of Refusal** – a contractual right that gives the agreement holder first priority to utilize the facilities according to specified terms in this agreement.
6. **Third Party Usage** - A person or group besides the two primarily involved in the Sports Organization Utilization Agreement.
7. **Parks and Recreation Commission** - Under the supervision of the city manager, the Parks and Recreation Commission shall provide, conduct, and supervise public playgrounds, athletic fields, recreation centers, and other recreational facilities and activities on any property owned or controlled by the city. The commission shall consult, advise, and cooperate with other groups concerned with providing recreation in and for the city.
8. **Capital Improvement Project** - A Capital Project is a project that helps maintain or improve a City asset, often called infrastructure.

LEASE AGREEMENT

THE STATE OF TEXAS §
 § **KNOW ALL MEN BY THESE PRESENTS:**
COUNTY OF HARRIS §

This Lease Agreement entered into by and between City of Deer Park, hereinafter called *Lessor*, and **DEER PARK GIRLS SOFTBALL ASSOCIATION**, hereinafter called *Lessee* (whether one or more).

W I T N E S S E T H:

(1)

Lessor hereby leases, demises and lets unto *Lessee* the following premises, **GIRLS SOFTBALL COMPLEX**, located at **501 W. X ST.**, (hereinafter sometimes called demised premises) at Deer Park, Harris County, Texas, to be used and occupied as a **CONCESSION, MEETING SPACE, RESTROOMS AND STORAGE.**

(2)

TERM OF LEASE. The initial term of this lease is for a period of **1** year beginning **JANUARY 1, 2019**, and expiring on **DECEMBER 31, 2019**.

(3)

RENTAL. As rental for the use of the leased premises, *Lessee* agrees to pay to *Lessor* rental to be computed as follows:

(a) A minimum guaranteed annual rental of **\$0 DOLLARS** per year payable in monthly installments of **\$0**.

(b) It is specially agreed and understood that *Lessee's* agreement for usage of the premises shall in no way constitute the *Lessor* as partner in the enterprise of business of *Lessee*, or make *Lessor* in any way responsible for the operation and liabilities of *Lessee*, or give *Lessor* any control of the business or enterprise of *Lessee* conducted on such leased premises.

(4)

SECURITY DEPOSIT. Lessor herewith acknowledges receipt of **\$100 AND NO/100 DOLLARS**, which Lessor is to retain as a security deposit for Lessee's faithful performance of this lease. Lessor is not obligated to apply the deposit on rents or other charges as in arrears or on damages for Lessee's failure to perform the lease. The security deposit, if not applied toward payment of arrearages or damages as herein provided is to be returned to the Lessee when this lease is terminated and after Lessee has vacated the premises and delivered possession to Lessor.

If Lessor repossesses the premises because of Lessee's default or breach, Lessor may apply the deposit on all damages suffered to the date of the repossession and may retain the remainder to apply on such damages as may be suffered thereafter by reason of the default or breach. Lessor shall not be obliged to keep the security as a separate fund, but may mix it with its own funds.

(5)

USE OF PREMISES. The premises covered by this lease, during the continuance of this lease, shall be used by *Lessee* as set out in paragraph (1) hereinabove and for no other purpose without the consent of *Lessor*. The *Lessee* shall comply promptly with all statutes, ordinances, lawful orders and regulations of every governmental authority affecting the use by *Lessee* of the demised premises. *Lessee* may install all equipment necessary to performs *Lessee's* operations.

(6)

CARE OF PREMISES. The *Lessee* shall not perform any acts or carry on any practices which may injure the building or be a nuisance or menace to the public and shall keep the premises under *Lessee's* control, including the sidewalks adjacent to the premises, clean and free from rubbish and dirt at all times, and shall store all trash and garbage within the leased premises and designated trash and garbage disposal areas. The *Lessee* will not burn any trash of any kind in or about the premises. The *Lessee* shall not use or permit the use of any portion of said premises as sleeping apartments, lodging rooms, or for any unlawful purpose or purposes.

(7)

MAINTENANCE. *Lessor* shall keep the foundation, exterior structure and roof of the leased premises in as good repair and condition as it exists at the beginning of this lease. *Lessee* shall not be called upon to make any other improvements or repairs of any kind upon said premises, and said premises shall at all times be kept in good order, condition and repair by *Lessee*. The premises shall also be kept in a clean, sanitary and safe condition in accordance with the laws of the State of Texas, and in accordance with all directions, rules and regulations of the health officer, fire marshal, building inspector or other property officers of the governmental agencies having jurisdiction. It is the responsibility of the *Lessee* to inspect leased facilities during the duration of the agreement and report maintenance issues to the *Lessor* as soon as possible.

(8)

IMPROVEMENTS TO PREMISES. All alterations, additions and permanent improvements which may be made or installed by *Lessee* upon the premises shall be the property of the *Lessor* and shall remain upon and be surrendered with the premises as a part thereof, without molestation, disturbance or injury at the termination of this lease, it being specifically understood that all air conditioning, heating and lighting equipment installed in the premises are to remain the property of the *Lessor*. Any linoleum, carpet or other floor covering of a similar

character which may be cemented or otherwise affixed to the floor of the herein leased premises shall be and become the property of the *Lessor*. All alterations, additions and permanent improvements which may be made or installed by Lessee without the written consent of *Lessor*.

(9)

COVENANT TO HOLD HARMLESS. *Lessor* shall be defended and held harmless by *Lessee* from any liability for damages to any person or any third party property in or upon said premises resulting from the negligent acts or omissions of the *Lessee*. It is understood and believed that all property kept, stored or maintained in the leased premises shall be so kept, stored, or maintained at the risk of *Lessee* only. *Lessee* shall not suffer or give cause for the filing of any lien against the herein leased premises.

(10)

PUBLIC LIABILITY INSURANCE. *Lessee* agrees to obtain and maintain at its sole cost and expense public liability insurance and property damage insurance to protect *Lessor* and *Lessee* against loss or damage from the claims of all persons who may be in or on the leased premises by the invitation, consent or sufferance of *Lessee*. Such public liability insurance shall have minimum bodily injury limits of \$100,000.00 for each person and \$300,000.00 for each accident and property damage limits of \$50,000.00 for each accident with respect to any accident with respect to any accident occurring on the leased premises. *Lessee* shall furnish *Lessor* certificates of all insurance coverage.

(11)

CASUALTY INSURANCE. The *Lessee* shall not carry any stock of goods or material or do anything in or about said premises which will in any way tend to increase the insurance rates on said premises. The *Lessee* agrees to pay as additional rental any increase in premium for insurance against loss by fire and extended coverage that may be charged during the term of this lease on the amount of insurance to be carried by *Lessor* on said premises resulting from the business carried on in the leased premises by the *Lessee*, whether or not *Lessor* has consented to the same. If *Lessee* installs any electrical equipment that overloads the lines in the herein leased premises, the *Lessee* shall, at its own expense, make whatever changes are necessary to comply with the requirements of the insurance underwriters and governmental authorities having jurisdiction.

(12)

ABUSE OF PLUMBING AND WALLS. The plumbing facilities shall not be used for any other purpose than that for which they are constructed, and no foreign substance of any kind shall be thrown therein, and the expense of any breakage, stoppage, or damage resulting from the violation of this provision shall be borne by *Lessee*, who shall, or whose employees, agent, invitees, or licensees shall have caused it. *Lessee*, its employees or agent, shall not make, drill or in any way deface any walls, ceilings, partitions, floors, wood, stone or iron work without the written consent of *Lessor*.

(13)

ASSIGNMENT. *Lessee* agrees not to assign or in any way transfer this lease, or any estate or interest therein, without the previous written consent of the *Lessor*, and not to sublet said premises or any part thereof or allow anyone to come in with, through, or under it with like consent. *Lessor*, however, may assign, hypothecate or otherwise transfer this lease or any interest therein.

(14)

ACCESS TO PREMISES. *Lessor* shall have the right to enter upon the leased premises at all reasonable hours for the purpose of inspecting the same.

(15)

SIGNS. The *Lessee* shall not erect or install any exterior window or door signs or advertising media or window or door lettering or placards without the previous consent of *Lessor*. *Lessee* agrees not to use any advertising media that shall be deemed objectionable to *Lessor*, such as loud speakers, phonograph or radio broadcast in a manner to be heard outside of the leased premises. *Lessee* shall not make any alterations, changes or additions in or to said premises without the previous written consent of the *Lessor*.

(16)

LESSEE PARKING. The *Lessee* shall, keep all vehicles parked in designated driveways and parking areas and shall not park their vehicles directly in front of any of the buildings, and *Lessee* agrees that patrons will comply with such reasonable parking regulations as *Lessor* may promulgate for the patrons of all *Lessees* in the facilities where the same are designed to assure the maximum availability of the parking area for the clients, customers, and patients of such *Lessees*.

(17)

DAMAGE. In the case the leased premises shall be partially or totally destroyed by fire or other casualty insurable under full standard extended coverage insurance as to become partially or totally untenable, then the *Lessor* may, if he so elects, rebuild and put the same premises in good condition and fit for occupancy within a reasonable time after such total or partial destruction or *Lessor* may give written notice to *Lessee* terminated up to the date of destruction. If *Lessor* elects to repair or rebuild said premises, *Lessor* shall give the *Lessee* notice thereof within thirty (30) days after such damage or destruction of his intention so to do. Upon termination *Lessee's* obligations hereunder shall cease.

(18)

WAIVER. One or more waivers of any covenant or condition by the *Lessor* shall not be construed as a waiver of a subsequent breach of the same covenant or condition, and the consent or approval by the *Lessor* to or of any act by the *Lessee* requiring the *Lessor's* consent or approval shall not be deemed to waive or render unnecessary the *Lessor's* consent or approval to or of any subsequent similar act by the *Lessee*.

(19)

NOTICE. Whenever, under this lease, a provision is made for notice of any kind, it shall be deemed sufficient notice and service thereof if such notice to *Lessee* is in writing addressed to *Lessee* at the last known post office address of *Lessee* or at the leased premises and sent by registered mail with postage prepaid, and if such notice to *Lessor* is in writing, addressed to the last known post office address of *Lessor* and sent by registered mail with postage prepaid. The address of:

Lessor: City of Deer Park

Lessee: **DEER PARK GIRLS SOFTBALL ASSOCIATION**

to which address, until changed as herein provided, all notices required shall be mailed. It shall be the duty of both parties, upon any change of address, to notify the other party of such change, giving in such notice its or their names and addresses and which notice shall likewise be given by registered mail.

MISCELLANEOUS. The remedies, waivers and limitations on liability set forth in this agreement are exclusively and shall apply regardless of legal theory, negligence, strict liability or breach of contract.

IN WITNESS WHEREOF, the *Lessor* and *Lessee* have executed this Lease Contract in duplicate originals on this the _____ day of _____, 2018.

Lessor:

City of Deer Park

By:_____

Lessee:

*

THE STATE OF TEXAS

§

§

COUNTY OF HARRIS

§

BEFORE ME, the undersigned authority, on this day personally appeared *, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that they executed the same for the purpose and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the _____ day of _____, 2018.

Notary Public in and for the
State of **TEXAS**

THE STATE OF TEXAS

§

§

COUNTY OF HARRIS

§

BEFORE ME, the undersigned authority, on this day personally appeared *, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purpose and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the _____ day of _____, 2018.

Notary Public in and for the
State of **TEXAS**



City of Deer Park

Parks and Recreation Department

Sport Organization Utilization Agreement

Soccer

This agreement for the use of athletic facilities is designed to ensure that athletic facilities owned and/or operated by the City of Deer Park, hereinafter referred to as “City” and the Parks and Recreation Department, hereinafter referred to as “Department”, are utilized efficiently and safely. All Deer Park sports programs recognized by the City and all Sports Organizations, hereinafter referred to as “Organization”, and are intended to enhance and enrich the interest of our citizens and to promote participation in wholesome recreational activities; in addition to an agreement to share the responsibility of caring, improving, and maintaining the facilities.

In order to establish a mutual understanding and working relationship between various Organizations and the City, the following is agreed to by all parties concerned. The City enters into agreements that will best serve the athletes. Any and all fields can be assigned or reassigned to use by any organization on a yearly basis depending on the registration numbers and needs.

A. Term

1. This agreement shall be for a term of up to one (1) calendar year beginning on the date of full execution hereof concluding on December 31 of each calendar year, unless terminated by either party upon sixty (60) days advanced written notice to the other party. Any Organization that holds a current valid agreement, in compliance with the City, for the use of any athletic facility(ies) for the previous year will have the opportunity to renew that agreement for the following year. Agreements will be taken before City Council annually each December to approve for the following calendar year.

B. Option to renew

1. Renewal of this agreement for an additional term shall be conditioned upon the following terms:
 - i. That a request for renewal be initiated by the signing of a new agreement by the Organization’s president, with a copy of the comprehensive annual report, prior to October 31st of each year.
 - ii. That the Organization provide the annual report prior to the start of the season:
 - a. Copy of approved current constitution and by-laws for Organization.

- b. List of current Organization officers and board members with addresses, phone numbers, and email.
 - c. Proposed Organization schedule of events.
 - d. Copy of Organization's general liability insurance policy and have the City of Deer Park as additional insured.
- iii. Seek recommendation for approval by City Council from the Parks and Recreation Commission in November of each year
- iv. Approval by the City Council in December of each year.

C. General Agreements

1. **The Organization understands that the City is the sole owner of the facilities and any contribution of services, amenities and cash or donation on the part of the Organization does not imply ownership on behalf of the Organization.**
2. City facility usage for soccer is approved for utilization within the Sports Organization Utilization Agreement.
3. It is suggested that the Organization prioritize usage of the fields in the following manner:
 - i. Recreational league games
 - ii. Select league games
 - iii. League sponsored tournaments
 - iv. Select tournaments
 - v. Third party usage
4. Other priority users include any persons living within the Deer Park Independent School District boundary lines.
 - i. 70% of the Recreational League participation must be comprised of either City of Deer Park residents or those living within the Deer Park Independent School District boundary lines.
5. If an Organization does not meet the above criteria, the Organization must provide annually the "Plan of Action" to increase the local participation percentage in an effort to achieve the criteria.
6. All persons will be offered the opportunity to participate in all the Organization's programs regardless of gender, race, national origin, religion or disability in accordance with present state and federal law.
7. Non-recreational teams who are associated with the league through approved written consent from the Organization's board may utilize facilities at the discretion of the Organization.
 - i. If the Organization has identified non-recreational teams to utilize facilities, than the Organization's In-Lieu of payment will cover those associated cost with the non-recreational team usage.
8.

Only camps or clinics authorized by the City, with all proceeds benefiting the Organization or the City, are permitted. The City has first right of refusal.
9. The Organization WILL NOT collect admission fees nor require the public to pay other charges to attend practice, games or recreational and non-recreational tournaments at City facilities per City ordinance.

10. Annually, The Organization must submit with the annual agreement renewal either of the following:
 - i. In Lieu of proposal for capital improvements to their designated facility in the minimum amount of \$5,000. Capital improvements may consist of, but are not limited to:
 - a. Fence repairs
 - b. Irrigation repairs and installation
 - c. Field grading work
 - d. Concession stand infrastructure
 - e. Field light repairs and installation
 - f. Other items related to sports field improvements
 - ii. A payment in the amount of \$5,000 for future projects at the Organizations designated facility.
 - a. Funds will be held in a designated City of Deer Park account.
 - b. It is recommended that funds are used prior to reaching an account balance of \$50,000.
 - c. The City of Deer Park may utilize funds at their discretion with recommendation from the Parks and Recreation Commission and approval from the City Council.
11. Should the Organization choose to submit an In Lieu of project or payment exceeding the \$5,000 minimum; the following terms would apply:
 - i. The difference of the minimum amount can be applied to the following year's agreement.
 - ii. Should the Organization decide to make a payment towards a specific capital project, funds can be deferred up to three consecutive (3) years or up to an account balance of \$50,000. Three (3) consecutive years begins at initial deferred payment.
 - a. The specific capital project must be presented and approved by City Council at initial deferment.
12. No construction or alterations may be done on City property/facility without the authorization of the City. Any approved construction will become the sole property of the City at the conclusion of construction and acceptance by the City. All capital improvement projects will go through the relevant formal City process.
13. Advertising is permitted at City facilities only with the prior approval of the Parks and Recreation Department.
14. The Organization will not allow any other organization, association or group to use the facility without prior approval of the Parks and Recreation Department.
 - i. The City of Deer Park reserve the right to regulate field usage at any time.
15. Anyone wishing to utilize the fields outside the organization must go through the City in order to rent the facilities.
 - i. All Board of Directors members and managers are recommended to have completed a current applicable training program from a recognized state or national youth sports association. It is required that all head coaches involved in the league have such up to date training. All league officials, coaches, managers, umpires and any other person(s) involved with the Organization's activities shall have a valid personal background check performed annually and with the results being kept in a confidential file by the Board of Directors.

