

# AGENDA

## CITY OF PEARLAND ♦ CITY COUNCIL

May 23, 2016

6:30 p.m.

**MAYOR**  
**Tom Reid**

**Tony Carbone**  
**Mayor Pro-Tem**  
**Position No. 1**

### COUNCIL MEMBERS

**Derrick Reed**  
**Position No. 2**

**Gary Moore**  
**Position No. 3**



**Keith Ordeneaux**  
**Position No. 4**

**Greg Hill**  
**Position No. 5**

**Jon R. Branson**  
**Deputy City Manager**

**Clay Pearson**  
**City Manager**

**Trent Epperson**  
**Assistant City Manager**

**Darrin Coker**  
**City Attorney**

**Young Lorfing, TRMC**  
**City Secretary**

In accordance with the Texas Open Meeting Act the Agenda is posted for public information, at all times, for at least 72 hours preceding the scheduled time of the meeting on the bulletin board located at the front entrance of the City Hall, 3519 Liberty Drive.



**RECOGNITION AND AWARDS NOTICE**

**The Mayor will be presenting the following:**

1. A Presentation from the Government Finance Officers Association (GFOA) recognizing local Governments Meeting Specific Criteria for Budget Presentation with its 2016 Distinguished Budget Presentation Award to the Budget Office.

**Monday, May 23, 2016  
 6:15 p.m.  
 Council Chambers  
 3519 Liberty Drive  
 Pearland, Texas 77581**

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**CITY COUNCIL AGENDA  
 CITY OF PEARLAND  
 REGULAR COUNCIL  
 MEETING**

**MONDAY, MAY 23, 2016 6:30 P.M.  
 COUNCIL CHAMBERS | PEARLAND CITY HALL | 3519 LIBERTY  
 DRIVE 281.652.1600**

- I. CALL TO ORDER**
- II. INVOCATION AND THE PLEDGE OF ALLEGIANCE TO THE UNITED STATES OF AMERICA FLAG AND TEXAS FLAG**
- III. ROLL CALL:** Mayor Reid, Mayor Pro-Tem Carbone, Councilmembers Moore, Reed, Ordeneaux, and Hill.
- IV. CITIZEN COMMENTS:** In order to hear all citizen comments at a reasonable hour, the City Council requests that speakers respect the three-minute time limit for individual comments and the five-minute time limit for an individual speaking on behalf of a group. This is not a question-answer session, however, it is an opportunity to voice your thoughts with City Council.
- V. PUBLIC HEARING: None**

## VI. CONSENT AGENDA:

All items listed under the “Consent Agenda” are considered to be routine and require little or no deliberation by the City Council. These items will be enacted/approved by one motion unless a councilmember requests separate action on an item, in which event the item will be removed from the Consent Agenda and considered by separate action (*VI. matters removed from Consent Agenda*). Approval of the Consent Agenda enacts the items of legislation.

### A. Consideration and Possible Action – Approval of Minutes:

#### 1. Minutes of the April 11, 2016, Regular Meeting held at 6:30 p.m.

- B. **Consideration and Possible Action** – Excuse the absence of Councilmember Keith Ordeneaux from the Regular Council Meeting held on May 9, 2016.
- C. **Consideration and Possible Action** – Excuse the absence of Councilmember Derrick Reed from the Regular Council Meeting held on May 9, 2016.
- D. **Consideration and Possible Action – Resolution No. R2016-78** – A Resolution of the City Council of the City of Pearland, Texas, authorizing the City Manager or his designee to enter into a Street Light Removal/Installation Agreement with CenterPoint Energy, associated with the Bailey Road Project, in the estimated amount of \$62,072.
- E. **Consideration and Possible Action – Resolution No. R2016-72** – A Resolution of the City Council of the City of Pearland, Texas, awarding a unit price service contract for printing and mailing the City’s utility bills, to Peregrine Services, Inc., in the estimated amount of \$225,700 for the period of July 1, 2016 through June 30, 2017.
- F. **Consideration and Possible Action – Resolution No. R2016-88** – A Resolution of the City Council of the City of Pearland, Texas, approving a request of the Brazoria County Tax Office to waive the penalty and interest on delinquent taxes for property account # 0212-001-006.
- G. **Consideration and Possible Action – Resolution No. R2016-76** – A Resolution of the City Council of the City of Pearland, Texas, awarding a bid for replacement of the roof at the Tom Reid Library to The Garland Company, Inc., in the estimated amount of \$282,938.
- H. **Consideration and Possible Action – Resolution No. R2016-75** – A Resolution of the City Council of the City of Pearland, Texas, renewing a bid for HVAC repair and maintenance services for the Recreation and Natatorium (RCN) to the Lee Thompson Company, in the estimated amount of \$60,000.00 for the period of May 24, 2016 through May 23, 2017.
- I. **Consideration and Possible Action – Resolution No. R2016-90** – A Resolution of the City Council of the City of Pearland, Texas, authorizing the City Manager or his designee to enter into a contract for audit services with Whitley Penn in the amount of \$77,800.00.

- J. Consideration and Possible Action – Resolution No. R2016-85** – A Resolution of the City Council of the City of Pearland, Texas, appointing the City’s Planning and Zoning Commission as its Capital Improvements Advisory Committee, and adopting rules of procedure therefor.
- K. Consideration and Possible Action – Resolution No. R2016-89** – A Resolution of the City Council of the City of Pearland, Texas, authorizing the City Manager or his designee to enter into a Reimbursement and Maintenance Agreement between the City and the Pearland Economic Development Corporation and an Interlocal Agreement between the City and the Pearland Independent School District associated with the Cullen Boulevard Enhancement Project.

**VII. NEW BUSINESS:**

- 1. Consideration and Possible Action – First and Only Reading of Ordinance No. 1525** – An Ordinance of the City Council of the City of Pearland, Texas authorizing the issuance of City of Pearland, Texas Certificates of Obligation, Series 2016; prescribing the terms thereof; providing for the payment thereof; awarding the sale thereof; and making other provisions regarding such Certificates and matters incident thereto; and declaring an emergency.
- 2. Consideration and Possible Action – First and Only Reading of Ordinance No. 1526** – An Ordinance of the City Council of the City of Pearland authorizing issuance of City of Pearland, Texas, Water and Sewer System Revenue Bonds, Series 2016A; prescribing the terms thereof; providing for the payment thereof; awarding the sale thereof; making other provisions regarding such bonds and matters incident thereto; and declaring an emergency.
- 3. Consideration and Possible Action – First Reading of Ordinance No. 1524** – An Ordinance of the City Council of the City of Pearland, Texas, adopting a Park Dedication Formula and a Fee in Lieu of Dedication Calculation Formula; amending the Park Benefit Zone Map; containing a savings clause, a severability clause and a repealer clause; providing for publication and an effective date.
- 4. Consideration and Possible Action – Resolution No. R2016-74** – A Resolution of the City Council of the City of Pearland, Texas, renewing a unit supply contract for landscape maintenance services (medians, right of ways and City facilities) with Maldonado Nursery & Landscaping, Inc. in the estimated amount of \$599,480.40 from June 1, 2016 through May 31, 2017.
- 5. Council Input and Discussion** – Regarding right-of-way mowing responsibilities throughout various parts of the city.

**VIII. MAYOR/COUNCIL ISSUES FOR FUTURE CITY COUNCIL AGENDAS**

**OTHER BUSINESS:** None

**IX. ADJOURNMENT**

This site is accessible to disabled individuals. For special assistance, please call Young Lorfin at 281.652.1840 prior to the meeting so that appropriate arrangements can be made.

**All agenda supporting documents are available at [pearlandtx.gov](http://pearlandtx.gov)**

**MINUTES OF A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS, HELD ON MONDAY, APRIL 11, 2016, AT 6:30 P.M., IN THE COUNCIL CHAMBERS, CITY HALL, 3519 LIBERTY DRIVE, PEARLAND, TEXAS.**

Mayor Reid called the meeting to order at 6:30 p.m. with the following present:

Mayor	Tom Reid
Mayor Pro-Tem	Tony Carbone
Councilmember	Derrick Reed
Councilmember	Gary Moore
Councilmember	Keith Ordeneaux
Councilmember	Greg Hill
City Manager	Clay Pearson
City Attorney	Darrin Coker
City Secretary	Young Lorfing

Others in attendance: Jon Branson Deputy City Manager; Matt Buchanan President of Economic Development Corporation; J.C. Doyle Police Chief; Trent Epperson Assistant City Manager; Lata Krishnarao Director of Community Development; Cynthia Pearson Interim Director of Finance; Sue Polka Director of Engineering; Vance Riley Fire Chief; Kim Sinistore Executive Director of the Convention/Visitors Bureau; Eric Wilson Public Works Director; Sparkle Anderson Communications Director; Jennifer Huhn Court Administrator; John Knight Manager, Information Technology; Richard Mancilla Assistant City Engineer; John McCarter Management Assistant; Daniel McGhinnis Chief Information Officer; Rick Overgaard Assistant Finance Director; Bob Pearce Purchasing Officer, Johnny Spires Assistant Police Chief.

The invocation was given by Councilmember Moore and the Pledge of Allegiance was led by Chief of Police J.C Doyle.

**ROLL CALL:** Mayor Reid, Mayor Pro-Tem Carbone, Councilmembers Moore, Reed, Ordeneaux, and Hill.

**CITIZEN COMMENTS:**

Max Krchnak, 3420 Shadycrest Drive, addressed Council stating he participates in the Shadycrest Homeowners Community garage sale. He stated his concerns regarding scheduling garage sales with the City.

Lihui Cao, 13418 Swiftcreek Drive, addressed Council stating her concerns regarding a foul odor in the Shadow Creek Ranch subdivision.

Jun Yang, 2423 Harbor Chase Drive, addressed Council stating her concerns regarding a foul odor in the Shadow Creek Ranch subdivision.

Richard Garret, 13913 Morgan Bay Drive, addressed Council stating his concerns of the foul odor in the subdivision. He further stated his wife has respiratory issues and the odor is causing her to have respiratory distress. He asked for the City's help to solve this problem.

Nina Gutierrez-Garcia, 2414 Ridgebrook Lane, addressed Council stating she first noticed the foul odor three years ago. She stated her concerns regarding the last seven months how the odor has increased drastically and effecting the quality of life. She asked Council if they could establish a more direct way of communication with the residents regarding the odor issue and how this will be solved.

Judi Hurwitt, 13507 Silent Walk Drive, addressed Council stating three years ago she bought and built her dream home in Shadow Creek Ranch. She stated seven to eight months ago the odor has become a consistent stench. She further stated her concerns regarding health problems.

Jing Jing Sun, 13506 Silent Walk Drive, addressed Council stating her concerns regarding the foul odor and the health issues it is causing herself and her family.

Hongmei Ruan, 2204 Cambridge Shores Lane, addressed Council stating her concerns regarding the foul odor. Over the last several months it is getting worse.

Ed Mears, 2827 Moss Lake Lane, addressed Council stating he appreciates City Council addressing the residents regarding this issue. He has contacted his State Representatives and the Texas Commission on Environmental Quality (TCEQ) regarding the foul odor. If the City will let the residents know what they can do to help the City be affective regarding the State or TCEQ to solve this issue.

Erika Schlette, 2601 Rusting Creek Drive, addressed Council stating her concerns regarding the foul odor not only outside but inside her home in the mornings, and late at night.

Ronak Shah, 2819 Moss Lake Lane, addressed Council stating he and his wife moved to this address six months ago and right away noticed the odor. He stated what he would like to receive communication from the elected officials on what we as a town can do to help the elected officials get an environmental study done that will give the residents an answer regarding this foul odor issue.

Kami Brady, 13302 Jasmine Peak Court, addressed Council stating she lives in the Southlake Subdivision which is south of Shadow Creek Ranch. She stated her concerns regarding the foul odor waking her family up during the night and the health problems they are starting to have because of the odor.

Mayor Reid stated the City is concerned regarding this issue. For the last six months our State Representative Ed Thompson has been working with City Staff regarding the odor. He further stated information and progress made regarding this issue is posted on the City's website.

Mayor Reid called for a 10 minute recess at 7:18 p.m.

Mayor Reid called the Regular Meeting back to order at 7:29 p.m.

**PUBLIC HEARING:** None.

**CONSENT AGENDA:**

**A. Consideration and Possible Action – Approval of Minutes:**

1. Minutes of the March 14, 2016, Regular Meeting held at 6:30 p.m.
2. Minutes of the March 21, 2016, Special Meeting held at 6:00 p.m.

**B. Consideration and Possible Action – Resolution No. R2016-58 – A Resolution of the City Council of the City of Pearland, Texas, awarding a bid for municipal veterinary services to Pearland Animal Hospital, in the estimated amount of \$40,000.00.**

**C. Consideration and Possible Action – Resolution No. R2016-62 – A Resolution of the City Council of the City of Pearland, Texas, appointing two (2) Council members to assist City staff in meeting with Brazoria County Commissioners to discuss Fire and EMS issues in the City’s extraterritorial jurisdiction (ETJ).**

Mayor Reid asked that Consent Agenda Item C be removed from the Consent Agenda for further discussion.

Councilmember Moore made the motion, seconded by Mayor Pro-Tem Carbone to adopt Consent Agenda Items A through C with the exception of Item C as presented on the Consent Agenda.

Voting “Aye” Councilmembers Moore, Reed, Carbone, Ordeneaux, and Hill.

Voting “No” None.

Motion Passed 5 to 0.

**MATTERS REMOVED FROM CONSENT AGENDA**

As requested by Mayor Reid Consent Agenda Item C was removed for further discussion.

**C. Consideration and Possible Action – Resolution No. R2016-62 – A Resolution of the City Council of the City of Pearland, Texas, appointing two (2) Council members to assist City staff in meeting with Brazoria County Commissioners to discuss Fire and EMS issues in the City’s extraterritorial jurisdiction (ETJ).**

Councilmember Moore made the motion, seconded by Mayor Pro-Tem Carbone to approve Resolution No. R2016-62 and appoint Mayor Pro-Tem Carbone and Councilmember Hill to assist City staff in meeting with Brazoria County Commissioners to discuss Fire and EMS issues in the City's extraterritorial jurisdiction (ETJ).

City Manager Clay Pearson reported at the Strategic Planning Workshop on February 20, 2016 Council recommended that an item be placed on a future Council agenda. That is to appoint two Council members to assist City staff in working with Brazoria County Commissions to obtain additional funding and/or revised response provision into the unincorporated portion of Brazoria County included in the City of Pearland's extraterritorial jurisdiction (ETJ).

Voting "Aye" Councilmembers Hill, Ordeneaux, Carbone, Reed, and Moore.

Voting "No" None.

Motion Passed 5 to 0.

#### **NEW BUSINESS:**

**First Reading of Ordinance No. CUP 2016-01** - An Ordinance of the City Council of the City of Pearland, Texas, approving a Conditional Use Permit (CUP) to allow for a gasoline station and convenience store in the General Business (GB) zone, a tract or parcel containing 0.8767 acre portion of a 3.3825 acre tract of land situated in the Thomas J. Green Survey, Abstract 198, in the City of Pearland, Brazoria County, Texas. **(Located at the northeast corner of Broadway St. and Alexander Ln., Pearland, TX)** Conditional Use Permit Application No 2016-01, within the General Business (GB) zoning district, at the request of James Elmore, applicant; on behalf of A&A Business, owner, containing a savings clause, a severability clause, and an effective date and other provisions related to the subject.

Councilmember Reed made the motion, seconded by Councilmember Moore, to approve Ordinance No. CUP 2016-01 on its First Reading.

Mayor Reid read into the record the Planning & Zoning Commission's recommendation to forward to Council for approval of the Conditional Use Permit No. 2016-01.

Director of Community Development Lata Krishnarao reported the applicant is requesting approval of a Conditional Use Permit (CUP) to construct a gasoline station in a General Business (GB) zoning district on the northeast corner of Broadway Street and Alexander Lane. Staff recommends approval of the requested CUP.

Discussion ensued between Councilmember Hill and Director of Community Development Lata Krishnarao regarding the sidewalk in front of the gasoline station.

Voting "Aye" Councilmembers Hill, Ordeneaux, Carbone, Reed, and Moore.

Voting "No" None.

Motion Passed 5 to 0.

**First Reading of Ordinance No. CUP 2016-04** - An Ordinance of the City Council of the City of Pearland, Texas, approving a **Conditional Use Permit (CUP) to allow for bail bonds in the General Business (GB) zone**, being a 3.1092 acre tract of land out of Lot 46 of the Allison Richey Gulf Coast Home Company's Subdivision of Section 8, H.T & B.R.R. Co. Survey also called the F.B. Drake Survey, Abstract 504, Brazoria County, Texas, according to the map or plat thereof recorded in Volume 2, Page 24, of the plat records of Brazoria County, Texas. **(Located at 6601 Broadway Street, Pearland, TX.)** Conditional Use Permit Application No 2016-04, within the General Business (GB) zoning district, at the request of Alfred Rucker, applicant; on behalf of Pogie USA LLC, owner, containing a savings clause, a severability clause, and an effective date and other provisions related to the subject.

Mayor Pro-Tem Carbone made the motion, seconded by Councilmember Moore, to approve Ordinance No. CUP 2016-04 on its First Reading.

Mayor Reid read into the record the Planning & Zoning Commission's recommendation to forward to Council that the motion failed to pass by a vote of 1 - 6 for the Conditional Use Permit No. CUP 2016-04.

City Manager Clay Pearson reported that the Planning & Zoning and Staff recommendation is a negative recommendation regarding the creditably of this particular use in that neighborhood would not be good.

Voting "Aye" None.

Voting "No" Councilmembers Moore, Reed, Carbone, Ordeneaux, and Hill.

Motion Failed 5 to 0.

**First Reading of Ordinance No. 2000M-143** - An Ordinance of the City Council of the City of Pearland, Texas, **amending Ordinance No. 2000M, the zoning map of the City of Pearland, Texas**, for the purpose of changing the classification of certain property being a tract or parcel containing 3.8662 acres or 168,441 square feet of land situated in the H.T. & B.R.R. company Survey, Section 81, Abstract 300, Brazoria County, Texas, being the residue of Reserve "B", first amending plat of Southgate Section One, as thereof recorded under Volume 24, Page 123, Brazoria County Plat records, conveyed Lingo Southgate, Ltd. as recorded in Brazoria County Clerk's File No. 01-053025, Brazoria County, Texas. **(Located at the West side of Kirby Drive approximately 1,500 feet South of Broadway Street, Pearland, TX.)** Zone Change Application No. 2016-05Z, a request by Andrew Allemand/Windrose Land Services, applicant; on behalf of Lingo Southgate Ltd., owner; for approval of a change in zoning from the Residential Estate (R-E) and Single Family Residential – 2 (R-2) zoning districts to a General Business (GB) zoning district; on

approximately 3.8662 acres of land; providing for an amendment of the zoning district map; containing a savings clause, a severability clause, and an effective date and other provisions related to the subject.

Councilmember Ordeneaux made the motion, seconded by Councilmember Moore, to approve Ordinance No. 2000M-143 on its First Reading.

Mayor Reid read into the record the Planning & Zoning Commission's recommendation to forward to Council for approval of the Conditional Use Permit No. CUP 2016-05Z.

Director of Community Development Lata Krishnarao reported staff cannot recommend approval of the requested zone change from Single-Family Estate (RE) and Single-Family Residential-2 (R-2) zoning districts to General Business (GB) on the approximately 3.8662 acre site for the following reasons:

1. The proposed development does not comply with the land use designation of the Future Land Use Plan (FLUP). This area is proposed for public and semi-public uses.
2. The Future Land Use Plan (FLUP) indicates this location, in close proximity not only to the Town Center, but also, to an intersection of two Thoroughfares, as a Major Retail Node. Retail nodes are customer oriented activity centers of complementary retail, office, and service uses. Self-storage is a use that is quiet and generating little traffic, and therefore it is not expected to contribute to the vibrancy of this designated retail node. Self-storage facilities should not be located at prime retail corners. The use is better suited for locations that are behind retail uses or within industrial districts.

Staff further recommends a change of zoning from Single-Family Estate (RE) and Single-Family Residential-2 (R-2) zoning districts to Office Professional (OP) for the following reasons:

1. The Office Professional (OP) zoning district is intended to permit a variety of business, office and retail development and would conform to the land use designation of the FLUP and better complement Shadow Creek High School and Fire Station uses as well as, the retail uses located on Kirby Drive and at the Pearland Town Center. A mini-storage facility is not allowed in and OP zoning district.

Jeff Bailey, 5131 Broadway, addressed Council stating he appreciates Council's support and believes this site is the ideal location for this kind of facility. This will be a first class facility and will have tremendous attributes that the City of Pearland will be proud of.

Tracy Goza, 3900 Magnolia, addressed Council asking for consideration and to support this request.

Discussion ensued between Councilmember Reed and Jeff Bailey regarding the size of the signage on the facility.

Councilman Moore stated he is not sure if this is the right kind of facility for this location.

Mayor Pro-Tem Carbone stated this is a long narrow piece of property and he does not think the City will ever get any type of retail business on this property. He further stated he thinks this type of facility is great in this location, and a good use of the property. He stated when he has a client and it is in the middle of tax season he is in favor of his client and not the Internal Revenue Service. He asked that this be taken in favor of the land owner and not someone else.

Councilmember Ordeneaux stated he is ok with the zoning regarding this piece of property.

Councilmember Hill stated this passed with Planning and Zoning and he thinks this type of facility is a good fit for this property.

Voting "Aye" Councilmembers Moore, Carbone, Ordeneaux, and Hill.

Voting "No" Councilmember Reed.

Motion Passed 4 to 1.

**First Reading of Ordinance No. CUP 2016-07** - An Ordinance of the City Council of the City of Pearland, Texas, approving a **Conditional Use Permit (CUP) to allow for self-storage facility in General Business (GB) zoning district**, being a tract or parcel containing 3.8662 acres or 168,441 square feet of land situated in the H.T. & B.R.R. company Survey, Section 81, Abstract 300, Brazoria County, Texas, being the residue of Reserve "B", first amending plat of Southgate Section One, as thereof recorded under Volume 24, Page 123, Brazoria County Plat records, conveyed Lingo Southgate, Ltd. as recorded in Brazoria County Clerk's File No. 01-053025, Brazoria County, Texas. **(Located at the West side of Kirby Drive approximately 1,500 feet South of Broadway Street, Pearland, TX.)** Conditional Use Permit Application No 2016-07, within the General Business (GB) zoning district, at the request of Andrew Allemand/Windrose Land Services, applicant; on behalf of Lingo Southgate Ltd., owner, containing a savings clause, a severability clause, and an effective date and other provisions related to the subject.

Councilmember Hill made the motion, seconded by Councilmember Moore, to approve Ordinance No. CUP 2016-07 on its First Reading.

Mayor Reid read into the record the Planning & Zoning Commission's recommendation to forward to Council for approval of the Conditional Use Permit No. CUP 2016-07.

Director of Community Development Lata Krishnarao reported this is a two-step process. The first step is to rezone the property from Single Family Estate District (R-E) and Single Family Residential-2 (R-2) to General Business (GB) and the second step is to apply for a Conditional Use Permit. The proposed use is classified as mini-warehouse/self-storage, and this use is permitted in business, commercial, or industrial districts with the approval of a Conditional Use Permit (CUP).

Councilmember Reed made an amendment to the motion, seconded by Councilmember Moore, that the conditions are met regarding the signage that is reflected in the site plan, relocation of the storm drainage and the building facade materials be limited to no more than thirty percent (30%) stucco.

Voting "Aye" Councilmembers Hill, Ordeneaux, Carbone, Moore, and Hill.

Voting "No" None.

Motion Passed 5 to 0.

Mayor Reid called for the vote on the original motion as amended.

Voting "Aye" Councilmembers Hill, Carbone, and Moore.

Voting "No" Councilmembers Ordeneaux and Reed.

Motion Passed 3 to 2.

**First Reading of Ordinance No. 2000M-144** - An Ordinance of the City Council of the City of Pearland, Texas, approving a **amending Ordinance No. 2000M, the zoning map of the City of Pearland**, Texas, for the purpose of changing the classification of certain property a tract of land containing 48.471 acres of land situated in the James Hamilton Survey, Abstract No. 881 in Harris County and Abstract No. 747 in Brazoria County, Texas. Said 48.471 acre tract is in Lot 5 of the Subdivision of the John Hamilton Survey as recorded in Volume 83, Page 342 in the Harris County Deed Records and is that same 48.4712 acre tract of land described in a deed to Amegy Mortgage Company, L.L.C. as recorded in Clerk's File No's 20100132332 and 20100235353 in the Harris County Clerk's Office. **(Located at the southwest corner of SH 288 and Spectrum Boulevard, Pearland, TX.)** Zoning Change No 2015-14Z, a request of Patti Joiner of Knudson LP., applicant; on behalf of American Modern Green (Houston) LLC, owner; for approval of a change in zoning from the Planned Development (PD) zoning district known as Modern Green Ivy, to a Planned Development (PD) zoning District known as Ivy District; on approximately 48.471 acres of land; providing for an amendment of the zoning district map; containing a savings clause, a severability clause, and an effective date and other provisions related to the subject.

Councilmember Moore made the motion, seconded by Councilmember Hill, to approve Ordinance No. 2000M-144 on its First Reading.

Mayor Reid read into the record the Planning & Zoning Commission's recommendation to forward to Council for approval of the Zoning Change No 2015-14Z.

Director of Community Development Lata Krishnarao reported the applicant is requesting approval of a change in zoning from Modern Green Ivy Planned Development (PD) zoning district to replace the Ivy District Planned Development (PD) zoning district that was approved in 2014. The proposed project will be an urban mixed use development with multi-family, retail, offices, and hotel uses. The development will also include a gated townhome development and a public open space adjacent to Clear Creek. Staff recommends the following conditions be placed on the approval of Ivy District Planned Development (PD):

- a. The applicant shall enter into a Development Agreement with the City for off-site infrastructure and Clear Creek open space: and
- b. Applicant shall address staff's "Outstanding Comments on the Planned Development – dated March 16, 2016."

City Attorney Darrin Coker stated he wants to clarify in respect to the conditions. It will play an important role in how Council votes this evening. It is required to have a three vote majority or a four vote super majority. When the Planning & Zoning Commission took this up they placed conditions on the Development Agreement. For example if the Development Agreement is not approved, that operates by the Planning & Zoning Commission as a denial unless that Development Agreement is there. He stated there is no way the Development Agreement can be in place before now or before the second reading, there are too many things that the City needs to work out with the developer to fill in that gap. What the Planning & Zoning Commission is trying to do is approve the Planned Development (PD), but have a requirement that will not take effect until such time that the Development Agreement is in place, and with a period of time. The recommendation is a year to play it safe in order to get the Development Agreement in place, and to address some of the things such as offsite infrastructure and the amenities package. It does purpose a very nice amenity package, but those things have not been ironed out and the only way the City can get that as part of this and have this PD contingent on it is to have this Development Agreement. It is the recommendation for Council to impose the same contingencies that the Planning & Zoning Commission did. If Council does that it would require a simple three vote majority. If Council does not impose those same requirements it will operate as a denial by the Planning & Zoning Commission and will require a super majority vote.

Councilmember Moore amended the motion, seconded by Mayor Pro-Tem Carbone for the approval of the Planned Development contingent upon the Developer and the City entering into Development Agreements addressing the offsite infrastructure issues as well as the amenity issues that Planning & Zoning Commission required as part of their approval process. And that agreement be entered into within one year after the second reading of the Ordinance.

Voting "Aye" Councilmembers Moore, Reed, Carbone, Ordeneaux, and Hill.

Voting "No" None.

Motion Passed 5 to 0.

Mayor Reid called for the vote on the original motion as amended.

Voting "Aye" Councilmembers Moore, Carbone, Ordeneaux, and Hill.

Voting "No" Councilmember Reed.

Motion Passed 4 to 1.

**Council Action – Resolution No. 2016-59** – A Resolution Authorizing Publication Of Notice Of Intention To Issue Certificates Of Obligation, In An Aggregate Principal Amount Not To Exceed \$14,200,000, For The Acquisition, Construction And Improvement Of Certain Public Works, Authorizing Distribution Of A Preliminary Official Statement Relating To Such Series Of Certificates And Authorizing Certain Other Matters Relating Thereto.

Councilmember Reed made the motion, seconded by Mayor Pro-Tem Carbone, to approve Resolution No. R2016-59.

Interim Director of Finance Cynthia Pearson gave an overview of Authorizing Publication of Notice of Intention to Issue Certificates of Obligation.

Assistant City Manager Trent Epperson gave an overview of the Bond Projects, General Obligation Bonds, Certificates of Obligation, and Water/Sewer Revenue Bonds.

BOSC, Inc. Representative John Robuck gave an overview of the General Obligation and Refunding Bonds, Series 2016A and Certificates of Obligations, Series 2016.

Mayor Pro-Tem Carbone stated he struggles with the City Hall renovation. He was elected to this position to be officially conservative and that is why he is struggling with it. He thinks the City Hall renovation should be put in the next bond election.

Councilmember Ordeneaux stated he does not think this can wait for a bond election, because the City Hall has not been maintained like it should have been. He thinks the conservative thing to do is to renovate now while the cost is cheap. He further stated where he sees the City saving dollars is cutting reoccurring costs.

Mayor Reid stated the City needs to take care of our obligations and the buildings we have built.

Discussion ensued between Councilmember Reed and Assistant City Manager Trent Epperson regarding the 2007 Bonds and General Obligation.

Councilmember Ordeneaux stated the repairs need to be done right and not put a band-aid on them because down the road it will end up costing the City more. The responsible thing to do is to repair it all the way.

Councilmember Moore stated the City has waited so long to do some of the projects from the bond that we are paying extra money now to get these projects completed. He stated he is frustrated with spending the extra money to complete projects because it was not done right the first time.

Mayor Pro-Tem Carbone amended the motion to change the \$14.1 million to \$9.8 million removing the \$4.25 million for City Hall Complex Renovation.

Amended motion died for lack of second.

Discussion ensued between Councilmembers and Assistant City Manager Trent Epperson regarding the City Hall Complex Renovation and the Orange Street Project.

Voting “Aye” Councilmembers Moore, Reed, Ordeneaux, and Hill.

Voting “No” Councilmember Carbone.

Motion Passed 4 to 1.

**First Reading of Ordinance No. 1523** – An Ordinance authorizing the issuance of City of Pearland, Texas, permanent improvement and/or refunding bonds in one or more series; setting certain parameters for the bonds; authorizing refunding of certain outstanding obligations; authorizing a pricing officer to approve the amount, the interest rate, price, and terms thereof and certain other procedures and provisions relating thereto.

Mayor Pro-Tem Carbone made the motion, seconded by Councilmember Moore, to approve Ordinance No. 1523 on its First Reading.

City Manager Clay Pearson reported this is the permanent improvement and/or refunding portion of certain outstanding obligations.

Discussion ensued between Mayor Pro-Tem Carbone and BOSC, Inc. Financial Advisor Ryan O'Hara regarding the refunding is level savings.

Voting “Aye” Councilmembers Hill, Ordeneaux, Carbone, Reed, and Moore.

Voting “No” None.

Motion Passed 5 to 0.

**Council Action – Resolution No. R2016-54** – A Resolution of the City Council of the City of Pearland, Texas, awarding a bid for the new and replacement in-car video systems in the amount of \$765,053.00 to WatchGuard.

Councilmember Ordeneaux made the motion, seconded by Mayor Pro-Tem Carbone, to approve Resolution No. R2016-54.

City Manager Clay Pearson reported no debt service is required to fund these items. The combination of Council approved allocations from our General Fund, Grant Fund and the State's disbursement of public assistance to Pearland from the Office of the Governor will fully fund this purchase.

Police Chief Chris Doyle stated the department did exhausting research and testing on several brands. He stated the officers were extremely impressed with WatchGuard. He does not think the City can afford not to do this.

Discussion ensued between Councilmember Hill and Police Chief Chris Doyle regarding the current Coban system in-car video systems.

Discussion ensued between Councilmember Moore and WatchGuard Representative David Childress regarding the battery life of the body camera.

Discussion ensued between Mayor Pro-Tem Carbone, WatchGuard Representative David Childress and Chief Information Officer Daniel McGhinnis regarding items that will need to be purchased to capture and store the recordings on the Information Technology side.

Discussion ensued between Councilmembers and Chief Information Officer Daniel McGhinnis regarding the budget for the additional equipment.

Discussion ensued between Councilmember Hill and WatchGuard Representative David Childress regarding other City's that utilize WatchGuard.

Voting "Aye" Councilmembers Hill, Ordeneaux, Carbone, Reed, and Moore.

Voting "No" None.

Motion Passed 5 to 0.

**Council Action – Resolution No. R2016-60** – A Resolution of the City Council of the City of Pearland, Texas, authorizing the City Manager or his designee to enter into an Amended Lease Agreement with The University of Houston.

Councilmember Hill made the motion, seconded by Councilmember Moore, to approve Resolution No. R2016-60.

City Manager Clay Pearson reported the property has since been platted to create two parcels (one tract for the new building and a second parcel that contains the leased premises). The Lease amendment contemplates two phases that will occur on May 1<sup>st</sup> and August 11<sup>th</sup> of this year 2016. Once the Lease Amendment is approved and executed, it will allow the City to convey the other parcel of property to the University of Houston so that construction of the new building can commence.

Voting "Aye" Councilmembers Moore, Reed, Carbone, and Hill.

Voting "No" Councilmember Ordeneaux.

Motion Passed 4 to 1.

**Council Action – Resolution No. R2016-53** – A Resolution of the City Council of the City of Pearland, Texas, authorizing the power of eminent domain to acquire fee simple title to certain property for the Hughes Ranch Road Improvement Project; being a 0.1911 of one acre (8,323 square feet) parcel of land located in the H.T.& B. R.R. Co. Survey, Abstract No. 506, Brazoria County, Texas and being situated in Lot 7, Block 20 of the ALLISON RICHEY GULF COAST HOME COMPANY SUBDIVISION, a subdivision per plat or map recorded in Volume 2, Pages 23 - 24, Brazoria County Map Records (B.C.M.R.), said 0.1911 acre parcel being out of and a part of a 1.857 acre residue of a tract described as 2 acres in a conveyance to Jose C. Rodriguez, recorded under Brazoria County Clerk's File (B.C.C.F.) No. 01055783, for the construction and maintenance of water, sewer, drainage and road

improvements on certain real property described herein; authorizing the city attorney, or his designee, and other city officials to take such actions as are necessary to acquire said property, located within the city, by donation, purchase, or by the exercise of the power of eminent domain.

Councilmember Moore made the motion, seconded by Councilmember Reed, to approve Resolution No. R2016-53.

City Attorney Darrin Coker reported this resolution will allow the City to file a condemnation petition associated with the above referenced project. Prior to the filing of a condemnation action, the City Council must approve a resolution, declaring a public necessity, which will be filed as an attachment to the City's Petition. The City is acquiring fee title interest in the property to accommodate the project.

Voting "Aye" Councilmembers Hill, Ordeneaux, Carbone, Reed, and Moore.

Voting "No" None.

Motion Passed 5 to 0.

**Council Action – Resolution No. R2016-52** – A Resolution of the City Council of the City of Pearland, Texas, authorizing the power of eminent domain to acquire fee simple title to certain property for the Hughes Ranch Road Improvement Project; being a 0.1009 of one acre (4,397 square feet) parcel of land located in the H.T.& B. R.R. Co. Survey, Abstract No. 506, Brazoria County, Texas and being situated in Lot 22, Block 20 of the ALLISON RICHEY GULF COAST HOME COMPANY SUBDIVISION, a subdivision per plat or map recorded in Volume 2, Pages 23 - 24, Brazoria County Map Records (B.C.M.R.), said 0.1009 acre parcel being out of and a part of a 0.7082 of one acre residue of a tract of land described as 0.9997 of one acre in a conveyance to Ajith Kumar S. Nair and Jeeva Ajith recorded under Brazoria County Clerk's File (B.C.C.F.) No. 2006016690, for the construction and maintenance of water, sewer, drainage and road improvements on certain real property described herein; authorizing the city attorney, or his designee, and other city officials to take such actions as are necessary to acquire said property, located within the city, by donation, purchase, or by the exercise of the power of eminent domain.

Councilmember Reed made the motion, seconded by Councilmember Moore, to approve Resolution No. R2016-52.

City Attorney Darrin Coker reported this resolution will allow the City to file a condemnation petition associated with the above referenced project. Prior to the filing of a condemnation action, the City Council must approve a resolution, declaring a public necessity, which will be filed as an attachment to the City's Petition. The City is acquiring fee title interest in the property to accommodate the project.

Voting “Aye” Councilmembers Moore, Reed, Carbone, Ordeneaux, and Hill.

Voting “No” None.

Motion Passed 5 to 0.

**Council Action – Resolution No. R2016-61** – A Resolution of the City of Pearland, Texas, authorizing the City Manager or his designee to enter into a Reimbursement and Maintenance Agreement between the City and the Pearland Economic Development Corporation; and awarding a competitive sealed proposal for the construction of the Pearland Parkway and Dixie Farm Road Corridor Enhancements Projects to Jerdon Enterprise, L.P. in the estimated amount of \$1,058,653.53.

Mayor Pro-Tem Carbone made the motion, seconded by Councilmember Moore, to approve Resolution No. R2016-61.

President of Pearland Economic Development Matt Buchanan reported the Pearland 20/20 Strategic Plan outlined the need for City gateways to signal a sense of arrival and stronger identity for the community. Optimize the development potential of Pearland’s principal commercial corridors. Work with city officials to develop a plan for adoption of uniform standards for the maintenance of landscaped roads and corridors. Develop iconic and visually appealing gateways to Pearland. The 2015 Pearland Comprehensive Plan also supports an emphasis on community image and aesthetics and incorporates the 20/20 Strategy.

Mayor Pro-Tem Carbone stated he likes the idea, but he has concerns regarding the maintenance cost. He stated he does not like to see using Pearland Economic Development funds for landscaping.

Councilmember Ordeneaux stated he disagrees with Mayor Pro-Tem Carbone. He is willing for Pearland Economic Development to pay for the landscaping. He stated the City’s entry ways matter a great deal. Later on down the road the City may find another option to pay for the landscaping maintenance.

Mayor Reid stated with the enhancements into Pearland will create an impression of a community to where people will want to spend more sales tax. The more attractive a community is the more people will want to come.

Discussion ensued between Councilmember Reed and President of Pearland Economic Development Matt Buchanan regarding the cost of maintaining all the gateways into Pearland.

Discussion ensued between Mayor Pro-Tem Carbone and President of Pearland Economic Development Matt Buchanan regarding a management district and taxing businesses along Highway 288.

Councilmember Hill stated he would like to see the enhancements done to the entry ways into Pearland.