D. Obligation of the City

1. To provide athletic facilities to be utilized efficiently and safely to enhance and enrich the interest of our youth and to promote participation in wholesome athletic activities.
2. To ensure the Organization has first rights of refusal.
3. To oversee, manage, and accept all capital improvement projects for athletic facilities.
4. To approve advertising permitted at athletic facilities.
5. The City reserves the right to close any field for routine maintenance for up to seven consecutive calendars days and will provide the Organization with a minimum of two week's written notice.
 - i. In the event of an emergency maintenance, the City may close the fields with less than two week's written notice to the Organization.
6. The City will provide maintenance and repairs to athletic facilities and more specifically as follows:
 - i. Will prepare all playing surfaces, buildings and grounds on City owned property prior to the beginning of the league season and as deemed necessary by the Department.
 - a. Maintain playing surfaces to include leveling and drainage work deemed necessary by the Department.
 - b. Maintain all goals, bleachers and gates in a safe and secure condition.
 - c. Maintain structural integrity of concession stands, restrooms and storage buildings including repair or replacement of damaged roofs, doors and windows.
 - d. Make major plumbing repairs for restrooms, sinks, urinals and commodes, electrical repairs and air conditioning unit repairs as deemed necessary by the Department.
 - e. Paint all structures as deemed necessary by the Department.
 - f. Maintain all area and field lighting. Repair and replace lights, poles, wiring, fuses, transformers and other equipment related to the lighting of each field.
 - a. Attempt to maintain at least 75% of the potential lighting for field (based on bulbs per field) during regularly scheduled season.
 - b. The Department will maintain lighting schedules for facilities with automatic lighting system.
 - g. The Organization will appoint three (3) officials at the beginning of each calendar year to have access to the automatic light schedule. The Organization is responsible for notifying the City of permission changes throughout the year. Maintain all field irrigation system(s).
 - a. Watering schedules are managed and authorized by the Department.
 - b. The Department reserves the right to restrict watering schedules if conditions deem it necessary.
 - h. To provide, inspect and maintain AED units, fire extinguishers and pest control service at all City facilities.
 7. Maintain all turf areas on the fields to include, but not limited to mowing, weed control, fertilization and herbicide spraying.
 - i. Department mowing routines allow for mowing of playing surfaces twice a week during scheduled season play.
 - ii. Department mowing routines allow for surrounding grounds mowing once every other week.

- iii. Mowing routines are subject to change based on field conditions or as deemed necessary by the department.
 - iv. If any organization wants a more frequent mowing routine it becomes their responsibility.
 - a. The Organization must receive prior approval before beginning additional mowing.
 - b. The Organization will be responsible for all damages occurring from additional mowing if damages should occur.
 - v. All additional herbicide, fertilization and overseeding applications will be performed by the Department upon request and with funds provided by the Organization.
- 8. Furnish trash receptacles and trash liners.
 - i. Remove all trash deposited in containers minimum twice a week or as deemed necessary the Department.
- 9. Clean and stock restrooms.
 - i. Daily, Monday through Friday, during regularly scheduled season.
 - ii. Saturdays and Sundays when deemed necessary by the Department.
 - iii. Once weekly during off season.
- 10. Maintain all parking areas.
- 11. Provide utility services for facilities including electrical, water and sewer where required.
- 12. The City will supply support poles and an electrical source for scoreboards.
 - i. Routine maintenance and repairs to scoreboards becomes the responsibility of the Organization after installation.
- 13. The City retains the right and privilege to enter and inspect all buildings and premises at any time.
- 14. The Department will abide by and establish a line of communication between the Organization's President, or designated representative, and a City appointed liaison.
- 15. The City will provide a liaison to attend Organization board meetings as deemed necessary by the Department.
- 16. The Department's obligations under this agreement will be performed as soon as, and to the extent that, budgeted funds and resources are available for performance of its obligations.
 - i. All maintenance and repair requests will be addressed in priority order by the Department, to the best of our ability, within 15 business days of written receipt of request.
- 17. The City will include promotional opportunities through the Fall/Winter, Spring and Summer Parks and Recreation Brochures, electronic marquees, website and Face book page.
- 18. The City is obligated to provide a facility location, dependent on availability, with advanced notice, depending on facility and purpose of usage.

E. Obligation of Youth Sports Organization

- 1. To utilize athletic facilities efficiently and safely to enhance and enrich the interest of our youth and to promote participation in athletic activities.
- 2. Utilize City facilities for the primary use of citizens living within the incorporated city limits. It is suggested that the Organization prioritize usage of the fields in the following manner
 - i. Recreational league games
 - ii. Select league games

- iii. League sponsored tournaments
 - iv. Select tournaments
 - v. Third party usage
- 3. The Organization shall furnish the Department an annual report, by October 31st of each year, which includes the total number of participants, and any other information requested by the Department.
- 4. To seek approval from the Department for any capital improvement projects for athletic facilities.
- 5. To seek approval from the Department for advertising permitted at athletic facilities.
- 6. The Organization is obligated to provide the City with a schedule of all City facility usage. This is to include, but not limited to schedules for, games, tournaments, and league ceremonies. Schedules are due quarterly (January 1st, April 1st, July 1st, October 1st).
- 7. The Organization agrees NOT to expand schedules, length of league play, number of tournaments nor add seasons without prior written approval from the City.
- 8. Usage of facilities from December 15 through February 1 and June 15 through August 1 may result in a breach of contract.
- 9. The Organization shall at all times during the term of this agreement maintain, in effect general public liability insurance covering the Organization's program(s) at the facility against claims for personal injury, death or damage to property to the limit of not less than one-million (\$1,000,000). The City shall be named as additional insured on such policy and shall be entitled to thirty (30) day notice of cancellation or changes of any kind regarding such insurance and certificates of insurance shall be provided to the City prior to the agreement becoming val
- 10. By the execution of this agreement, the Organization does hereby indemnify and hold harmless the City and its officers, agents and employees from and against any and all suits, actions or claims of any character, type or description, including all expenses of litigation, court cost and attorney's fees, brought or made for or on account of any injuries or damages received or sustained by any person or persons or property, arising out of, or occasioned by, the act or failure to act by the Organization or its agents, volunteers or employees in the use of the facilities as set forth in the agreement.
- 11. All Board of Directors elections shall be conducted as prescribed by the Organization's by-laws. The election of offices shall be open to any and all qualified individuals. The Organization shall provide public notice of all Board of Directors elections. Notice shall be posted prior to the election. Every reasonable effort shall be made to notify all interested parties prior to the election date.
 - i. The City will provide a liaison to attend Organization board meetings as deemed necessary by the Department.
- 12. Each Organization is deemed responsible for the conduct of its participants, coaches and spectators. The Department can require an organization to hire an off duty officer for security if they feel it is in the best interest of the City.
- 13. It shall be the Organization's responsibility to ensure that no alcoholic beverages are permitted on the premises, per City Ordinance. This policy is to be inclusive of any individual under the influence of alcohol. League officials will request any such person to leave the premises and if necessary contact the Police.

14. The use of tobacco products such as cigars, cigarettes, smokeless tobacco and pipes is prohibited in all indoor City property venues including, but not limited to, the building entrance and exit ways. Tobacco use is allowed in designated areas which will be clearly marked with signage and markings.
15. During the term of this agreement the Organization shall operate its own concession stand and all revenues generated from such shall be for the sole and exclusive use of the Organization.
 - i. The Organization shall furnish and maintain all equipment needed and/or used in the concession stand. The Organization shall abide and comply by all city, county and state health and fire code requirements.
 - ii. It shall be the responsibility of the Organization to contact the Harris County Health Department for an annual inspection of the concession stand and to acquire all necessary health code licenses prior to opening for any season.
 - a. Dependent upon the issue, it shall be the responsibility of the Organization to make any alterations or repairs required by the Harris County Health Department.
 - b. It shall be the responsibility of the Organization to provide an annual report to the Department as proof of meeting Harris County Health Department code requirements.
 - iii. The Organization may sublet its concessions based on the following conditions:
 - a. Receive written permission to sublet concessions from the Department.
 - b. Concession contractor will be required to acquire a vendor permit from the Department.
16. The Organization will be responsible for all game preparations of fields.
 - i. No one under 16 years of age is allowed to operate any motorized equipment used in field preparation or materials transport, to include but not limited to golf carts, infield groomers, 4-wheelers, riding lawnmowers and motorized vehicles.
17. The Organization shall report any facility damage, dangerous or unsafe conditions, or unusual or suspicious situations to the Department as soon as possible but no longer than the next business day.
 - i. At no time or under any circumstances is any organization official or bystander allowed to attempt to correct any of these problems.
18. The Organization has the right to sell and install signs along the fences and scoreboards of certain designated fields located on the facility. All revenues generated from such use shall be for the sole and exclusive use of the Organization. The Department, before installation, shall approve signs including installation materials and methods.
19. The Organization shall:
 - i. Prohibit its coaches and players from kicking balls into any fences unless it occurs in the natural course of a game. This policy is also to include surrounding structures and buildings. Failure to enforce this policy may result in the Organization incurring costs associated with the repairs of the fencing, structures and buildings.
 - ii. Be responsible for keeping the area clean of all trash, paper, boxes, cartons, cans, containers, etc. generated by the concessions stand, spectators, or participants. All such items shall be placed in City provided trash receptacles. This includes, but not limited to,

- all fields, dugouts, restrooms, concession stands, storage areas, commons areas and parking lots.
- iii. The Organization is responsible for changing out trash bags in trash receptacles if the trash bag is more than half full. Trash bags are to be placed in dumpsters located at each City owned facility.
 - iv. Supply all locks necessary and provide the Department with either code or keys for locks. At their discretion the Organization has the right to lock access gates to protect prepped fields. The City reserves the right to remove any locks as deemed necessary by the Department and at the Organization's expense.
 - v. Supply all scoreboards and maintain all boards including bulb replacement.
 - vi. Keep buildings and rooms clean and free of litter. Storerooms shall be maintained in an orderly and safe condition. Restrooms are not to be used as storerooms for any equipment or supplies.
 - vii. Maintain the premises in a safe and aesthetic manner
20. Organizations are responsible for observing proper flag etiquette when displaying state and national flags on facility property.
21. The Organization shall have at least two identified league officials, over the age of 21, to be on duty at all games to supervise activities and conduct including supervision of parking lots.
22. The Organization shall have an official inspect every field (playing surfaces) prior to the first game each day/night of league play for any safety concerns such as holes in the infield or outfield, secure bases, fences, backstops or anything that might be a hazard.
- i. All corrections shall be made by the Organization prior to the start of the first game and if this cannot be accomplished play will be suspended until the Department is notified and any repairs can be made.
23. The Organization shall have a written "emergency situation" plan in effect. This plan shall include the shelter in-place plans, evacuation plans and routes and all necessary supervisory assignments and duties.
- i. At least one board member shall be assigned as an Emergency Response Officer to be in charge of all procedures, equipment and shall be responsible for the training of all board members, coaches and volunteers.
 - ii. The Organization shall make "emergency situation" response information available to any out of town teams playing in league play, league tournaments or post season play. Such information shall be included in any and all packets or information given to visiting coaches or managers.
24. Organization officials, coaches or volunteers are restricted from driving vehicles of any description on park walkways or turf areas without prior permission.
- i. **The operation of motor vehicles and/or parking vehicles on turf areas is prohibited by City ordinance. It is the organization's responsibility to make sure all of their officials, coaches, spectators, participants and volunteers are aware of and comply with this ordinance.**
25. The Organization will abide by and establish a line of communication between the Organization's President, or designated representative, and a City appointed liaison.

- i. The Organization's President, or designated representative, is required to attend all scheduled City sports organization meetings.
26. The Organization may provide information to be included in promotional opportunities through the Fall/Winter, Spring and Summer Parks and Recreation Brochures, electronic marquees, website and Facebook page.
27. The Organization is authorized to use a City facility location, dependent on availability, and facility availability :
28. The Organization should utilize the following recommendations in the event of severe weather:
 - i. Postpone or suspend activity if a thunderstorm appears imminent before or during an activity or contest (irrespective of whether lightning is seen or thunder heard) until the hazard has passed. Signs of imminent thunderstorm activity are darkening clouds, high winds, and thunder or lightning activity.
 - ii. Have a means of monitoring local weather forecasts and warnings.
 - iii. When thunder is heard within 30 seconds of a visible lightning strike, or a cloud-to-ground lightning bolt is seen, the thunderstorm is close enough to strike your location with lightning. Suspend play for thirty minutes and take shelter immediately.
 - iv. Once activities have been suspended, wait at least thirty minutes following the last sound of thunder or lightning flash prior to resuming an activity or returning outdoors.
 - v. All individuals have the right to leave an athletic site in order to seek a safe structure if the person feels in danger of impending lightning activity, without fear of repercussions or penalty from anyone.

F. Tournaments

1. The Department will be notified of all tournaments by the Organization no later than two (2) weeks prior to tournament taking place. Notification of tournament to include dates, who is hosting the tournament, contact information for tournament host, and who any and all net proceeds benefit.
2. Organization may allow any teams affiliated with organization to utilize facilities for tournaments beginning February 1 - June 15 and August 1 – December 15 of each year.
3. Facilities may be utilized outside of the allotted time period for tournaments with prior permission from the Parks and Recreation Department. The Organization sponsoring such a tournament will be responsible for all field preparation including any required marking paint, field maintenance, litter control and crowd control during the duration of the tournament.
4. Concession operations will remain with the Organization or as authorized through this agreement.
5. All policies and regulations that apply to the Organization listed in the lease agreement apply to all select teams and hosting entities.

G. Third party Usage

1. Use of any City facility is restricted to Organizations that are members of and/or affiliated with a Department approved Sports Organization Utilization Agreement.
2. Outside third party usage must be contracted and approved through the Parks and Recreation Department.

- a. All Third party usage must carry general liability insurance with limits no less than one (1) million dollars.
 - b. The Organization who has entered into this agreement with the City may not authorize the usage of the facilities to Third Party Users or Organizations without the expressed written consent from the City.
3. The Organizations regular league play, practices and associated events take precedence over all third party team play, practices, games, tournaments and associated events.
4. Facilities for tournaments are available for rental beginning February 1 - June 15 and August 1 – December 15 of each year.
 - i. Usage of facilities from December 15 through February 1 and June 15 through August 1 may result in a breach of contract.
5. The Association's Board of Directors have the first right of refusal on the availability of fields and dates of all games, practices and tournaments.
6. Concession operations will remain with the Organization or as authorized through this agreement.
 - i. Third Party user may bring in their own private concessions vendor, but not utilize on site concession facility without prior approval from the organization and the Parks and Recreation Department.
 - ii. Private concessions vendor must carry all required Harris County health permits in order to sell concessions.
7. Third Party user will be responsible for all field preparation including any required marking paint, field maintenance, litter control and crowd control.
8. All policies and regulations that apply to the Organization listed in the lease agreement apply to all.
9. The City may allow third party users to utilize facilities for practices, games and tournaments beginning February 1 - June 15 and August 1 – December 15 of each year.
 - i. If approved by the Parks and Recreation Department, facilities may be utilized outside of the scheduled use.
10. The Department will receive notification of third party usage of facilities no later than two (2) weeks prior to utilization for tournaments and games. Practices are subject to availability and approval of by the Department until 12:00 pm on day of rental.
11. Payments: The City will receive from the third party renter payment prior to usage.

Field Rental Costs (RESIDENTS/NON-TOURNAMENT USAGE):

Field Usage: \$25 for 2 hours

Tournament usage: \$25 per hour per field

Deposit: \$250

Field Lights: \$10 hour per field

Field Rental Costs (NON-RESIDENT USAGE):

Field Usage: \$50 for 2 hours

Deposit: \$250

Field Lights: \$10 hour per field

Field Rental Costs (THIRD PARTY TOURNAMENT USAGE):

Field Usage: \$250 per field per day

Tournament deposit: \$500

Field Lights: \$10 hour per field

H. Rain-out Policy

1. Organization must abide by the City adopted Rain-out Policy dated August 1, 2016 (Exhibit A).

I. Default

1. If any event of default of any of the obligations or in the performance of any of the terms, conditions, or provisions of any instrument or document evidencing the obligations secured by this agreement or in the performance of any covenant contained herein shall occur; then the following course of action shall be taken:

i. Documentation and discussion with the organization of non-compliance from the Parks and Recreation Department.

ii. Written notice of non-compliance from the Parks and Recreation Department.

iii. Second written notice of non-compliance from the Parks and Recreation Department with stipulation requiring corrective action within in thirty (30) days of issuance.

iv. Failure to take corrective actions after the second written notice of non-compliance will result in a staff discussion with City of Deer Park Administration.

v. Recommended course of action from City of Deer Park Administration may be presented to the Parks and Recreation commission by staff should a suitable solution not be determined.

vi. Parks and Recreation Commission will recommend to City Council a suitable course of action.

vii. City Council will make a recommendation up to possible termination of the Sports Organization Utilization Agreement.

J. Annual Report Attachments:

1. Current Copy of board approved Organization constitution and by-laws.
2. Proof of Insurance.
3. List of current officers and Board of Directors.
4. Proposed annual calendar of events.
5. Copies of all receipts for any current agreement's contributions must be provided to determine the total funds contributed to the facilities in lieu of payment for current agreement.
6. If requesting, written contribution request in lieu of payment.
7. Signed copy of Lease Agreement for each athletic complex associated with this agreement.

K. Facility Usage

The following facilities will be used for this contractual agreement:

1. Two (2) fields located at Dow Park Athletic Complex
2. Six (6) fields located at Deer Park Soccer Complex (upon completion)
3. The Concession/Restroom/Meeting/Storage at Dow Park Athletic Complex
4. The Concession/Restroom/Meeting/Storage at Deer Park Soccer Complex
5. Multi-purpose field located at the Adult Sports Complex (If needed and with written approval from Parks and Recreation Department)

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, such invalidity, illegality, or unenforceability shall not affect any other provision thereof and this agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

Nothing in this agreement shall be construed to make the City or its respective agents or representatives liable in situations it is otherwise immune from liability.

Each party represents to the other that the individual signing this agreement below has been duly authorized to do so by its respective governing body and that this agreement is binding and enforceable as to each party.

I have read and I understand the policies and regulations stated herein and agree to abide by them. Failure to abide by these policies and/or regulations may be cause for the revocation of the agreement.

The City of Deer Park enters an agreement with: _____ for the sole purpose of playing games and/or tournaments and related activities upon the above agreement, terms and conditions, that certain tract(s) of land in the City of Deer Park, Harris County, Texas to wit:

The City of Deer Park, Texas _____ located in _____ in said city. This agreement shall be effective from January 1, 20__ through December 31, 20__ but may be sooner.

Signed in duplicate, this _____ day of _____ 20__.

Authorized organization:

Parks and Recreation Department Director

Name: _____

Name: _____

Signature: _____

Signature: _____

Park Board Chairman:

City of Deer Park Mayor

Name: _____

Name: _____

Signature: _____

Signature: _____

EXHIBIT A

Deer Park Athletic Field

Rain-out Policy

Practices and games will be held, as long as conditions are safe for participants and do not violate our rules or park guidelines. As a standard, the City of Deer Park will do our best to alert the leagues and rentals via email or phone call with as much notice as possible on practice/game day should fields be unplayable. Please keep in mind that Park closures and practice/game cancellations are determined by the City of Deer Park Parks and Recreation Department which reserves the right to cancel practices/games at any time depending on the current weather and field conditions.

Please call 281-478-2099 for a recorded message that will provide information in reference to Rainouts and Cancellations during the week after 3:00pm or visit the City of Deer Park Athletics Website at: www.deerparktx.gov/athletics for status updates. City of Deer Park staff will work with league officials, citizen field rentals, and tournament directors when making decisions on field conditions and the playability of fields at the various athletic sports complexes. League and tournament officials make the final call if their event will play or not based on 1) current weather conditions and 2) if the fields have not been previously closed by the City of Deer Park.

City of Deer Park Athletic Sports Complexes - Determining Field Playability

Standing water occurs because the ground is saturated. Removing standing water does not eliminate the saturation. It is the saturation, and not standing water, that causes damage and unsafe conditions. Determining the playability of an athletic field is crucial to the continued health of the turf and the sustainability of the field throughout the season. More importantly, determining the playability is vital to the safety and best interests of the participants and patrons to the City of Deer Park athletic sports complexes. The Department will close its athletic fields if City of Deer Park staff determines that fields are too wet for play, or if other issues arise that would compromise patron safety.

League officials have the responsibility to close fields for play when safety and/or field damage is possible.

An athletic field should be considered closed for play if any part of the field becomes unsafe for field users or if conditions exist where use will cause damage to the field.

An athletic field should be considered closed if any of the following conditions exist:

1. There is standing water present on any part of the field that cannot be removed without causing damage to the field.

2. There are muddy conditions present that will not dry by the start of the game.
3. While walking on the field water can be seen or heard with any footstep.
4. If water gathers around the sole of a shoe or boot on any portion of the field.
5. While walking in turf areas any impression of your footprint is left in the surface.
6. While walking on the infield portion of the field, an impression of ½” deep or more is left by a footprint.

Additional reasons for cancelling games:

1. It has rained most of the day of the scheduled game and there is standing water on the field.
2. It has rained for several days prior to the scheduled game and the fields are wet to the point where playing the game will destroy the playing surface.
3. It is raining at the time of the scheduled game and the temperature is low enough to make conditions unbearable for the children.
4. The presence of lightning - 3 strikes and you're out. The first lightning strike will cause a 30 minute delay, with subsequent strikes re-setting the 30 minute delay. Three strikes within 30 minutes will result in cancellation.
5. The potential for severe weather is significant enough that it warrants cancellation for the safety of participants and patrons.

EXHIBIT B

Glossary of Terms

1. **Recognized Organization** – A recognized sports organization with the City of Deer Park is an organization that has been formally recognized by City Council as an established sports group within the City. Recognized organizations are eligible to use City facilities or Deer Park ISD facilities at discount fee rates or at no cost per the inter-local agreement. A recognized organization must have:
 - a. Established structure
 - b. Recommendation from Parks and Recreation Commission
 - c. Approval from City Council
2. **Sports Organization Utilization Agreement**- An agreement to establish a mutual understanding and working relationship between various organizations and the City.
3. **Recreation(al) Play**: An interclub league in which the use of invitations, recruiting, or any similar process to roster players to any team on the basis of talent or ability is prohibited and a system of rostering players is used to establish a fair or balanced distribution of playing talent among all teams participating.
4. **Non-Recreation (al) Play**: Teams and Tournaments that do not meet the established criteria of “Glossary of Terms, Item 3” are to be considered non-recreation(al).
5. **First Right of Refusal** – a contractual right that gives the agreement holder first priority to utilize the facilities according to specified terms in this agreement.
6. **Third Party Usage** - A person or group besides the two primarily involved in the Sports Organization Utilization Agreement.
7. **Parks and Recreation Commission** - Under the supervision of the city manager, the Parks and Recreation Commission shall provide, conduct, and supervise public playgrounds, athletic fields, recreation centers, and other recreational facilities and activities on any property owned or controlled by the city. The commission shall consult, advise, and cooperate with other groups concerned with providing recreation in and for the city.
8. **Capital Improvement Project** - A Capital Project is a project that helps maintain or improve a City asset, often called infrastructure.

LEASE AGREEMENT

THE STATE OF TEXAS §
 § **KNOW ALL MEN BY THESE PRESENTS:**
COUNTY OF HARRIS §

This Lease Agreement entered into by and between City of Deer Park, hereinafter called *Lessor*, and **DEER PARK SOCCER FC**, hereinafter called *Lessee* (whether one or more).

W I T N E S S E T H:

(1)

Lessor hereby leases, demises and lets unto *Lessee* the following premises, **DEER PARK SOCCER COMPLEX**, located at **901 EAST BLVD** (hereinafter sometimes called demised premises) at Deer Park, Harris County, Texas, to be used and occupied as a **CONCESSION, RESTROOMS, MEETING SPACE, AND STORAGE.**

(2)

TERM OF LEASE. The initial term of this lease is for a period of **1** year beginning **JANUARY 1, 2019**, and expiring on **DECEMBER 31, 2019**.

(3)

RENTAL. As rental for the use of the leased premises, *Lessee* agrees to pay to *Lessor* rental to be computed as follows:

(a) A minimum guaranteed annual rental of **\$0 DOLLARS** per year payable in monthly installments of **\$0**.

(b) It is specially agreed and understood that *Lessee's* agreement for usage of the premises shall in no way constitute the *Lessor* as partner in the enterprise of business of *Lessee*, or make *Lessor* in any way responsible for the operation and liabilities of *Lessee*, or give *Lessor* any control of the business or enterprise of *Lessee* conducted on such leased premises.

(4)

SECURITY DEPOSIT. Lessor herewith acknowledges receipt of **\$100 AND NO/100 DOLLARS**, which Lessor is to retain as a security deposit for Lessee's faithful performance of this lease. Lessor is not obligated to apply the deposit on rents or other charges as in arrears or on damages for Lessee's failure to perform the lease. The security deposit, if not applied toward payment of arrearages or damages as herein provided is to be returned to the Lessee when this lease is terminated and after Lessee has vacated the premises and delivered possession to Lessor.

If Lessor repossesses the premises because of Lessee's default or breach, Lessor may apply the deposit on all damages suffered to the date of the repossession and may retain the remainder to apply on such damages as may be suffered thereafter by reason of the default or breach. Lessor shall not be obliged to keep the security as a separate fund, but may mix it with its own funds.

(5)

USE OF PREMISES. The premises covered by this lease, during the continuance of this lease, shall be used by *Lessee* as set out in paragraph (1) hereinabove and for no other purpose without the consent of *Lessor*. The *Lessee* shall comply promptly with all statutes, ordinances, lawful orders and regulations of every governmental authority affecting the use by *Lessee* of the demised premises. *Lessee* may install all equipment necessary to perform *Lessee's* operations.

(6)

CARE OF PREMISES. The *Lessee* shall not perform any acts or carry on any practices which may injure the building or be a nuisance or menace to the public and shall keep the premises under *Lessee's* control, including the sidewalks adjacent to the premises, clean and free from rubbish and dirt at all times, and shall store all trash and garbage within the leased premises and designated trash and garbage disposal areas. The *Lessee* will not burn any trash of any kind in or about the premises. The *Lessee* shall not use or permit the use of any portion of said premises as sleeping apartments, lodging rooms, or for any unlawful purpose or purposes.

(7)

MAINTENANCE. *Lessor* shall keep the foundation, exterior structure and roof of the leased premises in as good repair and condition as it exists at the beginning of this lease. *Lessee* shall not be called upon to make any other improvements or repairs of any kind upon said premises, and said premises shall at all times be kept in good order, condition and repair by *Lessee*. The premises shall also be kept in a clean, sanitary and safe condition in accordance with the laws of the State of Texas, and in accordance with all directions, rules and regulations of the health officer, fire marshal, building inspector or other property officers of the governmental agencies having jurisdiction. It is the responsibility of the *Lessee* to inspect leased facilities during the duration of the agreement and report maintenance issues to the *Lessor* as soon as possible.

(8)

IMPROVEMENTS TO PREMISES. All alterations, additions and permanent improvements which may be made or installed by *Lessee* upon the premises shall be the property of the *Lessor* and shall remain upon and be surrendered with the premises as a part thereof, without molestation, disturbance or injury at the termination of this lease, it being specifically understood that all air conditioning, heating and lighting equipment installed in the premises are to remain the property of the *Lessor*. Any linoleum, carpet or other floor covering of a similar character which may be cemented or otherwise affixed to the floor of the herein leased premises

shall be and become the property of the *Lessor*. All alterations, additions and permanent improvements which may be made or installed by Lessee without the written consent of *Lessor*.

(9)

COVENANT TO HOLD HARMLESS. *Lessor* shall be defended and held harmless by *Lessee* from any liability for damages to any person or any third party property in or upon said premises resulting from the negligent acts or omissions of the *Lessee*. It is understood and believed that all property kept, stored or maintained in the leased premises shall be so kept, stored, or maintained at the risk of *Lessee* only. *Lessee* shall not suffer or give cause for the filing of any lien against the herein leased premises.

(10)

PUBLIC LIABILITY INSURANCE. *Lessee* agrees to obtain and maintain at its sole cost and expense public liability insurance and property damage insurance to protect *Lessor* and *Lessee* against loss or damage from the claims of all persons who may be in or on the leased premises by the invitation, consent or sufferance of *Lessee*. Such public liability insurance shall have minimum bodily injury limits of \$100,000.00 for each person and \$300,000.00 for each accident and property damage limits of \$50,000.00 for each accident with respect to any accident with respect to any accident occurring on the leased premises. *Lessee* shall furnish *Lessor* certificates of all insurance coverage.

(11)

CASUALTY INSURANCE. The *Lessee* shall not carry any stock of goods or material or do anything in or about said premises which will in any way tend to increase the insurance rates on said premises. The *Lessee* agrees to pay as additional rental any increase in premium for insurance against loss by fire and extended coverage that may be charged during the term of this lease on the amount of insurance to be carried by *Lessor* on said premises resulting from the business carried on in the leased premises by the *Lessee*, whether or not *Lessor* has consented to the same. If *Lessee* installs any electrical equipment that overloads the lines in the herein leased premises, the *Lessee* shall, at its own expense, make whatever changes are necessary to comply with the requirements of the insurance underwriters and governmental authorities having jurisdiction.

(12)

ABUSE OF PLUMBING AND WALLS. The plumbing facilities shall not be used for any other purpose than that for which they are constructed, and no foreign substance of any kind shall be thrown therein, and the expense of any breakage, stoppage, or damage resulting from the violation of this provision shall be borne by *Lessee*, who shall, or whose employees, agent, invitees, or licensees shall have caused it. *Lessee*, its employees or agent, shall not make, drill or in any way deface any walls, ceilings, partitions, floors, wood, stone or iron work without the written consent of *Lessor*.

(13)

ASSIGNMENT. *Lessee* agrees not to assign or in any way transfer this lease, or any estate or interest therein, without the previous written consent of the *Lessor*, and not to sublet said premises or any part thereof or allow anyone to come in with, through, or under it with like consent. *Lessor*, however, may assign, hypothecate or otherwise transfer this lease or any interest therein.

(14)

ACCESS TO PREMISES. *Lessor* shall have the right to enter upon the leased premises at all reasonable hours for the purpose of inspecting the same.

(15)

SIGNS. The *Lessee* shall not erect or install any exterior window or door signs or advertising media or window or door lettering or placards without the previous consent of *Lessor*. *Lessee* agrees not to use any advertising media that shall be deemed objectionable to *Lessor*, such as loud speakers, phonograph or radio broadcast in a manner to be heard outside of the leased premises. *Lessee* shall not make any alterations, changes or additions in or to said premises without the previous written consent of the *Lessor*.

(16)

LESSEE PARKING. The *Lessee* shall, keep all vehicles parked in designated driveways and parking areas and shall not park their vehicles directly in front of any of the buildings, and *Lessee* agrees that patrons will comply with such reasonable parking regulations as *Lessor* may promulgate for the patrons of all *Lessees* in the facilities where the same are designed to assure the maximum availability of the parking area for the clients, customers, and patients of such *Lessees*.

(17)

DAMAGE. In the case the leased premises shall be partially or totally destroyed by fire or other casualty insurable under full standard extended coverage insurance as to become partially or totally untenable, then the *Lessor* may, if he so elects, rebuild and put the same premises in good condition and fit for occupancy within a reasonable time after such total or partial destruction or *Lessor* may give written notice to *Lessee* terminated up to the date of destruction. If *Lessor* elects to repair or rebuild said premises, *Lessor* shall give the *Lessee* notice thereof within thirty (30) days after such damage or destruction of his intention so to do. Upon termination *Lessee's* obligations hereunder shall cease.

(18)

WAIVER. One or more waivers of any covenant or condition by the *Lessor* shall not be construed as a waiver of a subsequent breach of the same covenant or condition, and the consent or approval by the *Lessor* to or of any act by the *Lessee* requiring the *Lessor's* consent or approval shall not be deemed to waive or render unnecessary the *Lessor's* consent or approval to or of any subsequent similar act by the *Lessee*.

(19)

NOTICE. Whenever, under this lease, a provision is made for notice of any kind, it shall be deemed sufficient notice and service thereof if such notice to *Lessee* is in writing addressed to *Lessee* at the last known post office address of *Lessee* or at the leased premises and sent by registered mail with postage prepaid, and if such notice to *Lessor* is in writing, addressed to the last known post office address of *Lessor* and sent by registered mail with postage prepaid. The address of:

Lessor: City of Deer Park

Lessee: **DEER PARK SOCCER FC**

to which address, until changed as herein provided, all notices required shall be mailed. It shall be the duty of both parties, upon any change of address, to notify the other party of such change, giving in such notice its or their names and addresses and which notice shall likewise be given by registered mail.

MISCELLANEOUS. The remedies, waivers and limitations on liability set forth in this agreement are exclusively and shall apply regardless of legal theory, negligence, strict liability or breach of contract.

IN WITNESS WHEREOF, the *Lessor* and *Lessee* have executed this Lease Contract in duplicate originals on this the _____ day of _____, 2018.