Councilmember Moore stated he would like to see the trees and shrubs that are planted are contiguous to this weather and not ones that need more maintaining which in turn will cost more money.

Voting "Aye" Councilmembers Hill, Ordeneaux, Reed, and Moore.

Voting "No" Councilmember Carbone.

Motion Passed 4 to 1.

## **MAYOR/COUNCIL ISSUES FOR FUTURE CITY COUNCIL AGENDAS**

### **OTHER BUSINESS:**

Council adjourned into Executive Session under Texas Government Code at 9:49 p.m. to discuss the following.

### **EXECUTIVE SESSION UNDER TEXAS GOVERNMENT CODE**

1. **Section 551.074 - Personnel Matters** – Regarding the Annual Evaluation of the City Manager.
2. **Section 551.071 - Consultation with City Attorney** – Regarding property development and related permits.

### **NEW BUSINESS CONTINUED:**

Council returned from Executive Session at 11:30 p.m.

**Council Action** – Regarding the Annual Evaluation of the City Manager.

Mayor Pro-Tem Carbone was absent from the Chambers.

Councilmember Ordeneaux made the motion, seconded by Councilmember Reed to amend the City Manager's salary to what was agreed upon in the Executive Session

Voting "Aye" Councilmembers Hill, Ordeneaux, Reed, and Moore.

Voting "No" None.

Motion Passed 4 to 0.

**Council Action** – Regarding property development and related permits.

No action taken.

**ADJOURNMENT**

Meeting was adjourned at 11:31 p.m.

Minutes approved as submitted and/or corrected this the \_\_\_\_\_ day of \_\_\_\_\_, A.D., 2016.

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Tom Reid  
Mayor

ATTEST:

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Young Lorfing, TRMC  
City Secretary

**AGENDA REQUEST  
BUSINESS OF THE CITY COUNCIL  
CITY OF PEARLAND, TEXAS**

<b>AGENDA OF:</b> May 23, 2016	<b>ITEM NO.:</b> Consent Agenda Item B
<b>DATE SUBMITTED:</b> May 12, 2016	<b>DEPARTMENT OF ORIGIN:</b> City Secretary
<b>PREPARED BY:</b> Maria E. Rodriguez	<b>PRESENTOR:</b> City Council
<b>REVIEWED BY:</b> Jon R. Branson	<b>REVIEW DATE:</b> May 19, 2016
<b>SUBJECT:</b> Excuse the absence of Councilmember Keith Ordeneaux from the Regular Council Meeting held on May 9, 2016.	
<b>EXHIBITS:</b> None	
<b>EXPENDITURE REQUIRED:</b> N/A <b>AMOUNT AVAILABLE:</b> N/A <b>ACCOUNT NO.:</b> N/A	<b>AMOUNT BUDGETED:</b> N/A <b>PROJECT NO.:</b> N/A
<b>ADDITIONAL APPROPRIATION REQUIRED:</b> N/A <b>ACCOUNT NO.:</b> N/A <b>PROJECT NO.:</b> N/A	
<b>To be completed by Department:</b> <input type="checkbox"/> Finance <input type="checkbox"/> Legal <input type="checkbox"/> Ordinance <input type="checkbox"/> Resolution	

**EXECUTIVE SUMMARY**

Excuse Councilmember Keith Ordeneaux's absence from the May 9, 2016, Regular Council Meeting.

**RECOMMENDED ACTION**

Council action required.

**CAGENDA REQUEST  
BUSINESS OF THE CITY COUNCIL  
CITY OF PEARLAND, TEXAS**

<b>AGENDA OF:</b> May 23, 2016	<b>ITEM NO.:</b> Consent Agenda Item C
<b>DATE SUBMITTED:</b> May 12, 2016	<b>DEPARTMENT OF ORIGIN:</b> City Secretary
<b>PREPARED BY:</b> Maria E. Rodriguez	<b>PRESENTOR:</b> City Council
<b>REVIEWED BY:</b> Jon R. Branson	<b>REVIEW DATE:</b> May 19, 2016
<b>SUBJECT:</b> Excuse the absence of Councilmember Derrick Reed from the Regular Council Meeting held on May 9, 2016.	
<b>EXHIBITS:</b> None	
<b>EXPENDITURE REQUIRED:</b> N/A <b>AMOUNT AVAILABLE:</b> N/A <b>ACCOUNT NO.:</b> N/A	<b>AMOUNT BUDGETED:</b> N/A <b>PROJECT NO.:</b> N/A
<b>ADDITIONAL APPROPRIATION REQUIRED:</b> N/A <b>ACCOUNT NO.:</b> N/A <b>PROJECT NO.:</b> N/A	
<b>To be completed by Department:</b> <input type="checkbox"/> Finance <input type="checkbox"/> Legal <input type="checkbox"/> Ordinance <input type="checkbox"/> Resolution	

**EXECUTIVE SUMMARY**

Excuse Councilmember Derrick Reed's absence from the May 9, 2016, Regular Council Meeting.

**RECOMMENDED ACTION**

Council action required.



that outfall into the Cowart Creek Diversion channel south of the project. Smaller box culverts, ditches and drainage swales will convey the remaining storm water. Visibility will be improved with streetlights installed by Centerpoint on the outside of the roadway corridor. The project also includes a landscaping package consisting of irrigation and trees of the oak, maple and bald cypress varieties. A 10' mixed use path will be provided on the north side. Sound walls, 10 feet in height, will be constructed along the frontage of Park Village Estates and Lawrence Place subdivisions. Construction is scheduled to conclude mid-2017.

In addition to the related drainage improvement projects associated with the Bailey Road corridor, Cowart Creek Diversion and Detention Pond and the N/S Ditch Maintenance, additions to the City's ITS infrastructure will also be made.

Traditionally, the City has contracted with Centerpoint to install streetlights along the new/improved transportation corridors. The general contractor will install the pull boxes, conduit and pullstring with the roadway project, and Centerpoint installs the poles and luminaires along with the electrical infrastructure.

### **SCOPE OF CONTRACT/AGREEMENT**

As part of any City roadway project, the streetlights will be installed and maintained by CenterPoint Energy. A general project layout for streetlights was created with the civil design plans for Bailey Road. The design engineer provided a layout for the conduit alignment and approximate locations of the streetlights. These sheets were given to Centerpoint to review and provide a final design. The proposed agreement is for Centerpoint to furnish, install, own and maintain the 142 streetlights within the Bailey Road project limits from 1700 feet west of FM 1128 to Veterans Drive in the amount of \$59,963.00. As part of the cleanup of the existing corridor this proposal also includes the removal of 22 existing overhead street lights currently mounted on wooden poles within the project limits for \$2,109.00. The total proposal for the removal of the existing lighting and the installation of the new lighting is \$62,702.00.

### **BID AND AWARD**

N/A

### **SCHEDULE**

Once Centerpoint has received the signed agreement and payment, they will release the pullboxes and warning tape to the general contractor. These items will be installed along with the underground conduit during roadway and right of way construction. The City will coordinate the final installation of poles, luminaires and transformers during phase 3 of the project after roadway and sidewalk are installed, while signal work is being installed and prior to landscaping and irrigation.

### **POLICY/GOAL CONSIDERATION**

**Strategic Priorities: Sustainable Infrastructure, Safe Community, Fiscally Responsible** Bailey Road is an essential part of the overall mobility plan for Pearland and was a 2007 bond project and leverages 20% local dollars with 80% state funds. The project complies with Council's strategic priorities of Safe Community, Sustainable Infrastructure and Fiscally Responsible.

**CURRENT AND FUTURE CIP FUNDING /FINANCIAL IMPACTS/DEBT SERVICE**

The current request will be 100% funded the City with Permanent Improvement Bonds.

Year	To Date	2017	2018	2019	2020	Total
<b>Budget</b>	<b>\$ 32,424,712</b>					<b>\$ 32,424,712</b>
Prior Expenditures						
PER						-
Land/ROW	2,642,112					2,642,112
Design/Survey	2,383,495					2,383,495
Construction	23,665,861					23,665,861
FF&E						-
<b>Current Request</b>						
<b>Construction</b>	<b>62,072</b>					<b>62,072</b>
Future Expenditures						
PER						-
Land/ROW						-
Design/Survey						-
Construction						-
FF&E						-
<b>Total Expenditures</b>	<b>\$ 28,753,540</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 28,753,540</b>
<b>Remaining Balance</b>	<b>\$ 3,671,172</b>	<b>\$ 3,671,172</b>	<b>\$ 3,671,172</b>	<b>\$ 3,671,172</b>	<b>\$ 3,671,172</b>	<b>\$ 3,671,172</b>

Debt Sold	549,374	948,661	948,661	948,661	948,661	
Debt to Be Sold						
<b>Annual Debt Service</b>	<b>549,374</b>	<b>948,661</b>	<b>948,661</b>	<b>948,661</b>	<b>948,661</b>	

**O&M IMPACT INFORMATION**

Year	2016	2017	2018	2019	2020
Operation and Maintenance Costs		\$ 80,611	\$ 84,642	\$ 88,874	

The annual operating costs for the streetlights is approximately \$31,000.

**RECOMMENDED ACTION**

Consideration and approval of a resolution approving the Centerpoint agreement to install streetlights for the Bailey Road Reconstruction project, from 1700 feet west of FM1128 to Veterans Drive, in the amount of \$62,072.00 and authorizing the City Manager to execute the agreement.



Cara Davis/ City of Pearland  
3519 Liberty Dr Pearland, Tx 77581  
281-652-1642

March 15, 2016

Subject: Bailey Rd- Streetlight Removals and Reinstalls  
Location: Bailey Rd, Pearland, Tx  
HOC Service Area

Dear Ms. Davis,

CenterPoint Energy (Company) agrees to furnish, install, own and maintain street lighting service in the above noted area subject to the Lighting Services Rate schedule and the corresponding Service Rules and Regulations Relating to the Provision of Delivery Service to Retail Customers.

It is CenterPoint Energy's policy to install street lighting according to the Illuminating Engineering Society of North America (I.E.S.N.A.) recommendations. You have, however, requested that these street lights not be installed according to these recommendations and have, in fact, indicated where you want the street lights located. By signing below, you acknowledge that you have requested a street lighting system that is of your own design and is not the design offered by CenterPoint Energy. It should also be understood that your street lighting design might not meet the recommendations of the I.E.S.N.A.

Per your request, CenterPoint Energy has prepared an estimate of cost to remove 22 overhead street lights and install 142 underground street lights along Bailey Rd based on your road plans. Conduit and pull boxes are to be installed by the requested party to CenterPoint Energy standards and specifications. After the conduit and pull boxes are inspected and approved by a CenterPoint Energy representative, then CenterPoint Energy will begin their installation. Conduit specifications, warning safety tape and pull boxes will be provided upon request after payment and signed agreement are received.

This installation consists of:

- **142, 150** watt, High Pressure Sodium, 15,000 lumen, **Cobra** style luminaires in gray mounted to **direct embedded metal cobra** poles serviced by **underground** conductors. The current monthly Lighting Services Rate schedule fee per lamp is **\$15.89**.
- **3** Overhead 480 Volt Transformer

The removal consists of:

- **22, 100** watt, High Pressure Sodium, 9,500 lumen, Cobra style luminaires mounted on wood poles.

Removal WO- 75569489- \$2,109.00

Installation WO- 75569496- \$59,963.00

The total cost for this request is **\$ 62,072.00**, which is not subject to refund. This estimate is valid for 180 days from date of creation. Please send two separate checks, one for each work order.

The streetlights will be installed at the general locations depicted on the attached electrical facility layout. Installation of the street lights is contingent on all the street lights being installed at one time, after the street paving and curbs have been completed.

While our company does attempt to maintain standard locations for the installation of street lighting, it is not always possible to install street lighting at these locations. Any adjustments needed should be discussed and resolved during the pre-construction walk. Any relocation requested can be done if it does not create operating problems and is not objectionable to other parties. All costs associated with relocations after the installation of the street lighting will be borne by the party making the request.

Your signature or designee's signature below will be our acknowledgment of your company's acceptance to the above mentioned terms and associated charges. Also, a check for the noted amount made payable to *CenterPoint Energy*, will be our authority to proceed with the necessary work. The work will be completed approximately 60 business days after payment is received and the necessary work by the customer is completed; weather permitting. Please send the check and the **original signed copy** of this agreement to:

CenterPoint Energy  
Attn: Connor Davis  
4700 S. Shaver, Bldg. I  
Houston, TX 77034

If you have any questions, please contact me at (713) 945- 3780.

Sincerely,

Connor Davis  
Service Consultant  
Street Lighting Operations  
Distribution Project Management

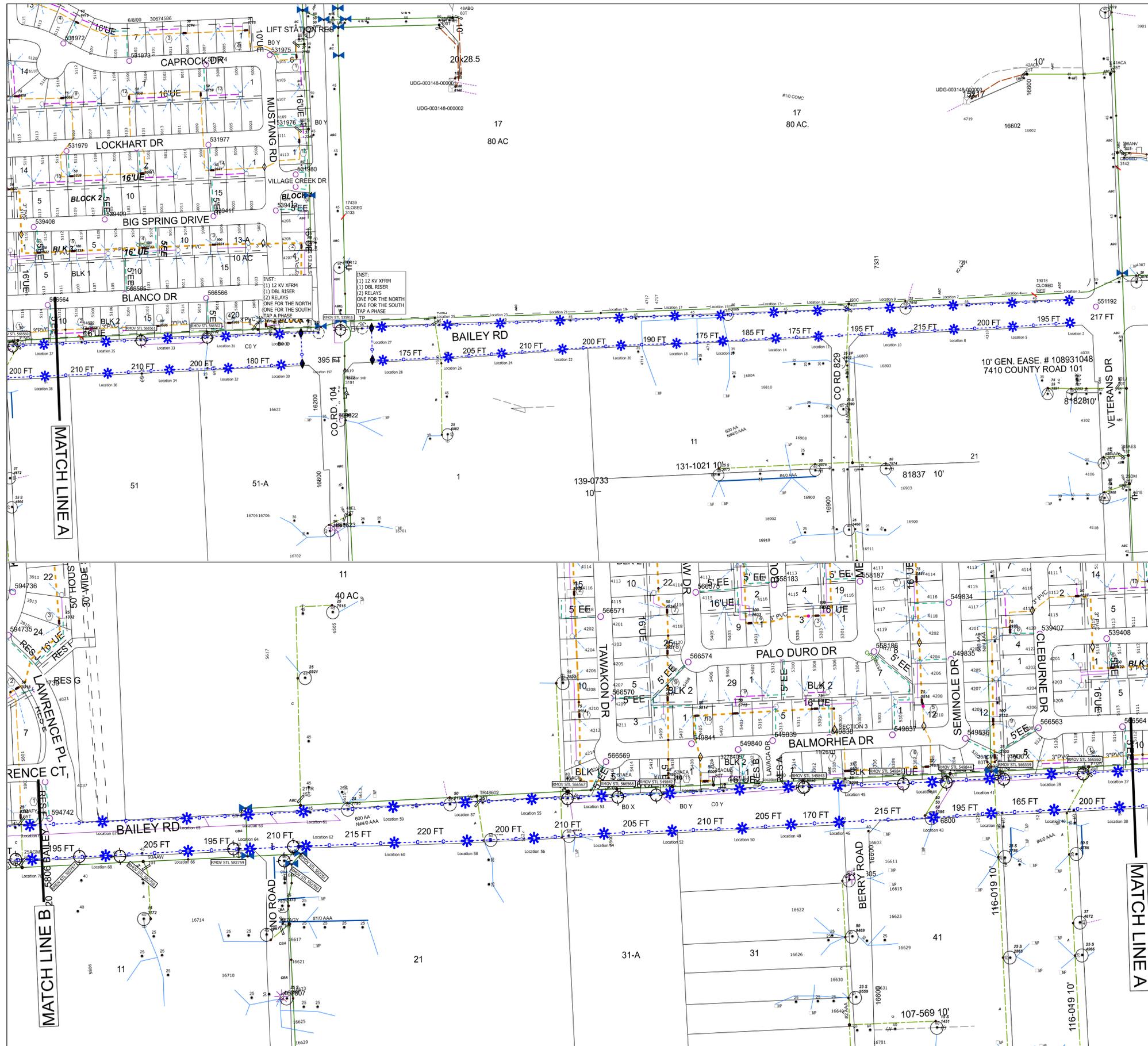
Approved and accepted this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

Signature \_\_\_\_\_

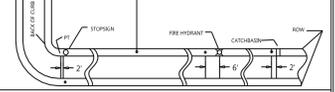
Printed Title \_\_\_\_\_

Printed Name \_\_\_\_\_

Mailing  
Address \_\_\_\_\_



**STREET LIGHT PLACEMENT DETAIL**  
 STREET LIGHT STANDARDS WILL NORMALLY BE INSTALLED IN ROAD RIGHT OF WAY 3' BACK OF CURB AND IN ALIGNMENT WITH SIDE LOT OR REAR PROPERTY LINES, UNLESS THERE IS A CONFLICT WITH DRIVEWAY, FIRE HYDRANT, CATCH BASIN, WATERMETER, OTHER OBSTRUCTIONS, OR WHEN IES RECOMMENDS SPACING REQUIRE OTHERWISE. IN CASE OF CONFLICT WITH O.H. DISTRIBUTION AT REAR OF PROPERTY, STANDARD IS TO BE INSTALLED 8' NORTH OR WEST OF PROPERTY LINE. AT STREET INTERSECTIONS, STANDARDS ARE TO BE INSTALLED BEHIND STRAIGHT SECTION OF CURB 2' FROM TANGENT POINT. STANDARDS SHALL BE PLACED ON STREET SIDE OPPOSITE FROM NORMAL STOP SIGN LOCATIONS.



**LIGHTING DESIGN SERVICES - LIGHTING LEGEND**  
 IMPORTANT NOTE: READ SPECIAL INSTRUCTIONS BELOW AND REFERENCE ANY SPECIAL NEEDS THAT MAY BE SHOWN ON SKETCH.

**NEW STREET LIGHT INSTALLATION SYMBOLS**

SYMBOLS	QUANTITY	SINGLE LAMP WATTAGE AND TYPE (Circle One Lamp Type for Each Wattage)			
		OH - 0	UG - 0	100W	HPS MH MV
	0	OH - 0	UG - 142	150W	HPS MH MV
	0	OH - 0	UG - 0	175W	HPS MH MV
	0	OH - 0	UG - 0	250W	HPS MH MV
	0	OH - 0	UG - 0	400W	HPS MH MV

**DUAL UG ONLY LAMP WATTAGE AND TYPE  
(Circle One Lamp Type for Each Wattage)**

SYMBOLS	QUANTITY	100W	HPS	MH	MV
	0	100W	HPS	MH	MV
	0	150W	HPS	MH	MV
	0	175W	HPS	MH	MV
	0	250W	HPS	MH	MV
	0	400W	HPS	MH	MV

**ADDITIONAL INSTALLATION MATERIAL SYMBOLS**

TP	6	TERMINAL POLE		6	RELAY
X	0	PROPOSED WOOD POLE		0	PULLBOX
	3	12KV 35KV PROPOSED OVERHEAD TRANSFORMER			

**EXISTING STREET LIGHT SYMBOLS AND WATTAGES**

250 MH   
 70   
 100   
 150   
 175   
 250   
 400

**INSTALLATION VOLTAGE: (Circle One Only)** 120 240 480

INST: (142) 150 WATT UG STL ON 35' POLES W/ 6' ARMS WO # 75569496  
 RMOV: (22) OH STL \*LEAVE STL 551192\* WO # 75569489  
 CUSTOMER IS RESPONSIBLE FOR INST ALL CONDUIT AND PULLBOXES  
 MAP 1 OF 2

WO BY: CONNOR DAVIS	W.O.#: SUP- 75569382
PHONE: 713-945-3780	KEY MAP #: 615W
CELL:	LAMBERT #: 5648C3
DATE: 3.14.16	SERVICE CENTER: HOC-PEARLAND
TYPE:	SCALE - 1" =

**Street Light Notes**

- All streets must be curbed and guttered prior to the installation of street lighting facilities unless otherwise approved by the Lighting Design Service Department.
- Dedicated street light easements are required along all placement of street lighting facilities when such facilities are installed along private streets. Street lighting will only be installed along private streets that can be accessed for maintenance and only when such a street is constructed in an easement intended to contain a private street, waterlines, sanitary sewer lines, storm sewer, and such other utility or franchise infrastructures as can be accommodated and which, for the purpose of established setback, will be considered to be the equal of a public street.
- The design of all streets, utility easements, and storm sewer easements must be approved by all appropriate reviewing agencies before the installation of street lighting.
- Street lighting will be installed to the recommendations of the illuminating Engineering Society unless otherwise requested and agreed upon in writing by the requestor of street lighting service.



**RESOLUTION NO. R2016-78**

**A Resolution of the City Council of the City of Pearland, Texas, authorizing the City Manager or his designee to enter into a Street Light Removal/Installation Agreement with CenterPoint Energy, associated with the Bailey Road Project, from 1700 feet west of FM1128 to Veterans Drive, in the estimated amount of \$62,072.**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS:**

**Section 1.** That certain Street Light Removal/Installation Agreement, a copy of which is attached hereto as Exhibit "A" and made a part hereof for all purposes, is hereby authorized and approved.

**Section 2.** That the City Manager or his designee is hereby authorized to execute and the City Secretary to attest a Street Light Removal/Installation Agreement.

PASSED, APPROVED and ADOPTED this the \_\_\_\_\_ day of \_\_\_\_\_, A.D.,  
2016.

\_\_\_\_\_  
TOM REID  
MAYOR

ATTEST:

\_\_\_\_\_  
YOUNG LORFING, TRMC  
CITY SECRETARY

APPROVED AS TO FORM:

\_\_\_\_\_  
DARRIN M. COKER  
CITY ATTORNEY



Utility Billing division personnel. The City is divided into four geographic areas which are billed in a sequential, weekly manner within each month, resulting in four billing cycles for the City.

The contract was awarded in April, 2011 to Peregrine Services, Inc. as the lowest of 13 bid responses received, for a two-year initial term, with mutual option for three additional one-year renewals, in which both council and Peregrine agreed to renew each year.

Peregrine has performed extremely well throughout the life of the contract, often adding informational messages to billings with minimal notice of less than 15 minutes and no up charge for the additions. Peregrine also provides printing and mailing services to City of Friendswood and League City, both of which are very pleased with their services.

### **SCOPE OF CONTRACT**

Printing and mailing of the City's utility bills and additional inserts, as needed, on a monthly basis.

### **BID AND AWARD**

Proposal specifications provided for the printing of water utility bills at a fixed unit cost per piece for an initial term of one year, with two additional one-year renewal periods. Each renewal is subject to the mutual agreement of both parties, and the subsequent approval of City Council. Any price adjustment request by the Contractor at renewal must be substantiated by a commensurate annual increase over the prior contract term in the Consumer Price Index for the Houston-Galveston-Brazoria metropolitan area.

The proposals were reviewed by a mix of Utility Billing management and personnel, and scored based on rates; qualifications, experience, methodology, thoroughness in addressing proposal requirements; and references. Peregrine Services' proposal received the highest score primarily based on the City's own experience with their product quality and service performance, and its cost-competitiveness, thus is being recommend for award. Peregrine's cost was only marginally higher (\$1250 on an annual basis), and the exceptional service provided over the last five years and their ability to respond to urgently-needed informational messages with minimal notice produced a higher overall score in the evaluations.

Peregrine Services' proposal award specifies a unit cost of \$.088 per piece for printing, plus the lowest prevailing presort, bulk-postage rate available to the City. The current average for City billings is approximately \$0.3875 per piece; an average is stated due to the fact that the actual rate can vary among bills in the same batch according to the degree of address match between that provided to the City and that in the United States Postal Service (USPS) address database. Postage is a pass-through cost only to the City, and it should be noted that any rate increase imposed by the USPS during any contract term will subject the City to an equivalent increase at that time.

### **POLICY/GOAL CONSIDERATION**

This purchase is contemplated and recommended for the purpose of providing citizens with their utility bills in a timely manner.

### **CURRENT AND FUTURE FUNDING /FINANCIAL IMPACTS**

Funding for the purchase comes from Utility Billing and Collections budget.

**RECOMMENDED ACTION**

City Council consideration and approval of City Council Resolution No. R2016-72 a unit price bid for printing and mailing of water utility bills with Peregrine Services Inc. in the estimated amount of \$225,700 for the period of July1, 2016 through June 30, 2017.

**RESOLUTION NO. R2016-72**

**A Resolution of the City Council of the City of Pearland, Texas, awarding a unit price service contract for printing and mailing the City's utility bills, to Peregrine Services, Inc., in the estimated amount of \$225,700 for the period of July 1, 2016 through June 30, 2017.**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS:**

**Section 1.** That competitive bids for a printing and mailing service contract have been reviewed and tabulated.

**Section 2.** That the City Council hereby awards the bid to Peregrine Services, Inc., in the estimated amount of \$225,700.

**Section 3.** The City Manager or his designee is hereby authorized to execute a contract for printing and mailing the City's utility bills.

PASSED, APPROVED and ADOPTED this the \_\_\_\_ day of \_\_\_\_\_, A.D., 2016.

\_\_\_\_\_  
TOM REID  
MAYOR

ATTEST:

\_\_\_\_\_  
YOUNG LORFING, TRMC  
CITY SECRETARY

APPROVED AS TO FORM:

\_\_\_\_\_  
DARRIN M. COKER  
CITY ATTORNEY

**Bid No.** 0316-28 Addendum 1 **Organization** Pearland, TX  
**Title** Printing and Mailing of Water Bills **Bid Creator** Julie Blackmore Buyer

**Description** The City of Pearland is soliciting Proposals  
for Printing and Mailing of Water Bills. **Email** jblackmore@pearlandtx.gov  
**Bid Type** Request for Qualifications **Phone** 281 (652) 1790  
**Issue Date** 3/24/2016 05:03:06 PM (CT) **Fax**  
**Close Date** 4/8/2016 11:00:00 AM (CT)

Responding Suppliers

Name	City	State	Response Submitted	Lines Responded	Response Total	Greater Than Low Bidder
Pinnacle Data Systems	Irondale	AL	4/7/2016 04:23:36 PM (CT)	8	\$224,473.21	
QuestMark Information Management	Houston	TX	4/8/2016 09:27:19 AM (CT)	8	\$225,464.92	\$ 991.70
Peregrine Services Inc	Monroe	LA	4/8/2016 08:49:30 AM (CT)	8	\$225,700.15	\$ 1,226.94
DataProse, LLC	Coppell	TX	4/8/2016 10:54:59 AM (CT)	8	\$226,995.93	
InfoSend, Inc.	Carrollton	TX	4/7/2016 10:25:22 PM (CT)	8	\$230,552.67	
Municode	Tallahassee	FL	4/8/2016 11:00:00 AM (CT)	8	\$237,345.46	

Response Notes

Supplier	Line	Notes
<b>QuestMark Inform</b>	5	Per Address
	6	Black Ink, No Bleeds
	7	Black Ink, No Bleeds
	8	Per Image in PDF format
<b>InfoSend, Inc.</b>	Header	We entered \$0.01 (1 cent) in the line item box for programming set up of the HTE and New World billing software applications as the system would not acknowledge "0" (zero). These fees have been waived by
	5	This is per reported update.
	6	This is for an 8.5" X 3.66" form printed 1/0 on 20# bond only. Does not include envelope or mailing services. The same size form printed 2/0 would be \$0.027
	7	This is for an 8.5" X 11" form printed 2/0 on 20# bond only. Does not include envelope or mailing services. The same size form printed 2/0 would be \$0.045
	8	Please see the additional costs section in our "Cover Letter and Response" document for additional information on pricing of PDF's FTP'd to the city, statements loaded onto CD's and also for prices related to mail tracking reporting.
<b>Pinnacle Data Sys</b>	5	per address change
	6	black ink
	7	black ink
	8	programming charge per hour after setup and conversion

On line item #1 above, the cost of the delinquent notices will be lowered to .071 if you continue to mail those without the #9 return envelope. On line items #4 Programming Cost and #5 NCOA we will provide these services free of charge. I tried to put in 0, none, .00 but system forced me to put in a value, so entered .01 per Julie Blackmore. On line item #8, there are no additional costs. I entered .01 here, because it forced a value. I wanted to make sure that you saw this field for the notes above.

**Peregrine Service:** 8

Paper type and ink was not called out in RFP. Cost quoted reflects the following: 70# gloss text, black ink only - no bleed, fold to letter size. Full color option: \$0.033. Full color option reflects the following: 70# gloss text, full color - no bleed, fold to letter size. Price quoted does not include the cost to insert.

**DataProse, LLC** 6

Paper type and ink was not called out in RFP. Cost quoted reflects the following: 70# gloss text, black ink only - no bleed, fold to letter size. Full color option: \$0.045. Full color option reflects the following: 70# gloss text, full color - no bleed, fold to letter size. Price quoted does not include the cost to insert.

7

Price shown is monthly cost for FTP site for access of PDF's. Please refer to attached pricing sheet in our proposal response for additional options.

8

**Municode** Header  
5

Manual Response  
Entering .01 but lines 4 and 5 are actually included at no cost.

**Bid No.** 0316-28 Addendum 1  
**Title** Printing and Mailing of Water Bills

QuestMark  
Information  
Management

InfoSend,  
Inc.

Pinnacle  
Data  
Systems

Specification Responses

Line	Description	UOM	QTY	Unit	Extended	Unit	Extended	Unit
1	Cost Per Each Utility Bill/Delinquent Notice including all production, labor, material and any other related cost.	EA	485220	\$0.087	\$42,214.14	\$0.098	\$47,551.56	\$0.078
2	USPS Postage Rate - Based on Automated 5 Digit Discount (estimated at 95% of total quantity)	EA	460959	\$0.376	\$173,320.584	\$0.376	\$173,320.584	\$0.376
3	USPS Postage Rate - Based on Automated 3 Digit Discount (estimated at 5% of total quantity)	EA	24261	\$0.399	\$9,680.139	\$0.399	\$9,680.139	\$0.399
4	Programming Cost - Development of Data File To Allow Processing/Manipulation Of The City's Billing Print File.	EA	1	\$250.00	\$250.00	\$0.01	\$0.01	\$3,500.00
5	Charge Per Usage of National Change of Address (NCOA).	EA	1	\$0.01	\$0.01	\$0.30	\$0.30	\$0.25
6	Miscellaneous Mailings - 1/2 page inserts, one sided	EA	1	\$0.011	\$0.011	\$0.023	\$0.023	\$0.03
7	Miscellaneous Mailings - full page inserts, one sided	EA	1	\$0.021	\$0.021	\$0.042	\$0.042	\$0.05
8	Additional Cost	EA	1	\$0.01	\$0.01	\$0.009	\$0.009	\$125.00
<b>Total</b>					<b>\$225,464.915</b>		<b>\$230,552.667</b>	

Org Based on .391/.399

NOTE: New Postal Rates for First Class Mail went into affect on 4/10/16 (two days after the RFP opened). QuestMark and InfoSend both used the new rates, and the balance of the companies used current rates that were higher. Due to this being a USPS change, all postage rates have been updated as this is a pass through cost to the City. This change does affect the rankings.

On line item #1 above, the cost of the delinquent notices will be lowered to .071 if you continue to mail those without the #9 return envelope. On line items #4 Programming Cost and #5 NCOA we will provide these services free of charge. I tried to put in 0, none, .00 but system forced me to put in a value, so entered .01 per Julie Blackmore. On line item #8, there are no additional costs. I entered .01 here, because it forced a value. I wanted to make sure that you saw this field for the notes above.

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**Bid No.** 0316-28 Addendum 1  
**Title** Printing and Mailing of Water Bills

QuestMark  
Information  
Management

InfoSend,  
Inc.

Pinnacle  
Data  
Systems

Specification Responses

Line	Description	UOM	QTY	Unit	Extended	Unit	Extended	Unit	Extended
1	Cost Per Each Utility Bill/Delinquent Notice including all production, labor, material and any other related cost.	EA	485220	\$0.087	\$42,214.14	\$0.098	\$47,551.56	\$0.078	\$37,847.16
2	USPS Postage Rate - Based on Automated 5 Digit Discount (estimated at 95% of total quantity)	EA	460959	\$0.376	\$173,320.584	\$0.376	\$173,320.584	\$0.391	\$180,234.969
3	USPS Postage Rate - Based on Automated 3 Digit Discount (estimated at 5% of total quantity)	EA	24261	\$0.399	\$9,680.139	\$0.399	\$9,680.139	\$0.416	\$10,092.576
4	Programming Cost - Development of Data File To Allow Processing/Manipulation Of The City's Billing Print File.	EA	1	\$250.00	\$250.00	\$0.01	\$0.01	\$3,500.00	\$3,500.00
5	Charge Per Usage of National Change of Address (NCOA).	EA	1	\$0.01	\$0.01	\$0.30	\$0.30	\$0.25	\$0.25
6	Miscellaneous Mailings - 1/2 page inserts, one sided	EA	1	\$0.011	\$0.011	\$0.023	\$0.023	\$0.03	\$0.03
7	Miscellaneous Mailings - full page inserts, one sided	EA	1	\$0.021	\$0.021	\$0.042	\$0.042	\$0.05	\$0.05
8	Additional Cost	EA	1	\$0.01	\$0.01	\$0.009	\$0.009	\$125.00	\$125.00
<b>Total</b>					<b>\$225,464.915</b>		<b>\$230,552.667</b>		<b>\$231,800.035</b>

Peregrine  
 Services  
 Inc

		DataProse, LLC		Municode	
Unit	Extended	Unit	Extended	Unit	Extended
\$0.088	\$42,699.36	\$0.09	\$43,669.80	\$0.112	\$54,344.64
\$0.391	\$180,234.969	\$0.391	\$180,234.969	\$0.391	\$180,234.969
\$0.416	\$10,092.576	\$0.406	\$9,849.966	\$0.416	\$10,092.576
\$0.01	\$0.01	\$125.00	\$125.00	\$0.01	\$0.01
\$0.01	\$0.01	\$0.35	\$0.35	\$0.01	\$0.01
\$0.01	\$0.01	\$0.023	\$0.023	\$0.013	\$0.013
\$0.03	\$0.03	\$0.034	\$0.034	\$0.024	\$0.024
\$0.01	\$0.01	\$200.00	\$200.00	\$0.04	\$0.04
<b>\$233,026.975</b>		<b>\$234,080.142</b>		<b>\$244,672.282</b>	

Number	Attribute Name	Description	Response	Response	Response
1	Specification Acknowledgement	Bidder has reviewed specifications and agrees that their bid adheres fully. If not, bidder will need to provide written explanation of any exceptions.	Yes	Yes	Yes
2	Insurance Requirement Acknowledgement	I have read and agree to the City of Pearland's Contractor Insurance Requirements & Agreement.	I agree	I agree	I agree
3	Local Bidder Preference Claim Form	Bidder claims Pearland local bidder preference, pursuant to provisions of Local Bidder Preference claim form and Texas Local Government Code, Chapter 271.9051.	No	No	No
4	Conflict of Interest Questionnaire	I am submitting a completed and signed copy of the Conflict of Interest Questionnaire.	Yes	Yes	Yes
5	Non-Collusion Statement	I am submitting a completed and signed copy of the Non-Collusion Statement.	Yes	Yes	Yes
6	Contractor Questionnaire	I am submitting a completed and signed copy of the Contractor Questionnaire.	I agree	I agree	I agree
7	Vendor References	I have attached my company's list of references, as required.	I agree	I agree	I agree
8	Cooperative Purchase	Are these items on a cooperative purchasing agreement/contract? If so, please state which agreement and the contract number.	No	These items are not on a cooperative purchasing agreement.	no
9	Normal Business Hours	Please state your normal business hours in which standard hourly rates will apply.	8:00 am - 5:00 pm M-F	Monday-Friday 7am- 6pm Central. Electronic job ticketing is available as well as after-hour phone number and contacts.	8:00 AM - 5:00 PM CST
10	Emergency Service	If emergency or after hours service is required, can your company respond?	Yes	Yes	Yes
11	Emergency Response Time	Please state your estimated emergency response time.	4 hours	Varies based on Service Level however for Print/mail customers. Critical=0-30 minutes, Mid-Level = 30-90 minutes, General inquires = 90 minutes to 4 hours.	1/2 - 1 hour
12	Phone Number	Please state the phone number that should be called during normal working hours if the City of Pearland requires service.	713-662-9022	800-955.9330	205-307-6853

Number	Attribute Name	Description	Response	Response	Response
13	Emergency Phone Numbers	Please list the phone numbers that should be called if the City of Pearland requires service after hours, on a weekend, or on a holiday. Please also provide the contact name for each phone number given.	832-372-5064 Beth Ludeke	Matt Schmidt800-955-9330800-429-0303 After Hours	205-307-6800
14	Materials/Supplies Mark-Up	Please provide the percentage mark-up above your company's cost for materials/supplies that will be passed on to the City of Pearland.	0	25	15
15	Warranty for Labor/Workmanship	Please state your warranty for labor/workmanship.	We will remedy or replace any errors due to labor and/or workmanship	Warranty/Service Level Agreement is based on mutual consent. Highlights of standard language is: ?Documents will be printed exactly as displayed in the Client-approved sample file. ?Documents will be printed on the correct forms and inserted into the correct envelopes. ?The documents will be printed and mailed the next business day. See Exhibit A for details on the specific deadlines that Client and InfoSend must meet to facilitate same-day printing and mailing of Client data.	A Service Level Agreement will be created for the City.
16	Warranty for Materials/Supplies	Please state your warranty for materials/supplies.	We will remedy or replace any errors found in the materials and/or supplies	Materials defects provided by InfoSend will be remedied at InfoSend cost. Materials will be per specification. InfoSend inspects material prior to use and ensures functionality with production equipment as well as output quality.	100% warranty against defects in material

<u>Peregrine Services Inc</u>	<u>DataProse, LLC</u>	<u>Municode</u>
<b>Response</b>	<b>Response</b>	<b>Response</b>
Yes	Yes	Yes
I agree	I agree	I agree
No	No	No
Yes	Yes	Yes
Yes	Yes	Yes
I agree	I agree	I agree
I agree	I agree	I agree
No	Items submitted are not on a cooperative purchasing agreement/contract.	No
6AM-6PM CST	8:00 AM to 5:00 PM	6 am - 8 pm EST
Yes	Yes	Yes
15 Minutes	One (1) Hour.	1 hr
913-972-2734	972.462.5400 or 800.876.5015	850-576-3171

<u>Peregrine Services Inc</u>	<u>DataProse, LLC</u>	<u>Municode</u>
<b>Response</b>	<b>Response</b>	<b>Response</b>
913-972-2734--Tom318-325-4762 x 432 Production Floor318-512-0933--Bruce	First Response Line: 972.462.5411First Response Email: DPList- FirstResponseTeam@dataprose.com Rachel Alanis - Client Relations Manager	850-545-9345
5	20	0.07
Lifetime to Customer Satisfaction	DataProse shall provide all Goods and Services in a good and first class workmanlike manner. Any materials/services that do not meet this standard will be replaced at no cost to client.	Yes
Lifetime to Customer Satisfaction	DataProse shall provide all Goods and Services in a good and first class workmanlike manner. Any materials/services that do not meet this standard will be replaced at no cost to client.	Yes



court action, the City is requested to take action independently as to the penalty and interest paid to our jurisdiction for this delinquency.

The account number in question is 0212-0001-006, a real property account, and the amount applicable to the City of Pearland is \$7,648.61.

Section 33.011 of the property tax code allows the governing body of a taxing unit to waive penalty and interest on delinquent taxes if they believe an error occurred on the part of the appraisal district or tax office that caused failure to pay timely. Further, the tax code requires the tax due to be paid within 21 days of knowing it is delinquent and it has not been delinquent for more than 180 days. Taxpayer is compliant with the latter provisions.

It has been formally documented an error occurred on the part of the appraisal district in this case. The appraisal district, for unknown reasons, changed the address (contact information) for billing purposes to an unknown and incorrect address without request or authorization by the tax payer. Consequently, taxpayer never received a tax bill due to this error. A bill was sent the moment the error was rectified, but the tax was already in delinquent status. The Taxpayer has formally requested a waiver of penalty and interest paid due to the appraisal district error causing failure to pay timely. The account is paid in full and a waiver, if granted, will result in a refund to taxpayer. The Brazoria County Tax Office will facilitate any refund generated.

**POLICY/GOAL CONSIDERATION**

Fiscally Responsible Government

**RECOMMENDED ACTION**

Consideration and approval of Resolution R2016-88; a resolution waiving the Penalty and Interest on Brazoria County Property Tax Account #0212-001-006, in the amount of \$7,648.61.

**RESOLUTION NO. R2016-88**

**A Resolution of the City Council of the City of Pearland, Texas, approving a request of the Brazoria County Tax Office to waive the penalty and interest on delinquent taxes for property account # 0212-001-006.**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS:**

**Section 1.** That pursuant to the request of the Brazoria County Tax Office, the penalty and interest on delinquent taxes for property account # 0212-001-006 are hereby waived.

PASSED, APPROVED and ADOPTED this the \_\_\_\_\_ day of \_\_\_\_\_,  
A.D., 2016.

\_\_\_\_\_  
TOM REID  
MAYOR

ATTEST:

\_\_\_\_\_  
YOUNG LORFING, TRMC  
CITY SECRETARY

APPROVED AS TO FORM:

\_\_\_\_\_  
DARRIN M. COKER  
CITY ATTORNEY

**From:** [roving@brazoria-county.com](mailto:roving@brazoria-county.com)  
**To:** [CAIbrecht@alvincollege.edu](mailto:CAIbrecht@alvincollege.edu); [swilson@alvinisd.net](mailto:swilson@alvinisd.net); [Cynthia.Pearson](mailto:Cynthia.Pearson); [my.bdd4@swbell.net](mailto:my.bdd4@swbell.net)  
**Subject:** RE: Waiver of Penalty and interest request  
**Date:** Monday, April 25, 2016 5:58:14 PM

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**Subject:** Waiver of Penalty and interest request

Dear Taxing Entities:

A taxpayer recently received a waiver of penalty and interest on delinquent taxes from Brazoria County. As the amount of penalty and interest waived for each of your jurisdictions is greater than amount allowed to rest on the commissioners court action, I am requesting you take action independently as to the penalty and interest paid to your jurisdiction for this delinquency.

The account number in question is 0212-0001-006, a real property account.

Section 33.011 of the property tax code allows the governing body of a taxing unit to waive penalty and interest on delinquent taxes if they believe an error occurred on the part of the appraisal district or tax office that caused failure to pay timely. Further, the tax code requires the tax due to be paid within 21 days of knowing it is delinquent and it has not been delinquent for more than 180 days. Taxpayer is compliant with the latter provisions.

It has been formally documented an error occurred on the part of the appraisal district in this case. The appraisal district, for unknown reasons, changed the address (contact information) for billing purposes to an unknown and incorrect address without request or authorization by the tax payer. Consequently, taxpayer never received a tax bill due to this error. A bill was sent the moment the error was rectified, but the tax was already in delinquent status. Taxpayer formally requests a waiver of penalty and interest paid due to appraisal district error causing failure to pay timely. The account is paid in full and a waiver, if granted, will result in a refund to taxpayer. This office will facilitate any refund generated.

Amounts requested per jurisdiction:

Alvin ISD	\$15,219.89
Alvin College	\$ 1,892.44
Brazoria DD#4	\$ 1,675.59
City of Pearland	\$ 7,648.61

Please place the request as pertains to your jurisdiction on your next agenda for consideration. If you have any questions feel free to contact me.

Thanks  
Ro'Vin

Ro'Vin Garrett, PCC  
Brazoria County Tax Assessor-Collector  
111 E Locust  
Angleton, Texas 77515

Ph: 979-864-1838

Fax: 979-864-1346

[roving@brazoria-county.com](mailto:roving@brazoria-county.com)

*TACA DIRECTOR OF EDUCATION*

*2015 ABWA South East Express Network Top Ten American Business Woman*

*2013 ABWA South East Express Network Woman of the Year*

*2012 Woman of Excellence, Federation of Houston Professional Women*

This message has been prepared or disseminated using resources owned by Brazoria County and is subject to the County's policies on the use of County provided technology. E-mail created or received through the County's computer system by any County employee or official may be considered a public record, subject to public inspection under the laws of the State of Texas.

**AGENDA REQUEST  
BUSINESS OF THE CITY COUNCIL  
CITY OF PEARLAND, TEXAS**

<b>AGENDA OF:</b>	May 23, 2016	<b>ITEM NO.:</b>	R2016-76
<b>DATE SUBMITTED:</b>	April 28, 2016	<b>DEPT. OF ORIGIN:</b>	Public Works
<b>PREPARED BY:</b>	Bob Fitzpatrick	<b>PRESENTOR:</b>	Eric Wilson
<b>REVIEWED BY:</b>	Trent Epperson	<b>REVIEW DATE:</b>	May 16, 2016
<b>SUBJECT: R2016-76 - A Resolution of the City Council of the City of Pearland, Texas, awarding a bid for replacement of the roof at the Tom Reid Library to The Garland Company, Inc., in the estimated amount of \$282,938.</b>			
<b>EXHIBITS: R2016-76</b> <b>Exhibit A:</b> Roofing Material And Services Proposal With Competitive Quotes <b>Exhibit B:</b> Quote Tabulation <b>Exhibit C:</b> Thursday Packet Memo			
<b>FUNDING:</b>			
<input type="checkbox"/> Bonds To Be Sold <input type="checkbox"/> Grant <input type="checkbox"/> Bonds- Sold <input type="checkbox"/> Developer/Other <input checked="" type="checkbox"/> Cash <input type="checkbox"/> L/P – Sold <input type="checkbox"/> L/P – To Be Sold			
<b>EXPENDITURE REQUIRED:</b> \$282,938		<b>AMOUNT BUDGETED:</b> \$282,938	
<b>AMOUNT AVAILABLE:</b> \$ 282,938		<b>PROJECT NO.:</b> F20002	
<b>ACCOUNT NO.:</b> 501-300-345.5600.040			
<b>ADDITIONAL APPROPRIATION REQUIRED:</b> None			
<b>ACCOUNT NO.:</b>			
<b>PROJECT NO.:</b>			
<b>To be completed by Department:</b>			
X Finance                      X Legal                      Ordinance                      X Resolution			

**EXECUTIVE SUMMARY**

**BACKGROUND**

Over the course of normal wear and tear it has been deemed necessary that the membrane roof on the Tom Reid Library be replaced as soon as possible versus including with the library expansion project that is anticipated to begin this fall. The Public Works Department has worked alongside the Projects Department to determine how to best proceed with replacement based on questions regarding the integrity of prior workmanship and to determine funding. Funding will be from the expansion project that was previously agreed to per the March 31, 2016 Thursday packet memo (attached).

### **BID AND AWARD**

The City utilized a roofing consultant that is a member of the U.S. Communities cooperative purchasing group that on our behalf attained four competitive quotes, and is the same vendor used for other City roofing projects in past years. The consultant retained has recommended proceeding with the vendor providing the lowest quote response, Texas Liqua Tech Services, Inc. in the amount of \$282,938.

### **SCHEDULE**

Once awarded there is a lead time for materials ordering and mobilization, and then construction will be largely dependent upon the weather. The work should be completed within eight weeks of notice to proceed.

### **POLICY/GOAL CONSIDERATION**

This purchase is contemplated and recommended for the purpose of furthering the City's objective to provide a sustainable infrastructure for public health, safety and welfare, and to maintain the integrity of the City's systems. This work will provide the necessary resources to keep one of the City's highly used facilities safe from water leaks to protect its interior assets from possible damage.

### **O&M IMPACT INFORMATION**

The initial investment in a new roof will reduce the need for immediate maintenance concerns at this site in regard to the roofing membrane. Manufacturer provides a 30 Year, no dollar limit and leak free warranty plus a 20 Year finish warranty on all metal components. Agreement also provides for a 2 Year contractor labor warranty.

### **RECOMMENDED ACTION**

A Resolution of the City Council of the City of Pearland, Texas, awarding a contract for a roof replacement at the Tom Reid Library to The Garland Company, Inc. in the estimated amount of \$282,938.



**Garland/DBS, Inc.**  
**3800 East 91<sup>st</sup> Street**  
**Cleveland, OH 44105**  
**Phone: (800) 762-8225**  
**Fax: (216) 883-2055**



## **ROOFING MATERIAL AND SERVICES PROPOSAL**

**City of Pearland**  
**Library Roof Replacement**  
**Date Submitted: 04/28/2016**  
**Proposal #: 25-TX-160204**  
**MICPA # 14-5903**

**Please Note:** The following estimate is being provided according to the pricing established under the Master Intergovernmental Cooperative Purchasing Agreement (MICPA) with Cobb County, GA and U.S. Communities. This estimate should be viewed as the maximum price an agency will be charged under the agreement. Garland/DBS, Inc. administered a competitive bid process for the project with the hopes of providing a lower market adjusted price whenever possible.

### **Scope of Work: Pearland Library Roof Replacement**

- 1 Completely remove existing single-ply roofing membrane at the base flashings and related roofing components. At clear story walls, 5" selvedge lap is to be left in place.
- 2 Repair and/or replace and wet or damaged insulatiuon to match existing size and configuration.
- 3 Install new treated wood blocking at the parapet wall as required, in accordance with Factory Mutual Research I-49 loss prevention data, in preparation for the new coping cap.
- 4 Mechanically fasten new 2" Polyisocyanurate and 0.5" high-density gypsum cover board in strict accordance with ASCE 7-05 wind uplift calculations.
- 5 Fully adhere flame-resistant 45 degree cant strips at all walls and curb-type penetrations.
- 6 Fully heat-fuse one ply of smooth surfaced, SBS Modified, bituminous roofing membrane to the prepared substrate in accordance with manufacturer's current printed guidelines.
- 7 Install new 4 lb. lead flashings at all existing plumbing vents and roof drain locations. All leads shall be primed on both sides of the flange and set in a liberal bed of asphalt mastic.
- 8 Fabricate and install new 24 gauge 304 Stainless Steel pitch pans, pipe hoods, gravity vents, hoods/bonnets and overflow scuppers. All stainless steel roofing accessories shall be primed on both sides of the flange and set in a liberal bed of asphalt mastic.
- 9 Strip in all lead flashings and flange-type penetrations with one ply of smooth surfaced, SBS Modified, bituminous roofing membrane.

- 10 Fully heat-fuse one ply of 195 mil white mineral surfaced, SBS Modified, bituminous roofing membrane to the prepared substrate in accordance with manufacturer's current printed guidelines. Minerals shall be broadcast into the hot asphalt bleed-out to create a monolithic appearance.
- 11 Install new 2-ply SBS Modified base-flashing system at all walls and curb-type penetrations.
- 12 Install new extruded aluminum termination bar at the top of all base-flashings and seal with a three-course reinforcement of asphalt mastic and PVC mesh.
- 13 Coat all base-flashing assemblies with a two coat application of white acrylic, commercial roofing grade reflective coating.
- 14 At clear story walls and curb-type penetrations, fabricate and install new pre-finished 24 gauge galvanized counter-flashings with hurricane clips ever 24" on center.
- 15 Install new bituminous waterproofing underlayment to all new treated perimeter blocking at the parapet wall.
- 16 Install new 24 gauge pre-finished galvanized coping cap system for all parapet wall conditions.
- 17 Provide T.W.I.A. WPI-8 Certificate of Compliance.
- 18 Provide contractor's 2-Year labor guarantee.
- 19 Provide Manufacturer's 30-Year, No Dollar Limit, leak-free warranty and 20 year finish warranty on all metal components.

**Pearland Library Roof Replacement:**

<b>Proposal Price Based on Competitive Bid Results:</b>	<b>\$ 282,938</b>
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**Competitive Bid Results:**

<b>Texas Liqua Tech Services, Inc.</b>	<b>\$ 282,938</b>
<b>F.W. Walton, Inc.</b>	<b>\$ 294,466</b>
<b>John A. Walker Roofing Co., Inc.</b>	<b>\$ 316,976</b>
<b>Pyramid Waterproofing, Inc.</b>	<b>\$ 332,958</b>

**Bid Breakdown (Texas Liqueatech Services, Inc.):**

Labor & Non Garland Materials:	\$ 112,777
Roofing Materials:	\$ 133,609
Insurance:	\$ 3,974
Bonds:	\$ 3,296
<u>General Conditions:</u>	<u>\$ 29,282</u>
<b>TOTAL:</b>	<b>\$ 282,938</b>

\*General Conditions include: Freight, Engineering, Permits, Overhead and Profit

**Unforeseen Site Conditions:**

Wood Blocking (Nailer) Replacement	\$	4.28 per Linear Foot
Decking Replacement	\$	10.83 per Square Foot

Potential issues that could arise during the construction phase of the project will be addressed via unit pricing for additional work beyond the scope of the specifications. Proposal pricing valid through 12/31/2016.

If you have any questions regarding this proposal, please do not hesitate to call me at my number listed below.

Respectfully Submitted,

*Matt Egan*

Matt Egan  
Garland/DBS, Inc.  
(216) 430-3662

## EXHIBIT B - QUOTE TABULATION

Date: 4/28/2016	Project Name: <b>City of Pearland Library</b> Project Number: <b>25-TX-160204</b> Garland Rep: Blake Dieste			
<b>Bidders:</b>	<b>FW Walton</b>	<b>John A Walker</b>	<b>Texas Liquatech</b>	<b>Pyramid Waterproofing</b>
Non-Garland Roof Materials	\$ 61,000.00	\$ 50,560.00	\$ 67,000.00	\$ 80,000.00
Roofing Labor	\$ 38,000.00	\$ 60,570.00	\$ 45,777.00	\$ 63,000.00
Non-Roofing Labor	\$ 9,500.00	\$ 15,982.00	\$ -	\$ -
Non-Roofing Materials	\$ 14,000.00	\$ 13,975.00	\$ -	\$ -
Permits	\$ -	\$ -	\$ -	\$ 300.00
Sales Tax	\$ -	\$ -	\$ -	\$ -
<b>Total Non-Garland Materials</b>	<b>\$ 122,500.00</b>	<b>\$ 141,087.00</b>	<b>\$ 112,777.00</b>	<b>\$ 143,300.00</b>
Garland Materials	\$ 133,533.00	\$ 133,853.00	\$ 133,609.00	\$ 147,023.00
<b>Total Price</b>	<b>\$ 256,033.00</b>	<b>\$ 274,940.00</b>	<b>\$ 246,386.00</b>	<b>\$ 290,323.00</b>
<b>*DBS Markup:</b>	\$ 38,433.00	\$ 42,036.00	\$ 36,552.00	\$ 42,635.00
<b>TOTAL (with DBS Markup):</b>	<b>\$ 294,466.00</b>	<b>\$ 316,976.00</b>	<b>\$ 282,938.00</b>	<b>\$ 332,958.00</b>

\* - DBS Markup includes costs for freight, bonding/insurance, engineering, permits, overhead and profit.

## EXHIBIT C



## Memo

To: Clay Pearson, City Manager

From: Cara Davis, Project Manager

CC: Trent Epperson, Assistant City Manager  
Jon Branson, Deputy City Manager  
Eric Wilson, Director of Public Works  
Susan Polka, Director of Engineering  
Skipper Jones, Assistant Director of Capital Projects

3/31/2016  
To: Mayor and City Council members  
Library expansion planning update, getting closer to bidding for construction. Clay

Date: March 31, 2016

Re: Tom Reid Library Expansion Project Update

---

This memo provides an update on the design phase and current scope of the project since the last update and Council presentation in January 2016.

### Design

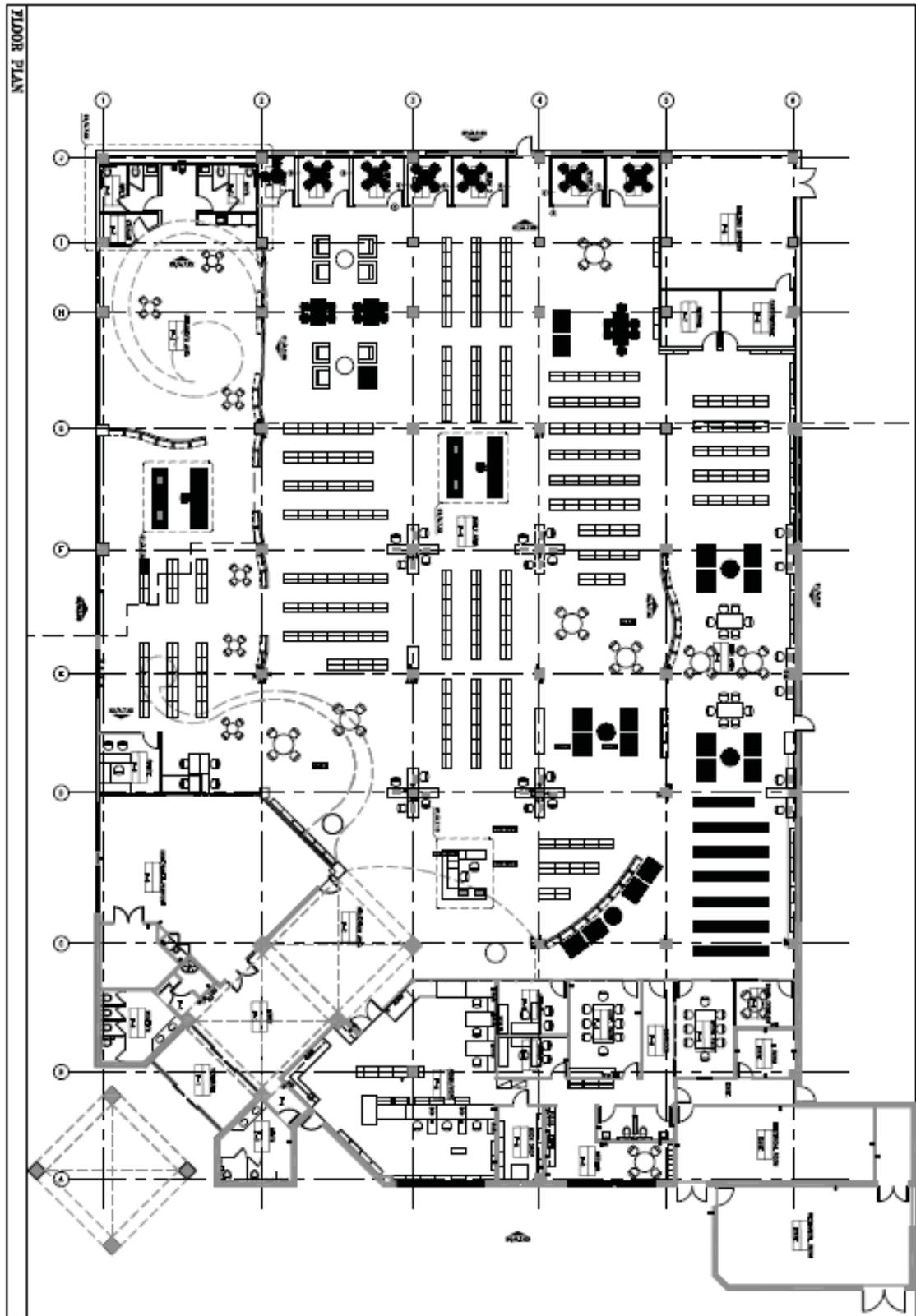
Dewberry | Wilson Architects Inc. has completed the design development phase. Revised cost estimates came in at \$3.25 million compared to initial estimates of \$3.44 million. The refined estimate included scope items that were not originally included in the project but were required to bring the facility up to current codes and ordinances as well as upgrades to existing fixtures:

- Replacement roof on the existing building and the replacement of the existing light fixtures.
- A fire line, two fire hydrants, vault, road bore and fire suppression sprinklers in the existing building
- New paving and new radii work for fire access
- A new 800 amp electrical distribution panel.

Construction Document (CD) development began in early March. The 50% design review will be ready for review at the end of April. Finishes and furnishing selection will begin at that time. The current schedule indicates that construction bid documents should be available in early June. An early July bid opening will be followed by Council award in August. Construction can start as early as September 2016.

### **Additional Information**

Since the cost estimate was received Facilities Maintenance has received bids to replace the roof on the existing building. The existing roof has surpassed its useful life and will be replaced prior to the expansion. Because the existing roof and the roof for the expansion area are separated by parapet walls there is no reason not to move forward with the replacement of the existing roof at this time. The estimate included \$258,750 for this item and the apparent low bid through the U.S. Communities buying cooperative was \$282,938. This increases the project construction cost estimate overall to approximately \$3.28M. After adding Construction Management, Material Testing, Fiber, Furniture, and Equipment costs the project is within our current funded construction budget of approximately \$4.0M.



Furniture Layout from Design Development Plans

**RESOLUTION NO. R2016-76**

**A Resolution of the City Council of the City of Pearland, Texas,  
awarding a bid for replacement of the roof at the Tom Reid Library to  
The Garland Company, Inc., in the estimated amount of \$282,938.**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS:**

**Section 1.** That contract pricing for the construction of the Tom Reid Library was obtained through the U.S. Communities Cooperative Purchasing Group.

**Section 2.** That the City Council hereby awards the bid to The Garland Company, Inc., in the amount of \$282,938.

**Section 3.** The City Manager or his designee is hereby authorized to execute a contract for the roof replacement at the Tom Reid Library.

PASSED, APPROVED and ADOPTED this the \_\_\_\_\_ day of \_\_\_\_\_,  
A.D., 2016.

\_\_\_\_\_  
TOM REID  
MAYOR

ATTEST:

\_\_\_\_\_  
YOUNG LORFING, TRMC  
CITY SECRETARY

APPROVED AS TO FORM:

\_\_\_\_\_  
DARRIN M. COKER  
CITY ATTORNEY

**AGENDA REQUEST  
BUSINESS OF THE CITY COUNCIL  
CITY OF PEARLAND, TEXAS**

<b>AGENDA OF:</b>	May 23, 2016	<b>ITEM NO.:</b>	R2016-75
<b>DATE SUBMITTED:</b>	May 9, 2016	<b>DEPT. OF ORIGIN:</b>	Public Works
<b>PREPARED BY:</b>	Bob Fitzpatrick	<b>PRESENTOR:</b>	Michael Leech
<b>REVIEWED BY:</b>	Trent Epperson	<b>REVIEW DATE:</b>	May 17, 2016
<b>SUBJECT: Resolution No. R2016-75</b> A Resolution of the City Council of the City of Pearland, Texas, renewing a bid for HVAC repair and maintenance services for the Recreation and Natatorium (RCN) to the Lee Thompson Company, in the estimated amount of \$60,000.00 for the period of May 24, 2016 through May 23, 2017.			
<b>EXHIBITS:</b> Resolution #R2016-75 Exhibit A - Bid Tabulation Exhibit B – Renewal Inquiry			
<b>FUNDING:</b>			
<input type="checkbox"/> Grant <input type="checkbox"/> Developer/Other <input checked="" type="checkbox"/> Cash <input type="checkbox"/> Bonds To Be Sold <input type="checkbox"/> Bonds- Sold <input type="checkbox"/> L/P – Sold <input type="checkbox"/> L/P – To Be Sold			
<b>EXPENDITURE REQUIRED:</b> \$60,000.00 (est.)			
<b>AMOUNT AVAILABLE:</b> \$60,000.00		<b>AMOUNT BUDGETED:</b> \$60,000.00	
<b>ACCOUNT NO.:</b> 100-305-330.5200.030		<b>PROJECT NO.:</b>	
<b>ADDITIONAL APPROPRIATION REQUIRED:</b>			
<b>ACCOUNT NO.:</b>			
<b>PROJECT NO.:</b>			
<b>To be completed by Department:</b>			
X Finance		X Legal	
		Ordinance	
		X Resolution	

**EXECUTIVE SUMMARY**

**BACKGROUND**

The purpose of this AR is to **renew a contract** for HVAC/Refrigeration repair and maintenance services for the Recreation Center and Natatorium (RCN) with the Lee Thompson Company.

It is necessary for the City to retain the services of an outside contractor to perform maintenance and repairs on existing HVAC/refrigeration systems and equipment, including periodic system replacements at the Recreation Center and Natatorium Facility as required. In addition to these services, the contractor will provide any parts required for repair of equipment at a fixed percentage above the contractor's cost.

In March 2015, the City issued bid #0215-22 to retain the services of an outside contractor. The bid specifications requested unit prices for hourly rates for licensed technicians, helpers, percent of mark-up for materials/parts for the RCN and for all other City facilities. A contract for the RCN was awarded to The Lee Thompson Company, separate from all other City facilities due to the specific certifications they hold that are required for proper servicing of the Dectron equipment that neither Sentinel A/C & Heating nor AMS held at the time of last year's award. The Facilities Management Division of Public Works has been pleased with the service that The Lee Thompson Company has provided at the RCN this past year. Furthermore, the technicians that are Dectron-Certified to maintain this equipment remain with the firm. We believe this consistency is valuable and will benefit us in the long run.

**SCOPE OF CONTRACT**

Provision of HVAC/refrigeration system repairs at the RCN on an as-needed basis as authorized by the City of Pearland Public Works Department.

**BID AND AWARD**

The Lee Thompson Group has agreed to a contract renewal based on the current allowable CPI increase of 2%. Due to the significant amount of time and effort that has been put forth between the City and Lee Thompson in finding resolutions to past equipment failures and stabilization of the Dectron units, it is recommended by the City's Facilities Management Department that the contract for the RCN location be renewed with The Lee Thompson Company. We did not consider either Sentinel A/C & Heating nor AMS since neither firm holds Dectron certification for maintenance and repair here one year later. The contract for all other City HVAC equipment has been separated from this facility and bid accordingly.

**SCHEDULE**

Repairs and maintenance will be conducted on an as-needed basis, to be determined by the City of Pearland Facilities Division of the Public Works Department.

**POLICY/GOAL CONSIDERATION**

This contract renewal is recommended for the purpose of furthering the City's objective to provide a sustainable infrastructure for public health, safety and welfare, and to maintain the integrity of the RCN's HVAC systems.

**CURRENT AND FUTURE FUNDING /FINANCIAL IMPACTS**

Funding for the purchase of this service will come from the General Fund for Public Works. FY2016 estimate is based on work to date and work in progress. FY2017 contemplates a similar amount of work.

<b>Fiscal Year</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>
Est. Expenditure	\$39,192.00 (est.)	\$60,000.00*(est.)	\$61,200.00* (est.)

### **RECOMMENDED ACTION**

A Resolution of the City Council of the City of Pearland, Texas, renewing a service contract for HVAC/Refrigeration repair and maintenance for the Recreation Center and Natatorium to The Lee Thompson Company in the total estimated amount of \$60,000.00, from May 24, 2016 through May 23, 2017.

EXHIBIT A

Bid No. 0215-22 HVAC Refrigeration Repairs and Maintenance Tabulation

Bid Closed: 3/24/15

				American Mechanical Services of Houston, LLC		Sentinel A/C & Heating		The Lee Thompson Company		The Lee Thompson Company - 2016 With 2% Increase	
				Total Price	\$46,020.00	Total Price	\$49,080.00	Total Price	\$61,580.00		
Line #	Description	QTY	UOM	Unit	Extended	Unit	Extended	Unit	Extended		
<b>1</b>	<b>HVAC Services for all locations excluding the Recreation Center and Natatorium location. Note: any quantities listed are estimates.</b>	<b>1</b>	<b>PKG</b>		<b>\$46,020.00</b>		<b>\$38,885.00</b>		<b>\$50,230.00</b>		
1.1	Technician - Standard Hourly Rate	500	Hours	\$78.00	\$ 39,000	\$70.00	\$ 35,000	\$85.00	\$ 42,500		
1.2	Helper - Standard Hourly Rate	100	Hours	\$68.00	\$ 6,800	\$35.00	\$ 3,500	\$75.00	\$ 7,500		
1.3	Percent mark-up for materials/supplies/parts, based on an annual spend of approximately \$40,000.	1	EA	15	15%	30	30%	35	35%		
1.4	Additional travel cost per call out, if applicable.	1	EA			\$70.00	\$ 70	\$30.00	\$ 30		
1.5	Emergency Repair Rate (Rate which will be charged after standard business hours).	1	EA	\$110.00	\$ 110	\$105.00	\$ 105	\$85.00	\$ 85		
1.6	Minimum charge per call out for emergency repairs (after hours).	1	EA	\$110.00	\$ 110	\$210.00	\$ 210	\$115.00	\$ 115		
<b>2</b>	<b>HVAC Services for only the Recreation Center and Natatorium location.</b>	<b>1</b>	<b>PKG</b>	<b>\$0.00</b>	<b>\$0.00</b>		<b>\$10,195.00</b>		<b>\$11,350.00</b>	<b>\$ 11,612.00</b>	
2.1	Technician - Standard Hourly Rate	100	Hours			\$90.00	\$ 9,000	\$95.00	\$ 9,500.00	\$ 96.90	\$ 9,690.00
2.2	Helper - Standard Hourly Rate	20	Hours			\$35.00	\$ 700	\$75.00	\$ 1,500.00	\$ 76.50	\$ 1,530.00
2.3	Percent mark-up for materials/supplies/parts, based on an annual spend of approximately \$10,000.	1	EA			30	30%	35	35%	\$ 35.00	\$ 35.00
2.4	Additional travel cost per call out, if applicable.	1	EA			\$90.00	\$ 90	\$30.00	\$ 30.00	\$ 30.60	\$ 30.60
2.5	Emergency Repair Rate (Rate which will be charged after standard business hours).	1	EA			\$135.00	\$ 135	\$95.00	\$ 95.00	\$ 96.90	\$ 96.90
2.6	Minimum charge per call out for emergency repairs (after hours).	1	EA			\$270.00	\$ 270	\$225.00	\$ 225.00	\$ 229.50	\$ 229.50



## City of Pearland

3519 Liberty Drive  
 Pearland, Texas 77581  
 Tel: 281.652.1621  
 pearlandtx.gov

April 6, 2016

The Lee Thompson Group  
 Attn: Scott Thompson  
 2313 Langston St.  
 Houston, TX 77007

Reference: City of Pearland Contract for HVAC Refrigeration Repairs and Maintenance at RCN – Renewal Inquiry

Dear Mr. Scott Thompson:

Please be advised that the City of Pearland proposes to exercise its renewal option on the current contract with The Lee Thompson Group for HVAC Refrigeration Repairs and Maintenance at RCN, per the bid specifications of City bid #0215-22, resolution #R2015-66. The terms and conditions set forth in bid specifications allow for two (2) one-year renewal periods, at the awarded pricing or within a commensurate percentage increase in the "All Items" category of the Consumer Price Index (CPI), Houston-Galveston-Brazoria region during the initial contract period. The first renewal term would begin on May 18, 2016 and expire on May 17, 2017. The details of the agreement are as follows:

Line #	Description	QTY	UOM	Unit	Extended
2.1	Technician - Standard Hourly Rate	100	Hours	\$95.00	\$ 9,500.00
2.2	Helper - Standard Hourly Rate	20	Hours	\$75.00	\$ 1,500.00
2.3	Percent mark-up for materials/supplies/parts, based on an annual spend of approximately \$10,000.	1	EA	35%	
2.4	Additional travel cost per call out, if applicable.	1	EA	\$30.00	\$ 30.00
2.5	Emergency Repair Rate (Rate which will be charged after standard business hours).	1	EA	\$95.00	\$ 95.00
2.6	Minimum charge per call out for emergency repairs (after hours).	1	EA	\$225.00	\$ 225.00

If you find the above stated terms satisfactory, please sign and date this letter and return it to City of Pearland Purchasing Division, via email to [jblackmore@pearlandtx.gov](mailto:jblackmore@pearlandtx.gov).

Sincerely,  
 Julie Blackmore  
 Buyer

ACCEPTED

*Scott Thompson*  
 The Lee Thompson Group

DATE:

*12 April 16*

*Increase 2% per contract specs.*

*+*  
*2%*  
*2%*  
*2%*  
*2%*

**RESOLUTION NO. R2015-75**

**A Resolution of the City Council of the City of Pearland, Texas, renewing a bid for HVAC repair and maintenance services for the Recreation and Natatorium (RCN) to the Lee Thompson Company, in the estimated amount of \$60,000.00 for the period of May 24, 2016 through May 23, 2017.**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS:**

**Section 1.** That the City previously obtained unit supply pricing for HVAC repair and maintenance services, and such bid was awarded.

**Section 2.** That the City Council hereby renews a bid with The Lee Thompson Co., in the unit supply amounts reflected in Exhibit "A" attached hereto.

**Section 3.** The City Manager or his designee is hereby authorized to execute a contract for HVAC repair and maintenance services.

PASSED, APPROVED and ADOPTED this the \_\_\_\_ day of \_\_\_\_\_, A.D., 2016.

\_\_\_\_\_  
TOM REID  
MAYOR

ATTEST:

\_\_\_\_\_  
YOUNG LORFING, TRMC  
CITY SECRETARY

APPROVED AS TO FORM:

\_\_\_\_\_  
DARRIN M. COKER  
CITY ATTORNEY

**AGENDA REQUEST  
BUSINESS OF THE CITY COUNCIL  
CITY OF PEARLAND, TEXAS**

<b>AGENDA OF:</b>	May 23, 2016	<b>ITEM NO.:</b>	R2016-90
<b>DATE SUBMITTED:</b>	May 12, 2016	<b>DEPT. OF ORIGIN:</b>	Finance
<b>PREPARED BY:</b>	Rick Overgaard	<b>PRESENTOR:</b>	Rick Overgaard
<b>REVIEWED BY:</b>	Jon R. Branson	<b>REVIEW DATE:</b>	May 17, 2016
<b>SUBJECT:</b> Resolution 2016-90 A resolution of the City Council of the City of Pearland, Texas, authorizing the City Manager or his designee to enter into a contract for audit services with Whitley Penn in the amount of \$77,800.00.			
<b>EXHIBITS:</b> Resolution 2016-90 Engagement Letter			
<b>FUNDING:</b>			
<input type="checkbox"/> Grant <input type="checkbox"/> Developer/Other <input checked="" type="checkbox"/> Cash Opns <input type="checkbox"/> Bonds To Be Sold <input type="checkbox"/> Bonds- Sold <input type="checkbox"/> L/P – Sold <input type="checkbox"/> L/P – To Be Sold			
<b>EXPENDITURE REQUIRED:</b> \$77,800		<b>AMOUNT BUDGETED:</b> \$77,800– FY17	
<b>AMOUNT AVAILABLE:</b> \$77,800		<b>PROJECT NO.:</b> N/A	
<b>ACCOUNT NO:</b> 100-130-100.5400.050			
<b>ADDITIONAL APPROPRIATION REQUIRED:</b> N/A			
<b>ACCOUNT NO.:</b> N/A			
<b>PROJECT NO.:</b> N/A			
<b>To be completed by Department:</b>			
Finance	X Legal	Ordinance	X Resolution

**EXECUTIVE SUMMARY**

**BACKGROUND**

State Statute requires that a municipality shall have its records and accounts audited annually and shall have an annual financial statement prepared based on the audit. A municipality shall employ a certified public accountant who is licensed in this state or a public accountant who holds a permit to practice from the Texas State Board of Public Accountancy to conduct the audit and to prepare the annual financial statement.

The City engaged the auditing services of Whitley Penn LLP beginning with the audit for fiscal year 2014 through 2016 and have been pleased with their work. The engagement followed after review and analysis of Request for Proposals received in fiscal year 2013.

### **POLICY/GOAL CONSIDERATION**

Strategic Priority – Fiscally Responsible

Excerpt from City's Financial Policy Statements regarding selection of auditors:

A. *Selection of Auditors*

At least every seven years, the City shall request proposals from qualified firms, including the current auditors if their past performance has been satisfactory. The City Council shall select an independent firm of certified public accountants to perform an annual audit of the accounts and records, and render an opinion on the financial statements of the City.

It is the City's preference to rotate auditor firms every seven years at the maximum, to ensure that the City's financial statements are reviewed and audited with an objective, impartial, and unbiased point of view. The rotation of the audit firm will be based upon the proposals received, the qualifications of the firm, and the firm's ability to perform a quality audit.

However, if through the proposal and review process, management and the Audit Committee select the current audit firm, then, it is the City's preference that the lead audit partner be rotated as well as the lead reviewer after a maximum of seven years.

### **BID AND AWARD**

Since professional services do not need to bid and staff and management are pleased with the current auditor's thoroughness and professionalism, staff is recommending engaging the auditing services of Whitley Penn LLP for the fiscal year ending September 30, 2016. Interim audit field work would begin the summer of 2016.

### **SCOPE OF CONTRACT**

To audit and opine on the City's fiscal year 2016 financial statements' conformity with U.S. generally-accepted accounting principles, specifically with respect to governmental and business-type activities, the blended component units, each major fund, and the aggregate remaining fund information, which collectively comprise the basic financial statements of the City. Required services also include the City's Federal Single Audit report for expenditures associated with federal grant awards. The scope of work also includes reporting on internal controls and compliance with laws, regulations, and the provisions of contracts or grant agreements, noncompliance with which could have a material effect on the financial statements or on each major grant program in accordance with Government Auditing Standards and the Single Audit Act Amendments of 1996.

### **SCHEDULE**

Interim audit field work would begin in summer 2016 with final audit work in November/December 2016. We anticipate a schedule that would have a draft Comprehensive Annual Financial Report to City staff in January of 2017 with the actual report filed with City Council in February of 2017. The City Council Audit Committee would meet with staff and the auditors prior to in-depth audit procedures and upon completion of the audit. If at any time

during the audit where any substantial issues/concerns arise, an audit committee meeting would be called.