Lessor:

City of Deer Park

By:_____

Lessee:

*

THE STATE OF TEXAS

§

§

COUNTY OF HARRIS

§

BEFORE ME, the undersigned authority, on this day personally appeared *, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that they executed the same for the purpose and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the _____ day of _____, 2018.

Notary Public in and for the
State of **TEXAS**

THE STATE OF TEXAS

§

§

COUNTY OF HARRIS

§

BEFORE ME, the undersigned authority, on this day personally appeared *, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purpose and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the _____ day of _____, 2018.

Notary Public in and for the
State of **TEXAS**

LEASE AGREEMENT

THE STATE OF TEXAS §
 § **KNOW ALL MEN BY THESE PRESENTS:**
COUNTY OF HARRIS §

This Lease Agreement entered into by and between City of Deer Park, hereinafter called *Lessor*, and **DEER PARK SOCCER FC**, hereinafter called *Lessee* (whether one or more).

W I T N E S S E T H:

(1)

Lessor hereby leases, demises and lets unto *Lessee* the following premises, **DOW PARK SOCCER**, located at **709 E. P STREET** (hereinafter sometimes called demised premises) at Deer Park, Harris County, Texas, to be used and occupied as a **CONCESSION, RESTROOMS, MEETING SPACE, AND STORAGE**.

(2)

TERM OF LEASE. The initial term of this lease is for a period of **1** year beginning **JANUARY 1, 2019**, and expiring on **DECEMBER 31, 2019**.

(3)

RENTAL. As rental for the use of the leased premises, *Lessee* agrees to pay to *Lessor* rental to be computed as follows:

(a) A minimum guaranteed annual rental of **\$0 DOLLARS** per year payable in monthly installments of **\$0**.

(b) It is specially agreed and understood that *Lessee's* agreement for usage of the premises shall in no way constitute the *Lessor* as partner in the enterprise of business of *Lessee*, or make *Lessor* in any way responsible for the operation and liabilities of *Lessee*, or give *Lessor* any control of the business or enterprise of *Lessee* conducted on such leased premises.

(4)

SECURITY DEPOSIT. Lessor herewith acknowledges receipt of **\$100 AND NO/100 DOLLARS**, which Lessor is to retain as a security deposit for Lessee's faithful performance of this lease. Lessor is not obligated to apply the deposit on rents or other charges as in arrears or on damages for Lessee's failure to perform the lease. The security deposit, if not applied toward payment of arrearages or damages as herein provided is to be returned to the Lessee when this lease is terminated and after Lessee has vacated the premises and delivered possession to Lessor.

If Lessor repossesses the premises because of Lessee's default or breach, Lessor may apply the deposit on all damages suffered to the date of the repossession and may retain the remainder to apply on such damages as may be suffered thereafter by reason of the default or breach. Lessor shall not be obliged to keep the security as a separate fund, but may mix it with its own funds.

(5)

USE OF PREMISES. The premises covered by this lease, during the continuance of this lease, shall be used by *Lessee* as set out in paragraph (1) hereinabove and for no other purpose without the consent of *Lessor*. The *Lessee* shall comply promptly with all statutes, ordinances, lawful orders and regulations of every governmental authority affecting the use by *Lessee* of the demised premises. *Lessee* may install all equipment necessary to perform *Lessee's* operations.

(6)

CARE OF PREMISES. The *Lessee* shall not perform any acts or carry on any practices which may injure the building or be a nuisance or menace to the public and shall keep the premises under *Lessee's* control, including the sidewalks adjacent to the premises, clean and free from rubbish and dirt at all times, and shall store all trash and garbage within the leased premises and designated trash and garbage disposal areas. The *Lessee* will not burn any trash of any kind in or about the premises. The *Lessee* shall not use or permit the use of any portion of said premises as sleeping apartments, lodging rooms, or for any unlawful purpose or purposes.

(7)

MAINTENANCE. *Lessor* shall keep the foundation, exterior structure and roof of the leased premises in as good repair and condition as it exists at the beginning of this lease. *Lessee* shall not be called upon to make any other improvements or repairs of any kind upon said premises, and said premises shall at all times be kept in good order, condition and repair by *Lessee*. The premises shall also be kept in a clean, sanitary and safe condition in accordance with the laws of the State of Texas, and in accordance with all directions, rules and regulations of the health officer, fire marshal, building inspector or other property officers of the governmental agencies having jurisdiction. It is the responsibility of the *Lessee* to inspect leased facilities during the duration of the agreement and report maintenance issues to the *Lessor* as soon as possible.

(8)

IMPROVEMENTS TO PREMISES. All alterations, additions and permanent improvements which may be made or installed by *Lessee* upon the premises shall be the property of the *Lessor* and shall remain upon and be surrendered with the premises as a part thereof, without molestation, disturbance or injury at the termination of this lease, it being specifically understood that all air conditioning, heating and lighting equipment installed in the premises are to remain the property of the *Lessor*. Any linoleum, carpet or other floor covering of a similar character which may be cemented or otherwise affixed to the floor of the herein leased premises

shall be and become the property of the *Lessor*. All alterations, additions and permanent improvements which may be made or installed by Lessee without the written consent of *Lessor*.

(9)

COVENANT TO HOLD HARMLESS. *Lessor* shall be defended and held harmless by *Lessee* from any liability for damages to any person or any third party property in or upon said premises resulting from the negligent acts or omissions of the *Lessee*. It is understood and believed that all property kept, stored or maintained in the leased premises shall be so kept, stored, or maintained at the risk of *Lessee* only. *Lessee* shall not suffer or give cause for the filing of any lien against the herein leased premises.

(10)

PUBLIC LIABILITY INSURANCE. *Lessee* agrees to obtain and maintain at its sole cost and expense public liability insurance and property damage insurance to protect *Lessor* and *Lessee* against loss or damage from the claims of all persons who may be in or on the leased premises by the invitation, consent or sufferance of *Lessee*. Such public liability insurance shall have minimum bodily injury limits of \$100,000.00 for each person and \$300,000.00 for each accident and property damage limits of \$50,000.00 for each accident with respect to any accident with respect to any accident occurring on the leased premises. *Lessee* shall furnish *Lessor* certificates of all insurance coverage.

(11)

CASUALTY INSURANCE. The *Lessee* shall not carry any stock of goods or material or do anything in or about said premises which will in any way tend to increase the insurance rates on said premises. The *Lessee* agrees to pay as additional rental any increase in premium for insurance against loss by fire and extended coverage that may be charged during the term of this lease on the amount of insurance to be carried by *Lessor* on said premises resulting from the business carried on in the leased premises by the *Lessee*, whether or not *Lessor* has consented to the same. If *Lessee* installs any electrical equipment that overloads the lines in the herein leased premises, the *Lessee* shall, at its own expense, make whatever changes are necessary to comply with the requirements of the insurance underwriters and governmental authorities having jurisdiction.

(12)

ABUSE OF PLUMBING AND WALLS. The plumbing facilities shall not be used for any other purpose than that for which they are constructed, and no foreign substance of any kind shall be thrown therein, and the expense of any breakage, stoppage, or damage resulting from the violation of this provision shall be borne by *Lessee*, who shall, or whose employees, agent, invitees, or licensees shall have caused it. *Lessee*, its employees or agent, shall not make, drill or in any way deface any walls, ceilings, partitions, floors, wood, stone or iron work without the written consent of *Lessor*.

(13)

ASSIGNMENT. *Lessee* agrees not to assign or in any way transfer this lease, or any estate or interest therein, without the previous written consent of the *Lessor*, and not to sublet said premises or any part thereof or allow anyone to come in with, through, or under it with like consent. *Lessor*, however, may assign, hypothecate or otherwise transfer this lease or any interest therein.

(14)

ACCESS TO PREMISES. *Lessor* shall have the right to enter upon the leased premises at all reasonable hours for the purpose of inspecting the same.

(15)

SIGNS. The *Lessee* shall not erect or install any exterior window or door signs or advertising media or window or door lettering or placards without the previous consent of *Lessor*. *Lessee* agrees not to use any advertising media that shall be deemed objectionable to *Lessor*, such as loud speakers, phonograph or radio broadcast in a manner to be heard outside of the leased premises. *Lessee* shall not make any alterations, changes or additions in or to said premises without the previous written consent of the *Lessor*.

(16)

LESSEE PARKING. The *Lessee* shall, keep all vehicles parked in designated driveways and parking areas and shall not park their vehicles directly in front of any of the buildings, and *Lessee* agrees that patrons will comply with such reasonable parking regulations as *Lessor* may promulgate for the patrons of all *Lessees* in the facilities where the same are designed to assure the maximum availability of the parking area for the clients, customers, and patients of such *Lessees*.

(17)

DAMAGE. In the case the leased premises shall be partially or totally destroyed by fire or other casualty insurable under full standard extended coverage insurance as to become partially or totally untenable, then the *Lessor* may, if he so elects, rebuild and put the same premises in good condition and fit for occupancy within a reasonable time after such total or partial destruction or *Lessor* may give written notice to *Lessee* terminated up to the date of destruction. If *Lessor* elects to repair or rebuild said premises, *Lessor* shall give the *Lessee* notice thereof within thirty (30) days after such damage or destruction of his intention so to do. Upon termination *Lessee's* obligations hereunder shall cease.

(18)

WAIVER. One or more waivers of any covenant or condition by the *Lessor* shall not be construed as a waiver of a subsequent breach of the same covenant or condition, and the consent or approval by the *Lessor* to or of any act by the *Lessee* requiring the *Lessor's* consent or approval shall not be deemed to waive or render unnecessary the *Lessor's* consent or approval to or of any subsequent similar act by the *Lessee*.

(19)

NOTICE. Whenever, under this lease, a provision is made for notice of any kind, it shall be deemed sufficient notice and service thereof if such notice to *Lessee* is in writing addressed to *Lessee* at the last known post office address of *Lessee* or at the leased premises and sent by registered mail with postage prepaid, and if such notice to *Lessor* is in writing, addressed to the last known post office address of *Lessor* and sent by registered mail with postage prepaid. The address of:

Lessor: City of Deer Park

Lessee: **DEER PARK SOCCER FC**

to which address, until changed as herein provided, all notices required shall be mailed. It shall be the duty of both parties, upon any change of address, to notify the other party of such change, giving in such notice its or their names and addresses and which notice shall likewise be given by registered mail.

MISCELLANEOUS. The remedies, waivers and limitations on liability set forth in this agreement are exclusively and shall apply regardless of legal theory, negligence, strict liability or breach of contract.

IN WITNESS WHEREOF, the *Lessor* and *Lessee* have executed this Lease Contract in duplicate originals on this the _____ day of _____, 2018.

Lessor:

City of Deer Park

By:_____

Lessee:

*

THE STATE OF TEXAS

§

§

COUNTY OF HARRIS

§

BEFORE ME, the undersigned authority, on this day personally appeared *, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that they executed the same for the purpose and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the _____ day of _____, 2018.

Notary Public in and for the
State of **TEXAS**

THE STATE OF TEXAS

§

§

COUNTY OF HARRIS

§

BEFORE ME, the undersigned authority, on this day personally appeared *, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purpose and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the _____ day of _____, 2018.

Notary Public in and for the
State of **TEXAS**

ADDENDUM TO CONTRACT

Reference is made to the **City of Deer Park Sports Organization Utilization Agreement**, here after referred to as **CONTRACT**, by and between the undersigned parties, said agreement being dated the **19th of December , 2018**.

BE IT KNOWN that for good consideration the parties make the following additions or changes a part of said CONTRACT as if contained therein:

- Dow Park Soccer Fields will be considered exclusive usage for Deer Park Soccer FC until July 1, 2019.
 - Construction of the Deer Park Soccer Complex has been delayed due to inclement weather and other construction delays. For these reasons, the usage of the Deer Park Soccer Complex shall be determined at a later date once it has been verified that facility is completed and safe for participants to utilize.

All other terms and provisions of said **CONTRACT** shall remain in full force and effect.

Signed this **19th** day of **December, 2018**.

President, Deer Park Soccer FC

Mayor, City of Deer Park

Director of Parks and Recreation, City of Deer Park

In the presence of:

Witness

ADDENDUM TO CONTRACT

Reference is made to the **City of Deer Park Sports Organization Utilization Agreement**, here after referred to as **CONTRACT**, by and between the undersigned parties, said agreement being dated the **19th of December , 2018**.

BE IT KNOWN that for good consideration the parties make the following additions or changes a part of said **CONTRACT** as if contained therein:

- Adult Sports Complex will be considered exclusive usage for Deer Park Girls Softball Organization until July 1, 2019.
- In-Lieu of fee of \$5000 or in-kind improvements requirement is here by waived for the Deer Park Girls Softball Organization for calendar year 2019.
 - Construction of the Deer Park Girls Softball Complex has been delayed due to inclement weather and other construction delays. For these reasons, the usage of the Deer Park Girls Softball Complex shall be determined at a later date once it has been verified that facility is completed and safe for participants to utilize.

All other terms and provisions of said **CONTRACT** shall remain in full force and effect.

Signed this **19th** day of **December, 2018**.

President, Deer Park Soccer FC

Mayor, City of Deer Park

Director of Parks and Recreation, City of Deer Park

In the presence of:

Witness



Legislation Details (With Text)

File #: AUT 18-080 **Version:** 1 **Name:**
Type: Authorization **Status:** Agenda Ready
File created: 10/4/2018 **In control:** City Council
On agenda: 12/18/2018 **Final action:**
Title: Consideration of and action on authorization to purchase RecTrac Registration / Rental Software Vermont Systems Recreation & Parks Software as a sole source purchase.
Sponsors: Parks & Recreation
Indexes:
Code sections:
Attachments: [RecTrac Quote](#)
[Sole Source.pdf](#)

| Date | Ver. | Action By | Action | Result |
|------------|------|--------------|--------|--------|
| 12/18/2018 | 1 | City Council | | |

Consideration of and action on authorization to purchase RecTrac Registration / Rental Software Vermont Systems Recreation & Parks Software as a sole source purchase.

The Parks & Recreation Department is requesting the purchase of a new registration / rental software system, RecTrac, as a replacement for Activenet, the current software system.

Fiscal/Budgetary Impact:

Vendor: Vermont Systems Recreation & Parks Software, one source vendor

Cost: \$100,866

A budgeted amount of \$100,866 is included in the Fiscal Year 2018-19 Parks & Recreation Administration Budget, Account # 10-407-4279, Software Other.