**O&M IMPACT INFORMATION**

Fiscal Year	2017	2018
	\$77,800*	Est \$80,100*

\*Costs based on two major programs for single audit

**RECOMMENDED ACTION**

Consideration and approval of Resolution 2016-90 authorizing the City Manager, or his designee, to engage the firm of Whitley Penn for the City of Pearland's annual audit and preparation of the Comprehensive Annual Financial Report for the period ended September 30, 2016.

**RESOLUTION NO. R2016-90**

**A Resolution of the City Council of the City of Pearland, Texas, authorizing the City Manager or his designee to enter into a contract for audit services with Whitley Penn in the amount of \$77,800.00.**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS:**

**Section 1.** That engagement letter for audit services, a copy of which is attached hereto as Exhibit "A" and made a part hereof for all purposes, is hereby authorized and approved.

**Section 2.** That the City Manager or his designee is hereby authorized to execute and the City Secretary to attest an engagement letter for audit services.

PASSED, APPROVED and ADOPTED this the \_\_\_\_\_ day of \_\_\_\_\_,  
A.D., 2016.

\_\_\_\_\_  
TOM REID  
MAYOR

ATTEST:

\_\_\_\_\_  
YOUNG LORFING, TRMC  
CITY SECRETARY

APPROVED AS TO FORM:

\_\_\_\_\_  
DARRIN M. COKER  
CITY ATTORNEY

## EXHIBIT A



Houston Office  
3411 Richmond Avenue  
Suite 500  
Houston, Texas 77046  
713.621.1515 Main  
whitleypenn.com

May 10, 2016

To the Honorable Mayor, Members of  
City Council and the City Manager  
City of Pearland, Texas

We are pleased to confirm our understanding of the services we are to provide City of Pearland, Texas (the "City") for the year ended September 30, 2016. We will audit the financial statements of the governmental activities, the business-type activities, each major fund, and the aggregate remaining fund information, including the related notes to the financial statements, which collectively comprise the basic financial statements, of the City as of and for the year ended September 30, 2016. Accounting standards generally accepted in the United States of America provide for certain required supplementary information (RSI), such as management's discussion and analysis (MD&A), to supplement the City's basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. As part of our engagement, we will apply certain limited procedures to the City's RSI in accordance with auditing standards generally accepted in the United States of America. These limited procedures will consist of inquiries of management regarding the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We will not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance. The following RSI is required by generally accepted accounting principles and will be subjected to certain limited procedures, but will not be audited:

- 1) Management's discussion and analysis
- 2) General fund budgetary comparison schedule
- 3) Required pension supplementary information
- 4) Required other post-employment benefit supplementary information

We have also been engaged to report on supplementary information other than RSI that accompanies the City's financial statements. We will subject the following supplementary information to the auditing procedures applied in our audit of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America, and we will provide an opinion on it in relation to the financial statements as a whole, in a separate written report accompanying our auditor's report on the financial statements or in a report combined with our auditor's report on the financial statements:

- 1) Schedule of expenditures of federal awards.
- 2) Combining and individual fund statements and schedules
- 3) Budgetary comparison schedules
- 4) Long-term debt amortization schedules

The following other information accompanying the financial statements will not be subjected to the auditing procedures applied in our audit of the financial statements, and our auditor's report will not provide an opinion or any assurance on that other information.

- 1) Introductory section
- 2) Statistical section

### **Audit Objectives**

The objective of our audit is the expression of opinions as to whether your financial statements are fairly presented, in all material respects, in conformity with U.S. generally accepted accounting principles and to report on the fairness of the supplementary information referred to in the second paragraph when considered in relation to the financial statements as a whole. The objective also includes reporting on—

- Internal control over financial reporting and compliance with provisions of laws, regulations, contracts, and award agreements, noncompliance with which could have a material effect on the financial statements in accordance with *Government Auditing Standards*.
- Internal control over compliance related to major programs and an opinion (or disclaimer of opinion) on compliance with federal statutes, regulations, and the terms and conditions of federal awards that could have a direct and material effect on each major program in accordance with the Single Audit Act Amendments of 1996 and Title 2 U.S. *Code of Federal Regulations* (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance).

The *Government Auditing Standards* report on internal control over financial reporting and on compliance and other matters will include a paragraph that states that (1) the purpose of the report is solely to describe the scope of testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the entity's internal control or on compliance, and (2) the report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the entity's internal control and compliance. The Uniform Guidance report on internal control over compliance will include a paragraph that states that the purpose of the report on internal control over compliance is solely to describe the scope of testing of internal control over compliance and the results of that testing based on the requirements of the Uniform Guidance. Both reports will state that the report is not suitable for any other purpose.

Our audit will be conducted in accordance with auditing standards generally accepted in the United States of America; the standards for financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; the Single Audit Act Amendments of 1996; and the provisions of the Uniform Guidance, and will include tests of accounting records, a determination of major program(s) in accordance with the Uniform Guidance, and other procedures we consider necessary to enable us to express such opinions. We will issue written reports upon completion of our single audit. Our reports will be addressed to the Honorable Mayor, Members of City Council and the City Manager of the City. We cannot provide assurance that unmodified opinions will be expressed. Circumstances may arise in which it is necessary for us to modify our opinions or add emphasis-of-matter or other-matter paragraphs. If our opinions on the financial statements or the single audit compliance opinions are other than unmodified, we will discuss the reasons with you in advance. If circumstances occur related to the condition of your records, the availability of sufficient, appropriate audit evidence, or the existence of a significant risk of material misstatement of the financial statements caused by error, fraudulent financial reporting, or misappropriation of assets, which in our professional judgment prevent us from completing the audit or forming an opinion on the financial statements, we retain the right to take any course of action permitted by professional standards, including declining to express an opinion or issue a report, or withdrawing from the engagement.

### **Audit Procedures—General**

An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements; therefore, our audit will involve judgment about the number of transactions to be examined and the areas to be tested. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall

presentation of the financial statements. We will plan and perform the audit to obtain reasonable rather than absolute assurance about whether the financial statements are free of material misstatement, whether from (1) errors, (2) fraudulent financial reporting, (3) misappropriation of assets, or (4) violations of laws or governmental regulations that are attributable to the government or to acts by management or employees acting on behalf of the government. Because the determination of abuse is subjective, *Government Auditing Standards* do not expect auditors to provide reasonable assurance of detecting abuse.

Because of the inherent limitations of an audit, combined with the inherent limitations of internal control, and because we will not perform a detailed examination of all transactions, there is a risk that material misstatements or noncompliance may exist and not be detected by us, even though the audit is properly planned and performed in accordance with U.S. generally accepted auditing standards and *Government Auditing Standards*. In addition, an audit is not designed to detect immaterial misstatements or violations of laws or governmental regulations that do not have a direct and material effect on the financial statements or major programs. However, we will inform the appropriate level of management of any material errors, any fraudulent financial reporting, or misappropriation of assets that come to our attention. We will also inform the appropriate level of management of any violations of laws or governmental regulations that come to our attention, unless clearly inconsequential, and of any material abuse that comes to our attention. We will include such matters in the reports required for a single audit. Our responsibility as auditors is limited to the period covered by our audit and does not extend to any later periods for which we are not engaged as auditors.

Our procedures will include tests of documentary evidence supporting the transactions recorded in the accounts, and may include tests of the physical existence of inventories, and direct confirmation of receivables and certain other assets and liabilities by correspondence with selected individuals, funding sources, creditors, and financial institutions. We will request written representations from your attorneys as part of the engagement, and they may bill you for responding to this inquiry. At the conclusion of our audit, we will require certain written representations from you about your responsibilities for the financial statements; schedule of expenditures of federal awards; federal award programs; compliance with laws, regulations, contracts, and grant agreements; and other responsibilities required by generally accepted auditing standards.

#### **Audit Procedures—Internal Control**

Our audit will include obtaining an understanding of the government and its environment, including internal control, sufficient to assess the risks of material misstatement of the financial statements and to design the nature, timing, and extent of further audit procedures. Tests of controls may be performed to test the effectiveness of certain controls that we consider relevant to preventing and detecting errors and fraud that are material to the financial statements and to preventing and detecting misstatements resulting from illegal acts and other noncompliance matters that have a direct and material effect on the financial statements. Our tests, if performed, will be less in scope than would be necessary to render an opinion on internal control and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to *Government Auditing Standards*.

As required by the Uniform Guidance, we will perform tests of controls over compliance to evaluate the effectiveness of the design and operation of controls that we consider relevant to preventing or detecting material noncompliance with compliance requirements applicable to each major federal award program. However, our tests will be less in scope than would be necessary to render an opinion on those controls and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to the Uniform Guidance.

An audit is not designed to provide assurance on internal control or to identify significant deficiencies or material weaknesses. However, during the audit, we will communicate to management and those charged with governance internal control related matters that are required to be communicated under AICPA professional standards, *Government Auditing Standards*, and the Uniform Guidance.

### **Audit Procedures—Compliance**

As part of obtaining reasonable assurance about whether the financial statements are free of material misstatement, we will perform tests of the City's compliance with provisions of applicable laws, regulations, contracts, and agreements, including grant agreements. However, the objective of those procedures will not be to provide an opinion on overall compliance and we will not express such an opinion in our report on compliance issued pursuant to *Government Auditing Standards*.

The Uniform Guidance requires that we also plan and perform the audit to obtain reasonable assurance about whether the auditee has complied with applicable federal statutes, regulations, and the terms and conditions of federal awards applicable to major programs. Our procedures will consist of tests of transactions and other applicable procedures described in the OMB *Compliance Supplement* for the types of compliance requirements that could have a direct and material effect on each of the City's major programs. The purpose of these procedures will be to express an opinion on the City's compliance with requirements applicable to each of its major programs in our report on compliance issued pursuant to the Uniform Guidance.

### **Other Services**

We will also assist in preparing the financial statements, schedule of expenditures of federal awards, and related notes of the City in conformity with U.S. generally accepted accounting principles and the Uniform Guidance based on information provided by you. These nonaudit services do not constitute an audit under *Government Auditing Standards* and such services will not be conducted in accordance with *Government Auditing Standards*.

### **Management Responsibilities**

Management is responsible for (1) establishing and maintaining effective internal controls, including internal controls over federal awards, and for evaluating and monitoring ongoing activities, to help ensure that appropriate goals and objectives are met; (2) following laws and regulations; (3) ensuring that there is reasonable assurance that government programs are administered in compliance with compliance requirements; and (4) ensuring that management and financial information is reliable and properly reported. Management is also responsible for implementing systems designed to achieve compliance with applicable laws, regulations, contracts, and grant agreements. You are also responsible for the selection and application of accounting principles; for the preparation and fair presentation of the financial statements, schedule of expenditures of federal awards, and all accompanying information in conformity with U.S. generally accepted accounting principles; and for compliance with applicable laws and regulations (including federal statutes) and the provisions of contracts and grant agreements (including award agreements).

Management is also responsible for making all financial records and related information available to us and for the accuracy and completeness of that information. You are also responsible for providing us with (1) access to all information of which you are aware that is relevant to the preparation and fair presentation of the financial statements, (2) access to personnel, accounts, books, records, supporting documentation, and other information as needed to perform an audit under the Uniform Guidance, (3) additional information that we may request for the purpose of the audit, and (4) unrestricted access to persons within the government from whom we determine it necessary to obtain audit evidence.

Your responsibilities also include identifying significant contractor relationships in which the contractor has responsibility for program compliance and for the accuracy and completeness of that information. Your responsibilities include adjusting the financial statements to correct material misstatements and confirming to us in the management representation letter that the effects of any uncorrected misstatements aggregated by us during the current engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statements taken as a whole.

You are responsible for the design and implementation of programs and controls to prevent and detect fraud, and for informing us about all known or suspected fraud affecting the government involving (1) management, (2) employees who have significant roles in internal control, and (3) others where the fraud could have a material effect on the financial statements. Your responsibilities include informing us of your knowledge of any allegations of fraud or suspected fraud affecting the government received in communications from employees, former employees, grantors, regulators, or others. In addition, you are responsible for identifying and ensuring that the government complies with applicable laws, regulations, contracts, agreements, and grants. Management is also responsible for taking timely and appropriate steps to remedy fraud and noncompliance with provisions of laws, regulations, contracts, and grant agreements, or abuse that we report. Additionally, as required by the Uniform Guidance, it is management's responsibility to evaluate and monitor noncompliance with federal statutes, regulations, and the terms and conditions of federal awards; take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings; promptly follow up and take corrective action on reported audit findings; and prepare a summary schedule of prior audit findings and a separate corrective action plan.

You are responsible for identifying all federal awards received and understanding and complying with the compliance requirements and for the preparation of the schedule of expenditures of federal awards (including notes and noncash assistance received) in conformity with the Uniform Guidance. You agree to include our report on the schedule of expenditures of federal awards in any document that contains and indicates that we have reported on the schedule of expenditures of federal awards. You also agree to make the audited financial statements readily available to intended users of the schedule of expenditures of federal awards no later than the date the schedule of expenditures of federal awards is issued with our report thereon. Your responsibilities include acknowledging to us in the written representation letter that (1) you are responsible for presentation of the schedule of expenditures of federal awards in accordance with the Uniform Guidance; (2) you believe the schedule of expenditures of federal awards, including its form and content, is stated fairly in accordance with the Uniform Guidance; (3) the methods of measurement or presentation have not changed from those used in the prior period (or, if they have changed, the reasons for such changes); and (4) you have disclosed to us any significant assumptions or interpretations underlying the measurement or presentation of the schedule of expenditures of federal awards.

You are also responsible for the preparation of the other supplementary information, which we have been engaged to report on, in conformity with U.S. generally accepted accounting principles. You agree to include our report on the supplementary information in any document that contains, and indicates that we have reported on, the supplementary information. You also agree to include the audited financial statements with any presentation of the supplementary information that includes our report thereon. Your responsibilities include acknowledging to us in the written representation letter that (1) you are responsible for presentation of the supplementary information in accordance with GAAP; (2) you believe the supplementary information, including its form and content, is fairly presented in accordance with GAAP; (3) the methods of measurement or presentation have not changed from those used in the prior period (or, if they have changed, the reasons for such changes); and (4) you have disclosed to us any significant assumptions or interpretations underlying the measurement or presentation of the supplementary information.

Management is responsible for establishing and maintaining a process for tracking the status of audit findings and recommendations. Management is also responsible for identifying and providing report copies of previous financial audits, attestation engagements, performance audits, or other studies related to the objectives discussed in the Audit Objectives section of this letter. This responsibility includes relaying to us corrective actions taken to address significant findings and recommendations resulting from those audits, attestation engagements, performance audits, or studies. You are also responsible for providing management's views on our current findings, conclusions, and recommendations, as well as your planned corrective actions, for the report, and for the timing and format for providing that information.

With regard to using the auditor's report, you understand that you must obtain our prior written consent to reproduce or use our report in bond offering official statements or other documents.

With regard to the electronic dissemination of audited financial statements, including financial statements published electronically on your website, you understand that electronic sites are a means to distribute information and, therefore, we are not required to read the information contained in these sites or to consider the consistency of other information in the electronic site with the original document.

You agree to assume all management responsibilities relating to the financial statements, schedule of expenditures of federal awards, and related notes, and any other nonaudit services we provide. You will be required to acknowledge in the management representation letter our assistance with preparation of the financial statements, schedule of expenditures of federal awards, and related notes and that you have reviewed and approved the financial statements, schedule of expenditures of federal awards, and related notes prior to their issuance and have accepted responsibility for them. Further, you agree to oversee the nonaudit services by designating an individual, preferably from senior management, with suitable skill, knowledge, or experience; evaluate the adequacy and results of those services; and accept responsibility for them.

#### **Engagement Administration, Fees, and Other**

We understand that your employees will prepare all cash, accounts receivable, or other confirmations and schedules we request and will locate any documents selected by us for testing. We will schedule the engagement based in part on deadlines, working conditions, and the availability of your key personnel. We will plan the engagement based on the assumption that your personnel will cooperate and provide assistance by performing tasks such as preparing requested schedules, retrieving supporting documents, and preparing confirmations. If for whatever reason your personnel are unavailable to provide the necessary assistance in a timely manner, it may substantially increase the work we have to do to complete the engagement within the established deadlines, resulting in an increase in fees over our original fee estimate.

At the conclusion of the engagement, we will complete the appropriate sections of the Data Collection Form that summarizes our audit findings. It is management's responsibility to electronically submit the reporting package (including financial statements, schedule of expenditures of federal awards, summary schedule of prior audit findings, auditors' reports, and corrective action plan) along with the Data Collection Form to the federal audit clearinghouse. We will coordinate with you the electronic submission and certification. If applicable, we will provide copies of our report for you to include with the reporting package you will submit to pass-through entities. The Data Collection Form and the reporting package must be submitted within the earlier of 30 calendar days after receipt of the auditor's reports or nine months after the end of the audit period.

We will provide copies of our reports to the Honorable Mayor and Members of City Council; however, management is responsible for distribution of the reports and the financial statements. Unless restricted by law or regulation, or containing privileged and confidential information, copies of our reports are to be made available for public inspection.

The audit documentation for this engagement is the property of Whitley Penn, LLP and constitutes confidential information. However, subject to applicable laws and regulations, audit documentation and appropriate individuals will be made available upon request and in a timely manner to a cognizant or oversight agency or its designee, a federal agency providing direct or indirect funding, or the U.S. Government Accountability Office for purposes of a quality review of the audit, to resolve audit findings, or to carry out oversight responsibilities. We will notify you of any such request. If requested, access to such audit documentation will be provided under the supervision of Whitley Penn, LLP personnel. Furthermore, upon request, we may provide copies of selected audit documentation to the aforementioned parties. These parties may intend, or decide, to distribute the copies or information contained therein to others, including other governmental agencies.

The audit documentation for this engagement will be retained for a minimum of five years after the report release date or for any additional period requested by the a cognizant agency, oversight agency for audit, or pass-through entity. If we are aware that a federal awarding agency, pass-through entity, or auditee is contesting an audit finding, we will contact the party(ies) contesting the audit finding for guidance prior to destroying the audit documentation.

We expect to begin our audit in June 2016 and to issue our reports by February 2017. Christopher L. Breaux, CPA is the engagement partner and is responsible for supervising the engagement and signing the reports or authorizing another individual to sign them.

Our fee for these services will be at our standard hourly rates plus out-of-pocket costs (such as report reproduction, word processing, postage, travel, copies, telephone, etc.) except that we agree that our gross fee, including expenses, will not exceed \$77,800 as described below.

Financial statement audit fee	\$68,000
Base single audit fee (one major program)	\$5,500
Fee for each major program	\$4,300
Maximum all-inclusive estimate	\$77,800

Our standard hourly rates vary according to the degree of responsibility involved and the experience level of the personnel assigned to your audit. Our invoices for these fees will be rendered each month as work progresses and are payable on presentation. In accordance with our firm policies, work may be suspended if your account becomes 30 days or more overdue and may not be resumed until your account is paid in full. If we elect to terminate our services for nonpayment, our engagement will be deemed to have been completed upon written notification of termination, even if we have not completed our reports. You will be obligated to compensate us for all time expended and to reimburse us for all out-of-pocket costs through the date of termination. The above fee is based on anticipated cooperation from your personnel and the assumption that unexpected circumstances will not be encountered during the audit. If significant additional time is necessary, we will discuss it with you and arrive at a new fee estimate before we incur the additional costs.

We would like to make the following comments regarding the fee estimates:

1. Any weaknesses noted in internal control may affect the nature, timing, and extent of our audit procedures.
2. Our fee estimates have not considered the effects of any changes to auditing standards and accounting principles, which may be promulgated by the AICPA, Congress or any other regulatory body in the future and are unknown to us at this time. If significant additional time is necessary resulting in increased fees, we will endeavor to notify you of any such circumstances as they are assessed.
3. The City's personnel is responsible for the preparation of all items requested in the "PBC listing" and for providing them to us by the dated requested. Any delays caused by not preparing items when requested may result in additional fees, as well as the possibility of postponing our fieldwork. The "PBC Listing" will be provided to you during the planning process of the engagement.
4. Time incurred for audit adjustments identified during our audit and the related additional testing required, has not been considered in our fee estimates. Prior to performing any additional testing, we will notify you of the expectations and we will obtain your approval for any additional fees which may be incurred.

You have requested that we provide you with a copy of our most recent external peer review report and any subsequent reports received during the contract period. Accordingly, our 2015 peer review report accompanies this letter.

To the Honorable Mayor, Members of  
City Council and the City Manager  
City of Pearland, Texas  
Page 8

We appreciate the opportunity to be of service to City of Pearland, Texas and believe this letter accurately summarizes the significant terms of our engagement. If you have any questions, please let us know. If you agree with the terms of our engagement as described in this letter, please sign the enclosed copy and return it to us.

Very truly yours,

*Whitley Penn LLP*

RESPONSE:

This letter correctly sets forth the understanding of City of Pearland, Texas.

Management signature: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Governance signature: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_



**SYSTEM REVIEW REPORT**

June 25, 2015

To the Partners of Whitley Penn LLP and the  
National Peer Review Committee of the AICPA

We have reviewed the system of quality control for the accounting and auditing practice of Whitley Penn LLP (the Firm) applicable to engagements not subject to PCAOB permanent inspection in effect for the year ended April 30, 2015. Our peer review was conducted in accordance with the Standards for Performing and Reporting on Peer Reviews established by the Peer Review Board of the American Institute of Certified Public Accountants. As part of our peer review, we considered reviews by regulatory entities, if applicable, in determining the nature and extent of our procedures. The Firm is responsible for designing a system of quality control and complying with it to provide the Firm with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. Our responsibility is to express an opinion on the design of the system of quality control and the Firm's compliance therewith based on our review. The nature, objectives, scope, limitations of, and the procedures performed in a System Review are described in the standards at [www.aicpa.org/prsummary](http://www.aicpa.org/prsummary).

As required by the standards, engagements selected for review included engagements performed under *Government Auditing Standards*, audits of employee benefit plans, audits performed under FDICIA, audits of carrying broker-dealers, and examinations of service organizations (Service Organization Control (SOC) 1 engagements).

In our opinion, the system of quality control for the accounting and auditing practice of Whitley Penn LLP applicable to engagements not subject to PCAOB permanent inspection in effect for the year ended April 30, 2015, has been suitably designed and complied with to provide the Firm with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. Firms can receive a rating of *pass*, *pass with deficiency(ies)* or *fail*. Whitley Penn LLP has received a peer review rating of *pass*.

Olsen Thielen & Co., Ltd.

A handwritten signature in black ink that reads "Olsen Thielen &amp; Co., Ltd." in a cursive script.

**AGENDA REQUEST  
BUSINESS OF THE CITY COUNCIL  
CITY OF PEARLAND, TEXAS**

<b>AGENDA OF:</b> May 23, 2016	<b>ITEM NO.:</b> R2016-85
<b>DATE SUBMITTED:</b> May 16, 2016	<b>DEPT. OF ORIGIN:</b> Engineering & Capital Projects
<b>PREPARED BY:</b> Sue Polka, P.E.	<b>PRESENTOR:</b> Sue Polka, P.E.
<b>REVIEWED BY:</b> Trent Epperson	<b>REVIEW DATE:</b> May 16, 2016
<b>SUBJECT: Resolution No. R2016-85; A Resolution of the City Council of the City of Pearland, Texas, appointing the City's Planning and Zoning Commission as its Capital Improvements Advisory Committee, and adopting a rules of procedure.</b>	
<b>EXHIBITS: A – Water and Wastewater Impact Fee Schedule; Resolution No. R2016-85</b>	
<b>FUNDING:</b> <input type="checkbox"/> Grant <input type="checkbox"/> Developer/Other <input type="checkbox"/> Cash <input type="checkbox"/> Bonds To Be Sold <input type="checkbox"/> Bonds- Sold <input type="checkbox"/> L/P – Sold <input type="checkbox"/> L/P – To Be Sold	
<b>EXPENDITURE REQUIRED:</b> N/A <b>AMOUNT AVAILABLE:</b> N/A <b>ACCOUNT NO.:</b> <b>ADDITIONAL APPROPRIATION REQUIRED:</b> <b>ACCOUNT NO.:</b> <b>PROJECT NO.:</b>	<b>AMOUNT BUDGETED:</b> N/A <b>PROJECT NO.:</b>
<b>To be completed by Department:</b> <input checked="" type="checkbox"/> Finance <input checked="" type="checkbox"/> Legal <input type="checkbox"/> Ordinance <input checked="" type="checkbox"/> Resolution	

**EXECUTIVE SUMMARY**

**BACKGROUND**

Chapter 395 of the Texas Local Government Code requires an impact fee analysis before impact fees can be assessed. The land use assumptions and capital improvement plan associated with the impact fees must be updated at least every five years. On March 14, 2016, the City Council authorized Freese and Nichols, Ins. (FNI) to update the 2012 Impact Fee Study for the City's water and wastewater systems. City staff has been working with FNI to prepare this study and is in the process of completing the Draft Impact Fee Study update. In Chapter 395, Sec 395.058 requires that (a) On or before the date on which the order, ordinance, or resolution is adopted under Section 395.042, the political subdivision shall appoint a capital improvement advisory committee (CIAC). (b) ...If the political subdivision has a planning and zoning commission, the commission may act as the advisory committee

if the commission includes at least one representative of the real estate, development, or building industry who is not an employee or official of a political subdivision or governmental entity. The purpose of the CIAC is to review the Draft Impact Fee Study and provide comments on the proposed impact fees to the City Council prior to the fifth business day before the date of the public hearing on the imposition of the fees.

**SCHEDULE**

The Schedule is attached as Exhibit A.

**RECOMMENDED ACTION**

Staff recommends the appointment of the Planning and Zoning Committee as the Capital Improvements Advisory Committee (CIAC) as described in Chapter 395, Texas Local Government Code.

# WATER AND WASTEWATER IMPACT FEE SCHEDULE



APRIL 26, 2016

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Action Item	Date	Action By	Complete
Notice To Proceed	4/6/2016	City Staff	✓
Project Kickoff Meeting	4/26/2016	City Staff, FNI	✓
Data Gathering	By 5/20/2016	City Staff	
Market Study Update	By 6/6/2016	City Staff	
Develop Updated Water Demands, Wastewater Flows, and Land Use Assumptions	By 6/24/2016	FNI	
Progress Meeting #1 – Population, Land Use Assumptions (LUA), & Demand/Load Projections	By 6/24/2016	City Staff, FNI	
Develop Water and Wastewater Impact Fee CIP	By 7/22/2016	FNI	
Progress Meeting #2 - Impact Fee CIP	By 7/22/2016	City Staff, FNI	
CIAC Workshop – Impact Fees 101	8/1/2016	City Staff, FNI, CIAC	
Preliminary Draft Impact Fee Report to Staff	8/12/2016	FNI	
Progress Meeting #3 – Review Draft Report	By 9/2/2016	City Staff, FNI	
Revised Draft Impact Fee Report to CIAC	By 9/16/2016	FNI	
<i>Complete Agenda Item for CIAC Workshop</i>	<i>9/19/2016</i>	<i>City Staff</i>	
CIAC Workshop – LUA, CIP & Draft Impact Fees	10/3/2016	City Staff, FNI, CIAC	
<i>CIAC Submit Written Comments to Council</i>	<i>10/4/2016</i>	<i>City Staff, CIAC</i>	
<i>Complete Agenda Item for Council Resolution on Public Hearing</i>	<i>10/4/2016</i>	<i>City Staff</i>	
Council Resolution on Public Hearing for Impact Fees	10/10/2016	City Staff, City Council	
<i>Submit Advertising for Public Hearing for Impact Fees</i>	<i>10/28/2016</i>	<i>City Staff</i>	
Advertise Public Hearing for Impact Fees	By 11/4/2016	Newspaper	
<i>Complete Agenda Item for Public Hearing #2 for Impact Fees</i>	<i>12/5/2016</i>	<i>City Staff</i>	
Public Hearing - Impact Fees Adopt Ordinance Implementing Impact Fees	12/12/2016	City Staff, FNI, City Council	
Submit Final Impact Fee Report	12/23/2016	FNI	

**RESOLUTION NO. R2016-85**

**A Resolution of the City Council of the City of Pearland, Texas, appointing the City's Planning and Zoning Commission as its Capital Improvements Advisory Committee, and adopting a rules of procedure.**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS:**

**Section 1.** That pursuant to Texas LGC § 395.058 the City Council hereby appoints the members of the City's Planning and Zoning Commission as the City's Capital Improvements Advisory Committee.

**Section 2.** That the City Council hereby adopts the Planning and Zoning Commission's Rules of Procedure as the procedural rules for the Capital Improvements Advisory Committee.

PASSED, APPROVED, AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, A.D., 2016.

\_\_\_\_\_  
TOM REID  
MAYOR

ATTEST:

\_\_\_\_\_  
YOUNG LORFING, TRMC  
CITY SECRETARY

APPROVED AS TO FORM:

\_\_\_\_\_  
DARRIN M. COKER  
CITY ATTORNEY

**AGENDA REQUEST  
BUSINESS OF THE CITY COUNCIL  
CITY OF PEARLAND, TEXAS**

<b>AGENDA OF:</b> May 23, 2016	<b>ITEM NO.:</b> Resolution No. R2016-89				
<b>DATE SUBMITTED:</b> May 16, 2016	<b>DEPT. OF ORIGIN:</b> PEDC				
<b>PREPARED BY:</b> Valerie Marvin	<b>PRESENTOR:</b> Matt Buchanan				
<b>REVIEWED BY:</b> Matt Buchanan	<b>REVIEW DATE:</b> May 17, 2016				
 <b>SUBJECT:</b> Resolution No. R2016-89: A Resolution of the City Council of the City of Pearland, Texas, authorizing the City Manager or his designee to enter into a Reimbursement and Maintenance Agreement between the City and the Pearland Economic Development Corporation and an Interlocal Agreement between the City and the Pearland Independent School District associated with the Cullen Boulevard Enhancement Project.  					
<b>EXHIBITS:</b> R2016-89, Reimbursement Agreement, Interlocal Agreement					
<b>FUNDING:</b> <input type="checkbox"/> Grant <input type="checkbox"/> Developer/Other <input type="checkbox"/> Cash <input type="checkbox"/> Bonds To Be Sold <input type="checkbox"/> Bonds- Sold <input type="checkbox"/> L/P – Sold <input type="checkbox"/> L/P – To Be Sold					
<b>EXPENDITURE REQUIRED:</b> PEDC Funds <b>AMOUNT AVAILABLE:</b> <b>ACCOUNT NO.:</b> <b>ADDITIONAL APPROPRIATION REQUIRED:</b> <b>ACCOUNT NO.:</b> <b>PROJECT NO.:</b>	<b>AMOUNT BUDGETED:</b> <b>PROJECT NO.:</b>				
<b>To be completed by Department:</b> <table style="width: 100%; text-align: center;"> <tr> <td>Finance</td> <td>X Legal</td> <td>Ordinance</td> <td>X Resolution</td> </tr> </table>		Finance	X Legal	Ordinance	X Resolution
Finance	X Legal	Ordinance	X Resolution		

**EXECUTIVE SUMMARY**

**BACKGROUND**

The Pearland 20/20 Strategic Plan outlined the need for City gateways to signal a sense of arrival and stronger identity for the community. In 2014 the Pearland Economic Development Corporation (PEDC) and community partners completed a City Gateways strategy that developed a conceptual entry monument sign along with identifying potential locations. Cullen Blvd. was identified as the first location to receive an entryway feature and corridor enhancements. The City of Pearland, Keep Pearland Beautiful (KPB) and PEDC worked with Clark Condon Landscape Architects to develop the gateway sign and landscaping design, between Clear Creek and Broadway. The total project is estimated to cost \$1,050,120.

The first phase between Clear Creek and McHard Road (cost is \$452,120) includes a gateway sign and landscaping in the right-of-way (ROW) and raised median. This phase is now complete with construction

and was funded by the PEDC with a reimbursement agreement with the City as entered into on October 12, 2015.

The second phase between McHard Road and Broadway is estimated to cost \$598,000 and is being funded by a Governor's Community Achievement (GCA) grant awarded through TxDOT to KPB. Initially, the state funding did not cover the entire cost of the second phase, however, TxDOT has since identified additional funding sources to cover the remaining cost of the project. Because state funding is utilized on this phase, TxDOT will manage its implementation beginning this summer.

The second phase will include installation of irrigation and grouped plantings, such as Lantana, Asian Jasmine, and Crape Myrtles, in the raised median as space permits, and tree plantings and irrigation in public ROW. To further enhance the tree canopy along the corridor, the Pearland Independent School District (PISD) has agreed to enter into an Interlocal Agreement with the City to allow approximately 50 trees to be planted, with irrigation, at Dawson High School as part of the second phase paralleling the public ROW. PISD will assume maintenance responsibility for those trees and related irrigation.

The PEDC FY2015-2016 budget includes \$345,000 that was set aside to cover the cost of improvements that exceeds the state funding sources.

While TxDOT has identified sufficient funding, a reimbursement agreement should be in place with the PEDC to cover any costs that may exceed the state funding sources. The PEDC Board considered and approved the proposed agreement at its April 28, 2016 meeting.

The necessary public hearing for the expenditure for landscaping and maintenance improvements was also held at the PEDC Board's April 28 meeting as it was posted as required. PEDC will maintain the improvements from Clear Creek to Broadway, which will include, but is not limited to: the entry feature, mowing, trimming, edging, clean up and trash removal, turf and shrub fertilization, post emergent application, mulching, irrigation system maintenance, and monthly electrical use. This annual cost is estimated to be approximately \$36,000.

### **POLICY/GOAL CONSIDERATION**

The Pearland 20/20 Strategic Plan outlined the need for City gateways to signal a sense of arrival and stronger identity for the community: Section 3.0 – Optimize the development potential of Pearland's principal commercial corridors. 5.2.1 – Work with city officials to develop a plan for adoption of uniform standards for the maintenance of landscaped roads and corridors. Section 5.3 – Develop iconic and visually appealing gateways to Pearland. Section 5.3.4 – Seek public and private benefactors to fund development and placement of gateway markers. The 2015 Pearland Comprehensive Plan also supports an emphasis on community image and aesthetics and incorporates the 20/20 Strategy.

There are two components to the resolution for Council consideration:

#### **1- Reimbursement Agreement –**

A reimbursement agreement between the PEDC and City of Pearland for the PEDC to provide the City the necessary funds to finance the cost of the project. The PEDC will fund the actual cost of the project that exceeds the available state funding.

#### **2- Interlocal Agreement –**

An interlocal agreement between the PISD and City of Pearland for the PISD to own, operate, and maintain perpetually the District's portion of the improvements, to include tree plantings and irrigation. The PISD Board of Trustees approved this agreement at its April 12, 2016 meeting.

### **RECOMMENDED ACTION**

Consideration and approval of a resolution approving a Reimbursement Agreement with the PEDC and an Interlocal Agreement with PISD for Cullen Boulevard Corridor Enhancements and authorizing the City Manager to execute the agreements.

**RESOLUTION NO. R2016-89**

**A Resolution of the City Council of the City of Pearland, Texas, authorizing the City Manager or his designee to enter into a Reimbursement and Maintenance Agreement between the City and the Pearland Economic Development Corporation and an Interlocal Agreement between the City and the Pearland Independent School District associated with the Cullen Boulevard Enhancement Project.**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS:**

**Section 1.** That certain Reimbursement and Maintenance Agreement by and between the City of Pearland and the Pearland Economic Development Corporation, a copy of which is attached hereto as Exhibit "A" and made a part hereof for all purposes, is hereby authorized and approved.

**Section 2.** That certain Interlocal Agreement by and between the City of Pearland and the Pearland Independent School District, a copy of which is attached hereto as Exhibit "B", is hereby authorized and approved.

**Section 3.** That the City Manager or his designee is hereby authorized to execute and the City Secretary to attest the Reimbursement and Maintenance Agreement and Interlocal Agreement associated with the Cullen Boulevard Corridor Enhancement Project.

PASSED, APPROVED and ADOPTED this the \_\_\_\_ day of \_\_\_\_\_, A.D., 2016.

\_\_\_\_\_  
TOM REID  
MAYOR

ATTEST:

\_\_\_\_\_  
YOUNG LORFING, TRMC  
CITY SECRETARY

APPROVED AS TO FORM:

\_\_\_\_\_  
DARRIN M. COKER  
CITY ATTORNEY

## REIMBURSEMENT & MAINTENANCE AGREEMENT

This Agreement is entered into this \_\_\_\_ day of \_\_\_\_\_, 2016, by and between the CITY OF PEARLAND, TEXAS (hereinafter "City"), and the Pearland Economic Development Corporation (hereinafter "PEDC").

WHEREAS, the PEDC is a Type B economic development corporation, created pursuant to Chapter 505 of the Texas Local Government Code, as amended; and

WHEREAS, the City and PEDC desire the construction of Cullen Boulevard Corridor Enhancements (hereinafter "Improvements"); and

WHEREAS, Section 501.103 of the Texas Local Government Code (hereinafter "Code"), in pertinent part, defines the term "project" to mean "expenditures that are found by the board of directors to be required or suitable for infrastructure necessary to promote or develop new or expanded business enterprises, limited to: (1) streets and roads, rail spurs, water and sewer utilities, electric utilities, or gas utilities, drainage, site improvements, and related improvements; (2) telecommunications and Internet improvements . . ."; and

WHEREAS, Section 505.303 of the Code, allows for the cost of the project to include the maintenance and operating costs of the project; and

WHEREAS, Keep Pearland Beautiful ("KPB") was awarded a Governor's Community Achievement Grant ("Grant") for the beautification of state corridors, and Cullen Boulevard (FM 865) has been selected as the corridor to receive improvements through the Grant; and

WHEREAS, the PEDC and City entered into a reimbursement agreement on October 12, 2015 to fund the cost of the construction of the Phase 1 Improvements located between Clear Creek and McHard Road; and

WHEREAS, the Texas Department of Transportation ("TXDOT"), in partnership with KPB, PEDC, and the City, will be implementing the Phase 2 Improvements along Cullen Boulevard between McHard Road and Broadway; and

WHEREAS, the PEDC desires to fund the cost of the construction of the Phase 2 Improvements that exceed the amount of the TxDOT funding; and

WHEREAS, PEDC approved funding for the Phase 2 Improvements at its April 28, 2016, Board of Directors' meeting, after conducting a public hearing on the project; and

WHEREAS, City and PEDC desire an agreement to set forth their respective responsibilities with regard to the Improvements.