Approval to purchase RecTrac Registration / Rental Software from Vermont Systems Recreation & Parks Software

Please See Detail Breakdown
on Following Pages

Description: RecTrac Software as a Service
Prepared For: City of Deer Park Parks & Recreation, Deer Park, TX
Contact Name: Nicki Garvis, Marketing/Tech Coordinator
Contact Email: ngarvis@deerparktx.org
Approved By: John Willey, VP Sales (johnw@vermontsystems.com)

Phone Number: (281)478-2066
Fax Number:
Quote Date: 03/20/2018

| Description | Purchase Price | Annual Maint/Svs | Estimated Shipping* | Total Price |
|--|----------------|------------------|---------------------|-------------|
| SaaS RecTrac/WebTrac/PayTrac/Hosted - Workgroup | | | | |
| SaaS1 RecTrac/WebTrac/PayTrac/Host | \$0.00 | \$26,100.00 | \$0.00 | \$26,100.00 |
| Support Services - Training & Expenses | \$31,008.00 | \$0.00 | \$0.00 | \$31,008.00 |
| Total SaaS RecTrac/WebTrac/PayTrac/Hosted: | \$31,008.00 | \$26,100.00 | \$0.00 | \$57,108.00 |

ID Systems - Workgroup Multi-User Software

| | | | | |
|-------------------|------------|--------|---------|----------------|
| ID Card Hardware | \$2,380.00 | \$0.00 | \$60.00 | \$2,440.00 • 2 |
| Total ID Systems: | \$2,380.00 | \$0.00 | \$60.00 | \$2,440.00 |

Hardware - (VSI Qualified)

| | | | | |
|----------------------|------------|--------|----------|---------------|
| Printers Receipt | \$370.00 | \$0.00 | \$40.00 | \$410.00 • 12 |
| Cash Drawers | \$460.00 | \$0.00 | \$48.00 | \$508.00 • 12 |
| Barcode Readers | \$335.00 | \$0.00 | \$13.00 | \$348.00 • 12 |
| Payment Card Readers | \$895.00 | \$0.00 | \$16.00 | \$911.00 • 2 |
| Total Hardware: | \$2,060.00 | \$0.00 | \$117.00 | \$2,177.00 |

VSI TOTALS

| | | | | |
|--|-------------|-------------|----------|-------------|
| SaaS1 RecTrac/WebTrac/PayTrac/Host | \$0.00 | \$26,100.00 | \$0.00 | \$26,100.00 |
| Printers Receipt | \$370.00 | \$0.00 | \$40.00 | \$410.00 |
| Cash Drawers | \$460.00 | \$0.00 | \$48.00 | \$508.00 |
| ID Card Hardware | \$2,380.00 | \$0.00 | \$60.00 | \$2,440.00 |
| Barcode Readers | \$335.00 | \$0.00 | \$13.00 | \$348.00 |
| Payment Card Readers | \$895.00 | \$0.00 | \$16.00 | \$911.00 |
| Support Services - Training & Expenses | \$31,008.00 | \$0.00 | \$0.00 | \$31,008.00 |
| Grand Totals: | \$35,448.00 | \$26,100.00 | \$177.00 | \$61,725.00 |

* NOTE: Shipping is FOB - Origin

(Plus Tax Where Applicable / Includes Shipping FOB - Origin)

SOFTWARE as a SERVICE (SaaS) TOTALS

| | | |
|------------------------|-------------|--|
| Cost to Go Live! | \$37,800.00 | (Includes Training, Hardware/Shipping, and First Monthly SaaS fee) |
| Monthly SaaS Fee | \$2,175.00 | |
| Total First Year Costs | \$61,725.00 | |
| Total Year 2+ | \$26,100.00 | |

+ 2440 - ID Card Hardware
+ 4510 - Receipt Printers
+ 5588 - Cash Drawers
+ 3828 - Barcode Readers
+ 22775 - Credit Card Readers

\$39,141 + 61,725 = \$100,866



SaaS RecTrac/WebTrac/PayTrac/Hosted Workgroup

VSI Quote Number: 68369

Please Review Notes on Last Page
Software Pricing Is Valid For 120 Days
Hardware Pricing Is Subject to Change

Description: **RecTrac Software as a Service**
Prepared For: **City of Deer Park Parks & Recreation, Deer Park, TX**
Contact Name: **Nicki Garvis, Marketing/Tech Coordinator**
Contact Email: **ngarvis@deerparktx.org**
Approved By: **John Willey, VP Sales (johnw@vermontsystems.com)**

Phone Number: **(281)478-2066**
Fax Number:
Quote Date: **03/20/2018**

| Qty | Unit | Description | Unit Price | Extended Price | Annual Maint/Svs |
|---|--------|---|------------|--|--------------------------|
| <u>SaaS1 RecTrac/WebTrac/PayTrac/Host</u> | | | | | |
| 1 | Each | SaaS Monthly-7 Module/RecTrac 25 Users, Silver Hosting (VS-WG2-4MODULE) | \$2,125.00 | \$2,125.00 | \$25,500.00 ¹ |
| 1 | Each | SaaS Monthly Interface Add-On Fee - G/L Interface (VS-WG-ADDON) | \$50.00 | \$50.00 | \$600.00 |
| Total SaaS1 RecTrac/WebTrac/PayTrac/Host: | | | | \$2,175.00 | \$26,100.00 |
| <u>SaaS1 Modules and Add-ons</u> | | | | | |
| 1 | Each | Activity Registration (VS-SS-RT-AR) | \$0.00 | \$0.00 | \$0.00 |
| 1 | Each | Facility Reservations (VS-SS-RT-FR) | \$0.00 | \$0.00 | \$0.00 |
| 1 | Each | Pass Management (VS-SS-RT-PM) | \$0.00 | \$0.00 | \$0.00 |
| 1 | Each | Point of Sale/Inventory/Tickets (VS-SS-RT-PS) | \$0.00 | \$0.00 | \$0.00 |
| 1 | Each | Venue Ticketing (VS-SS-RT-VU) | \$0.00 | \$0.00 | \$0.00 |
| 1 | Each | League Scheduling (VS-SS-RT-LS) | \$0.00 | \$0.00 | \$0.00 |
| 1 | Each | Trip Reservations (VS-SS-RT-TP) | \$0.00 | \$0.00 | \$0.00 |
| 1 | Each | Incident Reporting (VS-SS-RT-IR) | \$0.00 | \$0.00 | \$0.00 |
| 1 | Each | System Administration (VS-SS-RT-SA) | \$0.00 | \$0.00 | \$0.00 |
| 1 | Each | General Ledger Interface (VS-SS-IN-GL) | \$0.00 | \$0.00 | \$0.00 |
| Total SaaS1 Modules and Add-ons: | | | | \$0.00 | \$0.00 |
| <u>Support Services - Training & Expenses</u> | | | | | |
| 20 | Day(s) | Installation/Training, Municipal, On-Site/Day (X-S-TNG-01) | \$770.00 | \$15,400.00 | \$0.00 |
| 4 | Day(s) | Travel Time (X-S-TNG-09) | \$385.00 | \$1,540.00 | \$0.00 |
| 28 | Each | Travel Expenses (estimated - pay actual only) (X-X-EXP) | \$280.00 | \$7,840.00 | \$0.00 ² |
| 28 | Each | Expense Meals Per Diem (X-X-MLS-PDIEM) | \$51.00 | \$1,428.00 | \$0.00 ³ |
| 4 | Each | Expense Airfare (estimated-pay actual only) (X-X-AIR) | \$1,200.00 | \$4,800.00 | \$0.00 |
| Total Support Services - Training & Expenses: | | | | \$31,008.00 | \$0.00 |
| Total Software, Hardware and Support Services | | | | \$31,008.00 | \$26,100.00 |
| Grand Total - SaaS RecTrac/WebTrac/PayTrac/Hosted: | | | | \$57,108.00 | |
| * NOTE: Shipping is FOB - Origin | | | | (Plus Tax Where Applicable / Includes Shipping FOB - Origin) | |



ID Systems Workgroup Multi-User Software
Pass Management Photo/Plastic Photo ID Card System
VSI Quote Number: 68369
 Please Review Notes on Last Page
 Software Pricing Is Valid For 120 Days
 Hardware Pricing Is Subject to Change

Description: **RecTrac Software as a Service**
 Prepared For: **City of Deer Park Parks & Recreation, Deer Park, TX**
 Contact Name: **Nicki Garvis, Marketing/Tech Coordinator**
 Contact Email: **ngarvis@deerparktx.org**
 Approved By: **John Willey, VP Sales (johnw@vermontsystems.com)**

Phone Number: **(281)478-2066**
 Fax Number:
 Quote Date: **03/20/2018**

| Qty | Unit | Description | Unit Price | Extended Price | Estimated Shipping* | Annual Maint/Sys |
|--------------------------------|------|---|------------|-------------------|---------------------|------------------|
| ID Card Hardware | | | | | | |
| 1 | Each | Polaroid P3500s ID Card Printer Cover (H-PID-PL-11-X-CV) | \$35.00 | \$35.00 | \$4.00 | \$0.00 |
| 1 | Each | P3500s 1-Side ID Card Printer, Ethernet/USB 18spc (H-PID-PL-11) | \$1,750.00 | \$1,750.00 | \$21.00 | \$0.00 4 |
| 2 | Each | P3500s/P5500/P3000/P4000 Color Ribbon 500 C/R (S-PID-PL-13) | \$175.00 | \$350.00 | \$12.00 | \$0.00 5 |
| 1 | Each | Logitech C920 Webcam, HD 1920x1080p, AutoFocus (H-PID-LT-01) | \$105.00 | \$105.00 | \$12.00 | \$0.00 6 |
| 1 | Each | Tripod Stand for Camera, Adjustable (H-PID-MS-01-ST) | \$30.00 | \$30.00 | \$5.00 | \$0.00 7 |
| 1 | Each | Blank White PVC Cards- 30Mil (1000 each) (PID-PVC-C-30) | \$110.00 | \$110.00 | \$6.00 | \$0.00 |
| Total ID Card Hardware: | | | | \$2,380.00 | \$60.00 | \$0.00 |

| | | | | | |
|--|--|--|--|-------------------|---------------|
| Total Software, Hardware and Support Services | | | \$2,380.00 | \$60.00 | \$0.00 |
| Grand Total - ID Systems: | | | | \$2,440.00 | |
| * NOTE: Shipping is FOB - Origin | | | (Plus Tax Where Applicable / Includes Shipping FOB - Origin) | | |



Hardware (VSI Qualified)
VSI Quote Number: 68369
 Please Review Notes on Last Page
 Software Pricing Is Valid For 120 Days
 Hardware Pricing Is Subject to Change

Description: **RecTrac Software as a Service**
 Prepared For: **City of Deer Park Parks & Recreation, Deer Park, TX**
 Contact Name: **Nicki Garvis, Marketing/Tech Coordinator**
 Contact Email: **ngarvis@deerparktx.org**
 Approved By: **John Willey, VP Sales (johnw@vermontsystems.com)**

Phone Number: **(281)478-2066**
 Fax Number:
 Quote Date: **03/20/2018**

| Qty | Unit | Description | Unit Price | Extended Price | Estimated Shipping* | Annual Maint/Svs |
|---|------|---|------------|-------------------|---------------------|------------------|
| <u>Printers Receipt</u> | | | | | | |
| 1 | Each | Star TSP143IU, 40 col Thermal, USB, Cutter (H-PRT-ST-05-U-B) | \$265.00 | \$265.00 | \$13.00 | \$0.00 8 |
| 1 | Each | Drawer 1 Cable for Epson & Star Printer (H-DRW-MM-X-CB1-EPST) | \$10.00 | \$10.00 | \$3.00 | \$0.00 |
| 1 | Each | Thermal Receipt Paper, 1 Ply, 50 Rolls/Case (S-PRT-IT-THB-01) | \$95.00 | \$95.00 | \$24.00 | \$0.00 9 |
| Total Printers Receipt: | | | | \$370.00 | \$40.00 | \$0.00 |
| <u>Cash Drawers</u> | | | | | | |
| 1 | Each | Advantage 18Wx16.7D,Smart,USB/Ser Em,Black,No Bell (H-DRW-MM-28-U-BK) | \$285.00 | \$285.00 | \$24.00 | \$0.00 10 |
| 1 | Each | MMF Advantage 17.4Wx18.7D Dumb Drw Paint Front Blk (H-DRW-MM-11-D-BK) | \$175.00 | \$175.00 | \$24.00 | \$0.00 |
| Total Cash Drawers: | | | | \$460.00 | \$48.00 | \$0.00 |
| <u>Barcode Readers</u> | | | | | | |
| 1 | Each | Honeywell MK7580G 1D/2D Genesis Imager, USB Cable (H-BCR-HY-10) | \$335.00 | \$335.00 | \$13.00 | \$0.00 11 |
| 1 | Each | MK7580 Custom Configuration for VSI software (H-BCR-HY-11-X-C) | \$0.00 | \$0.00 | \$0.00 | \$0.00 12 |
| Total Barcode Readers: | | | | \$335.00 | \$13.00 | \$0.00 |
| <u>Payment Card Readers</u> | | | | | | |
| 1 | Each | Cardconnect Ingenico ISC250 Pinpad Reader, SigCap (H-PIN-IG-250) | \$895.00 | \$895.00 | \$16.00 | \$0.00 13 |
| Total Payment Card Readers: | | | | \$895.00 | \$16.00 | \$0.00 |
| Total Software, Hardware and Support Services | | | | \$2,060.00 | \$117.00 | \$0.00 |
| Grand Total - Hardware: | | | | | \$2,177.00 | |
| * NOTE: Shipping is FOB - Origin (Plus Tax Where Applicable / Includes Shipping FOB - Origin) | | | | | | |

Please See Detail Breakdown
on Following Pages

Description: **RecTrac Software as a Service**
Prepared For: **City of Deer Park Parks & Recreation, Deer Park, TX**
Contact Name: **Nicki Garvis, Marketing/Tech Coordinator**
Contact Email: **ngarvis@deerparktx.org**
Approved By: **John Willey, VP Sales (johnw@vermontsystems.com)**

Phone Number: **(281)478-2066**
Fax Number:
Quote Date: **03/20/2018**

- 1 SaaS monthly fee includes selected RecTrac and WebTrac application software modules, RecTrac System Administration and Incident Reporting modules, Mobile WebTrac, Pass Management ID Integration, up to 12 concurrent RecTrac users, Progress OpenEdge RDBMS, PayTrac payment card interface, WebTrac Stylesheet, Premium Splash Page, & Agents, and Silver Level Hosting Services.

It does NOT include VSI Add-ons such as GL Interface, Activity Custom Brochure, Field Lighting interfaces. Those will be added as a separate line items, if applicable.

- 2 The included expenses are ESTIMATED for airfare, lodging, parking, tolls, and rental vehicle (for non-flying trips, car rental can be more due to tolls and gasoline usage). Actual expenses are billed after each trip. For states with Cashless Tolls, there may be a delay in billing these charges as we sometimes don't get these bills from the car rental companies until weeks after a trip is complete.

Meals are listed separately.

- 3 The Meal Per Diem rate is based on the GSA/DOD rates for your location.
- 4 P3500 S 1-Side Plastic ID Card Printer, 18cps Color/5cps Mono, Ethernet/USB, Windows XP/Vista/W7/W10 Server 2008/2012. P3500S Energy Star printer includes USB Cable, PS, 3-Year Swap Out Parts & Labor Warranty Service including Printhead. 4th year warranty does not include the Printhead and motherboard. Annual Servicing/Cleaning and Hot Swap program for those customers purchasing ID card supplies through VSI.
- 5 RI-PO-3-0100 P3500S/P3000/P4000 Color Ribbon, 500 Cards Per Ribbon YMCK-T (If P5500 250 Color Front/250 Color Back) Each Polaroid ribbon includes a Cleaning Roller, Cleaning Card, and Snap Swab. Visible Light and Infrared bar code readers read bar codes printed with YMCKO ribbons.
- 6 Logitech C920 HD Pro Webcam, HD 1080p up to 1920x1080, HD 720p up to 1280x720p, Wide 78° View, Glass Autofocus Lens, USB 2.0/USB 3.0 Ready, Windows 7/8, UVC H.264 Compliant, Tripod Mountable, 2-Year Warranty.
- 7 Works with Lifecam and Logitech camera.
- 8 Includes power supply, power cord, auto cutter and cable. Wall mountable.
- 9 Thermal Receipt Paper, 1 Ply, 50 Roll/Case for Star, Epson, & Ithaca receipt printers.
- 10 This drawer is USB with a Serial Emulation. A straight USB drawer will not work with RecTrac.
- 11 Honeywell MK7580G-2 Genesis Bar Code Imager USB Kit, 1D/2D, PDF17, Gray, Type A 3M Cable (9.5' - Cbl-500-300-S00)), Power Supply, EasyID Software, Documentation, and VSI Custom Configuration. USB keyboard emulation is standard with optional Serial or Parallel emulation. Standard keyboard emulation used to connect reader to dedicated computer. This scanner can be used for RecTrac Background Visit Check-in by configuring it for Serial Emulation using the same USB cable. This enable the computer to be used for other functions, while it is also being used to scan visitor ID cards.
- 12 Custom Configuration for VSI application software, so plug and play out of the box.
- 13 Ingenico ISC250 Credit Card/Pinpad Debit Card Reader, PCI 4.X, 4.3" Color Display, 32-bit ARM 9 Processor, 64 SD/128 Flash, Stylus, PCT PTS 3.0 and 4.0, EMV Level 1, Triple DES, SRED, Speaker, Trk123 Magstripe Reader, Smart Card Reader, Signature Capture, CTLS (Contactless) Reader, USB/Ethernet, Remote Inject Encryption, Telium 2 Application, 1-Year Depot Warranty.

These readers will be purchased through the gateway. They are priced here for budgeting purposes.

Timeline for Sole Source request to the Texas Department of Information Resources

On 10/22/2018 a request was sent to Texas Department of Information Resources requesting and exemption from the commodity items purchasing requirement described in Subchapter B of Chapter 212 of Texas Administrative Code under Rule 212.20.

As of 12/10/2018, no responses have been received from the Department of Information Resources to the City of Deer Park.

Between 11/26/2018 and 12/10/2018 three follow up calls were made to The Texas Department of Information Services to Kelly Parker (Sole Source Department) at 512-475-1647. Messages were left with no response and no call back.

According to Title 1 Part 10 Chapter 212 and Subchapter C under Rule 212.20 under "D", if the Department of Information Resources has not issued a written denial of the exemption request within fifteen (15) business days following the date of its receipt of the request, or the date of receipt of requested additional information, the request for the exemption shall be deemed to have been approved for an amount equal to the total dollar amount of the proposed purchase or for the period of time described in the exemption request.