**W I T N E S S E T H:**

*NOW THEREFORE*, in consideration of the foregoing premises and other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, it is hereby agreed as follows:

1. The Phase 2 Improvements to be installed by TxDOT include, but are not limited to: plantings, irrigation, and pavers, as more accurately described in Exhibit "A".
2. The total cost of the Phase 2 Improvements is estimated to be \$598,000, as itemized in Exhibit "B" hereto attached. PEDC shall fund an amount equal to the actual cost of the Phase 2 Improvements that exceeds the TxDOT funding, which amount shall be paid to City in installments or a lump sum amount. The timing and amount of the payment shall be determined at sole discretion of the City, but in no event shall the total payments exceed the actual cost of the Improvements.
3. PEDC agrees to maintain the Improvements from Clear Creek to Broadway, including but not limited to the entry feature, mowing, trimming, edging, clean up and trash removal, turf and shrub fertilization, post emergent application, mulching, irrigation system maintenance, and monthly electrical use, for as long as the Improvements remain in place.
4. The initial term of this Agreement shall be for a period of twelve (12) months, commencing on the \_\_\_ day of \_\_\_\_\_, 2016, and may be renewed as needed until the Improvements are substantially complete.
5. This Agreement may only be amended, modified, or supplemented by written agreement and signed by both parties.
6. No assignment by a party hereto of any rights under or interests in this agreement will be binding on another party hereto without the written consent of the party sought to be bound; and specifically but without limitation moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.
7. Nothing herein is intended to supersede or waive any City ordinance or regulation pertaining to such construction.
8. Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement is prohibitive or invalid under applicable law, such provision shall be ineffective to the extent of such provision or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement.

9. This Agreement shall be construed and enforced in accordance with and governed by the laws of the State of Texas.
10. To accomplish execution of this Agreement, it may be executed in multiple counterparts.
11. The Parties agree that any suit arising out of or related to this Agreement shall be filed in Brazoria County Texas.
12. All notices which are required or may be given pursuant to this Agreement shall be in writing and shall be sufficient if delivered personally or by first class mail, postage prepaid, return receipt requested, or by a nationally recognized courier, to the parties and their attorneys at the addresses set out below or such other addresses as the parties or their attorneys may hereafter notify one another:

If to City:                      City of Pearland  
   Attn: Clay Pearson, City Manager  
   3519 Liberty Drive  
   Pearland, TX 77581

If to PEDC:                      Pearland Economic Development Corporation  
   Attn: Chairman  
   1200 Pearland Parkway, Suite 200  
   Pearland, TX 77581

Notice delivered in accordance with the terms hereof shall be effective upon receipt.

In witness whereof, the parties have hereunto set their hands and signatures on the date first above mentioned.

PEARLAND ECONOMIC DEVELOPMENT  
CORPORATION  
a Texas non-profit corporation

By: \_\_\_\_\_  
Rushi Patel  
Chair

CITY OF PEARLAND,  
a Texas municipal corporation

By: \_\_\_\_\_  
Clay Pearson,  
City Manager

ATTEST:

\_\_\_\_\_  
Young Lorfing  
City Secretary

# EXHIBIT A

## “MAP”



**CULLEN ROAD LAYOUT**  
CULLEN ROAD LAYOUT - PLANNED LANS

- CULLEN ROAD
- CULLEN ROAD
- CULLEN ROAD
- CULLEN ROAD

**CLAY COMPANY**

EXHIBIT B

Cullen Corridor Enhancements  
McHard to Broadway  
Cost Estimate



**Pearland Cullen Boulevard  
Landscape Improvements - TxDot Section  
Preliminary Cost Estimate**

9/24/2015  
114-048

**TX Dot Project**

<u>Item</u>	<u>Qty.</u>	<u>Unit</u>	<u>Unit Cost</u>	<u>Extension</u>
<b><u>General</u></b>				
Mobilization & General Conditions	541,000	LS	\$ 0.04	\$ 21,640.00
Bonding	541,000		\$ 0.03	\$ 16,230.00
Traffic Control	1	LS	\$ 5,000.00	\$ 5,000.00
Landscape maintenance 180 days extended maintenance	3	LS	\$ 2,000.00	\$ 6,000.00
	Subtotal General			<b>\$ 48,870.00</b>
<b><u>Medians</u></b>				
Soil repair - 1" - 1 1/2" compost in lawn areas (12192 SF)	12,192	SF	\$ 0.30	\$ 3,657.60
Crapemyrtle - 65 gal.	44	EA	\$ 600.00	\$ 26,400.00
Groundcover/planting - 24" o.c.	6,500	SF	\$ 6.00	\$ 39,000.00
Concrete mow band	218	LF	\$ 40.00	\$ 8,720.00
1" Water Meter	8	EA	\$ 800.00	\$ 6,400.00
Battery Controller	8	EA	\$ 350.00	\$ 2,800.00
Irrigation - by area	20,600	SF	\$ 1.00	\$ 20,600.00
Irrigation - per tree	44	EA	\$ 50.00	\$ 2,200.00
Irrigation bores	45	LF	\$ 60.00	\$ 2,700.00
	Subtotal Medians			<b>\$ 112,477.60</b>
<b><u>West Right Of Way - Paver Band</u></b>				
Paver band on concrete base (paver type to match Pearland standard)	17,287	SF	\$ 18.00	\$ 311,166.00
	Subtotal Pavers			<b>\$ 311,166.00</b>
<b><u>Trees and Irrigation at School &amp; Municipal Court</u></b>				
Compost root zone area - 2" x 36 sf/tree	60	EA	\$ 20.00	\$ 1,200.00
Live Oak - 65 gal.	18	EA	\$ 600.00	\$ 10,800.00
Water Oak - 30 gal.	18	EA	\$ 450.00	\$ 8,100.00
Cedar Elm - 30 gal.	17	EA	\$ 450.00	\$ 7,650.00
Live Oak - 65 gal. (Municipal Court)	12	EA	\$ 900.00	\$ 10,800.00
Irrigation - piping (School Trees Only)	1,500	LF	\$ 20.00	\$ 30,000.00
Irrigation - per tree (School Trees Only)	53	EA	\$ 50.00	\$ 2,650.00
	Subtotal School			<b>\$ 71,200.00</b>
	Subtotal			\$ 543,713.60
	10% Contingency			\$ 54,371.36
	<b>TOTAL TX DOT PROJECT</b>			<b>\$ 598,084.96</b>

**Add Alternate - crown median 4" at center with topsoil and re-hydromulch (compost** Continue →

## INTERLOCAL AGREEMENT

This Agreement, made and entered into by and between the City of Pearland, hereinafter called "City," and the Pearland Independent School District, a body corporate and politic under the laws of the State of Texas, hereinafter called "District";

### RECITALS

**Whereas**, the Pearland 20/20 Strategic Plan identifies the need for a community beautification strategy and recommends enhancing the City's gateways and major corridors to signal a sense of arrival and stronger identity for the community; and

**Whereas**, Keep Pearland Beautiful ("KPB") was awarded a Governor's Community Achievement Grant ("Grant") for the beautification of state corridors, and Cullen Boulevard (FM 865) has been selected as the corridor to receive improvements through the Grant; and

**Whereas**, KPB, the City of Pearland (City), and Pearland Economic Development Corporation have developed a mutually agreed upon preliminary design for a Pearland Gateway sign and landscaping for the Cullen Blvd. corridor between Clear Creek and Broadway; and

**Whereas**, the preliminary design is separated into two Phases, with Phase 1 consisting of a Pearland Gateway sign and landscaping and irrigation in the right-of-way and raised median between Clear Creek and McHard Road, and with Phase 2 consisting of landscaping and irrigation in the raised medians and tree plantings and irrigation in public right-of-way between McHard Road and Broadway; and

**Whereas**, the Texas Department of Transportation ("TXDOT"), in partnership with KPB and the City, will be implementing a landscaping project ("Improvements") along Cullen Boulevard between McHard Road and Broadway; and

**Whereas**, TXDOT, in coordination with City and consistent with the implementation requirements associated with the Grant, shall be responsible for finalizing the design, bidding, and constructing the Improvements; and

**Whereas**, understanding the importance of beautifying the Cullen Boulevard corridor, the Pearland Independent School District (District) accepts that a portion of the Improvements are planned on the District's Dawson High School property and desires to cooperate with the City in the coordination and implementation of that portion of Improvements that are planned on District property; and

**Whereas**, the District and the City desire to set forth an agreement to set forth their respective responsibilities with regard to the Improvements; and

**Whereas**, this Agreement is entered into pursuant to the authority of the Interlocal Cooperation Act, V.T.C.A. Gov. Code Sec. 791.001 et seq.

**WITNESSETH**

**NOW THEREFORE**, in consideration of the mutual covenants, agreements and benefits to the parties herein named, it is hereby agreed as follows:

**I. Responsibilities of the Parties**

- A. District shall grant TXDOT and its contractors access and permission to construct a portion of the Improvements on District property located along Cullen Boulevard in front of Dawson High School as more accurately shown on Exhibit "A" attached hereto ("District Portion"). The District Portion shall include the planting of trees and installation of an irrigation system with a water tap and meter in accordance with Exhibit "A."
- B. District shall own, operate, and maintain perpetually the District Portion of the Improvements, as a separate system isolated from the other Improvements along the remainder of the corridor.

**II. MISCELLANEOUS**

- A. City and District recognize and agree that City, in performance of the TxDOT agreement, shall act as an independent contractor and shall have control of its own work and the manner in which it is performed.
- B. City and District shall comply with all applicable laws, regulations and requirements in performance of their respective obligations under this agreement.
- C. City and District recognize and agree that nothing herein shall be construed to create any rights in third parties beyond that provided in Section 1.A.
- D. City and District agree that no party shall have the right to seek indemnification or contribution from any other party hereto for any losses, costs, expenses, or damages directly or indirectly arising, in whole or part from this Agreement.

F. Whenever possible, each provision of this agreement shall be interpreted in such a manner as to be effective and valid under applicable law, but if any section, subsection, paragraph, sentence, clause, phrase, work or portion of this Agreement is, for any reason, held invalid unconstitutional or otherwise unenforceable by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

G. The Rights and Obligations of this Agreement shall not be assigned without prior written consent of the City and District.

H. This Agreement may only be amended, modified, or supplemented in writing and subsequently signed and dated by the City, as acted upon by its Council.

Each person signing below represents that he or she has read this Agreement in its entirety, including any and all attachments and exhibits, understands its terms, is duly authorized to execute this Agreement on behalf of the party indicated by his or her name below and agrees on behalf of said party that the party will be bound by these terms.

SIGNED and ENTERED his \_\_\_\_\_ day of \_\_\_\_\_, 2016.

Pearland Independent School District

  
\_\_\_\_\_

ATTEST:

  
\_\_\_\_\_

CITY OF PEARLAND

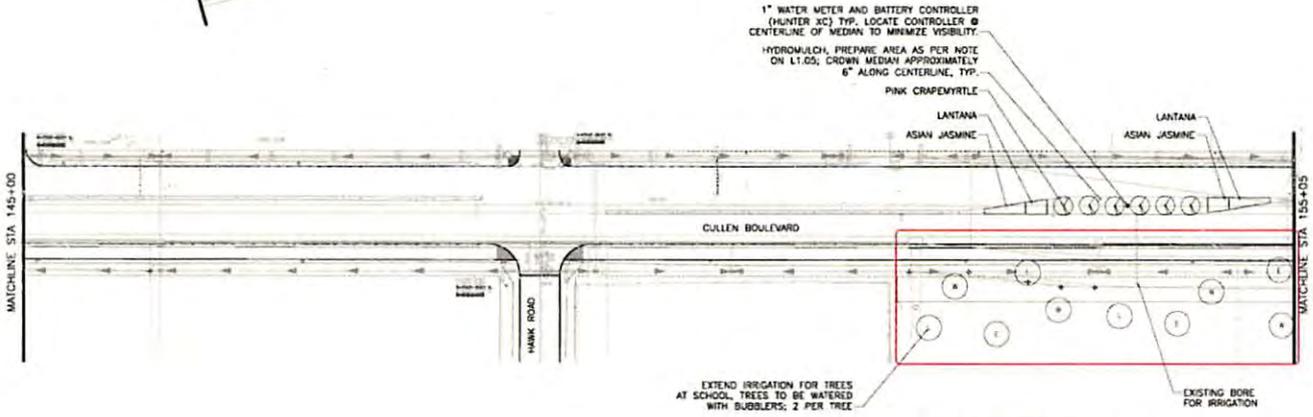
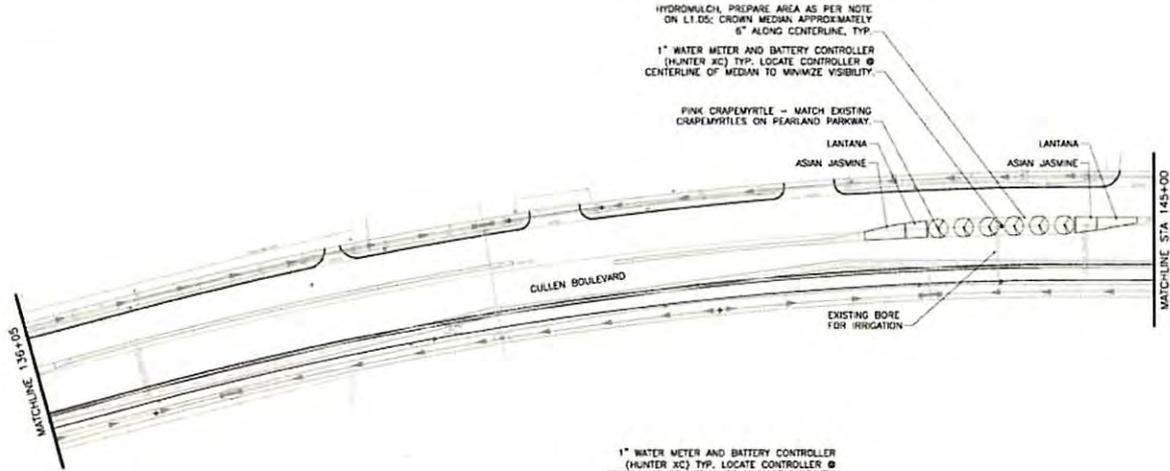
\_\_\_\_\_  
Clay Pearson, City Manager

ATTEST:

\_\_\_\_\_  
Young Lorfing, City Secretary



10401 Sheila Link Road Houston, Texas 77029  
 TEL 713.871.1414 FAX 713.871.0588  
 www.clarkcondon.com



DATE	ISSUE
10/09/14	PRELIMINARY PLANS

DATE	ISSUE
10/09/14	PRELIMINARY PLANS

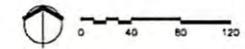
**PEARLAND - CULLEN BLVD**  
 Medians  
 Landscape Improvements  
 City of Pearland  
 Pearland, Texas

DRAWN: MW  
 CHECKED: SSS  
 SCALE: AS SHOWN  
 DATE: OCTOBER 9, 2014  
 OCA PROJECT NO: 114-048

TREES TYPES AT HIGH SCHOOL

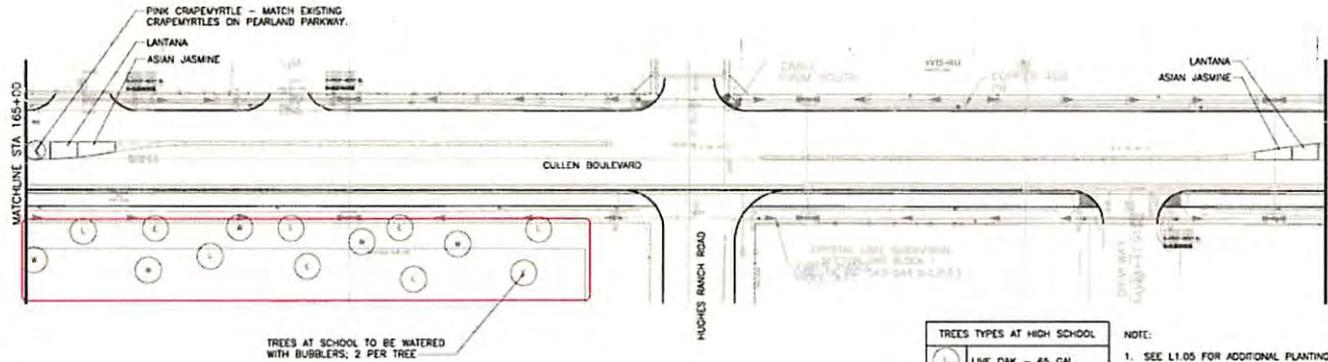
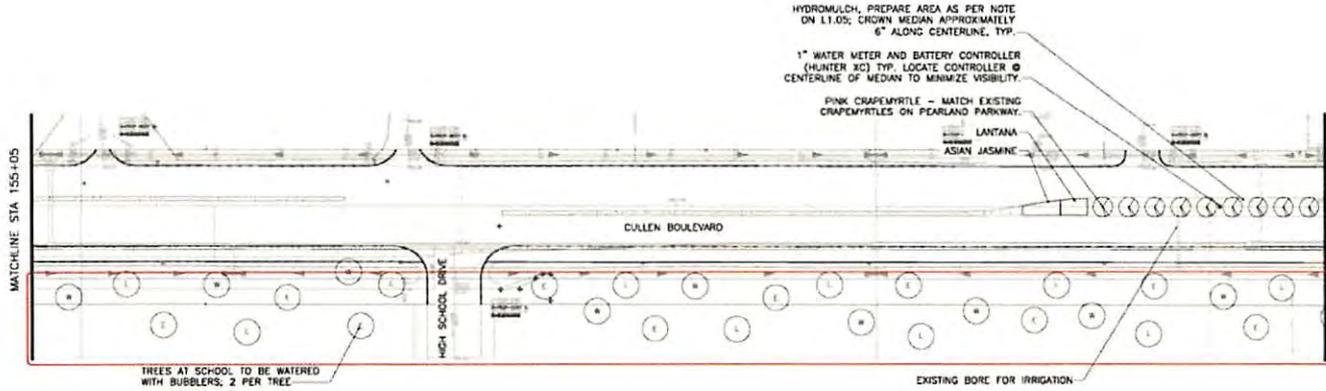
①	LIVE OAK - 65 GAL.
②	WATER OAK - 65 GAL.
③	CEDAR ELM - 65 GAL.

- NOTE:
- SEE L1.05 FOR ADDITIONAL PLANTING NOTES AND DETAILS.
  - TREES IN MEDIANS TO BE 65 GAL. PINK CRAPEMYRTLES; 3 TREES EACH, MATCHING



SHEET:  
**L1.02**

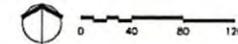
10/13/2014 12:11 PM | pearland.cullen.blvd - gshelley - 114-048(0-0) 2 of 25 (2) - sheet 01 (2)



TREES TYPES AT HIGH SCHOOL

(L)	LIVE OAK - 65 GAL.
(W)	WATER OAK - 65 GAL.
(C)	CEDAR ELM - 65 GAL.

- NOTE:
- SEE L1.05 FOR ADDITIONAL PLANTING NOTES AND DETAILS.
  - TREES IN MEDIANS TO BE 65 GAL. PINK Crape Myrtles; 3 TRUCKS EACH, MATCHING



DATE	ISSUE
15/09/14	PRELIMINARY PLANS

DATE	ISSUE
15/09/14	PRELIMINARY PLANS

**PEARLAND - CULLEN BLVD**  
Medians  
Landscape Improvements  
City of Pearland  
Pearland, Texas

DRAWN: MGV  
CHECKED: SSS  
SCALE: AS SHOWN  
DATE: OCTOBER 9 2014  
DCA PROJECT NO: 114844

SHEET:

**L1.03**

**AGENDA REQUEST  
BUSINESS OF THE CITY COUNCIL  
CITY OF PEARLAND, TEXAS**

<b>AGENDA OF:</b>	May 23, 2016	<b>ITEM NO.:</b>	Ord. No. 1525								
<b>DATE SUBMITTED:</b>		<b>DEPT. OF ORIGIN:</b>	Finance								
<b>PREPARED BY:</b>	Cynthia Pearson	<b>PRESENTOR:</b>	Cynthia Pearson								
<b>REVIEWED BY:</b>	Jon R. Branson	<b>REVIEW DATE:</b>	May 16, 2016								
<p>SUBJECT: Ordinance No. 1525; An Ordinance of the City Council of the City of Pearland, Texas authorizing the issuance of City of Pearland, Texas Certificates of Obligation, Series 2016; prescribing the terms thereof; providing for the payment thereof; awarding the sale thereof; and making other provisions regarding such Certificates and matters incident thereto; and declaring an emergency.</p>											
<p><b>EXHIBITS:</b> PowerPoint – Certificates of Obligation Bonds Series 2016 Resolution R2016-59 Notice of Intent to Issue Certificates of Obligation Ordinance No. 1525 Authorizing Issuance</p>											
<p><b>FUNDING:</b></p> <table style="width: 100%; border: none;"> <tr> <td style="width: 25%;"><input type="checkbox"/> Grant</td> <td style="width: 25%;"><input type="checkbox"/> Developer/Other</td> <td style="width: 25%;"><input type="checkbox"/> Cash</td> <td style="width: 25%;"></td> </tr> <tr> <td><input checked="" type="checkbox"/> Bonds To Be Sold</td> <td><input type="checkbox"/> Bonds- Sold</td> <td><input type="checkbox"/> L/P – Sold</td> <td><input type="checkbox"/> L/P – To Be Sold</td> </tr> </table>				<input type="checkbox"/> Grant	<input type="checkbox"/> Developer/Other	<input type="checkbox"/> Cash		<input checked="" type="checkbox"/> Bonds To Be Sold	<input type="checkbox"/> Bonds- Sold	<input type="checkbox"/> L/P – Sold	<input type="checkbox"/> L/P – To Be Sold
<input type="checkbox"/> Grant	<input type="checkbox"/> Developer/Other	<input type="checkbox"/> Cash									
<input checked="" type="checkbox"/> Bonds To Be Sold	<input type="checkbox"/> Bonds- Sold	<input type="checkbox"/> L/P – Sold	<input type="checkbox"/> L/P – To Be Sold								
<b>EXPENDITURE REQUIRED:</b>		<b>AMOUNT BUDGETED:</b>									
<b>AMOUNT AVAILABLE:</b>		<b>PROJECT NO.:</b>									
<b>ACCOUNT NO.:</b>											
<b>ADDITIONAL APPROPRIATION REQUIRED:</b>											
<b>ACCOUNT NO.:</b>											
<b>PROJECT NO.:</b>											
<b>To be completed by Department:</b>											
X Finance	X Legal	X Ordinance	Resolution								

## EXECUTIVE SUMMARY

### BACKGROUND

Pursuant to the Certificate of Obligation Act in the Local Government Code, 271.041, the fiscal year 2016 budget included issuing \$12.6 million in Certificates of Obligation for various Capital Improvement projects. On April 11<sup>th</sup>, City Council approved Resolution 2016-59, authorizing a Notice of Intent to issue Certificates of Obligation in an amount not to exceed \$14,200,000 for the following approved projects:

<u>Project</u>	<u>Revised Budget</u>	
Centennial Park Phase II	573,064	
Shadow Creek Ranch Trail	324,951	
Green Tee Trail	-0-	
Tom Reid Library Expansion	735,075	
City Hall Complex Renovations	4,252,518	
Fire Station #1 Replacement	487,000	
Safe Routes to School	-0-	
Orange St. Service Center Phase I	1,737,240	
East Orange Street Reconstruction (SH35 to Schleider)	6,000,000	
<b>TOTAL</b>	<b>14,109,848</b>	

The Certificate of Obligation Act allows the governing body to issue certificates for professional services (i.e.: engineers, architects, appraisers, etc.) and construction associated for any public work. Work has begun, and expenditures made, on most of these projects and City Council approved a notice of intent to be reimbursed from future bond proceeds in November 2015; Resolution R2015-196. Certificates of Obligation, while not approved by the voters, allows for a public process.

### BID AND AWARD

On April 11<sup>th</sup>, City Council approved Resolution 2016-59, authorizing a Notice of Intent to issue Certificates of Obligation in an amount not to exceed \$14,200,000. As required by state law, the City published the Notice of Intention to issue certificates on April 14<sup>th</sup> and April 21<sup>st</sup> stating time and place tentatively set for the sale of the bonds, maximum amount and purpose of the certificates to be authorized, and the manner in which the bonds will be paid for, i.e.: property taxes, revenues, etc. The Certificate of Obligation Act includes provision for petition, 5% of the qualified voters, to require a vote of citizens, as required by state law. The City has received no such petition.

On Monday, May 23, 2016, City's Financial Advisor, BOSC, Inc., will be accepting competitive bids for the Certificates. The results of the bids will be reviewed and shared with City Council at the May 23<sup>rd</sup> City Council meeting, with recommendation for award.

In conjunction with the bond sale, Moody's Investor Services reaffirmed the City's bond rating of Aa2; and Fitch Ratings Inc. assigned an AA rating to this issuance. The rating reflects the city's sizable and growing tax base, favorable socioeconomic profile, healthy financial reserve levels, and current debt burdens.

**The Ordinance approving the sale of the bonds is a First and Final reading and declares an emergency as pricing and the bond market will not allow the City to hold the bids for two weeks.** The Bonds will close on June 21st.

#### **CURRENT AND FUTURE FUNDING /FINANCIAL IMPACTS/DEBT SERVICE**

The Certificates of Obligation will be structured with a 20-year maturity, level principal payment with a declining annual debt service payment. Beginning in fiscal year 2017, the annual debt service is estimated at \$1,405,800 with an annual average debt service payment of \$1,001,000.

#### **RECOMMENDED ACTION**

Consideration and Approval of Ordinance 1525, an Ordinance Authorizing the issuance of City of Pearland, Texas Certificates Of Obligation, Series 2016; ; Prescribing the Terms Thereof; Providing for the Payment Thereof; Awarding the Sale Thereof; and Making Other Provisions Regarding Such Certificates and Matters Incident Thereto; and Declaring an Emergency.

RESOLUTION NO. 2016-59

RESOLUTION AUTHORIZING PUBLICATION OF NOTICE OF INTENTION TO ISSUE CERTIFICATES OF OBLIGATION, IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$14,200,000, FOR THE ACQUISITION, CONSTRUCTION AND IMPROVEMENT OF CERTAIN PUBLIC WORKS, AUTHORIZING DISTRIBUTION OF A PRELIMINARY OFFICIAL STATEMENT RELATING TO SUCH SERIES OF CERTIFICATES AND AUTHORIZING CERTAIN OTHER MATTERS RELATING THERETO

STATE OF TEXAS §  
COUNTIES OF BRAZORIA, FORT BEND AND HARRIS §  
CITY OF PEARLAND §

WHEREAS, the City Council (the "City Council") of the City of Pearland, Texas (the "City"), is authorized to issue certificates of obligation to pay contractual obligations to be incurred for the construction of public works, for the purchase of materials, supplies, equipment, machinery, buildings, land and rights-of-way for authorized needs and purposes, and for the payment of contractual obligations for professional services pursuant to Subchapter C of Chapter 271, Texas Local Government Code, as amended;

WHEREAS, the City Council has determined that it is in the best interests of the City and otherwise desirable to issue the City of Pearland, Texas Certificates of Obligation, Series 2016 in an aggregate principal amount not to exceed \$14,200,000 (the "Certificates") for the design, engineering, acquisition and construction of certain public works and the purchase of certain equipment for authorized needs and purposes;

WHEREAS, in connection with the Certificates, the City Council intends to publish notices of intent to issue the Certificates (the "Notice") in a newspaper of general circulation in the City; and

WHEREAS, the City Council has been presented with and has examined the proposed forms of Notice and finds that the forms and substance thereof are satisfactory, and that the recitals and findings contained therein are true, correct and complete.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS:

Section 1. Preamble. The facts and recitations contained in the preamble of this Resolution are hereby found and declared to be true and correct.

Section 2. Authorization of Notice. The City Secretary is hereby authorized and directed to execute and deliver the Notice set forth in Exhibit A hereto and to publish such Notice on behalf of the City once a week for two (2) consecutive weeks in a newspaper which is of general circulation in the City, the date of the first publication of the Notice to be at least

thirty-one (31) days before the date tentatively set in the Notice for the passage of the ordinance authorizing the issuance of the Certificates.

Section 3. Engagement of Professionals. This City Council hereby approves the engagement of Andrews Kurth LLP, as bond counsel (“Bond Counsel”) in connection with the issuance of the Certificates.

Section 4. Authorization of Other Matters Relating Thereto. The Mayor, City Secretary and other officers and agents of the City are hereby authorized and directed to do any and all things necessary or desirable to carry out the provisions of this Resolution.

Section 5. Effective Date. This Resolution shall take effect immediately upon passage.

Section 6. Public Meeting. It is officially found, determined and declared that the meeting at which this Resolution is adopted was open to the public and public notice of the time, place and subject matter of the public business to be considered at such meeting, including this Resolution, was given all as required by the Texas Government Code, Chapter 551, as amended.

*[signature page follows]*

PASSED AND APPROVED this 11<sup>TH</sup> day of April, A.D., 2016.

*Tom Reid*

Mayor  
City of Pearland, Texas

ATTEST:

*Young LaFaj*  
City Secretary  
City of Pearland, Texas



**ORDINANCE NO. 1525**

**An Ordinance of the City Council of the City of Pearland, Texas authorizing the issuance of City of Pearland, Texas Certificates of Obligation, Series 2016; prescribing the terms thereof; providing for the payment thereof; awarding the sale thereof; and making other provisions regarding such Certificates and matters incident thereto; and declaring an emergency.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS:**

ARTICLE I

FINDINGS AND DETERMINATIONS

Section 1.1: Findings and Determinations. The City Council hereby officially finds and determines that:

(a) The City of Pearland, Texas (the “City”), acting through its City Council, is authorized pursuant to and in accordance with the provisions of Texas Local Government Code, Chapter 271, Subchapter C, as amended (the “Act”), to issue certificates of obligation to provide all or part of the funds to pay contractual obligations to be incurred for the construction of public works and the purchase of materials, supplies, equipment, machinery, buildings, land and rights-of-way for authorized needs and purposes and for the payment of contractual obligations for professional services, to wit: (i) certain street improvements within the City including improvements to Orange Street; (ii) certain improvements to parks and trails within the City including improvements to Centennial Park and SCR Trail; (iii) certain improvements and renovations to existing City facilities including Tom Reid Library, City Hall Complex, Orange Service Center and Fire Station#1 and (iv) professional services rendered in connection with the above listed projects.

(b) The City Council authorized the publication of a notice of intention to issue Certificates of Obligation, Series 2016 (the “Certificates”) to the effect that the City Council was tentatively scheduled to meet at 6:30 p.m. on May 23, 2016 at its regular meeting place to adopt an ordinance authorizing the issuance of the Certificates to be payable from (i) an ad valorem tax levied, within the limits prescribed by law, on the taxable property located within the City, and (ii) the revenues to be derived from the City’s water and sewer system (the “System”) after the payment of all operation and maintenance expenses thereof (the “Net Revenues”) in an amount not to exceed \$10,000, to the extent that ad valorem taxes are ever insufficient or unavailable for such purposes, provided that the pledge of Net Revenues is and shall be junior and subordinate in all respects to the pledge of Net Revenues to the payment of any obligation of the City, whether authorized heretofore or hereafter, which the City designates as having a pledge senior to the pledge of the Net Revenues to the payment of the Certificates.

(c) Such notice was published at the times and in the manner required by the Act.

(d) No petition signed by at least five percent (5%) of the qualified voters of the City has been filed with or presented to any official of the City protesting the issuance of such Certificates on or before May 23, 2016, or the date of passage of this Ordinance.

(e) The City has determined that it is in the best interests of the City and that it is otherwise desirable to issue the Certificates to provide all or part of the funds to pay contractual obligations to be incurred for the purposes authorized by the Act.

## ARTICLE II

### DEFINITIONS AND INTERPRETATIONS

Section 2.1: Definitions. As used herein, the following terms shall have the meanings specified, unless the context clearly indicates otherwise:

“Act” shall mean Texas Local Government Code, Chapter 271, Subchapter C, as amended.

“Attorney General” shall mean the Attorney General of the State of Texas.

“Blanket Issuer Letter of Representations” means the Blanket Issuer Letter of Representations between the City, the Registrar and DTC.

“Certificate” or “Certificates” shall mean any or all of the City of Pearland, Texas Certificates of Obligation, Series 2016, authorized by this Ordinance.

“City” shall mean the City of Pearland, Texas and, where appropriate, its City Council.

“City Council” shall mean the governing body of the City.

“Code” shall mean the Internal Revenue Code of 1986, as amended.

“Comptroller” shall mean the Comptroller of Public Accounts of the State of Texas.

“Debt Service Fund” shall mean the Certificates of Obligation, Series 2016 Debt Service Fund established by the City and described in section 5.2 of this Ordinance.

“DTC” means The Depository Trust Company of New York, New York, or any successor securities depository.

“DTC Participant” means brokers and dealers, banks, trust companies, clearing corporations and certain other organizations on whose behalf DTC was created to hold securities to facilitate the clearance and settlement of securities transactions among DTC Participants.

“Fiscal Year” shall mean the City’s then designated fiscal year, which currently is the twelve-month period beginning on the first day of October of a calendar year and ending on the last day of September of the next succeeding calendar year and each such period may be designated with the number of the calendar year in which such period ends.

“Interest Payment Date,” when used in connection with any Certificate, shall mean March 1, 2017, and each September 1 and March 1 thereafter until maturity or earlier redemption of such Certificate.

“MSRB” means the Municipal Securities Rulemaking Board.

“Ordinance” shall mean this Ordinance and all amendments hereof and supplements hereto.

“Outstanding”, when used with reference to the Certificates, shall mean, as of a particular date, all Certificates theretofore and thereupon delivered pursuant to this Ordinance except: (a) any Certificates canceled by or on behalf of the City at or before such date; (b) any Certificates defeased pursuant to the defeasance provisions of this Ordinance or otherwise defeased as permitted by applicable law; and (c) any Certificates in lieu of or in substitution for which a replacement Certificate shall have been delivered pursuant to this Ordinance.

“Paying Agent/Registrar” shall mean Wells Fargo Bank, N.A., Minneapolis, Minnesota and its successors in that capacity.

“Paying Agent/Registrar Agreement” shall mean the agreement between the City and the Paying Agent/Registrar as described more particularly in Section 6.1 hereof.

“Purchaser” shall mean the entity or entities specified in Section 7.1 hereof.

“Record Date” shall mean the close of business on the 15<sup>th</sup> day of the calendar month immediately preceding the applicable Interest Payment Date.

“Register” shall mean the registration books for the Certificates kept by the Paying Agent/Registrar in which are maintained the names and addresses of, and the principal amounts registered to, each Registered Owner of Certificates.

“Registered Owner” shall mean the person or entity in whose name any Certificate is registered in the Register.

“Rule” means SEC Rule 15c2-12, as amended from time to time.

“SEC” means the United States Securities and Exchange Commission.

Section 2.2: Interpretations. All terms defined herein and all pronouns used in this Ordinance shall be deemed to apply equally to singular and plural and to all genders. The titles and headings of the articles and sections of this Ordinance have been inserted for convenience of reference only and are not to be considered a part hereof and shall not in any way modify or restrict any of the terms or provisions hereof. This Ordinance and all the terms and provisions hereof shall be liberally construed to effectuate the purposes set forth herein and to sustain the validity of the Certificates and the validity of the levy of ad valorem taxes to pay the principal of and interest on the Certificates.

ARTICLE III

TERMS OF THE CERTIFICATES

Section 3.1: Amount, Purpose and Authorization. The Certificates shall be issued in fully registered form, without coupons, under and pursuant to the authority of the Act in the total authorized aggregate principal amount of \_\_\_\_\_ (\$\_\_\_\_\_) for the purpose of providing all or part of the funds to pay contractual obligations to be incurred for the purposes described in paragraph 1.1(a) hereof.

Section 3.2: Designation, Date and Interest Payment Dates. The Certificates shall be designated as the “City of Pearland, Texas Certificates of Obligation, Series 2016,” and shall be dated June 1, 2016. The Certificates shall bear interest at the rates set forth in Section 3.3 below, from the later of date of delivery or the most recent Interest Payment Date to which interest has been paid or duly provided for, calculated on the basis of a 360-day year of twelve 30-day months, payable on March 1, 2017, and each September 1 and March 1 thereafter until maturity or earlier redemption.

If interest on any Certificate is not paid on any Interest Payment Date and continues unpaid for thirty (30) days thereafter, the Paying Agent/Registrar shall establish a new record date for the payment of such interest, to be known as a Special Record Date. The Paying Agent/Registrar shall establish a Special Record Date when funds to make such interest payment are received from or on behalf of the City. Such Special Record Date shall be fifteen (15) days prior to the date fixed for payment of such past due interest, and notice of the date of payment and the Special Record Date shall be sent by United States mail, first class, postage prepaid, not later than five (5) days prior to the Special Record Date, to each affected Registered Owner as of the close of business on the day prior to mailing of such notice.

Section 3.3: Numbers, Initial Certificates, Denomination, Interest Rates and Maturities. The Certificates shall be issued bearing the numbers, in the principal amounts and bearing interest at the rates set forth in the following schedule, and may be transferred and exchanged as set out in this Ordinance. The Certificates shall mature on March 1 in each of the years and in the amounts set out in such schedule. The Initial Certificate shall be numbered I-1 and all other Certificates shall be numbered in sequence beginning with R-1. Certificates delivered in transfer of or in exchange for other Certificates shall be numbered in order of their authentication by the Paying Agent/Registrar, shall be in the denomination of \$5,000 or integral multiples thereof and shall mature on the same date and bear interest at the same rate as the Certificate or Certificates in lieu of which they are delivered.

<u>Certificate Number</u>	<u>Year of Maturity</u>	<u>Principal Amount</u>	<u>Interest Rate</u>
R-1	2017		
R-2	2018		
R-3	2019		
R-4	2020		
R-5	2021		
R-6	2022		

<u>Certificate Number</u>	<u>Year of Maturity</u>	<u>Principal Amount</u>	<u>Interest Rate</u>
R-7	2023		
R-8	2024		
R-9	2025		
R-10	2026		
R-11	2027		
R-12	2028		
R-13	2029		
R-14	2030		
R-15	2031		
R-16	2032		
R-17	2033		
R-18	2034		
R-19	2035		
R-20	2036		

\*Indicates term certificate

Section 3.5: Execution of Certificates; Seal. (a) The Certificates shall be signed on behalf of the City by the Mayor and countersigned by the City Secretary, by their manual, lithographed, or facsimile signatures, and the official seal of the City shall be impressed or placed in facsimile thereon. Such facsimile signatures on the Certificates shall have the same effect as if each of the Certificates had been signed manually and in person by each of said officers, and such facsimile seal on the Certificates shall have the same effect as if the official seal of the City had been manually impressed upon each of the Certificates.