As of 12/10/2018, thirty-five (35) business days have followed from the original day of the request and therefore **the sole source exemption is deemed to have been approved for the amount of \$105,000.00 according to the stated rule.**

Texas Administrative Code

| | |
|------------------------------|--------------------------------------|
| TITLE 1 | ADMINISTRATION |
| PART 10 | DEPARTMENT OF INFORMATION RESOURCES |
| CHAPTER 212 | PURCHASES OF COMMODITY ITEMS |
| SUBCHAPTER C | EXEMPTIONS |
| RULE §212.20 | Written Request and Approval Process |

(a) A state agency may submit a written request to the department for an exemption from the commodity items purchasing requirement described in Subchapter B of this chapter. The state agency shall not take any action on the contemplated purchase until the request for exemption is either approved or denied by the department.

(b) A request for an exemption must be in writing and include sufficient documentation to support the validity of the request. The department may request additional information in order to determine whether the proposed purchase is in the best interest of the state. The department shall not issue an exemption approval for a purchase that has already taken place. The department shall not issue an exemption approval solely on the basis that a solicitation has already been issued.

(c) Upon review of a written request for exemption, the department shall issue, in writing, either an approval or denial. A written approval shall include all pertinent terms and conditions of the exemption, including but not limited to, the dollar limit, expiration date, the quantity, list of specific commodity items, and any other conditions related to the proposed purchase. A written denial shall include the basis for the denial.

(d) If the department has not issued a written denial of the exemption request within fifteen (15) business days following the date of its receipt of the request, or the date of receipt of requested additional information, the request for the exemption shall be deemed to have been approved for an amount equal to the total dollar amount of the proposed purchase or for the period of time described in the exemption request.

Source Note: The provisions of this §212.20 adopted to be effective September 22, 2005, 30 TexReg 5948; amended to be effective November 17, 2011, 36 TexReg 7662; amended to be effective November 23, 2015, 40 TexReg 8195

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10/22/2018

**City of Deer Park
710 E San Augustine
Deer Park, Texas 77536**

**Texas Department of Information Resources
P.O. Box 13564
Austin, TX 78711-3564**

RE: Sole source exemption request

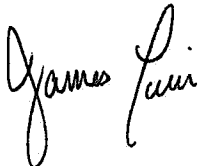
To whom it may concern,

I am requesting an exemption from the commodity items purchasing requirement described in Subchapter B of chapter 212 in the Texas Administrative Code under Rule 212.20. I feel that a sole source justification exists for the purchase of RecTrac software from Vermont Systems. The software is required to satisfy the City of Deer Park's needs and is available from only one supplier.

Enclosed with this request is a letter dated 10/11/18 from the software vendor stating they are the sole source of the software. I am also enclosing a price quote from the vendor for the software purchase. The estimated total is \$100,866 but will not exceed \$105,000.

If you need additional information, please let me know.

Sincerely,

A handwritten signature in black ink, appearing to read "James Lewis". The signature is fluid and cursive, with the first name "James" written in a larger, more prominent script than the last name "Lewis".

James Lewis
Director of Information Technology
City of Deer Park Texas



October 11, 2018

Daryl Denzer
City of Deer Park
610 E. San Augustine
PO Box 700
Deer Park, TX 77536

Dear Mr. Denzer,

This letter confirms that Vermont Systems, Inc. is the sole source for acquiring all VSI application software, as well as for all on-going maintenance support, which includes periodic software upgrades, immediate software repairs, knowledge base, online help, and toll-free telephone support. No other vendor has access to VSI's source code, and there are no other authorized VSI software vendors. This applies to all current VSI application software products including RecTrac, MainTrac, GolfTrac, WebTrac, PayTrac, FinTrac Time Management, IntelliTrac, Access Control, Mobile RecTrac, Mobile WebTrac, Mobile MainTrac, Mobile GofTrac, and Mobile FinTrac. This is also inclusive of all ID integration interfaces, financial Interfaces, and other specialized interfaces.

VSI application software can be acquired via the traditional licensing with annual maintenance and support method, as well as via Software as a Service (SaaS), whereby, the Customer pays a monthly fee to use the software. As an alternative to Customer on premise hosting, VSI offers full hosting services that includes software installation, configuration, database management, and 24/7/365 hosting services support. Special SaaS options require packaged VSI hosting services. No other vendor has access to VSI's highly secure data center servers.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Giles N. Willey", with a stylized flourish at the end.

Giles N. Willey,
President
Vermont Systems, Inc.



Proposal Summary Pricing VSI Quote Number: 68369

Please See Detail Breakdown
on Following Pages

Description: **RecTrac Software as a Service**
 Prepared For: **City of Deer Park Parks & Recreation, Deer Park, TX**
 Contact Name: **Nicki Garvis, Marketing/Tech Coordinator**
 Contact Email: **ngarvis@deerparktx.org**
 Approved By: **John Willey, VP Sales (johnw@vermontsystems.com)**

Phone Number: **(281)478-2066**
 Fax Number:
 Quote Date: **03/20/2018**

| Description | Purchase Price | Annual Maint/Svs | Estimated Shipping* | Total Price |
|-------------|----------------|------------------|---------------------|-------------|
|-------------|----------------|------------------|---------------------|-------------|

SaaS RecTrac/WebTrac/PayTrac/Hosted - Workgroup

| | | | | |
|---|--------------------|--------------------|---------------|--------------------|
| SaaS1 RecTrac/WebTrac/PayTrac/Host | \$0.00 | \$26,100.00 | \$0.00 | \$26,100.00 |
| Support Services - Training & Expenses | \$31,008.00 | \$0.00 | \$0.00 | \$31,008.00 |
| Total SaaS RecTrac/WebTrac/PayTrac/Hosted: | \$31,008.00 | \$26,100.00 | \$0.00 | \$57,108.00 |

ID Systems - Workgroup Multi-User Software

| | | | | |
|--------------------------|-------------------|---------------|----------------|-------------------------|
| ID Card Hardware | \$2,380.00 | \$0.00 | \$60.00 | \$2,440.00 ² |
| Total ID Systems: | \$2,380.00 | \$0.00 | \$60.00 | \$2,440.00 |

Hardware - (VSI Qualified)

| | | | | |
|------------------------|-------------------|---------------|-----------------|--|
| Printers Receipt | \$370.00 | \$0.00 | \$40.00 | \$410.00 ⁴⁵¹⁰ ¹² |
| Cash Drawers | \$460.00 | \$0.00 | \$48.00 | \$508.00 ¹² |
| Barcode Readers | \$335.00 | \$0.00 | \$13.00 | \$348.00 ¹² |
| Payment Card Readers | \$895.00 | \$0.00 | \$16.00 | \$911.00 ² |
| Total Hardware: | \$2,060.00 | \$0.00 | \$117.00 | \$2,177.00 |

VSI TOTALS

| | | | | |
|--|--------------------|--------------------|-----------------|--------------------|
| SaaS1 RecTrac/WebTrac/PayTrac/Host | \$0.00 | \$26,100.00 | \$0.00 | \$26,100.00 |
| Printers Receipt | \$370.00 | \$0.00 | \$40.00 | \$410.00 |
| Cash Drawers | \$460.00 | \$0.00 | \$48.00 | \$508.00 |
| ID Card Hardware | \$2,380.00 | \$0.00 | \$60.00 | \$2,440.00 |
| Barcode Readers | \$335.00 | \$0.00 | \$13.00 | \$348.00 |
| Payment Card Readers | \$895.00 | \$0.00 | \$16.00 | \$911.00 |
| Support Services - Training & Expenses | \$31,008.00 | \$0.00 | \$0.00 | \$31,008.00 |
| Grand Totals: | \$35,448.00 | \$26,100.00 | \$177.00 | \$61,725.00 |

* NOTE: Shipping is FOB - Origin

(Plus Tax Where Applicable / Includes Shipping FOB - Origin)

SOFTWARE as a SERVICE (SaaS) TOTALS

| | | |
|------------------------|-------------|--|
| Cost to Go Live! | \$37,800.00 | (Includes Training, Hardware/Shipping, and First Monthly SaaS fee) |
| Monthly SaaS Fee | \$2,175.00 | |
| Total First Year Costs | \$61,725.00 | |
| Total Year 2+ | \$26,100.00 | |

+ 2440 - ID Card Hardware
 + 4510 - Receipt Printers
 + 5588 - Cash Drawers
 + 3828 - Barcode Readers
 + 2275 - Credit Card Readers
 } \$39,141 + 61,725 = \$100,866



SaaS RecTrac/WebTrac/PayTrac/Hosted Workgroup

VSI Quote Number: 68369

Please Review Notes on Last Page
Software Pricing Is Valid For 120 Days
Hardware Pricing Is Subject to Change

Description: **RecTrac Software as a Service**
Prepared For: **City of Deer Park Parks & Recreation, Deer Park, TX**
Contact Name: **Nicki Garvis, Marketing/Tech Coordinator**
Contact Email: **ngarvis@deerparktx.org**
Approved By: **John Willey, VP Sales (johnw@vermontsystems.com)**

Phone Number: **(281)478-2066**
Fax Number:
Quote Date: **03/20/2018**

| Qty | Unit | Description | Unit Price | Extended Price | Annual Maint/Svs |
|---|--------|---|------------|--|--------------------|
| <u>SaaS1 RecTrac/WebTrac/PayTrac/Host</u> | | | | | |
| 1 | Each | SaaS Monthly-7 Module/RecTrac 25 Users, Silver Hosting (VS-WG2-4MODULE) | \$2,125.00 | \$2,125.00 | \$25,500.00 1 |
| 1 | Each | SaaS Monthly Interface Add-On Fee - G/L Interface (VS-WG-ADDON) | \$50.00 | \$50.00 | \$600.00 |
| Total SaaS1 RecTrac/WebTrac/PayTrac/Host: | | | | \$2,175.00 | \$26,100.00 |
| <u>SaaS1 Modules and Add-ons</u> | | | | | |
| 1 | Each | Activity Registration (VS-SS-RT-AR) | \$0.00 | \$0.00 | \$0.00 |
| 1 | Each | Facility Reservations (VS-SS-RT-FR) | \$0.00 | \$0.00 | \$0.00 |
| 1 | Each | Pass Management (VS-SS-RT-PM) | \$0.00 | \$0.00 | \$0.00 |
| 1 | Each | Point of Sale/Inventory/Tickets (VS-SS-RT-PS) | \$0.00 | \$0.00 | \$0.00 |
| 1 | Each | Venue Ticketing (VS-SS-RT-VU) | \$0.00 | \$0.00 | \$0.00 |
| 1 | Each | League Scheduling (VS-SS-RT-LS) | \$0.00 | \$0.00 | \$0.00 |
| 1 | Each | Trip Reservations (VS-SS-RT-TP) | \$0.00 | \$0.00 | \$0.00 |
| 1 | Each | Incident Reporting (VS-SS-RT-IR) | \$0.00 | \$0.00 | \$0.00 |
| 1 | Each | System Administration (VS-SS-RT-SA) | \$0.00 | \$0.00 | \$0.00 |
| 1 | Each | General Ledger Interface (VS-SS-IN-GL) | \$0.00 | \$0.00 | \$0.00 |
| Total SaaS1 Modules and Add-ons: | | | | \$0.00 | \$0.00 |
| <u>Support Services - Training & Expenses</u> | | | | | |
| 20 | Day(s) | Installation/Training, Municipal, On-Site/Day (X-S-TNG-01) | \$770.00 | \$15,400.00 | \$0.00 |
| 4 | Day(s) | Travel Time (X-S-TNG-09) | \$385.00 | \$1,540.00 | \$0.00 |
| 28 | Each | Travel Expenses (estimated - pay actual only) (X-X-EXP) | \$280.00 | \$7,840.00 | \$0.00 2 |
| 28 | Each | Expense Meals Per Diem (X-X-MLS-PDIEM) | \$51.00 | \$1,428.00 | \$0.00 3 |
| 4 | Each | Expense Airfare (estimated-pay actual only) (X-X-AIR) | \$1,200.00 | \$4,800.00 | \$0.00 |
| Total Support Services - Training & Expenses: | | | | \$31,008.00 | \$0.00 |
| Total Software, Hardware and Support Services | | | | \$31,008.00 | \$26,100.00 |
| Grand Total - SaaS RecTrac/WebTrac/PayTrac/Hosted: | | | | \$57,108.00 | |
| * NOTE: Shipping is FOB - Origin | | | | (Plus Tax Where Applicable / Includes Shipping FOB - Origin) | |



ID Systems Workgroup Multi-User Software Pass Management Photo/Plastic Photo ID Card System VSI Quote Number: 68369

Please Review Notes on Last Page
Software Pricing Is Valid For 120 Days
Hardware Pricing Is Subject to Change

Description: **RecTrac Software as a Service**
Prepared For: **City of Deer Park Parks & Recreation, Deer Park, TX**
Contact Name: **Nicki Garvis, Marketing/Tech Coordinator**
Contact Email: **ngarvis@deerparktx.org**
Approved By: **John Willey, VP Sales (johnw@vermontsystems.com)**

Phone Number: **(281)478-2066**
Fax Number:
Quote Date: **03/20/2018**

| Qty | Unit | Description | Unit Price | Extended Price | Estimated Shipping* | Annual Maint/Svs |
|--------------------------------|------|---|------------|-------------------|---------------------|------------------|
| ID Card Hardware | | | | | | |
| 1 | Each | Polaroid P3500s ID Card Printer Cover (H-PID-PL-11-X-CV) | \$35.00 | \$35.00 | \$4.00 | \$0.00 |
| 1 | Each | P3500s 1-Side ID Card Printer, Ethernet/USB 18spc (H-PID-PL-11) | \$1,750.00 | \$1,750.00 | \$21.00 | \$0.00 4 |
| 2 | Each | P3500s/P5500/P3000/P4000 Color Ribbon 500 C/R (S-PID-PL-13) | \$175.00 | \$350.00 | \$12.00 | \$0.00 5 |
| 1 | Each | Logitech C920 Webcam, HD 1920x1080p, AutoFocus (H-PID-LT-01) | \$105.00 | \$105.00 | \$12.00 | \$0.00 6 |
| 1 | Each | Tripod Stand for Camera, Adjustable (H-PID-MS-01-ST) | \$30.00 | \$30.00 | \$5.00 | \$0.00 7 |
| 1 | Each | Blank White PVC Cards- 30Mil (1000 each) (PID-PVC-C-30) | \$110.00 | \$110.00 | \$6.00 | \$0.00 |
| Total ID Card Hardware: | | | | \$2,380.00 | \$60.00 | \$0.00 |

| | | | | | |
|--|--|--|--|-------------------|---------------|
| Total Software, Hardware and Support Services | | | \$2,380.00 | \$60.00 | \$0.00 |
| Grand Total - ID Systems: | | | | \$2,440.00 | |
| * NOTE: Shipping is FOB - Origin | | | (Plus Tax Where Applicable / Includes Shipping FOB - Origin) | | |



Hardware (VSI Qualified)
VSI Quote Number: 68369
 Please Review Notes on Last Page
 Software Pricing Is Valid For 120 Days
 Hardware Pricing Is Subject to Change

Description: **RecTrac Software as a Service**
 Prepared For: **City of Deer Park Parks & Recreation, Deer Park, TX**
 Contact Name: **Nicki Garvis, Marketing/Tech Coordinator**
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 Approved By: **John Willey, VP Sales (johnw@vermontsystems.com)**

Phone Number: **(281)478-2066**
 Fax Number:
 Quote Date: **03/20/2018**

| Qty | Unit | Description | Unit Price | Extended Price | Estimated Shipping* | Annual Maint/Svs |
|--|------|---|------------|-------------------|---------------------|------------------|
| <u>Printers Receipt</u> | | | | | | |
| 1 | Each | Star TSP143IIU, 40 col Thermal, USB, Cutter (H-PRT-ST-05-U-B) | \$265.00 | \$265.00 | \$13.00 | \$0.00 8 |
| 1 | Each | Drawer 1 Cable for Epson & Star Printer (H-DRW-MM-X-CB1-EPST) | \$10.00 | \$10.00 | \$3.00 | \$0.00 |
| 1 | Each | Thermal Receipt Paper, 1 Ply, 50 Rolls/Case (S-PRT-IT-THB-01) | \$95.00 | \$95.00 | \$24.00 | \$0.00 9 |
| Total Printers Receipt: | | | | \$370.00 | \$40.00 | \$0.00 |
| <u>Cash Drawers</u> | | | | | | |
| 1 | Each | Advantage 18Wx16.7D,Smart,USB/Ser Em,Black,No Bell (H-DRW-MM-28-U-BK) | \$285.00 | \$285.00 | \$24.00 | \$0.00 10 |
| 1 | Each | MMF Advantage 17.4Wx18.7D Dumb Drw Paint Front Blk (H-DRW-MM-11-D-BK) | \$175.00 | \$175.00 | \$24.00 | \$0.00 |
| Total Cash Drawers: | | | | \$460.00 | \$48.00 | \$0.00 |
| <u>Barcode Readers</u> | | | | | | |
| 1 | Each | Honeywell MK7580G 1D/2D Genesis Imager, USB Cable (H-BCR-HY-10) | \$335.00 | \$335.00 | \$13.00 | \$0.00 11 |
| 1 | Each | MK7580 Custom Configuration for VSI software (H-BCR-HY-11-X-C) | \$0.00 | \$0.00 | \$0.00 | \$0.00 12 |
| Total Barcode Readers: | | | | \$335.00 | \$13.00 | \$0.00 |
| <u>Payment Card Readers</u> | | | | | | |
| 1 | Each | Cardconnect Ingenico ISC250 Pinpad Reader, SigCap (H-PIN-IG-250) | \$895.00 | \$895.00 | \$16.00 | \$0.00 13 |
| Total Payment Card Readers: | | | | \$895.00 | \$16.00 | \$0.00 |
| Total Software, Hardware and Support Services | | | | \$2,060.00 | \$117.00 | \$0.00 |
| Grand Total - Hardware: | | | | | \$2,177.00 | |

* NOTE: Shipping is FOB - Origin

(Plus Tax Where Applicable / Includes Shipping FOB - Origin)



Proposal Summary Pricing VSI Quote Number: 68369

Please See Detail Breakdown
on Following Pages

Description: **RecTrac Software as a Service**
Prepared For: **City of Deer Park Parks & Recreation, Deer Park, TX**
Contact Name: **Nicki Garvis, Marketing/Tech Coordinator**
Contact Email: **ngarvis@deerparktx.org**
Approved By: **John Willey, VP Sales (johnw@vermontsystems.com)**

Phone Number: **(281)478-2066**
Fax Number:
Quote Date: **03/20/2018**

-
- 1 SaaS monthly fee includes selected RecTrac and WebTrac application software modules, RecTrac System Administration and Incident Reporting modules, Mobile WebTrac, Pass Management ID Integration, up to 12 concurrent RecTrac users, Progress OpenEdge RDBMS, PayTrac payment card interface, WebTrac Stylesheet, Premium Splash Page, & Agents, and Silver Level Hosting Services.

It does NOT include VSI Add-ons such as GL Interface, Activity Custom Brochure, Field Lighting interfaces. Those will be added as a separate line items, if applicable.
 - 2 The included expenses are ESTIMATED for airfare, lodging, parking, tolls, and rental vehicle (for non-flying trips, car rental can be more due to tolls and gasoline usage). Actual expenses are billed after each trip. For states with Cashless Tolls, there may be a delay in billing these charges as we sometimes don't get these bills from the car rental companies until weeks after a trip is complete.

Meals are listed separately.
 - 3 The Meal Per Diem rate is based on the GSA/DOD rates for your location.
 - 4 P3500 S 1-Side Plastic ID Card Printer, 18cps Color/5cps Mono, Ethernet/USB, Windows XP/Vista/W7/W/10 Server 2008/2012. P3500S Energy Star printer includes USB Cable, PS, 3-Year Swap Out Parts & Labor Warranty Service including Printhead. 4th year warranty does not include the Printhead and motherboard. Annual Servicing/Cleaning and Hot Swap program for those customers purchasing ID card supplies through VSI.
 - 5 RI-PO-3-0100 P3500S/P3000/P4000 Color Ribbon, 500 Cards Per Ribbon YMCK-T (If P5500 250 Color Front/250 Color Back) Each Polaroid ribbon includes a Cleaning Roller, Cleaning Card, and Snap Swab. Visible Light and Infrared bar code readers read bar codes printed with YMCKO ribbons.
 - 6 Logitech C920 HD Pro Webcam, HD 1080p up to 1920x1080, HD 720p up to 1280x720p, Wide 78° View, Glass Autofocus Lens, USB 2.0/USB 3.0 Ready, Windows 7/8, UVC H.264 Compliant, Tripod Mountable, 2-Year Warranty.
 - 7 Works with Lifecam and Logitech camera.
 - 8 Includes power supply, power cord, auto cutter and cable. Wall mountable.
 - 9 Thermal Receipt Paper, 1 Ply, 50 Roll/Case for Star, Epson, & Ithaca receipt printers.
 - 10 This drawer is USB with a Serial Emulation. A straight USB drawer will not work with RecTrac.
 - 11 Honeywell MK7580G-2 Genesis Bar Code Imager USB Kit, 1D/2D, PDF17, Gray, Type A 3M Cable (9.5' - Cbl-500-300-S00)), Power Supply, EasyID Software, Documentation, and VSI Custom Configuration. USB keyboard emulation is standard with optional Serial or Parallel emulation. Standard keyboard emulation used to connect reader to dedicated computer. This scanner can be used for RecTrac Background Visit Check-in by configuring it for Serial Emulation using the same USB cable. This enables the computer to be used for other functions, while it is also being used to scan visitor ID cards.
 - 12 Custom Configuration for VSI application software, so plug and play out of the box.
 - 13 Ingenico ISC250 Credit Card/Pinpad Debit Card Reader, PCI 4.X, 4.3" Color Display, 32-bit ARM 9 Processor, 64 SD/128 Flash, Stylus, PCT PTS 3.0 and 4.0, EMV Level 1, Triple DES, SRED, Speaker, Trk123 Magstripe Reader, Smart Card Reader, Signature Capture, CTLS (Contactless) Reader, USB/Ethernet, Remote Inject Encryption, Telium 2 Application, 1-Year Depot Warranty.

These readers will be purchased through the gateway. They are priced here for budgeting purposes.



Legislation Details (With Text)

File #: RES 18-499 **Version:** 1 **Name:**
Type: Resolution **Status:** Agenda Ready
File created: 12/6/2018 **In control:** City Council
On agenda: 12/18/2018 **Final action:**
Title: Consideration of and action on a resolution to members of the 86th Legislature of Texas for support of legislation that provides a fair and equitable distribution of the sporting goods sales tax revenue for Local and State parks and that all TRPA and Urban Account funded park projects be subject to the established TPWD competitive scoring system.

Sponsors:

Indexes:

Code sections:

Attachments: [2018 Resolution - 86th Legislative FINAL \(1\)](#)
[2018 TRAPS LEGISLATIVE TASKFORCE - ADVOCACY ISSUES AFTER TML POLICY](#)

| Date | Ver. | Action By | Action | Result |
|------------|------|--------------|--------|--------|
| 12/18/2018 | 1 | City Council | | |

Consideration of and action on a resolution to members of the 86th Legislature of Texas for support of legislation that provides a fair and equitable distribution of the sporting goods sales tax revenue for Local and State parks and that all TRPA and Urban Account funded park projects be subject to the established TPWD competitive scoring system.

Summary:

In preparation for the 86th Session of the Texas Legislature, the Texas Recreation and Park Society (TRAPS) Legislative Committee is collecting resolutions supporting the passage of legislation that supports a fair and equitable distribution of the sporting goods sales tax revenue for local and state parks and urging the legislature to require all TRPA funded projects be subject to the competitive scoring system established by TPWD. The resolutions are an effective way to notify our elected officials on the support and importance of the Parks & Recreation Industry. As the State's budget tightens, we need to encourage our members of the Legislature to support the park funding and to remind them of the commitment made during the last session to improve our State and local park systems.

TRAPS adopted their 86th Legislature of Texas Platform on February 27, 2018. The Parks Day at the State Capitol event has been scheduled for February 27, 2019 and each of you are invited to attend once again.

The resolution supports the following: See attached document that contains advocacy issues and opportunities for Texas Recreation and Parks Society and 86th Texas Legislature.

Fiscal/Budgetary Impact:

None

Approve resolution.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY (COUNTY, LIMITED DISTRICT or COMMISSION, etc.) OF _____ CITY COUNCIL (COUNTY COMMISSIONERS, LIMITED DISTRICT BOARD or PARKS & RECREATION COMMISSION, etc.) REQUESTING THE MEMBERS OF THE 86th LEGISLATIVE SESSION OF THE STATE OF TEXAS TO SUPPORT LEGISLATION THAT PROVIDES STEWARDSHIP, HEALTH AND WELL BEING, AND CONNECTIVITY FOR LOCAL AND STATE PARKS.

WHEREAS, the Texas communities, counties, and State protect and enhance the investments in all parks and open spaces providing stewardship; and

WHEREAS, supporting conservation of open space and making public lands accessible for public use by supporting the sporting goods sales tax and the land and water conservation fund; and

WHEREAS, supporting water and natural resources through conservation, presentation and the rights to access nature, the outdoors and recreational amenities; and

WHEREAS, increasing physical activity and improving health and wellness by utilizing parks and recreation amenities and services; and

WHEREAS, political subdivisions throughout the State of Texas depend on funding for services and programs that ensure access for all people to connect to nature and the outdoors; and

WHEREAS, creating a livable, safe, and responsible community by supporting safe recreational amenities, pathways and trails; and

WHEREAS, supporting the positive economic impacts of connecting our communities to nature and the outdoors from the Parks and Recreation Industry; and

WHEREAS, it is the desire of this City Council (County Commission, Limited District Board or Parks and Recreation Commission, etc.) that a copy of this resolution with appropriate names affixed be presented to the Governor of Texas and the leadership of the 86th Texas Legislature.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL (COUNTY COMMISSION, LIMITED DISTRICT BOARD or PARKS AND RECREATION COMMISSION, etc.) OF THE CITY (COUNTY, DISTRICT) OF _____, TEXAS:

1. That members of the 86th Legislature of Texas seek support of legislation that provides stewardship, health and well-being, and connectivity for local and state parks.

PASSED AND APPROVED by the City (County, District, etc.) of _____ City Council
(County Commission, Limited District Board or Parks and Recreation Commission, etc.) on this
_____ day of _____ 2018.

APPROVED:

Mayor (Judge, Chair, etc.)

ATTEST:

City Secretary (County Clerk, etc.)

APPROVED AS TO FORM:

City Attorney (County Attorney, etc.)

| |
|--|
| <p style="text-align: center;">ADVOCACY ISSUES and OPPORTUNITIES for Texas Recreation & Park Society & 86th Texas Legislature (8.27.18)</p> |
|--|

- ◆ ***Protect and enhance our investments in all public parks, and open space (Stewardship)***
 - Sporting Good Sales Tax
 - Support constitutional dedication of full amount
 - Oppose Tax Free weekend on sporting goods
 - Oppose appropriation riders to the TPWD – local park grant programs.
 - Support conservation of open space and making public lands accessible for public use.
 - Support tree preservation.
 - Federal Funding
 - Support the Land Water Conservation Fund
 - Support the Sport Fish Restoration Boat Access program
 - Support the United States Department of Transportation Recreation Trails
 - Water and Natural Resources
 - Support conservation
 - Support rights and access to recreational amenities.
 - Unfunded Mandates
 - Oppose exemptions that substantially erode the tax base.
 - Oppose tax limit on Municipalities.

- ◆ ***Increase physical activity and improve health and wellness by utilizing parks and recreation amenities & services (Health & Well-Being)***
 - Support funding for services and programs that ensure access for people with disabilities.
 - Such as, reducing the Medicaid Waiver waitlist.
 - Support legislation in reducing the obesity and diabetes epidemics.
 - Support funding for the connection of communities to nature and the outdoors.

- ◆ ***Create livable, safe, and responsible communities. (Connectivity & Safety)***
 - Support safe pathways, trails ... create safety zones
 - Transportation
 - Support the United States Department of Transportation Recreation Trails
 - Support accessibility, so long as it does not impose an unfunded mandate.
 - Support the progress of connecting our communities to nature and the outdoors
 - Support the findings of the positive economic impact from the Parks & Recreation Industry.
 - Easement & Acquisition
 - Oppose eminent domain limits
 - Support the inclusion of commercial development in Parkland Dedication requirements.

TRAPS Board approved 2/27/18
TML Policy Committee approved 8/27/18
(Removed Safe Zone Item)



Legislation Details (With Text)

File #: ORD 18-100 **Version:** 1 **Name:**

Type: Ordinance **Status:** Agenda Ready

File created: 11/20/2018 **In control:** City Council

On agenda: 12/18/2018 **Final action:**

Title: Consideration of and action on a referral from the Planning and Zoning Commission and an ordinance calling a Joint Public Hearing from the request of Greenbriar Real Estate on behalf of Shirley Hill to rezone the property located at 2300 East 13th Street from General Commercial (GC) to Light Industrial (M1).

Sponsors: City Secretary's Office

Indexes:

Code sections:

Attachments: [Shirley Hill recomm letter](#)
[Joint Public Hearing-ReZone-2300 E Blvd-GC to M1-12-2018](#)

| Date | Ver. | Action By | Action | Result |
|------------|------|--------------|--------|--------|
| 12/18/2018 | 1 | City Council | | |

Consideration of and action on a referral from the Planning and Zoning Commission and an ordinance calling a Joint Public Hearing from the request of Greenbriar Real Estate on behalf of Shirley Hill to rezone the property located at 2300 East 13th Street from General Commercial (GC) to Light Industrial (M1).

Summary:

The Planning and Zoning Commission conducted a public hearing on November 19, 2018 to hear testimony for and against the rezone request. Based upon testimony, the recommendation of the Planning and Zoning Commission is the request be approved.

Fiscal/Budgetary Impact:

None

Approve Council to call a Joint Public Hearing on January 15, 2019 at 7:30 p.m.

Don Tippit, Chairman
Douglas Cox, Commissioner
Ray Balusek, Commissioner
Stan Garrett, Commissioner
Danielle Wendeburg, Commissioner

November 20, 2018

Honorable Mayor and City Council
City of Deer Park
P. O. Box 700
Deer Park, Texas 77536

Honorable Mayor and Council:

On November 19, 2018, the Planning and Zoning Commission met for a public hearing to consider the request of Greenbriar Real Estate on behalf of Shirley Hill to rezone 2300 East 13th Street from General Commercial (GC) to Light Industrial (M1).

As a result of the hearing, the Planning and Zoning Commission would like to recommend the request be granted.

Respectfully submitted,

Don Tippit
Chairman
Planning and Zoning Commission

ORDINANCE NO. _____

AN ORDINANCE CALLING A JOINT PUBLIC HEARING ON JANUARY 15, 2019 BY THE CITY COUNCIL AND THE PLANNING AND ZONING COMMISSION OF THE CITY OF DEER PARK, TEXAS, ON A PROPOSED AMENDMENT TO ORDINANCE NO. 3886, THE ZONING ORDINANCE, PLACING IN THE LIGHT INDUSTRIAL (M-1) ZONING DISTRICT, A 7.254 ACRE TRACT OF LAND BEING PART OF LOT 607 TOWN OF LA PORTE ALSO KNOWN AS 2300 EAST BOULEVARD, CITY OF DEER PARK, HARRIS COUNTY, TEXAS, AND TAKING THE SAME OUT OF THE GENERAL COMMERCIAL (GC) ZONING DISTRICT; AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DEER PARK:

1. Pursuant to the provisions of Section 211.007 of The Local Government code of the State of Texas, the City Council of the City of Deer Park, Texas, has called, and does hereby call, a Joint Public Hearing to be held with the Planning and Zoning Commission of said City on January 8, 2019 at 7:30 p.m. o'clock p.m. in the City Council Chamber at the City Hall of said City at 710 E. San Augustine Street in said City, at which time and place they will hear all persons desiring to be heard on or in connection with any matter or question involving a 7.254 acre tract of land being part of Lot 607 Town of La Porte also known as 2300 East Boulevard, City of Deer Park, Harris County, Texas, lying in the General Commercial (GC) Zoning District of said City at the present time. It having been recommended by the City Planning and Zoning Commission of said City, in a Preliminary Report heretofore filed with the City Council, which is available for inspection by all interested persons, that such amendment be adopted and that said property be taken out of its present General Commercial Zoning District and placed in the Light Industrial (M1) Zoning District, and making it subject to the uses, rules and regulations in said Light Industrial (M1) Zoning District.

2. That notice of said Joint Public Hearing be given in accordance with law.

3. It is hereby officially found and determined that the meeting at which this Ordinance was adopted was open to the public, and that public notice of the time, place and purpose of said meeting was given, all as required by Chapter 551 of the Government Code of the State of Texas.

4. The City Council finds that this Ordinance relates to the immediate preservation of the public peace, safety and welfare, in that it is necessary that such hearing be held at the earliest possible date, so that the values of property can be preserved, adequate health protection for the City to be insured, as well as protection from fire, and prevention of overcrowding and congestion, and for adequate light and air, will be insured, all of which creates an emergency, for which the Charter requirement providing for the reading of Ordinances on three (3) several days should be dispensed with, and this Ordinance be passed finally on its introduction; and, accordingly, such requirement is dispensed with, and this Ordinance shall take effect upon its passage and approval by the Mayor.