(b) If any officer of the City whose manual or facsimile signature shall appear on the Certificates shall cease to be such officer before the authentication of such Certificates or before the delivery of such Certificates, such manual or facsimile signature shall nevertheless be valid and sufficient for all purposes as if such officer had remained in such office.

(c) Except as provided below, no Certificate shall be valid or obligatory for any purpose or be entitled to any security or benefit of this Ordinance unless and until there appears thereon the Registrar's Authentication Certificate substantially in the form provided herein, duly authenticated by manual execution by an officer or duly authorized signatory of the Registrar. In lieu of the executed Registrar's Authentication Certificate described above, the Initial Certificate delivered at the Closing Date shall have attached hereto the Comptroller's Registration Certificate substantially in the form provided herein, manually executed by the Comptroller, or by his duly authorized agent, which certificate shall be evidence that the Initial Certificate has been duly approved by the Attorney General of the State of Texas and that it is a valid and binding obligation of the City, and has been registered by the Comptroller.

Section 3.6: Redemption Prior to Maturity. (a) Optional Redemption. The Certificates maturing on and after March 1, 2027, are subject to redemption prior to maturity, at the option of the City, in whole or in part, on March 1, 2026, or any date thereafter, at par plus accrued interest to the date fixed for redemption.

(b) Mandatory Redemption. The Certificates maturing on March 1 in the year \_\_\_\_\_, (the “Term Certificates”) are subject to mandatory sinking fund redemption in the following amounts (subject to reduction as hereinafter provided), on the following dates, in each case at a redemption price equal to the principal amount of the Certificates or the portions thereof so called for redemption plus accrued interest to the date fixed for redemption:

	<u>Mandatory Redemption Dates</u>	<u>Principal</u>
	<u>(March 1)</u>	<u>Amounts</u>
Term Certificates Maturing 20__	20__	\$_____
	20__(stated maturity)	_____

The particular Term Certificates to be redeemed shall be selected by the Registrar by lot or other customary random selection method, on or before January 15 of each year in which Term Certificates are to be mandatorily redeemed. The principal amount of Term Certificates to be mandatorily redeemed in each year shall be reduced by the principal amount of such Term Certificates that have been optionally redeemed and which have not been made the basis for a previous reduction.

(c) Certificates may be redeemed in part only in integral multiples of \$5,000. If a Certificate subject to redemption is in a denomination larger than \$5,000, a portion of such Certificate may be redeemed, but only in integral multiples of \$5,000. In selecting portions of Certificates for redemption, each Certificate shall be treated as representing that number of Certificates of \$5,000 denomination which is obtained by dividing the principal amount of such Certificate by \$5,000. Upon presentation and surrender of any Certificate for redemption in part, the Paying Agent/Registrar, in accordance with the provisions of this Ordinance, shall authenticate and deliver in exchange therefor a Certificate or Certificates of like maturity and interest rate in an aggregate principal amount equal to the unredeemed portion of the Certificate so surrendered.

(d) Notice of any redemption, identifying the Certificates or portions thereof to be redeemed, shall be sent by United States mail, first class, postage prepaid, to the Registered Owners thereof at their addresses as shown on the Register, not less than thirty (30) days before the date fixed for such redemption. By the date fixed for redemption, due provision shall be made with the Paying Agent/Registrar for the payment of the redemption price of the Certificates called for redemption. If such notice of redemption is given, and if due provision for such payment is made, all as provided above, the Certificates which are to be so redeemed thereby automatically shall be redeemed prior to their scheduled maturities, they shall not bear interest after the date fixed for redemption, and they shall not be regarded as being Outstanding except for the purpose of being paid with the funds so provided for such payment.

(e) The City reserves the right to give notice of its election or direction to optionally redeem Certificates conditioned upon the occurrence of subsequent events. Such notice may state (i) that the redemption is conditioned upon the deposit of moneys and/or authorized securities, in an amount equal to the amount necessary to effect the redemption, with the Paying Agent/Registrar, or such other entity as may be authorized by law, no later than the redemption date or (ii) that the City retains the right to rescind such notice at any time prior to the scheduled

redemption date if the City delivers a certificate of the City to the Paying Agent/Registrar instructing the Paying Agent /Registrar to rescind the redemption notice, and such notice of redemption shall be of no effect if such moneys and/or authorized securities are not so deposited or if the notice is rescinded. The Paying Agent/Registrar shall give prompt notice of any such rescission of a conditional notice of redemption to the affected owners. Any Certificates subject to conditional redemption where redemption has been rescinded shall remain Outstanding.

Section 3.7: Manner of Payment, Characteristics, Execution and Authentication. The Paying Agent/Registrar is hereby appointed the agent for the Certificates. The Certificates shall be payable, shall have the characteristics and shall be executed, sealed, registered and authenticated, all as provided and in the manner indicated in the FORM OF CERTIFICATES set forth in Article IV of this Ordinance. If any officer of the City whose manual or facsimile signature shall appear on the Certificates shall cease to be such officer before the authentication of the Certificates or before the delivery of the Certificates, such manual or facsimile signature shall nevertheless be valid and sufficient for all purposes as if such officer had remained in such office.

The approving legal opinion of Andrews Kurth LLP, Houston, Texas, Certificate Counsel, may be printed on the back of the Certificates over the certification of the City Secretary, which may be executed in facsimile but errors or omissions in the printing of the opinion shall have no effect on the validity of the Certificates.

The City may secure identification numbers through CUSIP Global Services, managed on behalf of the American Bankers Association by Standard & Poor's Financial Services LLC, and may authorize the printing of such numbers on the face of the Certificates. It is expressly provided, however, that the presence or absence of CUSIP numbers on the Certificates shall be of no significance or effect in regard to the legality thereof and neither the City nor the attorneys approving said Certificates as to legality are to be held responsible for CUSIP numbers incorrectly printed on the Certificates.

Section 3.8: Authentication. Except for the Certificates to be initially issued, which need not be authenticated by the Registrar, only such Certificates as shall bear thereon a certificate of authentication, substantially in the form provided in Article IV of this Ordinance, manually executed by an authorized representative of the Paying Agent/Registrar, shall be entitled to the benefits of this Ordinance or shall be valid or obligatory for any purpose. Such duly executed certificate of authentication shall be conclusive evidence that the Certificate so authenticated was delivered by the Paying Agent/Registrar hereunder.

Section 3.9: Ownership. The City, the Paying Agent/Registrar and any other person may treat the person in whose name any Certificate is registered as the absolute owner of such Certificate for the purpose of making and receiving payment of the principal thereof and interest thereon and for all other purposes, whether or not such Certificate is overdue, and neither the City nor the Paying Agent/Registrar shall be bound by any notice or knowledge to the contrary. All payments made to the person deemed to be the Registered Owner of any Certificate in accordance with this Section shall be valid and effective and shall discharge the liability of the City and the Paying Agent/Registrar upon such Certificate to the extent of the sums paid.

Section 3.10: Registration, Transfer and Exchange. The Paying Agent/Registrar is hereby appointed the registrar for the Certificates. So long as any Certificate remains Outstanding, the Paying Agent/Registrar shall keep the Register at its office in Houston, Texas in which, subject to such reasonable regulations as it may prescribe, the Paying Agent/Registrar shall provide for the registration and transfer of the Certificates in accordance with the terms of this Ordinance.

Each Certificate shall be transferable only upon the presentation and surrender thereof at the principal corporate trust office of the Paying Agent/Registrar, accompanied by an assignment duly executed by the Registered Owner or his authorized representative in form satisfactory to the Paying Agent/Registrar. Upon due presentation of any Certificate for transfer, the Paying Agent/Registrar shall authenticate and deliver in exchange therefor, within seventy-two (72) hours after such presentation, a new Certificate or Certificates, registered in the name of the transferee or transferees, in authorized denominations and of the same maturity and aggregate principal amount and bearing interest at the same rate as the Certificate or Certificates so presented and surrendered.

All Certificates shall be exchangeable upon the presentation and surrender thereof at the principal corporate trust office of the Paying Agent/Registrar for a Certificate or Certificates, maturity and interest rate and in any authorized denomination, in an aggregate principal amount equal to the unpaid principal amount of the Certificate or Certificates presented for exchange. The Paying Agent/Registrar shall be and is hereby authorized to authenticate and deliver exchange Certificates in accordance with the provisions of this Section. Each Certificate delivered by the Paying Agent/Registrar in accordance with this Section shall be entitled to the benefits and security of this Ordinance to the same extent as the Certificate or Certificates in lieu of which such Certificate is delivered.

All Certificates issued in transfer or exchange shall be delivered to the Registered Owners thereof at the principal corporate trust office of the Paying Agent/Registrar or sent by United States mail, first class, postage prepaid.

The City or the Paying Agent/Registrar may require the Registered Owner of any Certificate to pay a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with the transfer or exchange of such Certificate. Any fee or charge of the Paying Agent/Registrar for such transfer or exchange shall be paid by the City.

The Paying Agent/Registrar shall not be required to transfer or exchange any Certificate called for redemption in whole or in part during the forty-five (45) day period immediately prior to the date fixed for redemption; provided, however, that this restriction shall not apply to the transfer or exchange by the Registered Owner of the unredeemed portion of a Certificate called for redemption in part.

Section 3.11: Replacement Certificates. Upon the presentation and surrender to the Paying Agent/Registrar of a damaged or mutilated Certificate, the Paying Agent/Registrar shall authenticate and deliver in exchange therefor a replacement Certificate, of the same maturity, interest rate and principal amount, bearing a number not contemporaneously outstanding. The City or the Paying Agent/Registrar may require the Registered Owner of such Certificate to pay

a sum sufficient to cover any tax or other governmental charge that may be imposed in connection therewith and any other expenses connected therewith, including the fees and expenses of the Paying Agent/Registrar and the City.

If any Certificate is lost, apparently destroyed or wrongfully taken, the City, pursuant to the applicable laws of the State of Texas and ordinances of the City, and in the absence of notice or knowledge that such Certificate has been acquired by a bona fide purchaser, shall execute, and the Paying Agent/Registrar shall authenticate and deliver, a replacement Certificate of the same maturity, interest rate and principal amount, bearing a number not contemporaneously outstanding, provided that the Registered Owner thereof shall have:

(a) furnished to the City and the Paying Agent/Registrar satisfactory evidence of the ownership of and the circumstances of the loss, destruction or theft of such Certificate;

(b) furnished such security or indemnity as may be required by the Paying Agent/Registrar and the City to save and hold them harmless;

(c) paid all expenses and charges in connection therewith, including, but not limited to, printing costs, legal fees, fees of the Paying Agent/Registrar and any tax or other governmental charge that may be imposed; and

(d) met any other reasonable requirements of the City and the Paying Agent/Registrar.

If, after the delivery of such replacement Certificate, a bona fide purchaser of the original Certificate in lieu of which such replacement Certificate was issued presents for payment such original Certificate, the City and the Paying Agent/Registrar shall be entitled to recover such replacement Certificate from the person to whom it was delivered or any person taking therefrom, except a bona fide purchaser, and shall be entitled to recover upon the security or indemnity provided therefor to the extent of any loss, damage, cost or expense incurred by the City or the Paying Agent/Registrar in connection therewith.

If any such mutilated, lost, apparently destroyed or wrongfully taken Certificate has become or is about to become due and payable, the City in its discretion may, instead of issuing a replacement Certificate, authorize the Paying Agent/Registrar to pay such Certificate.

Each replacement Certificate delivered in accordance with this Section shall be entitled to the benefits and security of this Ordinance to the same extent as the Certificate or Certificates in lieu of which such replacement Certificate is delivered.

Section 3.12: Cancellation. All Certificates paid or redeemed in accordance with this Ordinance, and all Certificates in lieu of which exchange Certificates or replacement Certificates are authenticated and delivered in accordance herewith, shall be canceled and destroyed upon the making of proper records regarding such payment or redemption. The Paying Agent/Registrar shall periodically furnish the City with certificates of destruction of such Certificates.

Section 3.13: Book-Entry Only System. (a) The Initial Certificate shall be registered in the name of the Purchaser. Except as provided in Section 3.12 hereof, all other Certificates shall be registered in the name of Cede & Co., as nominee of DTC.

(b) With respect to Certificates registered in the name of Cede & Co., as nominee of DTC, the City and the Registrar shall have no responsibility or obligation to any DTC Participant or to any person on behalf of whom such DTC Participant holds an interest in the Certificates, except as provided in this Ordinance. Without limiting the immediately preceding sentence, the City and the Registrar shall have no responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede & Co. or any DTC Participant with respect to any ownership interest in the Certificates, (ii) the delivery to any DTC Participant or any other person, other than an Owner, as shown on the Register, of any notice with respect to the Certificates, including any notice of redemption, or (iii) the payment to any DTC Participant or any other person, other than an Owner, as shown on the Register, of any amount with respect to principal of, premium, if any, or interest on the Certificates. Notwithstanding any other provision of this Ordinance to the contrary, the City and the Registrar shall be entitled to treat and consider the person in whose name each Certificate is registered in the Register as the absolute Owner of such Certificate for the purpose of payment of principal of and interest on the Certificates, for the purpose of giving notices of redemption and other matters with respect to such Certificate, for the purpose of registering transfer with respect to such Certificate, and for all other purposes whatsoever. The Registrar shall pay all principal of, premium, if any, and interest on the Certificates only to or upon the order of the respective Owners, as shown in the Register as provided in this Ordinance, or their respective attorneys duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge the City's obligations with respect to payments of principal, premium, if any, and interest on the Certificates to the extent of the sum or sums so paid. No person other than an Owner, as shown in the Register, shall receive a Certificate evidencing the obligation of the City to make payments of amounts due pursuant to this Ordinance. Upon delivery by DTC to the Registrar of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., and subject to the provisions of this Ordinance with respect to interest checks being mailed to the Owner of record as of the Record Date, the phrase "Cede & Co." in this Ordinance shall refer to such new nominee of DTC.

Section 3.14: Successor Securities Depository; Transfer Outside Book-Entry Only System. In the event that the City in its sole discretion, determines that the beneficial owners of the Certificates be able to obtain certificated Certificates, or in the event DTC discontinues the services described herein, the City shall (i) appoint a successor securities depository, qualified to act as such under Section 17(a) of the Securities and Exchange Act of 1934, as amended, notify DTC and DTC Participants, as identified by DTC, of the appointment of such successor securities depository and transfer one or more separate Certificates to such successor securities depository or (ii) notify DTC and DTC Participants, as identified by DTC, of the availability through DTC of Certificates and transfer one or more separate Certificates to DTC Participants having Certificates credited to their DTC accounts, as identified by DTC. In such event, the Certificates shall no longer be restricted to being registered in the Register in the name of Cede & Co., as nominee of DTC, but may be registered in the name of the successor securities depository, or its nominee, or in whatever name or names Owners transferring or exchanging Certificates shall designate, in accordance with the provisions of this Ordinance.

Section 3.15: Payments to Cede & Co. Notwithstanding any other provision of this Ordinance to the contrary, so long as any Certificates are registered in the name of Cede & Co., as nominee of DTC, all payments with respect to principal of, premium, if any, and interest on such Certificates, and all notices with respect to such Certificates, shall be made and given, respectively, in the manner provided in the Blanket Letter of Representations.

#### ARTICLE IV

##### FORM OF CERTIFICATES

The Certificates, including the Form of Comptroller's Registration Certificate, Form of Paying Agent/Registrar Authentication Certificate, and Form of Assignment, shall be in substantially the form set forth in Exhibit A hereto, with such omissions, insertions and variations as may be necessary or desirable, and not prohibited by this Ordinance.

#### ARTICLE V

##### SECURITY FOR THE CERTIFICATES

Section 5.1: Pledge and Levy of Taxes and Revenues. (a) To provide for the payment of principal of and interest on the Certificates, there is hereby levied, within the limits prescribed by law, for the current year and each succeeding year thereafter, while the Certificates or any part of the principal thereof and the interest thereon remain outstanding and unpaid, an ad valorem tax upon all taxable property within the City sufficient to pay the interest on the Certificates and to create and provide a sinking fund of not less than 2% of the principal amount of the Certificates or not less than the principal payable out of such tax, whichever is greater, with full allowance being made for tax delinquencies and the costs of tax collection, and such taxes, when collected, shall be applied to the payment of principal of and interest on the Certificates by deposit to the Debt Service Fund and to no other purpose.

(b) The City hereby declares its purpose and intent to provide and levy a tax legally sufficient to pay the principal of and interest on the Certificates, it having been determined that the existing and available taxing authority of the City for such purpose is adequate to permit a legally sufficient tax. As long as any Certificates remain outstanding, all moneys on deposit in, or credited to, the Debt Service Fund shall be secured by a pledge of security, as provided by law for cities in the State of Texas.

(c) In addition, pursuant to the authority of Chapter 1502, Texas Government Code, as amended, the City also hereby pledges the revenues to be derived from the City's water and sewer system, after the payment of all operation and maintenance expenses thereof (the "Net Revenues"), in an amount not to exceed \$10,000, to the payment of the principal of and interest on the Certificates, provided that the pledge of Net Revenues is and shall be junior and subordinate in all respects to the pledge of Net Revenues to the payment of any obligation of the City, whether authorized heretofore or hereafter, which the City designates as having a pledge senior to the pledge of the Net Revenues to the payment of the Certificates. The City also reserves the right to issue, for any lawful purpose at any time, in one or more installments, bonds, certificates of obligation and other obligations of any kind, secured in whole or in part by

a pledge of Net Revenues, that may be prior and superior in right to, on a parity with, or junior and subordinate to the pledge of Net Revenues securing the Certificates.

Section 5.2: Debt Service Fund. The Certificates of Obligation, Series 2016 Debt Service Fund (the “Debt Service Fund”) is hereby created as a special fund solely for the benefit of the Certificates. The City shall establish and maintain such fund at an official City depository and shall keep such fund separate and apart from all other funds and accounts of the City. Any amount on deposit in the Debt Service Fund shall be maintained by the City in trust for the Registered Owners of the Certificates. Such amount, plus any other amounts deposited by the City into such fund and any and all investment earnings on amounts on deposit in such fund, shall be used only to pay the principal of, premium, if any, and interest on the Certificates.

Section 5.3: Further Proceedings. After the Certificates to be initially issued have been executed, it shall be the duty of the Mayor to deliver the Certificates to be initially issued and all pertinent records and proceedings to the Attorney General for examination and approval. After the Certificates to be initially issued shall have been approved by the Attorney General, they shall be delivered to the Comptroller for registration. Upon registration of the Certificates to be initially issued, the Comptroller (or a deputy lawfully designated in writing to act for the Comptroller) shall manually sign the Comptroller’s registration certificate prescribed herein to be affixed or attached to the Certificates to be initially issued, and the seal of said Comptroller shall be impressed, or placed in facsimile, thereon.

## ARTICLE VI

### CONCERNING THE PAYING AGENT/REGISTRAR

Section 6.1: Acceptance. Wells Fargo Bank, N.A., Minneapolis, Minnesota is hereby appointed as the initial Paying Agent/Registrar for the Certificates pursuant to the terms and provisions of the Paying Agent/Registrar Agreement by and between the City and the Paying Agent/Registrar. The Paying Agent/Registrar Agreement shall be substantially in the form attached hereto as Exhibit B, the terms and provisions of which are hereby approved, and the Mayor is hereby authorized to execute and deliver such Paying Agent/Registrar Agreement on behalf of the City in multiple counterparts and the City Secretary is hereby authorized to attest thereto and affix the City’s seal. Such initial Paying Agent/Registrar and any successor Paying Agent/Registrar, by undertaking the performance of the duties of the Paying Agent/Registrar hereunder, and in consideration of the payment of any fees pursuant to the terms of any contract between the Paying Agent/Registrar and the City and/or the deposits of money pursuant to this Ordinance, shall be deemed to accept and agree to abide by the terms of this Ordinance.

Section 6.2: Trust Funds. All money transferred to the Paying Agent/Registrar in its capacity as Paying Agent/Registrar for the Certificates under this Ordinance (except any sums representing Paying Agent/Registrar’s fees) shall be held in trust for the benefit of the City, shall be the property of the City and shall be disbursed in accordance with this Ordinance.

Section 6.3: Certificates Presented. Subject to the provisions of Section 6.4, all matured Certificates presented to the Paying Agent/Registrar for payment shall be paid without

the necessity of further instructions from the City. Such Certificates shall be canceled as provided herein.

Section 6.4: Unclaimed Funds Held by the Paying Agent/Registrar. Funds held by the Paying Agent/Registrar that represent principal of and interest on the Certificates remaining unclaimed by the Registered Owner thereof after the expiration of three years from the date such funds have become due and payable (a) shall be reported and disposed of by the Paying Agent/Registrar in accordance with the provisions of Title 6 of the Texas Property Code, as amended, to the extent such provisions are applicable to such funds, or (b) to the extent such provisions do not apply to the funds, such funds shall be paid by the Paying Agent/Registrar to the City upon receipt by the Paying Agent/Registrar of a written request therefor from the City.

The Paying Agent/Registrar shall have no liability to the Registered Owners of the Certificates by virtue of actions taken in compliance with this Section.

Section 6.5: Paying Agent/Registrar May Own Certificates. The Paying Agent/Registrar in its individual or any other capacity, may become the owner or pledgee of Certificates with the same rights it would have if it were not the Paying Agent/Registrar.

Section 6.6: Successor Paying Agents/Registrars. The City covenants that at all times while any Certificates are Outstanding it will provide a legally qualified bank, trust company, financial institution or other agency to act as Paying Agent/Registrar for the Certificates. The City reserves the right to change the Paying Agent/Registrar for the Certificates on not less than sixty (60) days' written notice to the Paying Agent/Registrar, as long as any such notice is effective not less than 60 days prior to the next succeeding principal or interest payment date on the Certificates. Promptly upon the appointment of any successor Paying Agent/Registrar, the previous Paying Agent/Registrar shall deliver the Register or a copy thereof to the new Paying Agent/Registrar, and the new Paying Agent/Registrar shall notify each Registered Owner, by United States mail, first class, postage prepaid, of such change and of the address of the new Paying Agent/Registrar. Each Paying Agent/Registrar hereunder, by acting in that capacity, shall be deemed to have agreed to the provisions of this Ordinance.

## ARTICLE VII

### PROVISIONS CONCERNING SALE AND APPLICATION OF PROCEEDS OF CERTIFICATES

Section 7.1: Sale of Certificates. The Certificates are hereby sold and shall be delivered to the Purchaser, \_\_\_\_\_, at a price of \$\_\_\_\_\_ (which is the par amount of the Certificates plus a premium on the Certificates of \$\_\_\_\_\_ and less an underwriter's discount of \$\_\_\_\_\_), in accordance with the terms of the Bid Form of even date herewith, presented to and hereby approved by the City Council, which price and terms are hereby found and determined to be the most advantageous reasonably obtainable by the City and produced the lowest net effective interest rate. The Mayor and other appropriate officials of the City are hereby authorized to do any and all things necessary or desirable to satisfy the conditions set out therein and to provide for the issuance and delivery of the Certificates.

Section 7.2: Approval, Registration and Delivery. The Mayor is hereby authorized to have control and custody of the Certificates and all necessary records and proceedings pertaining thereto pending their delivery, and the Mayor and other officers and employees of the City are hereby authorized and directed to make such certifications and to execute such instruments as may be necessary to accomplish the delivery of the Certificates and to assure the investigation, examination and approval thereof by the Attorney General and the registration of the initial Certificates by the Comptroller. Upon registration of the Certificates, the Comptroller (or the Comptroller's certificates clerk or an assistant certificates clerk lawfully designated in writing to act for the Comptroller) shall manually sign the Comptroller's Registration Certificates prescribed herein to be attached or affixed to each Certificates initially delivered and the seal of the Comptroller shall be impressed or printed or lithographed thereon.

Section 7.3: Application of Proceeds of Certificates. Proceeds from the sale of the Certificates shall, promptly upon receipt by the City, be applied as follows:

- (1) Accrued interest, if any, shall be deposited into the Debt Service Fund created in Section 5.2 of this Ordinance;
- (2) Net premium in the amount of \$\_\_\_\_\_ shall be applied to pay underwriter's discount and in the amount of \$\_\_\_\_\_ shall be applied to pay expenses arising in connection with the issuance of the Certificates;
- (3) The remaining proceeds shall be applied, together with other funds of the City, to provide funds to pay contractual obligations to be incurred for the purposes set forth in Section 3.1 of this Ordinance.

Section 7.4: Tax Exemption. The City intends that the interest on the Certificates shall be excludable from gross income of the owners thereof for federal income tax purposes pursuant to Sections 103 and 141 through 150 of the Internal Revenue Code of 1986, as amended, (the "Code") and all applicable temporary, proposed and final regulations (the "Regulations") and procedures promulgated thereunder and applicable to the Certificates. For this purpose, the City covenants that it will monitor and control the receipt, investment, expenditure and use of all gross proceeds of the Certificates (including all property, the acquisition, construction or improvement of which is to be financed directly or indirectly with the proceeds of the Certificates) and take or omit to take such other and further actions as may be required by Sections 103 and 141 through 150 of the Code and the Regulations to cause the interest on the Certificates to be and remain excludable from the gross income, as defined in Section 61 of the Code, of the owners of the Certificates for federal income tax purposes. Without limiting the generality of the foregoing, the City shall comply with each of the following covenants:

- (a) The City shall not use, permit the use of or omit to use Gross Proceeds or any other amounts (or any property the acquisition, construction or improvement of which is to be financed directly or indirectly with Gross Proceeds) in a manner which, if made or omitted, respectively, would cause the interest on any Certificate to become includable in the gross income, as defined in Section 61 of the Code, of the owner thereof for federal income tax purposes. Without limiting the generality of the foregoing, unless and until the City shall have received a written opinion of counsel nationally recognized in the field of municipal bond law to

the effect that failure to comply with such covenant will not adversely affect the exemption from federal income tax of the interest on any Certificate, the City shall comply with each of the specific covenants in this Section.

(b) Except as permitted by Section 141 of the Code and the regulations and rulings thereunder, the City shall, at all times prior to the last stated maturity of the Certificates,

(1) exclusively own, operate, and possess all property the acquisition, construction, or improvement of which is to be financed directly or indirectly with Gross Proceeds of such series of the Certificates and not use or permit the use of such Gross Proceeds or any property acquired, constructed, or improved with such Gross Proceeds in any activity carried on by any person or entity other than a state or local government, unless such use is solely as a member of the general public, or

(2) not directly or indirectly impose or accept any charge or other payment for use of Gross Proceeds of such series of the Certificates or any property the acquisition, construction or improvement of which is to be financed directly or indirectly with such Gross Proceeds.

(c) Except to the extent permitted by Section 141 of the Code and the regulations and rulings thereunder, the City shall not use Gross Proceeds of the Certificates to make or finance loans to any person or entity other than a state or local government. For purposes of the foregoing covenant, Gross Proceeds are considered to be “loaned” to a person or entity if (1) property acquired, constructed or improved with Gross Proceeds is sold or leased to such person or entity in a transaction which creates a debt for federal income tax purposes, (2) capacity in or service from such property is committed to such person or entity under a take-or-pay, output, or similar contract or arrangement, or (3) indirect benefits, or burdens and benefits of ownership, of such Gross Proceeds or such property are otherwise transferred in a transaction which is the economic equivalent of a loan.

(d) Except to the extent permitted by Section 148 of the Code and the regulations and rulings thereunder, the City shall not, at any time prior to the earlier of the final stated maturity or final payment of the Refunded Obligations, directly or indirectly invest Gross Proceeds of such Certificates in any Investment (or use such Gross Proceeds to replace money so invested), if as a result of such investment the Yield of all Investments allocated to such Gross Proceeds whether then held or previously disposed of, exceeds the Yield on the Refunded Obligations.

(e) Based on all of the facts and estimates now known or reasonably expected to be in existence on the date the Certificates are delivered, the City reasonably expects that the proceeds of the Certificates (to the extent any of such proceeds remain unexpended) will not be used in a manner that would cause the Certificates or any portion thereof to be “arbitrage bonds” within the meaning of Section 148 of the Code.

(f) At all times while the Certificates are outstanding, the City will identify and properly account for all amounts constituting gross proceeds of the Certificates in accordance with the Regulations. The City will monitor the yield on the investments of the proceeds of the Certificates and, to the extent required by the Code and the Regulations, will restrict the yield on

such investments to a yield which is not materially higher than the yield on the Certificates. To the extent necessary to prevent the Certificates from constituting “arbitrage bonds,” the City will make such payments as are necessary to cause the yield on all yield restricted nonpurpose investments allocable to the Certificates to be less than the yield that is materially higher than the yield on the Certificates.

(g) The City will not take any action or knowingly omit to take any action, if taken or omitted, would cause the Certificates to be treated as “federally guaranteed” obligations for purposes of Section 149(b) of the Code.

(h) The City represents that not more than fifty percent (50%) of the proceeds of any new money portion of the Certificates was invested in nonpurpose investments (as defined in Section 148(f)(b)(A) of the Code) having a substantially guaranteed yield for four years or more within the meaning of Section 149(g)(3)(A)(ii) of the Code, and the City reasonably expected at the time each issue of the Refunded Certificates was issued that at least eighty-five percent (85%) of the spendable proceeds of the Certificates or the Refunded Certificates would be used to carry out the governmental purpose of such Certificates within the corresponding three-year period beginning on the respective dates of the Certificates or the Refunded Certificates.

(i) The City will take all necessary steps to comply with the requirement that certain amounts earned by the City on the investment of the gross proceeds of the Certificates, if any, be rebated to the federal government. Specifically, the City will (i) maintain records regarding the receipt, investment and expenditure of the gross proceeds of the Certificates as may be required to calculate such excess arbitrage profits separately from records of amounts on deposit in the funds and accounts of the City allocable to other obligations of the City or moneys which do not represent gross proceeds of any obligations of the City and retain such records for at least six years after the day on which the last outstanding Certificate is discharged, (ii) account for all gross proceeds under a reasonable, consistently applied method of accounting, not employed as an artifice or device to avoid, in whole or in part, the requirements of Section 148 of the Code, including any specified method of accounting required by applicable Regulations to be used for all or a portion of the gross proceeds, (iii) calculate, at such times as are required by applicable Regulations, the amount of excess arbitrage profits, if any, earned from the investment of the gross proceeds of the Certificates and (iv) timely pay, as required by applicable Regulations, all amounts required to be rebated to the federal government. In addition, the City will exercise reasonable diligence to assure that no errors are made in the calculations required by the preceding sentence and, if such an error is made, to discover and promptly correct such error within a reasonable amount of time thereafter, including payment to the federal government of any delinquent amounts owed to it, including interest thereon and penalty.

(j) The City will not indirectly pay any amount otherwise payable to the federal government pursuant to the foregoing requirements to any person other than the federal government by entering into any investment arrangement with respect to the gross proceeds of the Certificates that might result in a reduction in the amount required to be paid to the federal government because such arrangement results in smaller profit or a larger loss than would have resulted if such arrangement had been at arm’s length and had the yield on the issue not been relevant to either party.

(k) The City will timely file or cause to be filed with the Secretary of the Treasury of the United States the information required by Section 149(e) of the Code with respect to the Certificates on such form and in such place as the Secretary may prescribe.

(l) The City will not issue or use the Certificates as part of an “abusive arbitrage device” (as defined in Section 1.148 10(a) of the Regulations). Without limiting the foregoing, the Certificates are not and will not be a part of a transaction or series of transactions that attempts to circumvent the provisions of Section 148 of the Code and the Regulations, by (i) enabling the City to exploit the difference between tax exempt and taxable interest rates to gain a material financial advantage, or (ii) increasing the burden on the market for tax-exempt obligations.

(m) Proper officers of the City charged with the responsibility for issuing the Certificates are hereby directed to make, execute and deliver certifications as to facts, estimates or circumstances in existence as of the Issue Date and stating whether there are facts, estimates or circumstances that would materially change the City’s expectations. On or after the Issue Date, the City will take such actions as are necessary and appropriate to assure the continuous accuracy of the representations contained in such certificates.

(n) The covenants and representations made or required by this Section are for the benefit of the Certificate holders and any subsequent Certificate holder, and may be relied upon by the Certificate holder and any subsequent Certificate holder and bond counsel to the City.

In complying with the foregoing covenants, the City may rely upon an unqualified opinion issued to the City by nationally recognized bond counsel that any action by the City or reliance upon any interpretation of the Code or Regulations contained in such opinion will not cause interest on the Certificates to be includable in gross income for federal income tax purposes under existing law.

Notwithstanding any other provision of this Ordinance, the City’s representations and obligations under the covenants and provisions of this Section 7.4 shall survive the defeasance and discharge of the Certificates for as long as such matters are relevant to the exclusion of interest on the Certificates from the gross income of the owners for federal income tax purposes.

Section 7.5: Reserved.

Section 7.6: Related Matters. In order that the City shall satisfy in a timely manner all of its obligations under this Ordinance, the Mayor, the Mayor, City Secretary and all other appropriate officers, agents, representatives and employees of the City are hereby authorized and directed to take all other actions that are reasonably necessary to provide for the issuance and delivery of the Certificates, including, without limitation, executing and delivering on behalf of the City all certificates, consents, receipts, requests, notices, and other documents as may be reasonably necessary to satisfy the City’s obligations under this Ordinance and to direct the transfer and application of funds of the City consistent with the provisions of this Ordinance.

## ARTICLE VIII

### MISCELLANEOUS

Section 8.1: Defeasance. The Certificates may be discharged, defeased, redeemed or refunded in any manner now or hereafter permitted by law.

Section 8.2: Application of Chapter 1208, Government Code. Chapter 1208, Government Code, applies to the issuance of the Certificates and the pledge of the taxes granted by the City under Section 5.1 of this Ordinance, and such pledge is therefore valid, effective and perfected. If Texas law is amended at any time while the Certificates are outstanding and unpaid such that the pledge of the taxes granted by the City under Section 5.1 of this Ordinance is to be subject to the filing requirements of Chapter 9, Business & Commerce Code, then in order to preserve to the Registered Owners of the Certificates the perfection of the security interest in said pledge, the City agrees to take such measures as it determines are reasonable and necessary under Texas law to comply with the applicable provisions of Chapter 9, Business & Commerce Code and enable a filing to perfect the security interest in said pledge to occur.

Section 8.3: Ordinance a Contract - Amendments. This Ordinance shall constitute a contract with the Registered Owners from time to time, be binding on the City, and shall not be amended or repealed by the City so long as any Certificate remains Outstanding except as permitted in this Section. The City may, without the consent of or notice to any Registered Owners, from time to time and at any time, amend this Ordinance in any manner not detrimental to the interests of the Registered Owners, including the curing of any ambiguity, inconsistency, or formal defect or omission herein. In addition, the City may, with the consent of Registered Owners who own in the aggregate 51% of the principal amount of the Certificates then Outstanding, amend, add to, or rescind any of the provisions of this Ordinance; provided that, without the consent of all Registered Owners of Outstanding Certificates, no such amendment, addition, or rescission shall (i) extend the time or times of payment of the principal of and interest on the Certificates, reduce the principal amount thereof, the redemption price, or the rate of interest thereon, or in any other way modify the terms of payment of the principal of or interest on the Certificates, (ii) give any preference to any Certificate over any other Certificate, or (iii) reduce the aggregate principal amount of Certificates required to be held by Registered Owners for consent to any such amendment, addition, or rescission.

Section 8.4: Legal Holidays. In any case where the date interest accrues and becomes payable on the Certificates or principal of the Certificates matures or the date fixed for redemption of any Certificates or a Record Date shall be in the City a Saturday, Sunday, legal holiday or a day on which banking institutions are authorized by law to close, then payment of interest or principal need not be made on such date, or the Record Date shall not occur on such date, but payment may be made or the Record Date shall occur on the next succeeding day which is not in the City a Saturday, Sunday, legal holiday or a day on which banking institutions are authorized by law to close with the same force and effect as if (i) made on the date of maturity or the date fixed for redemption and no interest shall accrue for the period from the date of maturity or redemption to the date of actual payment or (ii) the Record Date had occurred on the fifteenth day of that calendar month.

Section 8.5: No Recourse Against City Officials. No recourse shall be had for the payment of principal of or interest on any Certificates or for any claim based thereon or on this Ordinance against any official of the City or any person executing any Certificates.

Section 8.6: Further Proceedings. The Mayor, Mayor Pro-Tem, City Secretary and other appropriate officials of the City are hereby authorized and directed to do any and all things necessary and/or convenient to carry out the terms of this Ordinance.

Section 8.7: Severability. If any Section, paragraph, clause or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such Section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance.

Section 8.8: Power to Revise Form of Documents. Notwithstanding any other provision of this Ordinance, the Mayor is hereby authorized to make or approve such revisions, additions, deletions, and variations to this Ordinance and in the form of the documents attached hereto as exhibits as, in the judgment of the Mayor, and in the opinion of Certificate Counsel to the City, may be necessary or convenient to carry out or assist in carrying out the purposes of this Ordinance, or as may be required for approval of the Certificates by the Attorney General of Texas; provided, however, that any changes to such documents resulting in substantive amendments to the terms and conditions of the Certificates or such documents shall be subject to the prior approval of the City Council

Section 8.9: Open Meeting. It is hereby found, determined and declared that a sufficient written notice of the date, hour, place and subject of the meeting of the City Council at which this Ordinance was adopted was posted at a place convenient and readily accessible at all times to the general public at City Hall for the time required by law preceding this meeting, as required by the Open Meetings Law, Chapter 551, Texas Government Code, and that this meeting has been open to the public as required by law at all times during which this Ordinance and the subject matter thereof has been discussed, considered and formally acted upon. The City Council further ratifies, approves and confirms such written notice and the contents and posting thereof.

Section 8.10: Official Statement. The City Council hereby approves the form and content of the Preliminary Official Statement and the Notice of Sale prepared for the initial offering and sale of the Certificates and hereby authorizes the preparation of a final Official Statement reflecting the terms of the Bid Form and other relevant matters. The use of such Official Statement in the reoffering of the Certificates by the Purchaser is hereby approved and authorized.

Section 8.11: Repealer. All orders, resolutions and ordinances, or parts thereof, inconsistent herewith are hereby repealed to the extent of such inconsistency.

Section 8.12: Continuing Disclosure Undertaking. (a) Annual Reports. The City will provide certain updated financial information and operating data to the MSRB annually in an electronic format as prescribed by the MSRB and available via the Electronic Municipal Market Access (“EMMA”) system at [www.emma.msrb.org](http://www.emma.msrb.org). The information to be updated includes all

quantitative financial information and operating data with respect to the City of the general type included in the final Official Statement in Tables 1-3 and 5-13 and in APPENDIX “B.” The City will update and provide this information within six months after the end of each fiscal year.

If the City changes its fiscal year, it will submit a notice of such change to the MSRB, and the date of the new fiscal year end prior to the next date by which the City otherwise would be required to provide financial information and operating data pursuant to this Section.

The financial information and operating data to be provided may be set forth in full in one or more documents or may be included by specific reference to any document available to the public on the MSRB’s Internet Web site or filed with the SEC, as permitted by the SEC Rule. The updated information will include audited financial statements, if the City commissions an audit and it is completed by the required time. If audited financial statements are not available by the required time, the City will provide unaudited financial statements by the required time and audited financial statements when and if such audited statements become available. Any such financial statements will be prepared in accordance with the accounting principals described in APPENDIX B or such other accounting principals as the City may require to employ from time to time pursuant to State law or regulation.

(b) Material Event Notices. The City shall notify the MSRB in an electronic format prescribed by the MSRB, in a timely manner (not in excess of ten (10) days after the occurrence of the event), of any of the following events with respect to the Certificates:

- (i) Principal and interest payment delinquencies;
- (ii) Non-payment related defaults, if material;
- (iii) Unscheduled draws on debt service reserves reflecting financial difficulties;
- (iv) Unscheduled draws on credit enhancements reflecting financial difficulties;
- (v) Substitution of credit or liquidity providers or their failure to perform;
- (vi) Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the Certificates, or other material events affecting the tax status of the Certificates;
- (vii) Modifications to rights of holders of the Certificates, if material;
- (viii) Certificate calls, if material, and tender offers;
- (ix) Defeasances;
- (x) Release, substitution, or sale of property securing repayment of the Certificates, if material;
- (xi) Rating changes;
- (xii) Bankruptcy, insolvency, receivership or similar event of the City;
- (xiii) The consummation of a merger, consolidation, or acquisition involving the City or the sale of all or substantially all of the assets of the City, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a

definitive agreement relating to any such actions, other than pursuant to its terms, if material; and

- (xiv) Appointment of a successor Paying Agent/Registrar or change in the name of the Paying Agent/Registrar, if material.

For the purposes, any event described in the immediate preceding paragraph (12) is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent or similar officer for the City in a proceeding Under States Bankruptcy Code or any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the City, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the City.

The City shall notify the MSRB, in a timely manner, of any failure by the City to provide financial information or operating data in accordance this Section by the time required by such Section.

(c) Limitations, Disclaimers, and Amendments. The City shall be obligated to observe and perform the covenants specified in this Section for so long as, but only for so long as, the City remains an “obligated person” with respect to the Certificates within the meaning of the Rule, except that the City in any event will give notice of any deposit made in accordance with Texas law that causes Certificates no longer to be outstanding.

The provisions of this Section are for the sole benefit of the holders and the beneficial owners of the Certificates, and nothing in this Section, express or implied, shall give any benefit or any legal or equitable right, remedy, or claim hereunder to any other person. The City undertakes to provide only the financial information, operating data, financial statements, and notices which it has expressly agreed to provide pursuant to this Section and does not hereby undertake to provide any other information that may be relevant or material to a complete presentation of the City’s financial results, condition, or prospects or hereby undertake to update any information provided in accordance with this Section or otherwise, except as expressly provided herein. The City does not make any representation or warranty concerning such information or its usefulness to a decision to invest in or sell Certificates at any future date.

UNDER NO CIRCUMSTANCES SHALL THE CITY BE LIABLE TO THE HOLDER OR BENEFICIAL OWNER OF ANY CERTIFICATE OR ANY OTHER PERSON, IN CONTRACT OR TORT, FOR DAMAGES RESULTING IN WHOLE OR IN PART FROM ANY BREACH BY THE CITY, WHETHER NEGLIGENT OR WITHOUT FAULT ON ITS PART, OF ANY COVENANT SPECIFIED IN THIS SECTION, BUT EVERY RIGHT AND REMEDY OF ANY SUCH PERSON, IN CONTRACT OR TORT, FOR OR ON ACCOUNT OF ANY SUCH BREACH SHALL BE UNLIMITED TO AN ACTION FOR MANDAMUS OR SPECIFIC PERFORMANCE.

No default by the City in observing or performing its obligations under this Section shall comprise a breach of or default under this Order for purposes of any other provision of this Order.

Nothing in this Section is intended or shall act to disclaim, waive, or otherwise limit the duties of the City under federal and state securities laws.

The provisions of this Section may be amended by the City from time to time to adapt to changed circumstances that arise from a change in legal requirements, a change in law, or a change in the identity, nature, or status or type of principal payment of the City, if (1) the agreement, as so amended, would have permitted an underwriter to purchase or sell Certificates in the initial primary offering in compliance with the Rule, taking into account any amendments or interpretations of the Rule to the date of such amendment, as well as such changed circumstances, and (2) either (a) the holders of a majority in aggregate amount of the outstanding Certificates consent to such amendment or (b) a person unaffiliated with the City (such as nationally recognized bond counsel) determines that the amendment will not materially impair the interests of the holders and beneficial owners of the Certificates. The City may also amend or repeal the provisions of this continuing disclosure agreement if the SEC amends or repeals the applicable provisions of the Rule or a court of final jurisdiction enters judgment that such provisions of the Rule are invalid, but only if and to the extent that the provisions of this sentence would not prevent an underwriter from lawfully purchasing or selling Certificates in the primary offering of the Certificates. If any such amendment is made, the City will include in its next annual update an explanation in narrative form of the reasons for the change and its impact on the type of operating data or financial information being provided.

Section 8.13: Declaration of Emergency It is hereby officially found and determined that a case of emergency and urgent public necessity exists that requires that this Ordinance be passed finally and take effect immediately on the date of its introduction, such emergency and urgent public necessity being that the proceeds from the sale of the Certificates are required as soon as possible and without delay for the purposes set forth herein.

Section 8.14: No Personal Liability. No recourse shall be had for payment of the principal of or interest on any Certificates or for any claim based thereon, or on this Ordinance, against any official or employee of the City or any person executing any Certificates.

Section 8.15: Effective Date. This Ordinance shall be in force and effect from and after its passage on the date shown below.

*[signature page follows]*

PASSED AND APPROVED ON FIRST AND ONLY READING on the \_\_\_\_ day of \_\_\_\_\_, A.D., 2016.

\_\_\_\_\_  
TOM REID  
MAYOR

ATTEST:

\_\_\_\_\_  
YOUNG LORFING, TRMC  
CITY SECRETARY

APPROVED AS TO FORM:

\_\_\_\_\_  
DARRIN M. COKER  
CITY ATTORNEY

Exhibit A – Form of Certificate  
Exhibit B – Paying Agent/Registrar Agreement  
Exhibit C - Bid Form



interest thereon at the rate shown above, calculated on a basis of a 360-day year composed of twelve 30-day months, from the later of the date of deliver or the most recent interest payment date to which interest has been paid or duly provided for. Interest on this Certificate is payable by check on March 1 and September 1, beginning on March 1, 2017, mailed to the registered owner of record as of the close of business on the last business day of the month next preceding each interest payment date.

THIS CERTIFICATE IS ONE OF A DULY AUTHORIZED SERIES OF CERTIFICATES (the "Certificates") in the aggregate principal amount of \$\_\_\_\_\_ issued pursuant to an ordinance adopted by the City Council of the City on May 23, 2016 (the "Ordinance") for the purpose of providing all or part of the funds to pay contractual obligations to be incurred for the construction of public works and the purchase of materials, supplies, equipment, machinery, buildings, land and rights-of-way for authorized needs and purposes and for the payment of contractual obligations for professional services, to wit: (i) certain street improvements within the City including improvements to Orange Street; (ii) certain improvements to parks and trails within the City including improvements to Centennial Park and SCR Trail; (iii) certain improvements and renovations to existing City facilities including Tom Reid Library, City Hall Complex, Orange Service Center and Fire Station#1 and (iv) professional services rendered in connection with the above listed projects.

<sup>4</sup>THIS CERTIFICATE shall not be valid or obligatory for any purpose or be entitled to any benefit under the Ordinance unless this Certificate is authenticated by the Paying Agent/Registrar by due execution of the authentication certificate endorsed hereon.

THE CITY RESERVES THE RIGHT, at its option, to redeem, prior to their maturity, Certificates maturing on and after March 1, 2027, in whole or in part, on March 1, 2026, or any date thereafter, at par plus accrued interest to the date fixed for redemption.

THE CERTIFICATES maturing on March 1 in the year 20\_\_, (the "Term Certificates") are subject to mandatory sinking fund redemption in the following amounts (subject to reduction as hereinafter provided), on the following dates, in each case at a redemption price equal to the principal amount of the Certificates or the portions thereof so called for redemption plus accrued interest to the date fixed for redemption:

	<u><b>Mandatory Redemption Dates</b></u>	<u><b>Principal Amounts</b></u>
<b>Term Certificates Maturing March 1, 20__</b>	March 1, 20__ March 1, 20__ (stated maturity)	

<sup>4</sup> In the initial Certificate, this paragraph shall read as follows:  
 THIS CERTIFICATE shall not be valid or obligatory for any purpose or be entitled to any benefit under the Ordinance unless this Certificate is registered by the Comptroller of Public Accounts of the State of Texas by due execution of the registration certificate endorsed hereon.

The particular Term Certificates to be redeemed shall be selected by the Registrar by lot or other customary random selection method, on or before January 15 of each year in which Term Certificates are to be mandatorily redeemed. The principal amount of Term Certificates to be mandatorily redeemed in each year shall be reduced by the principal amount of such Term Certificates that have been optionally redeemed and which have not been made the basis for a previous reduction.

CERTIFICATES MAY BE REDEEMED IN PART only in integral multiples of \$5,000. If a Certificate subject to redemption is in a denomination larger than \$5,000, a portion of such Certificate may be redeemed, but only in integral multiples of \$5,000. In selecting portions of Certificates for redemption, each Certificate shall be treated as representing that number of Certificates of \$5,000 denomination which is obtained by dividing the principal amount of such Certificate by \$5,000. Upon surrender of any Certificate for redemption in part, the Paying Agent/Registrar, in accordance with the provisions of the Ordinance, shall authenticate and deliver in exchange therefor a Certificate or Certificates of like maturity and interest rate in an aggregate principal amount equal to the unredeemed portion of the Certificate so surrendered.

NOTICE OF ANY SUCH REDEMPTION, identifying the Certificates or portions thereof to be redeemed, shall be sent by United States mail, first class, postage prepaid, to the Registered Owners thereof at their addresses as shown on the books of registration kept by the Paying Agent/Registrar, not less than thirty (30) days before the date fixed for such redemption. By the date fixed for redemption, due provision shall be made with the Paying Agent/Registrar for the payment of the redemption price of the Certificates called for redemption. If such notice of redemption is given, and if due provision for such payment is made, all as provided above, the Certificates which are to be so redeemed thereby automatically shall be redeemed prior to their scheduled maturities, they shall not bear interest after the date fixed for redemption, and they shall not be regarded as being outstanding except for the purpose of being paid with the funds so provided for such payment.

THIS CERTIFICATE IS TRANSFERABLE only upon presentation and surrender at the principal corporate trust office of the Paying Agent/Registrar, accompanied by an assignment duly executed by the Registered Owner or its authorized representative, subject to the terms and conditions of the Ordinance.

THIS CERTIFICATE IS EXCHANGEABLE at the principal corporate trust office of the Paying Agent/Registrar for a Certificate or Certificates of the same maturity and interest rate and in the principal amount of \$5,000 or any integral multiple thereof, subject to the terms and conditions of the Ordinance.

THE PAYING AGENT/REGISTRAR is not required to accept for transfer or exchange any Certificate called for redemption, in whole or in part, during the forty-five (45) day period immediately prior to the date fixed for redemption; provided, however, that such limitation shall not apply to the transfer or exchange by the Registered Owner of an unredeemed portion of a Certificate called for redemption in part.

THE CITY OR PAYING AGENT/REGISTRAR may require the Registered Owner of any Certificate to pay a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with the transfer or exchange of a Certificate. Any fee or charge of the Paying Agent/Registrar for a transfer or exchange shall be paid by the City.

THE REGISTERED OWNER of this Certificate by acceptance hereof, acknowledges and agrees to be bound by all the terms and conditions of the Ordinance.

IT IS HEREBY DECLARED AND REPRESENTED that this Certificate has been duly and validly issued and delivered; that all acts, conditions and things required or proper to be performed, exist and to be done precedent to or in the issuance and delivery of this Certificate have been performed, exist and have been done in accordance with law; that the Certificates do not exceed any constitutional or statutory limitation; and that annual ad valorem taxes sufficient to provide for the payment of the interest on and principal of this Certificate, as such interest comes due and such principal matures, have been levied and ordered to be levied, within the limits prescribed by law, against all taxable property in the City and have been irrevocably pledged for such payment.

IT IS FURTHER DECLARED AND REPRESENTED that the revenues to be derived from the City's water and sewer system, after the payment of all operation and maintenance expenses thereof (the "Net Revenues"), in an amount not to exceed \$10,000, are pledged to the payment of the principal of and interest on the Certificates, provided that the pledge of Net Revenues is and shall be junior and subordinate in all respects to the pledge of Net Revenues to the payment of any obligation of the City, whether authorized heretofore or hereafter, which the City designates as having a pledge senior to the pledge of the Net Revenues to the payment of the Certificates. The City also reserves the right to issue, for any lawful purpose at any time, in one or more installments, bonds, certificates of obligation and other obligations of any kind, secured in whole or in part by a pledge of Net Revenues, that may be prior and superior in right to, on a parity with, or junior and subordinate to the pledge of Net Revenues securing the Certificates.

REFERENCE IS HEREBY MADE TO THE ORDINANCE, a copy of which is filed with the Paying Agent/Registrar, for the full provisions thereof, to all of which the Registered Owners of the Certificates assent by acceptance of the Certificates.

IN WITNESS WHEREOF, the City has caused its corporate seal to be impressed or placed in facsimile hereon and this Certificate to be signed by the Mayor, countersigned by the City Secretary by their manual, lithographed or printed facsimile signatures.

CITY OF PEARLAND, TEXAS

(SEAL)

---

Mayor

COUNTERSIGNED:

\_\_\_\_\_  
City Secretary

\* \* \*

FORM OF COMPTROLLER’S REGISTRATION CERTIFICATE

The following form of Comptroller’s Registration Certificate shall be attached or affixed to each of the Certificates initially delivered:

OFFICE OF THE COMPTROLLER           §  
OF PUBLIC ACCOUNTS                   §                   REGISTER NO. \_\_\_\_\_  
THE STATE OF TEXAS                   §

I hereby certify that this certificate has been examined, certified as to validity and approved by the Attorney General of the State of Texas, and that this certificate has been registered by the Comptroller of Public Accounts of the State of Texas.

WITNESS MY SIGNATURE AND SEAL OF OFFICE this \_\_\_\_\_.

\_\_\_\_\_  
Comptroller of Public Accounts  
of the State of Texas

[SEAL]

\* \* \*

FORM OF PAYING AGENT/REGISTRAR’S AUTHENTICATION CERTIFICATE

The following form of authentication certificate shall be printed on the face of each of the Certificates other than those initially delivered:

AUTHENTICATION CERTIFICATE

This Certificate is one of the Certificates described in and delivered pursuant to the within mentioned Ordinance; and, except for the Certificates initially delivered, this Certificate has been issued in exchange for or replacement of a Certificate, Certificates, or a portion of a Certificate or Certificates of an issue which originally was approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts of the State of Texas.

WELLS FARGO BANK, NATIONAL  
ASSOCIATION, as Paying Agent/Registrar

By \_\_\_\_\_  
Authorized Signature

Date of Authentication: \_\_\_\_\_

\* \* \*

FORM OF ASSIGNMENT

The following form of assignment shall be printed on the back of each of the Certificates:

ASSIGNMENT

For value received, the undersigned hereby sells, assigns and transfers unto

\_\_\_\_\_  
(Please print or type name, address, and zip code of Transferee)

\_\_\_\_\_  
(Please insert Social Security or Taxpayer Identification Number of Transferee)  
the within bond and all rights thereunder, and hereby irrevocably constitutes and appoints  
\_\_\_\_\_ attorney to transfer such bond on the books  
kept for registration thereof, with full power of substitution in the premises.

DATED: \_\_\_\_\_

Signature Guaranteed:

\_\_\_\_\_

NOTICE: Signature must be guaranteed by a member firm of the New York Stock Exchange or a commercial bank or trust company.

\_\_\_\_\_  
Registered Owner

NOTICE: The signature above must correspond to the name of the Registered Owner as shown on the face of this bond in every particular, without any alteration, enlargement or change whatsoever.

\* \* \*

**EXHIBIT B**

**PAYING AGENT/REGISTRAR AGREEMENT**

See Tab \_\_

**EXHIBIT C**

**Bid Form**

See Tab \_\_

# Building MOMENTUM



## CITY OF PEARLAND

### Certificates of Obligation Series 2016



# Bond Types



## Certificates of Obligation:

- ✓ Not voted, requires public notice of intent to issue, subject to petition
- ✓ Secured by property taxes
- ✓ Required by law to levy a tax rate to pay for the certificates

# Certificates of Obligation - \$14.1M



Project	Overage/ Additional for 2007 Bond	TIP 20% Matching Funds	Previous Intent to Reimburse	City Facility/ Infrastructure	Total to be Sold
<i>Park Certificates</i>					
Centennial Park Phase II	✓		✓		573,064
Shadow Creek Ranch Trail		✓	✓		324,951
<i>Facility Certificates</i>					
Tom Reid Library Expansion*	✓		✓	✓	735,075
City Hall Complex Renovations			✓	✓	4,252,518
Orange Service Center Phase I			✓	✓	1,737,240
Fire Station #1 (Design)			✓	✓	487,000
<i>Street Certificates</i>					
Orange Street Reconstruction - Main St. to Schlieder Dr. **				✓	6,000,000
<b>TOTAL CERTIFICATES</b>					<b>\$ 14,109,848</b>

\* Certificates and general obligation bonds completely fund the construction.

\*\* Does not include any reduction from over policy fund balance.

**AGENDA REQUEST  
BUSINESS OF THE CITY COUNCIL  
CITY OF PEARLAND, TEXAS**

<b>AGENDA OF:</b>	May 23, 2016	<b>ITEM NO.:</b>	Ord. No. 1526
<b>DATE SUBMITTED:</b>	May 16, 2016	<b>DEPT. OF ORIGIN:</b>	Finance
<b>PREPARED BY:</b>	Cynthia Pearson	<b>PRESENTOR:</b>	Cynthia Pearson
<b>REVIEWED BY:</b>	Jon R. Branson	<b>REVIEW DATE:</b>	May 17, 2016
<b>SUBJECT:</b> Ordinance No. 1526; An Ordinance of the City Council of the City of Pearland authorizing issuance of City of Pearland, Texas, Water and Sewer System Revenue Bonds, Series 2016A; prescribing the terms thereof; providing for the payment thereof; awarding the sale thereof; making other provisions regarding such bonds and matters incident thereto; and declaring an emergency.			
<b>EXHIBITS:</b> Ordinance NO. 1526 PowerPoint – Water and Sewer System Revenue Bonds Series 2016A			
<b>FUNDING:</b>			
	<input type="checkbox"/> Grant	<input type="checkbox"/> Developer/Other	<input type="checkbox"/> Cash
<input checked="" type="checkbox"/> Bonds To Be Sold	<input type="checkbox"/> Bonds- Sold	<input type="checkbox"/> L/P – Sold	<input type="checkbox"/> L/P – To Be Sold
<b>EXPENDITURE REQUIRED:</b>		<b>AMOUNT BUDGETED:</b>	
<b>AMOUNT AVAILABLE:</b>		<b>PROJECT NO.:</b>	
<b>ACCOUNT NO.:</b>			
<b>ADDITIONAL APPROPRIATION REQUIRED:</b>			
<b>ACCOUNT NO.:</b>			
<b>PROJECT NO.:</b>			
<b>To be completed by Department:</b>			
X Finance	X Legal	X Ordinance	Resolution

## EXECUTIVE SUMMARY

### BACKGROUND

The fiscal year 2016 budget included issuing \$9.0 million in Water Sewer System Revenue Bonds for various Capital Improvement Projects. On March 28<sup>th</sup>, City Council received a comprehensive overview of financing options for the 2016 CIP, including the issuance of revenue bonds for the following approved projects:

<u>Project</u>	<u>Revised Budget</u>	
City Hall Complex Renovations	818,055	
Orange St. Service Center Phase I	3,040,860	
Toll Road Utility Relocation	749,460	
FM521 Waterline (Broadway to Mooring Point)	1,068,055	
Hughes Ranch Road West 12" Waterline	292,500	
McHard Road Trunk Sewer	1,117,000	
Lift Station Program	440,800	
JHEC WWTP Expansion - WWM Project 29A	1,505,000	
<b>TOTAL</b>	<b>9,031,730</b>	

### BID AND AWARD

On March 28<sup>th</sup>, City Council received a comprehensive overview of financing options for the 2016 Capital Improvement Program, including the issuance of revenue bonds in the amount \$9,000,000.

On Monday, May 23, 2016, City's Financial Advisor, BOSC, Inc., will be accepting competitive bids for the Bonds. The results of the bids will be reviewed and shared with City Council at the May 23<sup>rd</sup> City Council meeting, with recommendation for award.

In conjunction with the bond sale, Moody's Investor Services reaffirmed the City's bond rating of Aa3; and Fitch Ratings Inc. assigned an AA- rating to this issuance. The rating reflects the city's sizable and growing tax base, favorable socioeconomic profile, healthy financial reserve levels, and current debt burdens.

**The Ordinance approving the sale of the bonds is a First and Final reading and declares an emergency as pricing and the bond market will not allow the City to hold the bids for two weeks.** The Bonds will close in June.

**CURRENT AND FUTURE FUNDING /FINANCIAL IMPACTS/DEBT SERVICE**

The Water/Sewer System Revenue Bonds will be structured with a 20-year maturity, level principal payment with a declining annual debt service payment. Beginning in fiscal year 2017, the annual debt service is estimated at \$10,067,849 with an annual average debt service payment of \$7,151,016.

**RECOMMENDED ACTION**

Consideration and Possible Approval of Ordinance 1526, an Ordinance Authorizing the issuance of City of Pearland, Texas Water and Sewer System Revenue Bonds, Series 2016A; Prescribing the Terms Thereof; Providing for the Payment Thereof; Awarding the Sale Thereof; and Making Other Provisions Regarding Such Certificates and Matters Incident Thereto; and Declaring an Emergency.

# Building MOMENTUM



## **CITY OF PEARLAND**

### **Water/Sewer Revenue Bonds Series 2016A**



# Bond Types



## **Water/Sewer Revenue Bonds:**

- ✓ Secured by Net System Revenues
- ✓ Pledge strengthened by Bondholder Covenants



# Revenue Bonds - \$9M

Project	Previous Intent to Reimburse	Total to be Sold
<i>Water/Sewer Bonds</i>		
City Hall Complex Renovations*	✓	818,055
Orange Service Center Phase I*	✓	3,040,860
Toll Road Utility Relocation	✓	749,460
FM 521 Water Line (Broadway to Mooring Pointer)	✓	1,068,055
Hughes Ranch Road West 12" Water Line	✓	292,500
McHard Road Trunk Sewer (Garden to Southdown WWTP)	✓	1,117,000
Lift Station Program	✓	440,800
JHEC WWTP Expansion - WWM Project 29A	✓	1,505,000
<b>TOTAL REVENUE BONDS</b>		<b>\$ 9,031,730</b>

\*Intent to reimburse was for certificates of obligation.

**CITY OF PEARLAND, TEXAS**  
**WATER AND SEWER SYSTEM REVENUE BONDS**  
**SERIES 2016A**  
**ORDINANCE NO. 2016-\_\_\_\_\_**

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**ORDINANCE NO. 1526**

**An Ordinance of the City Council of the City of Pearland authorizing issuance of City of Pearland, Texas, Water and Sewer System Revenue Bonds, Series 2016A; prescribing the terms thereof; providing for the payment thereof; awarding the sale thereof; making other provisions regarding such bonds and matters incident thereto; and declaring an emergency.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS:**

**ARTICLE I  
FINDINGS AND DETERMINATIONS**

Section 1.1. Findings and Determinations. It is hereby officially found and determined that:

(a) The City is authorized by Chapter 1502, Texas Government Code, as amended, to issue revenue bonds payable from the revenues of its water and sewer system for the purpose of constructing repairs, improvements, additions and extensions to the City's waterworks and sanitary sewer system.

(b) The City Council now deems it to be in the best interest of the City to issue, sell and deliver the Series 2016A Bonds (hereinafter defined) as hereinafter authorized, pursuant to the laws of the State of Texas, including specifically, Chapter 1502, Texas Government Code.

(c) The conditions precedent to the issuance of additional bonds which are contained in the ordinances authorizing the issuance of the Previously Issued Bonds and the Series 2016A Bonds (hereinafter defined) have been met, and the City is authorized to issue the revenue bonds and make the pledges and covenants set forth herein

**ARTICLE II  
DEFINITIONS AND INTERPRETATIONS**

Section 2.1. Definitions. In this Ordinance, the following terms shall have the following meanings, unless the context clearly indicates otherwise:

“*Act*” shall mean, collectively Chapter 1502, Texas Government Code, as amended.

“*Additional Bonds*” shall mean the additional revenue bonds permitted to be issued by the City pursuant to Section 6.1 hereof.

“*Average Annual Principal and Interest Requirements*” shall mean the average annual principal and interest requirements for all Bonds. Upon the issuance of the Series 2016A Bonds, the Average Annual Principal and Interest Requirements are hereby determined to be \$\_\_\_\_\_ and shall be recomputed upon the issuance of each series of Additional Bonds and set forth in each ordinance authorizing the issuance of Additional Bonds. For purposes of

calculating the Average Annual Principal and Interest Requirements with respect to any variable rate Additional Bonds, interest on such bonds shall be calculated in accordance with Section 6.1 of this Ordinance.

“*Bonds*” shall mean any or all of the Previously Issued Bonds, the Series 2016A Bonds and any Additional Bonds from time to time hereafter issued, but only to the extent such Bonds remain Outstanding within the meaning of this Ordinance.

“*Business Day*” shall mean any day other than (1) a Saturday or a Sunday, (2) a legal holiday or the equivalent on which banking institutions generally are authorized or required to close in New York, New York or Houston, Texas or any other city in which is located the principal corporate trust office of the Paying Agent/Registrar or (3) a day on which the New York Stock Exchange is closed in whole or in part.

“*City*” shall mean the City of Pearland, Texas, and, where appropriate, the City Council thereof and any successor to the City as owner of the System.

“*Code*” shall mean the Internal Revenue Code of 1986, as amended.

“*Defeasance Securities*” means (1) direct, non-callable obligations of the United States of America, including obligations that are unconditionally guaranteed by the United States of America, (2) non-callable obligations of an agency or instrumentality of the United States of America, including obligations that are unconditionally guaranteed or insured by the agency or instrumentality and that, on the date of the purchase thereof are rated as to investment quality by a nationally recognized investment rating firm not less than “AAA” or its equivalent, and (3) non-callable obligations of a state or an agency or a county, municipality, or other political subdivision of a state that have been refunded and that, on the date the governing body of the City adopts or approves the proceedings authorizing the financial arrangements are rated as to investment quality by a nationally recognized investment rating firm not less than “AAA” or its equivalent.

“*DTC*” shall mean The Depository Trust Company of New York, New York, or any successor securities depository.

“*DTC Participant*” shall mean brokers and dealers, banks, trust companies, clearing corporations and certain other organizations on whose behalf DTC was created to hold securities to facilitate the clearance and settlement of securities transactions among DTC Participants.

“*Fiscal Year*” shall mean the City’s fiscal year, which currently runs from October 1 to September 30, but which may be changed from time to time by the City.

“*Gross Revenues*” shall mean all revenues, income and receipts of every nature derived or received by the City from the operation and ownership of the System; the interest income from the investment or deposit of money in the Revenue Fund and the Reserve Fund (each hereinafter defined in Article V hereof); and any other revenues hereafter pledged to the payment of all Bonds. Gross Revenues shall not include any of (i) grants from, or payments by, any federal, state or local governmental agency or authority or any other entity or person, the use of which is restricted by law or by the terms of the grant or payment to capital expenditures of the

System, (ii) capital assets, debt service funds or debt service reserve funds of water districts or other public or private sewer systems annexed, acquired or otherwise assumed by the City or (iii) any interest earned on items (i) or (ii) above.

*“Interest Payment Date,”* when used in connection with any Series 2016A Bond, shall mean September 1 or March 1 of each year as applicable commencing March 1, 2017.

*“Maintenance and Operation Expenses”* shall mean the reasonable and necessary expenses of operation and maintenance of the System, including all salaries, labor, materials, repairs and extensions necessary to render efficient service (but only such repairs and extensions as, in the judgment of the governing body of the City, are necessary to keep the System in operation and render adequate service to the City and the inhabitants thereof, or such as might be necessary to meet some physical accident or conditions which would otherwise impair the Bonds), and all payments (including payments of amounts equal to all or a part of the debt service on bonds issued by other political subdivisions and authorities of the State of Texas) under contracts which are now or hereafter defined as operating expenses by the Legislature of Texas. Depreciation shall never be considered as a Maintenance and Operation Expense. Maintenance and Operation Expenses shall include, without limitation, all payments under contracts for the impoundment, conveyance or treatment of water or otherwise which are now or hereafter defined as operating expenses by the Legislature of Texas and the treatment of such payments as Maintenance and Operation Expenses shall not be affected in any way if, subsequent to entering into such contracts, the City acquires as a part of the System title to any properties or facilities used to impound, convey or treat water under such contracts, or if the City contracts to acquire title to such properties or facilities as a part of the System upon the final payment of debt service on the bonds issued to finance such properties or facilities.

*“MSRB”* means the Municipal Securities Rulemaking Board.

*“Net Revenues”* shall mean all Gross Revenues remaining after deducting the Maintenance and Operation Expenses.

*“Ordinance”* shall mean this Bond Ordinance and all amendments hereof and supplements hereto.

*“Outstanding”* when used with reference to the Bonds shall mean, as of a particular date, all such bonds theretofore delivered except: (a) any such bond canceled by or on behalf of the City at or before said date; (b) any such bond defeased pursuant to the defeasance provisions of the ordinance authorizing its issuance, or otherwise defeased as permitted by applicable law; and (c) any such bond in lieu of or in substitution for which another bond shall have been delivered pursuant to the ordinance authorizing the issuance of such bond.

*“Owner”* or *“Registered Owner”* when used with respect to any Bond, shall mean the person or entity in whose name such Bond is registered in the Register. Any reference to a particular percentage or proportion of the Owners of the Bonds of a particular class or series of Bonds shall mean the Owners at a particular time of the specified percentage or proportion in aggregate principal amount of all Bonds or the Bonds of such class or series then Outstanding.

“*Paying Agent/Registrar*” shall mean Wells Fargo Bank, N.A., Minneapolis, Minnesota, and its successors in that capacity.

“*Previously Issued Bonds*” shall mean the Outstanding City of Pearland, Texas, Water and Sewer System Adjustable Rate Revenue Bonds, Series 1999, City of Pearland, Texas, Water and Sewer System Revenue Bonds, Series 2003, the City of Pearland, Texas, Water and Sewer System Revenue and Refunding Bonds, Series 2006, the City of Pearland, Texas, Water and Sewer System Revenue Bonds, Series 2007, the City of Pearland, Texas, Water and Sewer System Revenue Bonds, Series 2008, the City of Pearland, Texas, Water and Sewer System Revenue Bonds, Series 2009, the City of Pearland, Texas, Water and Sewer System Revenue Bonds, Series 2010A, the City of Pearland, Texas, Water and Sewer System Revenue Refunding Bonds, Series 2010B, the City of Pearland, Texas Water and Sewer System Revenue and Refunding Bonds, Series 2012 and the City of Pearland, Texas Water and Sewer System Revenue Bonds, Series 2014.

“*Purchaser*” shall mean \_\_\_\_\_.

“*Record Date*” shall mean, with respect to any Interest Payment Date, the fifteenth day of the month, whether or not a Business Day, next preceding each Interest Payment Date.

“*Register*” shall mean the books of registration kept by the Paying Agent/Registrar in which are maintained the names and addresses of and the principal amounts registered to each Owner of Series 2016A Bonds.

“*Series 2016A Bonds*” shall mean the City of Pearland, Texas, Water and Sewer System Revenue Bonds, Series 2016A, authorized by this Ordinance.

“*Special Project*” shall mean, to the extent permitted by law, any water or sewer system property, improvement or facility declared by the City not to be part of the System, for which the costs of acquisition, construction, and installation are paid from proceeds of a financing transaction other than the issuance of bonds payable from ad valorem taxes or revenues of the System and for which all maintenance and operation expenses are payable from sources other than ad valorem taxes or revenues of the System, but only to the extent that and for so long as all or any part of the revenues or proceeds of which are or will be pledged to secure the payment or repayment of such costs of acquisition, construction, and installation under such financing transaction.

“*Subordinate Lien Obligations*” shall mean the obligations permitted to be issued by the City pursuant to Section 6.2 hereof.

“*Surety Policy*” shall mean and include a surety bond, bond insurance policy or other credit agreement, as authorized by Section 1502.064, Texas Government Code, provided that the issuer of any Surety Policy shall be rated in the highest rating category at the time of issuance of such Surety Policy by A.M. Best Company, Standard & Poor’s Ratings Group, or Moody’s Investors Service. A Surety Policy shall insure all Bonds and Additional Bonds on a pro rata basis. A Surety Policy may include a letter of credit or other agreement or instrument, including any related reimbursement or financial guaranty agreement, whereby the issuer is obligated to

provide funds up to and including the maximum amount and under the conditions specified in such agreement or instrument.

“System” shall mean all properties, facilities, improvements, equipment, interests, rights and powers constituting the water and sewer system of the City, and all future extensions, replacements, betterments, additions, improvements, enlargements, acquisitions, purchases and repairs to the System, including without limitation, all those heretofore or hereafter acquired as a result of the annexation and dissolution of water districts or the acquisition of the properties or assets of any other public, private or non-profit entities. The System shall not include any Special Project.

Section 2.2. Interpretations. All terms defined herein and all pronouns used in this Ordinance shall be deemed to apply equally to singular and plural and to all genders. The titles and headings of the articles and sections of this Ordinance and the Table of Contents of this Ordinance have been inserted for convenience of reference only and are not to be considered a part hereof and shall not in any way modify or restrict any of the terms or provisions hereof. This Ordinance and all the terms and provisions hereof shall be liberally construed to effectuate the purposes set forth herein and to sustain the validity of the Bonds and the validity of the lien on and pledge of the Net Revenues to secure the payment of the Bonds.

**ARTICLE III  
TERMS OF THE SERIES 2016A BONDS**

Section 3.1. Name, Amount, Purpose, Authorization. The City of Pearland, Texas Water and Sewer System Revenue Bonds, Series 2016A shall be issued in fully registered form, without coupons, in the aggregate principal amount of \_\_\_\_\_ (\$\_\_\_\_\_) for the purposes of (i) constructing certain repairs, improvements, additions and extensions to the System, and (ii) payment of expenses of issuance of the Series 2016A Bonds, all under and pursuant to the authority of the Act and all other applicable law.

Section 3.2. Numbers, Date and Denomination. The Series 2016A Bonds shall be initially issued bearing the numbers, in the principal amounts and bearing interest at the rates set forth in Section 3.3 hereof. The Series 2016A Bonds shall be dated as of June 1, 2016, and shall be issued in denominations of \$5,000 of principal amount or any integral multiple thereof.

Section 3.3. Interest Payment Dates, Interest Rates and Maturities. The Series 2016A Bonds shall bear interest from the later of the June 1, 2016, or the most recent Interest Payment Date to which interest has been paid or duly provided for, at the rate or rates per annum set forth below, calculated on the basis of a 360-day year composed of twelve 30-day months and payable semiannually on March 1 and September 1 of each year, commencing March 1, 2017, until maturity or prior redemption.

The Series 2016A Bonds shall mature and become payable on the dates and in the respective principal amounts set forth below, subject to prior redemption as set forth in this Ordinance:

<u>Bond</u> <u>Number</u>	<u>Maturity</u> <u>(09/01)</u>	<u>Principal</u> <u>Amount</u>	<u>Interest</u> <u>Rate</u>
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<u>Bond Number</u>	<u>Maturity (09/01)</u>	<u>Principal Amount</u>	<u>Interest Rate</u>
R-1	2017		
R-2	2018		
R-3	2019		
R-4	2020		
R-5	2021		
R-6	2022		
R-7	2023		
R-9	2024		
R-9	2025		
R-10	2026		
R-11	2027		
R-12	2028		
R-13	2029		
R-14	2030		
R-15	2031		
R-16	2032		
R-17	2033		
R-18	2034		
R-19	2035		
R-20	2036		

Section 3.4. Redemption Prior to Maturity.

(a) *Optional Redemption* - The City reserves the right, at its option, to redeem prior to maturity Series 2016A Bonds maturing on or after September 1, 2027, in whole or in part, in principal installments of \$5,000 or any integral multiple thereof, on September 1, 2026, or any date thereafter, at a price equal to the principal amount of the Series 2016A Bonds or portions thereof called for redemption plus accrued interest to the date of redemption.

(b) The Series 2016A Bonds maturing on September 1 in the years \_\_\_\_\_ (the “Term Bonds”) are subject to mandatory sinking fund redemption in the following amounts (subject to reduction as hereinafter provided), on the following dates, in each case at a redemption price equal to the principal amount of the Series 2016A Bonds or the portions thereof so called for redemption plus accrued interest to the date fixed for redemption:

	<u>Mandatory Redemption Dates</u>	<u>Principal Amounts</u>
<b>Term Bonds Maturing September 1, 20__</b>	September 1, 20__	
	September 1, 20__ *	

\*Maturity

The particular Term Bonds to be redeemed shall be selected by the Registrar by lot or other customary random selection method, on or before July 15 of each year in which Term Bonds are to be mandatorily redeemed. The principal amount of Term Bonds to be mandatorily redeemed in each year shall be reduced by the principal amount of such Term Bonds that have been optionally redeemed on or before July 15 of such year and which have not been made the basis for a previous reduction.

(c) Series 2016A Bonds may be redeemed only in integral multiples of \$5,000 of principal amount. If a Series 2016A Bond subject to redemption is in a denomination larger than \$5,000, a portion of such Series 2016A Bond may be redeemed, but only in integral multiples of \$5,000. In selecting portions of Series 2016A Bonds for redemption, the Registrar shall treat each Series 2016A Bond as representing that number of Series 2016A Bonds of \$5,000 denomination which is obtained by dividing the principal amount of such Series 2016A Bond by \$5,000. Upon surrender of any Series 2016A Bond for redemption in part, the Registrar, in accordance with Section 3.13 hereof, shall authenticate and deliver in exchange therefor a Series 2016A Bond or Bonds of like maturity and interest rate in an aggregate principal amount equal to the unredeemed portion of the Series 2016A Bond so surrendered.