In accordance with Article VIII, Section 1 of the City Charter, this Ordinance was introduced before the City Council of the City of Deer Park, Texas, **passed, approved and adopted** on this the ____ day of _____, 2018 **by a vote of** _____ **“Ayes” and** _____ **“Noes”.**

MAYOR, City of Deer Park, Texas

ATTEST:

City Secretary

APPROVED:

City Attorney



Legislation Details (With Text)

File #: ORD 18-103 **Version:** 1 **Name:**

Type: Ordinance **Status:** Agenda Ready

File created: 12/13/2018 **In control:** City Council

On agenda: 12/18/2018 **Final action:**

Title: Consideration of and action on a referral from the Planning and Zoning Commission and an ordinance calling a Joint Public Hearing from the request of the City of Deer Park to adopt the Community Service zoning district into the zoning ordinance.

Sponsors: City Secretary's Office

Indexes:

Code sections:

Attachments: [Joint Public Hearing-Add CS Zoning District-12-2018](#)

| Date | Ver. | Action By | Action | Result |
|------------|------|--------------|--------|--------|
| 12/18/2018 | 1 | City Council | | |

Consideration of and action on a referral from the Planning and Zoning Commission and an ordinance calling a Joint Public Hearing from the request of the City of Deer Park to adopt the Community Service zoning district into the zoning ordinance.

Summary:

The Planning and Zoning Commission conducted a public hearing on December 3, 2018 to hear testimony for and against the request. Based upon testimony, the recommendation of the Planning and Zoning Commission is the request be approved.

Fiscal/Budgetary Impact:

None

Approve Council to call a Joint Public Hearing on January 15, 2019 at 7:30 p.m.

ORDINANCE NO. _____

AN ORDINANCE CALLING A JOINT PUBLIC HEARING ON JANUARY 15, 2019 BY THE CITY COUNCIL AND THE PLANNING AND ZONING COMMISSION OF THE CITY OF DEER PARK, TEXAS, ON A PROPOSED AMENDMENT TO ORDINANCE NO. 3886, THE ZONING ORDINANCE, ADDING COMMUNITY SERVICE DISTRICT (CS) TO THE COMMERCIAL ZONING DISTRICTS, APPENDIX A, SECTIONS 2.02.2 AND 7.02.05; AND PROVIDING FOR OTHER MATTERS RELATED TO THE SUBJECT; AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DEER PARK:

1. Pursuant to the provisions of Section 211.007 of The Local Government code of the State of Texas, the City Council of the City of Deer Park, Texas, has called, and does hereby call, a Joint Public Hearing to be held with the Planning and Zoning Commission of said City on January 15, 2019 at 7:30 p.m. o'clock p.m. in the City Council Chamber at the City Hall of said City at 710 E. San Augustine Street in said City, at which time and place they will hear all persons desiring to be heard on or in connection with any matter or question involving amending Appendix A-Zoning, by adding Community Service District (CS) to the Commercial Zoning Districts, Appendix A, Sections 2.02.02 and 7.02.05; and providing for other matters related to the subject. It having been recommended by the City Planning and Zoning Commission of said City, in a Preliminary Report heretofore filed with the City Council, which is available for inspection by all interested persons, that such amendment be adopted and that said Appendix A-Zoning, by adding Community Service District (CS) to the Commercial Zoning Districts, Appendix A, Sections 2.02.02 and 7.02.05; and providing for other matters related to the subject.

2. That notice of said Joint Public Hearing be given in accordance with law.

3. It is hereby officially found and determined that the meeting at which this Ordinance was adopted was open to the public, and that public notice of the time, place and purpose of said meeting was given, all as required by Chapter 551 of the Government Code of the State of Texas.

4. The City Council finds that this Ordinance relates to the immediate preservation of the public peace, safety and welfare, in that it is necessary that such hearing be held at the earliest possible

date, so that the values of property can be preserved, adequate health protection for the City to be insured, as well as protection from fire, and prevention of overcrowding and congestion, and for adequate light and air, will be insured, all of which creates an emergency, for which the Charter requirement providing for the reading of Ordinances on three (3) several days should be dispensed with, and this Ordinance be passed finally on its introduction; and, accordingly, such requirement is dispensed with, and this Ordinance shall take effect upon its passage and approval by the Mayor.

In accordance with Article VIII, Section 1 of the City Charter, this Ordinance was introduced before the City Council of the City of Deer Park, Texas, **passed, approved and adopted** on this the ____ day of _____, 2018 **by a vote of** _____ **“Ayes” and** _____ **“Noes”.**

MAYOR, City of Deer Park, Texas

ATTEST:

City Secretary

APPROVED:

City Attorney



Legislation Details (With Text)

File #: ORD 18-101 **Version:** 1 **Name:**
Type: Ordinance **Status:** Agenda Ready
File created: 12/5/2018 **In control:** City Council
On agenda: 12/18/2018 **Final action:**
Title: Consideration of and action on an ordinance amending Schedule B to address Chapter 74 Seismic Testing Permit Fees.
Sponsors: City Manager's Office
Indexes:
Code sections:
Attachments: [Fee for Geophysical Testing-12-2018](#)

| Date | Ver. | Action By | Action | Result |
|------------|------|--------------|--------|--------|
| 12/18/2018 | 1 | City Council | | |

Consideration of and action on an ordinance amending Schedule B to address Chapter 74 Seismic Testing Permit Fees.

Summary:

The Public Works Department is requesting an ordinance amendment to Schedule B, Chapter 74 to address Seismic Testing Permit Fees. Council recently approved a new ordinance allowing interested parties to conduct seismic testing activities on public property in the Deer Park city limits. This establishes a fee of \$500 to conduct seismic testing activities over a period of 120 days. It becomes effective on December 19, 2018.

Fiscal/Budgetary Impact:

Each permit will cost \$500. We do not anticipate receiving many permit applications each year.

Approval is recommended

ORDINANCE NO. _____

AN ORDINANCE ADDING APPENDIX B, SECTION 102-200 OF THE CODE OR ORDINANCES OF THE CITY OF DEER PARK, PROVIDING FOR NEW FEES FOR GEOPHYSICAL MINERAL TESTING PERMITS AND AN EFFECTIVE DATE; AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DEER PARK:

I.

Appendix B; 102-200 of the Code of Ordinances of the City of Deer Park, is hereby amended so that the fees for receipt of a Geophysical Mineral Testing Permit shall hereinafter read as follows:

Fees for Geophysical Mineral Testing Permits are \$500.00 per application.

II.

The above rates shall be effective on December 19, 2018.

III.

It is hereby officially found and determined that the meeting at which this Ordinance was adopted was open to the public, and that public notice of the time, place and purpose of said meeting was given, all as required by Chapter 551 of the Government Code of the State of Texas.

IV.

The City Council finds that this Ordinance relates to the immediate preservation of the public peace, health, safety and welfare in that it is necessary to amend the provisions of the Code Of Ordinances regulating Geophysical Mineral Testing since the increased revenue can be made available immediately in order to continue to provide administration and review over Geophysical exploration and testing to protect the citizens, thereby creating an emergency, for which the Charter requirement providing for the reading of Ordinances on three (3) several days should be dispensed with, and this Ordinance be passed finally on its introduction; and, accordingly, such requirement is dispensed with, and this Ordinance shall take effect upon its passage and approval by the Mayor.

In accordance with Article VIII, Section 1 of the City Charter, this Ordinance was introduced before the City Council of the City of Deer Park, Texas, **passed, approved and adopted** on this the ____ day of _____, 2018 **by a vote of** **“Ayes”** **and** **“Noes”**.

MAYOR, City of Deer Park, Texas

ATTEST:

City Secretary

APPROVED:

City Attorney



Legislation Details (With Text)

File #: ORD 18-104 **Version:** 1 **Name:**
Type: Ordinance **Status:** Agenda Ready
File created: 12/13/2018 **In control:** City Council
On agenda: 12/18/2018 **Final action:**
Title: Consideration of and action on an ordinance appointing four members to the Library Board of Trustees.

Sponsors:

Indexes:

Code sections:

Attachments: [Library Trustees - 2019-2020](#)

| Date | Ver. | Action By | Action | Result |
|------------|------|--------------|--------|--------|
| 12/18/2018 | 1 | City Council | | |

Consideration of and action on an ordinance appointing four members to the Library Board of Trustees.

Summary: The Library Board of Trustee member terms are January 1, 2019 to December 31, 2020.

All members whose terms are expiring December 31, 2018 have submitted applications to continue their service, which have been reviewed by the Board Selection Committee. The new terms will be January 1, 2019 to December 31, 2020.

Fiscal/Budgetary Impact:

None

The Board Selection Committee is recommending the reappointment of Patricia Adams, Brenda Spencer, Penny Henson, and Lois Malone.

ORDINANCE NO. _____

AN ORDINANCE APPOINTING FOUR (4) MEMBERS OF THE BOARD OF TRUSTEES OF THE DEER PARK PUBLIC LIBRARY OF THE CITY OF DEER PARK, TEXAS; FIXING THEIR TERMS; RESERVING CERTAIN RIGHTS OF THE CITY COUNCIL; AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DEER PARK:

1. That the following persons be and each are hereby appointed as a Member of the Board of Trustees of the Deer Park Public Library for a term ending on the date set forth opposite his/her respective names:

| <u>Name</u> | <u>Dates of Term</u> |
|--------------------|--|
| Patricia Adams | January 1, 2019 thru December 31, 2020 |
| Brenda Spencer | January 1, 2019 thru December 31, 2020 |
| Penny Henson | January 1, 2019 thru December 31, 2020 |
| Lois Malone | January 1, 2019 thru December 31, 2020 |

2. That the right to terminate the aforesaid appointments is hereby reserved by the City Council of the City of Deer Park, Texas, and may be exercised by it at its will, with or without good cause.

3. It is hereby officially found and determined that the meeting at which this Ordinance was adopted was open to the public and that public notice of the time, place and purpose of said meeting was given, all as required by Chapter 551 of the Government Code of the State of Texas.

4. The City Council finds that this Ordinance relates to the immediate preservation of the public peace, safety and welfare, in that it is necessary that Members of the Board of Trustees of the Deer Park Public Library be appointed immediately, so that the Deer Park Public Library can continue to operate without interruption, in order that the health, safety and welfare of citizens may be safeguarded and preserved, thereby creating an emergency, for which the Charter requirement providing for the

reading of Ordinances on three (3) several days should be dispensed with, and this Ordinance should be passed finally on its introduction; and, accordingly, such requirement is dispensed with, and this Ordinance shall take effect upon its passage and approval by the Mayor.

In accordance with Article VIII, Section 1 of the City Charter, this Ordinance was introduced before the City Council of the City of Deer Park, Texas, **passed, approved and adopted** on this the _____ day of _____, 2018 by a vote of _____ “Ayes” and _____ “Noes”.

MAYOR, City of Deer Park

ATTEST:

City Secretary

APPROVED:

City Attorney



Legislation Details (With Text)

File #: ORD 18-105 **Version:** 1 **Name:**
Type: Ordinance **Status:** Agenda Ready
File created: 12/13/2018 **In control:** City Council
On agenda: 12/18/2018 **Final action:**
Title: Consideration of and action on an ordinance appointing an alternate member to the Board of Adjustment.

Sponsors:

Indexes:

Code sections:

Attachments: [Appoint Alternate Member to Planning and Zoning and Board of Adjustment ending 2019](#)

| Date | Ver. | Action By | Action | Result |
|------------|------|--------------|--------|--------|
| 12/18/2018 | 1 | City Council | | |

Consideration of and action on an ordinance appointing an alternate member to the Board of Adjustment.

Summary:

The Boards and Commission Selection Committee met to review the applications submitted for membership as an alternate to the Board of Adjustment. Their recommendation for appointment is Troy Cothran to fulfil the term of Gerald from January 1, 2019 to May 31, 2019.

Fiscal/Budgetary Impact:

Approval of appointment of one alternate member to the Board of Adjustment.

ORDINANCE NO. _____

AN ORDINANCE APPOINTING ONE (1) ALTERNATE MEMBER OF THE PLANNING AND ZONING COMMISSION AND THE BOARD OF ADJUSTMENT OF THE CITY OF DEER PARK, TEXAS; SPECIFYING THEIR TERMS; AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DEER PARK:

1. That **Troy Cothran**, be and he is hereby appointed as an alternate member of the Planning and Zoning Commission and of the Board of Adjustment of the City of Deer Park, to serve for a term ending May 31, 2019.

2. Pursuant to Section 8.01(D)(10) of the Charter of the City of Deer Park, Texas, said person is also hereby appointed as a member of the Board of Adjustment of the City of Deer Park, Texas, for a like term.

3. That the right to terminate the aforesaid appointment is hereby reserved by the City Council of the City of Deer Park, Texas, and may be exercised by it at its will, with or without good cause.

4. It is officially found and determined that the meeting at which this Ordinance was adopted was open to the public, and that public notice of the time, place and purpose of said meeting was given, all as required by Chapter 551, Government Code of the State of Texas.

5. The City Council finds that this Ordinance relates to the immediate preservation of the public peace, safety and welfare, in that it is necessary, under Section 8.01 of the Charter of the City of Deer Park that the City Planning and Zoning Commission be appointed as soon as possible so that the functioning of the Planning and Zoning Commission and the Board of Adjustment of the City of Deer Park can proceed without interruption and assure to the public the continuance of City planning, approval of subdivisions, zoning of property, and laying out of public improvements, thereby creating an emergency, for which the Charter requirements providing for the reading of Ordinances on three (3) several days should be dispensed with, and this Ordinance should be passed finally on its introduction;

and, accordingly, such requirement is dispensed with, and this Ordinance shall take effect upon its passage and approval by the Mayor.

In accordance with Article VIII, Section 1 of the City Charter, this Ordinance was introduced before the City Council of the City of Deer Park, Texas, **passed, approved and adopted** on this the ____ day of _____, 2018 **by a vote of** _____ **“Ayes” and** _____ **“Noes”.**

MAYOR, City of Deer Park, Texas

ATTEST:

City Secretary

APPROVED:

City Attorney



Legislation Details (With Text)

File #: ORD 18-106 **Version:** 1 **Name:**
Type: Ordinance **Status:** Agenda Ready
File created: 12/13/2018 **In control:** City Council
On agenda: 12/18/2018 **Final action:**
Title: Consideration of and action on an ordinance appointing members to the Senior Citizen Commission.
Sponsors:
Indexes:
Code sections:
Attachments: [Senior Citizens Commission - Term ending 2021](#)

| Date | Ver. | Action By | Action | Result |
|------------|------|--------------|--------|--------|
| 12/18/2018 | 1 | City Council | | |

Consideration of and action on an ordinance appointing members to the Senior Citizen Commission.

Summary: The terms of the Senior Citizen Commission are January 1, 2019 to December 31, 2021. The current members are willing to continue their service.

Fiscal/Budgetary Impact:

None

Re-appointment of Mayor Jerry Mouton, Councilwoman, Sherry Garrison, Councilman, Tommy Ginn, Janice Delperdang, Gusta Cathey, Ralph Ross and Sam Bailey.

ORDINANCE NO. _____

AN ORDINANCE APPOINTING MEMBERS TO THE SENIOR CITIZENS COMMISSION OF THE CITY OF DEER PARK, TEXAS; FIXING THEIR TERM; RESERVING CERTAIN RIGHTS OF THE CITY COUNCIL; AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DEER PARK:

1. That the following persons are hereby appointed as a Members of the Senior Citizens Commission of the City of Deer Park for terms ending on December 31, 2021:

Name

Jerry Mouton, Jr.
Sherry Garrison
Tommy Ginn
Janice Delperdang
Gusta Cathey
Ralph Ross
Sam Bailey

2. That the right to terminate the aforesaid appointments are hereby reserved by the City Council of the City of Deer Park, Texas, and may be exercised by it at its will, with or without good cause.

3. It is hereby officially found and determined that the meeting at which this Ordinance was adopted was open to the public, and that public notice of the time, place and purpose of said meeting was given, all as required by Chapter 551, Government Code of the State of Texas.

4. The City Council finds that this Ordinance relates to the immediate preservation of the public peace, safety and welfare, in that it is necessary that Members of the Senior Citizens Commission be appointed immediately, so that the functions of the Senior Citizens Commission of the City of Deer Park can continue to operate without interruption, in order that the health, safety and welfare of citizens may be safeguarded and preserved, thereby creating an emergency, for

which the Charter requirements providing for the reading of ordinances on three (3) several days should be dispensed with and this Ordinance should be passed finally on its introduction; and, accordingly, such requirement is dispensed with and this Ordinance shall take effect upon its passage and approval by the Mayor.

In accordance with Article VIII, Section 1 of the City Charter, this Ordinance was introduced before the City Council of the City of Deer Park, Texas, **passed, approved and adopted** on this the _____ day of _____, 2018 **by a vote of** **“Ayes” and** **“Noes”**.

MAYOR, City of Deer Park

ATTEST:

City Secretary

APPROVED:

City Attorney