(d) Not less than thirty (30) days prior to a redemption date for the Series 2016A Bonds, a notice of redemption will be sent by U.S. mail, first class postage prepaid, in the name of the City to each Owner of a Series 2016A Bond to be redeemed in whole or in part at the address of such Owner appearing on the Register at the close of business on the Business Day next preceding the date of mailing. Such notices shall state the redemption date, the redemption price, the place at which Series 2016A Bonds are to be surrendered for payment and, if less than all Series 2016A Bonds outstanding are to be redeemed, the numbers of Series 2016A Bonds or portions thereof to be redeemed. Any notice of redemption so mailed as provided in this Section will be conclusively presumed to have been duly given, whether or not the Owner receives such notice. By the date fixed for redemption, due provision shall be made with the Registrar for payment of the redemption price of the Series 2016A Bonds or portions thereof to be redeemed. When Series 2016A Bonds have been called for redemption in whole or in part and notice of redemption has been given as herein provided, the Series 2016A Bonds or portions thereof so redeemed shall no longer be regarded to be outstanding, except for the purpose of receiving payment solely from the funds so provided for redemption, and interest which would otherwise accrue or compound after the redemption date on any Series 2016A Bond or portion thereof called for redemption shall terminate on the date fixed for redemption.

(e) The City reserves the right to give notice of its election or direction to optionally redeem Series 2016A Bonds conditioned upon the occurrence of subsequent events. Such notice may state (i) that the redemption is conditioned upon the deposit of moneys and/or authorized securities, in an amount equal to the amount necessary to effect the redemption, with the Paying Agent/Registrar, or such other entity as may be authorized by law, no later than the redemption date or (ii) that the City retains the right to rescind such notice at any time prior to the scheduled redemption date if the City

delivers a certificate of the City to the Paying Agent/Registrar instructing the Paying Agent /Registrar to rescind the redemption notice, and such notice of redemption shall be of no effect if such moneys and/or authorized securities are not so deposited or if the notice is rescinded. The Paying Agent/Registrar shall give prompt notice of any such rescission of a conditional notice of redemption to the affected owners. Any Series 2016A Bonds subject to conditional redemption where redemption has been rescinded shall remain Outstanding.

Section 3.5. Manner of Payment, Characteristics, Execution and Authentication. The Paying Agent/Registrar shall be the paying agent for the Series 2016A Bonds. The Series 2016A Bonds shall be payable, shall have the characteristics, shall be signed and executed, shall be sealed, and shall be authenticated, all as provided Form of Bond included as Exhibit A to this Ordinance. The Series 2016A Bonds initially delivered shall also have attached or affixed to each such Series 2016A Bond the registration certificate of the Comptroller of Public Accounts of the State of Texas.

The Series 2016A Bonds shall be signed on behalf of the City by the Mayor and countersigned by the City Secretary by their manual, lithographed, or facsimile signatures thereon. Such facsimile signature on the Series 2016A Bonds shall have the same effect as if each of the Series 2016A Bonds had been signed manually and in person by each of said officials. If any officer of the City whose manual or facsimile signature shall appear on the Series 2016A Bonds, as provided in the Form of Bond included as Exhibit A hereto, shall cease to be such officer before the authentication of the Series 2016A Bonds or before the delivery of the Series 2016A Bonds, such manual or facsimile signature shall nevertheless be valid and sufficient for all purposes as if such officer had remained in such office.

The approving legal opinion of Andrews Kurth LLP, Houston, Texas, Bond Counsel, may be printed on the Series 2016A Bonds over the certification of the City Secretary, which may be executed in facsimile. CUSIP numbers also may be printed on the Series 2016A Bonds, but errors or omissions in the printing of either the opinion or the numbers shall have no effect on the validity of the Bonds.

Section 3.6. Approval by Attorney General; Registration by Comptroller. The Initial Series 2016A Bond shall be delivered to the Attorney General of the State of Texas for examination and approval and shall be registered by the Comptroller of Public Accounts of the State of Texas. The manually executed registration certificate of such Comptroller substantially in the form provided in Exhibit A of this Ordinance shall be affixed or attached to the Initial Series 2016A Bonds.

Section 3.7. Authentication. Except for the Series 2016A Bonds to be initially issued, which need not be authenticated, only such Series 2016A Bonds as shall bear thereon a certificate of authentication substantially in the form provided in Exhibit A of this Ordinance, manually executed by an authorized representative of the Paying Agent/Registrar, shall be entitled to the benefits of this Ordinance or shall be valid or obligatory for any purpose. Such duly executed certificate of authentication shall be conclusive evidence that the Series 2016A Bond so authenticated was delivered by the Paying Agent/Registrar hereunder.

Section 3.8. Special Record Date. If interest on any Series 2016A Bond is not paid on any Interest Payment Date and continues unpaid for 30 days thereafter, the Paying Agent/Registrar shall establish a new record date for the payment of such interest, to be known as a “Special Record Date.” The Paying Agent/Registrar shall establish a Special Record Date when funds to make such interest payment are received from or on behalf of the City. Such Special Record Date shall be fifteen (15) days prior to the date fixed for payment of such past due interest, and notice of the date of payment and the Special Record Date shall be sent by United States mail, first class, postage prepaid, not later than five (5) days prior to the Special Record Date, to each Registered Owner of an affected Series 2016A Bond as of the close of business on the day prior to the mailing of such notice.

Section 3.9. Ownership. Subject to the further provisions of this Section, the City, the Paying Agent/Registrar, and any other person may treat the person in whose name any Series 2016A Bond is registered on the Register as the absolute Owner of such Series 2016A Bond for the purpose of making and receiving payment of the principal of or interest on such Series 2016A Bond, and for all other purposes, whether or not such Series 2016A Bond is overdue, and neither the City nor the Paying Agent/Registrar shall be bound by any notice or knowledge to the contrary. All payments made to the person deemed to be the Owner of any Series 2016A Bond in accordance with this Section 3.9 shall be valid and effectual and shall discharge the liability of the City and the Paying Agent/Registrar upon such Series 2016A Bond to the extent of the sums paid.

Section 3.10. Book-Entry Only System. The definitive Series 2016A Bonds shall be initially issued in the form of a separate single fully registered Series 2016A Bond for each of the maturities thereof. Upon initial issuance, the ownership of each such Series 2016A Bond shall be registered in the name of Cede & Co., as nominee of DTC, and except as provided in Section 3.12 hereof, all of the Outstanding Bonds shall be registered in the name of Cede & Co., as nominee of DTC. Upon delivery by DTC to the Paying Agent/Registrar of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., and subject to the provisions in this Ordinance with respect to interest checks being mailed to the Owner at the close of business on the Record Date, the word “Cede & Co.” in this Ordinance shall refer to such new nominee of DTC.

With respect to Series 2016A Bonds registered in the name of Cede & Co., as nominee of DTC, the City and the Paying Agent/Registrar shall have no responsibility or obligation to any DTC Participant or to any person on behalf of whom such a DTC Participant holds an interest in the Series 2016A Bonds. Without limiting the immediately preceding sentence, the City and the Paying Agent/Registrar shall have no responsibility or obligation with respect to (a) the accuracy of the records of DTC, Cede & Co. or any DTC Participant with respect to any ownership interest in the Series 2016A Bonds, (b) the delivery to any DTC Participant or any other person, other than a Registered Owner of a Series 2016A Bond, as shown on the Register, of any notice with respect to the Series 2016A Bonds, including any notice of redemption or (c) the payment to any DTC Participant or any other person, other than a Registered Owner of a Series 2016A Bond as shown in the Register, of any amount with respect to principal of Series 2016A Bonds, premium, if any, or interest on the Series 2016A Bonds.

Except as provided in Section 3.11 of this Ordinance, the City and the Paying Agent/Registrar shall be entitled to treat and consider the person in whose name each Series 2016A Bond is registered in the Register as the absolute owner of such Series 2016A Bond for the purpose of payment of principal of, premium, if any, and interest on Series 2016A Bonds, for the purpose of giving notices of redemption and other matters with respect to such Series 2016A Bond, for the purpose of registering transfer with respect to such Series 2016A Bond, and for all other purposes whatsoever. The Paying Agent/Registrar shall pay all principal of Series 2016A Bonds, premium, if any, and interest on the Series 2016A Bonds only to or upon the order of the respective owners, as shown in the Register as provided in this Ordinance, or their respective attorneys duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge the City's obligations with respect to payment of principal of, premium, if any, and interest on the Series 2016A Bonds to the extent of the sum or sums so paid. No person other than an owner shall receive a Series 2016A Bond evidencing the obligation of the City to make payments of amounts due pursuant to this Ordinance.

Section 3.11. Payments and Notices to Cede & Co. Notwithstanding any other provision of this Ordinance to the contrary, as long as any Series 2016A Bonds are registered in the name of Cede & Co., as nominee of DTC, all payments with respect to principal of, premium, if any, and interest on the Series 2016A Bonds, and all notices with respect to such Series 2016A Bonds shall be made and given, respectively, in the manner provided in the representation letter of the City to DTC.

Section 3.12. Successor Securities Depository; Transfer Outside Book-Entry Only System. In the event that the City or the Paying Agent/Registrar determines that DTC is incapable of discharging its responsibilities described herein and in the representation letter of the City to DTC, and that it is in the best interest of the beneficial owners of the Series 2016A Bonds that they be able to obtain certificated Series 2016A Bonds, the City or the Paying Agent/Registrar shall (a) appoint a successor securities depository, qualified to act as such under Section 17(a) of the Securities and Exchange Act of 1934, as amended, notify DTC of the appointment of such successor securities depository and transfer one or more separate Series 2016A Bonds to such successor securities depository or (b) notify DTC of the availability through DTC of Series 2016A Bonds and transfer one or more separate Series 2016A Bonds to DTC Participants having Series 2016A Bonds credited to their DTC accounts. In such event, the Series 2016A Bonds shall no longer be restricted to being registered in the Register in the name of Cede & Co., as nominee of DTC, but may be registered in the name of the successor securities depository, or its nominee, or in whatever name or names a Registered Owner of a Series 2016A Bond transferring or exchanging Series 2016A Bonds shall designate, in accordance with the provisions of this Ordinance.

Section 3.13. Registration, Transfer, and Exchange. The Paying Agent/Registrar shall keep the Register at its principal corporate trust office and, subject to such reasonable regulations as it may prescribe, the Paying Agent/Registrar shall provide for the registration and transfer of Series 2016A Bonds in accordance with the terms of this Ordinance.

Each Series 2016A Bond shall be transferable only upon the presentation and surrender thereof at the principal corporate trust office of the Paying Agent/Registrar, duly endorsed for transfer, or accompanied by an assignment duly executed by the Registered Owner or his

authorized representative in form satisfactory to the Paying Agent/Registrar. Upon due presentation of any Series 2016A Bond in proper form for transfer, the Paying Agent/Registrar shall authenticate and deliver in exchange therefor, within three (3) Business Days after such presentation, a new Series 2016A Bond or Series 2016A Bonds, registered in the name of the transferee or transferees, in the same maturity and aggregate principal amount and bearing interest at the same rate as the Series 2016A Bond or Series 2016A Bonds so presented.

All Series 2016A Bonds shall be exchangeable upon presentation and surrender thereof at the principal corporate trust office of the Paying Agent/Registrar for a Series 2016A Bond or Series 2016A Bonds of the same maturity in any authorized denomination and interest rate, in an aggregate amount equal to the unpaid principal amount of the Series 2016A Bond or Series 2016A Bonds presented for exchange. The Paying Agent/Registrar shall be and is hereby authorized to authenticate and deliver exchange Series 2016A Bonds in accordance with the provisions of this Section 3.11. Each Series 2016A Bond delivered in accordance with this Section 3.11 shall be entitled to the benefits and security of this Ordinance to the same extent as the Series 2016A Bond or Series 2016A Bonds in lieu of which such Series 2016A Bond is delivered.

The City or the Paying Agent/Registrar may require the Owner of any Series 2016A Bond to pay a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with the transfer or exchange of such Series 2016A Bond. Any fee or charge of the Paying Agent/Registrar for such transfer or exchange shall be paid by the City.

The Paying Agent/Registrar shall not be required to transfer or exchange any Series 2016A Bond called for redemption in whole or in part during the forty-five (45) day period immediately prior to the date fixed for redemption; provided, however, that this restriction shall not apply to the transfer or exchange by the Registered Owner of the unredeemed portion of a Series 2016A Bond called for redemption in part.

Section 3.14. Cancellation of Series 2016A Bonds. All Series 2016A Bonds paid or redeemed in accordance with this Ordinance, and all Series 2016A Bonds in lieu of which exchange Series 2016A Bonds or replacement Series 2016A Bonds are authenticated and delivered in accordance herewith, shall be canceled and destroyed upon the making of proper records regarding such payment or redemption. The Paying Agent/Registrar shall furnish the City with appropriate certificates of destruction of such Series 2016A Bonds.

Section 3.15. Mutilated, Lost, or Stolen Series 2016A Bonds. Upon the presentation and surrender to the Paying Agent/Registrar of a mutilated Series 2016A Bond, the Paying Agent/Registrar shall authenticate and deliver in exchange therefor a replacement Bond of like maturity, interest rate, and principal amount, bearing a number not contemporaneously outstanding. The City or the Paying Agent/Registrar may require the Owner of such Series 2016A Bond to pay a sum sufficient to cover any tax or other governmental charge that may be imposed in connection therewith and any other expenses connected therewith, including the fees and expenses of the Paying Agent/Registrar.

If any Series 2016A Bond is lost, apparently destroyed, or wrongfully taken, the City, pursuant to the applicable laws of the State of Texas, and in the absence of notice or knowledge

that such Series 2016A Bond has been acquired by a bona fide purchaser, shall execute and the Paying Agent/Registrar shall authenticate and deliver, a replacement Series 2016A Bond of like maturity, interest rate, and principal amount, bearing a number not contemporaneously outstanding, provided that the Owner thereof shall have:

- (a) furnished to the City and the Paying Agent/Registrar satisfactory evidence of the ownership of and the circumstances of the loss, destruction or theft of such Series 2016A Bond;
- (b) furnished such security or indemnity as may be required by the Paying Agent/Registrar and the City to save them harmless;
- (c) paid all expenses and charges in connection therewith, including, but not limited to, printing costs, legal fees, fees of the Paying Agent/Registrar, and any tax or other governmental charge that may be imposed; and
- (d) met any other reasonable requirements of the City and the Paying Agent/Registrar.

If, after the delivery of such replacement Series 2016A Bond, a bona fide purchaser of the original Bond in lieu of which such replacement Bond was issued presents for payment such original Series 2016A Bond, the City and the Paying Agent/Registrar shall be entitled to recover such replacement Series 2016A Bond from the person to whom it was delivered or any person taking therefrom, except a bona fide purchaser, and shall be entitled to recover upon the security or indemnity provided therefor to the extent of any loss, damage, cost, or expense incurred by the City or the Paying Agent/Registrar in connection therewith.

If any such mutilated, lost, apparently destroyed, or wrongfully taken Series 2016A Bond has become or is about to become due and payable, the City in its discretion may, instead of issuing a replacement Series 2016A Bond, authorize the Paying Agent/Registrar to pay such Series 2016A Bond.

Each replacement Series 2016A Bond delivered in accordance with this Section 3.13 shall be entitled to the benefits and security of this Ordinance to the same extent as the Series 2016A Bond or Series 2016A Bonds in lieu of which such replacement Series 2016A Bond is delivered.

#### **ARTICLE IV FORM OF SERIES 2016A BONDS AND CERTIFICATES**

Section 4.1. Forms. The form of the Series 2016A Bonds, including the form of the Paying Agent/Registrar's Authentication Certificate, the form of Assignment, the form of the Comptroller's Registration Certificate and the form of the Statement of Insurance, if any, which shall be attached or affixed to the Initial Series 2016A Bonds, shall be, respectively, as described in Exhibit A to this Ordinance, with such additions, deletions, and variations as may be necessary or desirable and not prohibited by this Ordinance.

Section 4.2. Legal Opinion; CUSIP Numbers. The approving legal opinion of Andrews Kurth LLP, Houston, Texas, Bond Counsel, may be printed on the Series 2016A Bonds over the certification of the City Secretary, which may be executed in facsimile. CUSIP numbers also may be printed on the Series 2016A Bonds, but errors or omissions in the printing of either the opinion or the numbers shall have no effect on the validity of the Series 2016A Bonds.

**ARTICLE V**  
**SECURITY AND SOURCE OF**  
**PAYMENT FOR THE BONDS**

Section 5.1. Pledge and Source of Payment. The City hereby covenants and agrees that Gross Revenues of the System shall, as collected and received by the City, be deposited and paid into the special funds hereinafter established, and shall be applied in the manner hereinafter set forth, in order to provide for the payment of all Maintenance and Operation Expenses and to provide for the payment of principal of, interest on and any redemption premiums on the Bonds and all expenses of paying same; and to provide for the disposition of the remaining Net Revenues. The Bonds shall constitute special obligations of the City that shall be payable solely from and shall be equally and ratably secured by a first lien on and pledge of the Net Revenues as collected and received by the City from the operation and ownership of the System, which Net Revenues shall, in the manner herein provided, be set aside for and are hereby pledged to the payment of the Bonds in the Interest and Sinking Fund and the Reserve Fund as hereinafter provided, and the Bonds shall be, in all respects, on a parity with and of equal dignity with one another. The Owners of the Bonds shall never have the right to demand payment of either the principal of, interest on or any redemption premium on the Bonds out of any funds raised or to be raised by taxation.

Section 5.2. Rates and Charges. So long as any Bonds remain Outstanding, the City shall fix, charge and collect rates and charges for the use and services of the System which are calculated to be fully sufficient to produce Net Revenues in each Fiscal Year at least equal to 115% of the principal and interest requirements scheduled to occur in such Fiscal Year on all Bonds then Outstanding, plus an amount equal to the sum of all deposits required to be made to the Reserve Fund in such Fiscal Year (but in no event shall Net Revenues ever be less than the amount required to establish and maintain the Interest and Sinking Fund and the Reserve Fund as hereinafter provided) and, to the extent that funds for such purpose are not otherwise available, to pay all other outstanding obligations payable from the Net Revenues of the System, including all amounts owed by the City to a provider of a Surety Policy, if any, as and when the same become due. For the purpose of complying with its obligation to fix, charge and collect rates and charges, as herein provided, the City shall be entitled to rely on the certificate described in Section 6.1 of this Ordinance, as therein provided, in determining the amount of interest anticipated to be paid in respect of Bonds bearing interest at a variable rate.

The City will not grant or permit any free service from the System, except for public buildings and institutions operated by the City. In addition, the City will not grant or permit any free service from the System permitted by the previous sentence if to do so would violate any condition or covenant to which the City is bound in connection with any federal grant agreement or otherwise.

Section 5.3. Special Funds. The following “Special Funds” shall be established, maintained and accounted for as hereinafter provided so long as any of the Bonds remain Outstanding:

- (a) Revenue Fund;
- (b) Interest and Sinking Fund; and
- (c) Reserve Fund.

All of such Funds shall be maintained as separate accounts on the books of the City. The Interest and Sinking Fund and the Reserve Fund shall constitute trust funds which shall be held in trust for the Owners of the Bonds and the proceeds of which shall be pledged to the payment of the Bonds. All of the Funds named above shall be used solely as herein provided so long as any Bonds remain Outstanding.

Section 5.4. Flow of Funds. Gross Revenues of the System shall be deposited as collected into the Revenue Fund. Moneys from time to time on deposit to the credit of the Revenue Fund shall be applied in the following manner and in the following order of priority:

- (a) First, to pay Maintenance and Operation Expenses and to provide by encumbrance for the payment of all obligations incurred by the City for Maintenance and Operation Expenses and to establish and maintain an operating reserve equal to one month’s estimated Maintenance and Operation Expenses;
- (b) Second, to make all deposits into the Interest and Sinking Fund required by any ordinance authorizing the issuance of Bonds;
- (c) Third, to reimburse the provider of a Surety Bond any amounts advanced under such Surety Bond;
- (d) Fourth, to pay interest to any provider of a Surety Bond any amounts advanced under such Surety Bond;
- (e) Fifth, to make all deposits into the Reserve Fund required by any ordinance authorizing the issuance of Bonds;
- (f) Sixth, to make all deposits, as may be required by any ordinance of the City authorizing the issuance of certain Subordinate Lien Obligations described in Section 6.2 hereof, in order to provide for the payment of and security for such Subordinate Lien Obligations; and
- (g) Seventh, for any lawful purpose.

Section 5.5. Interest and Sinking Fund. On or before the last Business Day of each month so long as any Bonds remain Outstanding, after making all required payments and provision for payment of Maintenance and Operation Expenses, there shall be transferred into the Interest and Sinking Fund from the Revenue Fund the following amounts:

(a) Such amounts, in approximately equal monthly installments, as will be sufficient to accumulate the amount required to pay the interest scheduled to become due on the Bonds on the next Interest Payment Date; and

(b) Such amounts, in approximately equal monthly installments, as will be sufficient to accumulate the amount required to pay the next maturing principal of the Bonds (i.e., the principal amount payable on the next September 1), including the principal amounts of, and any redemption premiums on, any Bonds payable as a result of the operation or exercise of any mandatory or optional redemption provision contained in any ordinance authorizing the issuance of Bonds.

Whenever the total amounts on deposit to the credit of the Interest and Sinking Fund and the Reserve Fund shall be equivalent to the sum of the aggregate principal amount of all Outstanding Bonds plus the aggregate amount of all interest accrued and to accrue thereon, no further payments need be made into the Interest and Sinking Fund or the Reserve Fund, and such Bonds shall not be regarded as being Outstanding except for the purpose of being paid with the moneys on deposit in such Funds.

Moneys deposited to the credit of the Interest and Sinking Fund shall be used solely for the purpose of paying principal (at maturity, prior redemption or tender, or to purchase Bonds in the open market to be credited against mandatory redemption requirements), interest and redemption premiums on the Bonds, plus all bank charges and other costs and expenses relating to such payment.

On or before each date principal becomes due and/or each Interest Payment Date on the Bonds, the City shall transfer from the Interest and Sinking Fund to the Paying Agent for the Bonds an amount equal to the principal of, interest on and any redemption premiums payable on the Bonds on such date, together with an amount equal to all bank charges and other costs and expenses relating to such payment. The Paying Agent shall destroy all paid Bonds and shall provide the City with an appropriate certificate of destruction.

Section 5.6. Reserve Fund. On or before the last Business Day of each month so long as any Bonds remain Outstanding, after making all required payments and provision for payment of Maintenance and Operation Expenses and after making all required transfers into the Interest and Sinking Fund, there shall be transferred into the Reserve Fund from the Revenue Fund amounts equal to one-sixtieth (1/60th) of the Average Annual Principal and Interest Requirements on the Bonds unless or until there has been accumulated in the Reserve Fund money and investments in an aggregate amount at least equal to the Average Annual Principal and Interest Requirements on the Bonds; provided that additional deposits into the Reserve Fund sufficient to provide for the increased reserve requirements resulting from the issuance of any Additional Bonds shall be made by not later than 60 months from the date of issuance of such Additional Bonds as required by Section 6.1(d) hereof. Such additional deposits into the Reserve Fund in connection with the issuance of any Additional Bonds shall be made each month in amounts equal to one-sixtieth (1/60th) of the Average Annual Principal and Interest Requirements on the Bonds and such Additional Bonds. After such amount has accumulated in the Reserve Fund and so long thereafter as such fund contains such amount, no further deposits shall be required to be made into the Reserve Fund, and any excess amounts in the Fund may be

transferred to the Revenue Fund; but if and whenever the balance in the Reserve Fund is reduced below such amount, monthly deposits into such Fund shall be resumed and continued in amounts at least equal to one-twelfth (1/12th) of the Average Annual Principal and Interest Requirements on the Bonds until the Reserve Fund has been restored to such amount. The Reserve Fund shall be used to pay the principal of and interest on the Bonds at any time when there is not sufficient money available in the Interest and Sinking Fund for such purpose and it may be used finally to pay and retire the last Bonds to mature or be redeemed.

The requirements of the immediately preceding paragraph of this Section notwithstanding, the City may provide a Surety Policy or Policies issued in amounts equal to all or part of the Average Annual Principal and Interest Requirements on the Bonds in lieu of depositing cash into the Reserve Fund; provided, however, that no such Surety Policy may be so substituted unless (i) the ordinance authorizing the substitution of the Surety Policy for all or part of the Average Annual Principal and Interest Requirements on the Bonds contains a finding that such substitution is cost effective and (ii) the City obtains an opinion of nationally recognized bond counsel that such substitution is permitted by applicable Texas law then in effect. If a Surety Policy or Policies are issued in accordance with the preceding sentence, such Surety Policy or Policies shall be drawn upon and reimbursed on a pro rata basis.

In the event a Surety Policy issued to satisfy all or a part of the City's obligation with respect to the Reserve Fund causes the amount then on deposit in the Reserve Fund to exceed the Average Annual Principal and Interest Requirements on all Bonds, the City may transfer such excess amount to any fund or funds established for the payment of or security for Bonds or any Subordinate Lien Obligations (including any escrow established for the final payment of any such obligations pursuant to Chapter 1207, Texas Government Code); provided, however, that no funds constituting bond proceeds shall be transferred for the benefit of the Subordinate Lien Obligations.

Section 5.7. Deficiencies in Funds. If in any month there shall not be deposited into any fund maintained pursuant to this Article the full amounts required hereinabove, amounts equivalent to such deficiency shall be set apart and paid into such Special Fund or Funds from the first available and unallocated moneys in the Revenue Fund, and such payment shall be in addition to the amounts otherwise required to be paid into such Funds during any succeeding month or months. To the extent necessary, the rates and charges for the System shall be increased to make up for any such deficiencies.

Section 5.8. Investment of Funds; Transfer of Investment Income.

(a) Money in the Revenue Fund, the Interest and Sinking Fund and the Reserve Fund may, at the option of the City, be invested in time deposits or certificates of deposit secured in the manner required by law for public funds, or be invested in direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by, the United States of America, in obligations of any agencies or instrumentalities of the United States of America or as otherwise permitted by state law; provided that all such deposits and investments shall be made in such manner (which may include repurchase agreements for such investments with any national bank) that the money required to be expended from any Special Fund will be available at the proper

time or times, and provided further that in no event shall such deposits or investments of moneys in the Reserve Fund mature later than the final maturity date of the Bonds. All such investments shall be valued in terms of current market value no less frequently than the last Business Day of the City's Fiscal Year, except that any direct obligations of the United States of America - State and Local Government Series shall be continuously valued at their par value or principal face amount. Any obligation in which money is so invested shall be kept and held in an official depository of the City, except as hereinafter provided. For purposes of maximizing investment returns, money in such funds may be invested, together with money in other funds or with other money of the City, in common investments of the kind described above, or in a common pool of such investments which shall be kept and held at an official depository of the City, which shall not be deemed to be or constitute a commingling of such money or funds provided that safekeeping receipts or certificates of participation clearly evidencing the investment or investment pool in which such money is invested and the share thereof purchased with such money or owned by such fund are held by or on behalf of each such fund. If necessary, such investments shall be promptly sold to prevent any default.

(b) All interest and income derived from such deposits and investments shall be credited monthly to the Special Fund from which such investment was made.

Section 5.9. Security for Uninvested Funds. So long as any Bonds remain Outstanding, all uninvested moneys on deposit in, or credited to, the Revenue Fund, the Interest and Sinking Fund and the Reserve Fund shall be secured by the pledge of security as provided by law for cities in the State of Texas.

## **ARTICLE VI ADDITIONAL BONDS**

Section 6.1. Additional Bonds. The City reserves the right to issue, for any lawful purpose, including the refunding of any previously issued Bonds or any other bonds or obligations of the City issued in connection with the System or payable from Net Revenues, one or more series of Additional Bonds on a parity with the Outstanding Bonds and any Additional Bonds then Outstanding, payable from, and secured by a first lien on, the Net Revenues of the System; provided, however, that no Additional Bonds may be issued unless:

(a) All Additional Bonds shall mature only on September 1 and interest thereon shall be payable only on March 1 and September 1;

(b) The Interest and Sinking Fund and the Reserve Fund each contains the amount of money then required to be on deposit therein;

(c) For either the preceding Fiscal Year or any consecutive 12-month period out of the 15-month period immediately preceding the month in which the bond ordinance authorizing such Additional Bonds is adopted (the "Base Period") either:

(1) Net Revenues are certified by the Director of Finance of the City to have been equal to at least one hundred and forty percent (140%) of the Average

Annual Principal and Interest Requirements on all Bonds, after giving effect to the issuance of the Additional Bonds to be issued; or

(2) Net Revenues, adjusted to give effect to any rate increase or annexation of territory placed into effect or consummated prior to the adoption of the ordinance authorizing the Additional Bonds to the same extent as if such rate increase or annexation had been placed into effect or consummated prior to the commencement of the Base Period, would have been equal to at least the amount required in paragraph (1) above, as certified by an independent consulting engineer or independent firm of consulting engineers;

Provided, however, that this requirement shall not apply to the issuance of any series of Additional Bonds for refunding purposes that will not have the result of increasing the average annual principal and interest requirements on the Bonds; and

(d) Provision is made in the bond ordinance authorizing the Additional Bonds then proposed to be issued for (1) additional payments into the Interest and Sinking Fund sufficient to provide for the payment of the increased principal of and interest on the Bonds resulting from the issuance of such Additional Bonds, and (2) additional payments into the Reserve Fund sufficient to provide for the accumulation therein of the increased reserve requirement resulting from the issuance of such Additional Bonds, by not later than sixty (60) months from the date of issuance of such Additional Bonds.

The provisions of this Section 6.1(a) notwithstanding, the City may issue Additional Bonds that bear interest at a variable rate. Such variable rate bonds may mature on dates other than September 1 and interest thereon may be payable on dates other than March 1 or September 1; provided that the issuance of Additional Bonds as variable rate bonds may not cause the total amount of Outstanding Bonds that are variable rate bonds to exceed 50% (20% as long as the *Series 1999 Bonds* shall remain outstanding) of the aggregate principal amount of all Outstanding Bonds and Subordinate Lien Obligations at the time of such issuance. For purposes of calculating the funding requirements for the Reserve Fund and for the purposes of calculating compliance with the conditions precedent to the issuance of Additional Bonds pursuant to Section 6.1(c) and the rate covenant set forth in Section 5.2, any Bonds that are variable rate bonds shall be assumed to bear interest at a rate which shall be estimated and certified by the financial advisor to the City as the rate that would be borne by such variable rate bonds if they were at the date of such certification issued as Bonds bearing a fixed rate of interest to their scheduled maturity or maturities.

Section 6.2. Subordinate Lien Obligations. The City reserves the right to issue, for any lawful purpose, bonds, notes or other obligations secured in whole or in part by liens on the Net Revenues that are junior and subordinate to the lien on Net Revenues securing payment of the Bonds. Such Subordinate Lien Obligations may be further secured by any other source of payment lawfully available for such purposes. In the event that the City should decide to issue such Subordinate Lien Obligations as variable rate bonds, for purposes of calculating the funding requirements for the reserve fund for such Subordinate Lien Obligations, the variable rate bonds shall be assumed to bear interest at the rate of 10% per annum, and for purposes of calculating compliance with any conditions precedent to the issuance of additional Subordinate Lien

Obligations and any rate covenants relating to such Subordinate Lien Obligations, the variable rate bonds shall be assumed to bear interest at the higher of 9% per annum or the highest variable rate over the preceding twenty-four (24) months.

Deposits may be made pursuant to Section 5.4(f) of this Ordinance into such funds as may be created and maintained for the payment of and security for Subordinate Lien Obligations described in this Section (including a reserve fund not to exceed the Average Annual Principal and Interest Requirements on such Subordinate Lien Obligations and any provisions for curing deficiencies in such funds), but only to the extent that the aggregate Outstanding principal amount of such Subordinate Lien Obligations does not exceed 50% of the aggregate principal amount of Bonds and Subordinate Lien Obligations Outstanding on the date of such calculation.

Section 6.3. Special Project Bonds. The City reserves the right to issue revenue bonds secured by liens on and pledges of revenues and proceeds derived from Special Projects.

## **ARTICLE VII COVENANTS AND PROVISIONS RELATING TO BONDS**

Section 7.1. Punctual Payment of Bonds. The City covenants that it will punctually pay or cause to be paid the interest on and principal of all Bonds according to the terms thereof and will faithfully do and perform, and at all times fully observe, any and all covenants, undertakings, stipulations and provisions contained in this Ordinance and in any other ordinance authorizing the issuance of such Bonds.

Section 7.2. Power to Own and Operate System; Ratemaking Power. The City covenants that it has all necessary power and authority to own and operate the System as herein described and provided and that it possesses, and shall exercise, all necessary power and authority to establish, fix, increase, impose and collect rates and charges for the use and services of the System in the amounts required to comply with the covenants and provisions contained herein.

Section 7.3. Maintenance of System. So long as any Bonds remain Outstanding, the City covenants that it will at all times maintain the System, or within the limits of its authority cause the same to be maintained, in good condition and working order and will operate the same, or cause the same to be operated, in an efficient and economical manner at a reasonable cost and in accordance with sound business principles. In operating and maintaining the System, the City will comply with all contractual provisions and agreements entered into by it and with all valid rules, regulations, directions or orders of any governmental, administrative or judicial body promulgating same, noncompliance with which would materially and adversely affect the operation of the System.

Section 7.4. Sale or Encumbrance of System. So long as any Bonds remain Outstanding, the City covenants that it will not sell, dispose of or, except as permitted in Article VI, further encumber the System; provided, however, that this provision shall not prevent the City from disposing of any portion of the System which is being replaced or is deemed by the City to be obsolete, worn out, surplus or no longer needed for the proper operation of the System.

Net proceeds from any such disposition may be deposited in the Revenue Fund and, notwithstanding any other provision contained herein, shall be used only for System purposes. Any agreement pursuant to which the City contracts with a person, corporation, municipal corporation or political subdivision to operate the System or to lease and/or operate all or part of the System shall not be considered as an encumbrance of the System.

Section 7.5. Insurance. The City covenants that it will keep the System insured with insurers of good standing, against risks, accidents or casualties against which and to the extent customarily insured against by political subdivisions of the State of Texas operating similar properties, to the extent that such insurance is available. All net proceeds of such insurance shall be applied to repair or replace any insured property that is damaged or destroyed, or shall be deposited in the Revenue Fund, or shall be used to redeem Outstanding Bonds. The cost of all such insurance, together with any additional insurance, shall be a part of the Maintenance and Operation Expenses.

Section 7.6. Accounts, Records and Audits. So long as any Bonds remain Outstanding, the City covenants that it will maintain a proper and complete system of records and accounts pertaining to the operation of the System in which full, true and proper entries will be made of all dealings, transactions, business and affairs which in any way affect or pertain to the System or the Gross Revenues or the Net Revenues thereof. The City shall, after the close of each Fiscal Year, prepare financial statements of the System, and have those financial statements audited by an independent certified public accountant or independent firm of certified public accountants. After the audit, the City shall furnish a copy of these audited financial statements, together with the independent certified public accountant's report thereon, without cost, to the Municipal Advisory Council of Texas, the major municipal rating agencies, and any Owners of Bonds who shall request the same. All expenses incurred in preparing such audits shall be Maintenance and Operation Expenses.

Section 7.7. Competition. To the extent it legally may, the City covenants that it will not grant any franchise or permit for the acquisition, construction or operation of any competing facilities which might be used as a substitute for the System and will prohibit the operation of any such competing facilities to the extent that such competing facilities would impair the City's ability to pay principal of or interest on the Bonds.

Section 7.8. Pledge and Encumbrance of Net Revenues. The City covenants that it has the lawful power to create a lien on and to pledge the Net Revenues to secure the payment of the Bonds, and has lawfully exercised such power under the Constitution and laws of the State of Texas. The City further covenants that, other than to the payment of the Bonds, the Net Revenues are not and will not be made subject to any other lien, pledge or encumbrance to secure the payment of any debt or obligation of the City, unless such lien, pledge or encumbrance is junior and subordinate to the lien and pledge securing payment of the Bonds.

Section 7.9. Covenants with Respect to Certain Assumed Water District Bonds. So long as any Bonds remain Outstanding, the City covenants as follows:

- (a) To the extent it legally may, the City will impose, and strictly enforce, the requirement upon all water districts located within the City's extraterritorial jurisdiction

that any bonds issued by such water districts which are secured in whole or in part by pledges of or liens on water or sewer system revenues shall provide that all such pledges of and liens on water or sewer system revenues shall automatically terminate upon the annexation and dissolution of the district by the City;

(b) The City shall use its best efforts to redeem, refund or defease all annexed water district bonds assumed by the City which by their own terms are secured in whole or in part by pledges of or liens on water or sewer system revenues which do not terminate upon annexation and dissolution by the City of such water district, or otherwise to provide for the discharge of such pledges or liens on water or sewer system revenues; and

(c) Pursuant to Section 43.075, Texas Local Government Code (successor to Article 1182c-1, Vernon's Texas Civil Statutes, as amended), the City shall, unless it has theretofore made adequate provision for the payment thereof, annually levy and cause to be collected taxes upon all taxable property of the City sufficient to pay principal of and interest, as they respectively become due and payable, on all assumed bonds, warrants and other obligations that were issued by water districts that have been annexed to, and dissolved by, the City, and which are by their own terms secured in whole or in part by a lien on or pledge of water or sewer system revenues which did not terminate upon the annexation and dissolution by the City of such water district.

Section 7.10. Registered Owners' Rights and Remedies. This Ordinance shall constitute a contract between the City and the Owners of the Series 2016A Bonds from time to time Outstanding and this Ordinance shall be and remain irrevocable until the Series 2016A Bonds and the interest thereon shall be fully paid or discharged or provision therefor shall have been made as provided herein. In the event of a default in the payment of the principal of or interest on any of the Series 2016A Bonds or a default in the performance of any duty or covenant provided by law or in this Ordinance, the Owner or Owners of any of the Series 2016A Bonds may pursue all legal remedies afforded by the Constitution and laws of the State of Texas to compel the City to remedy such default and to prevent further default or defaults. Without in any way limiting the generality of the foregoing, it is expressly provided that any Owner of any of the Series 2016A Bonds may at law or in equity, by suit, action, mandamus, or other proceedings, enforce and compel performance of all duties required to be performed by the City under this Ordinance, including the making and collection of reasonable and sufficient rates and charges for the use and services of the System, the deposit of the revenues thereof into the Special Funds herein provided, and the application of such revenues in the manner required in this Ordinance.

Section 7.11. Defeasance. The City may defease the provisions of this Ordinance and discharge its obligations to the Registered Owners of any or all of the Series 2016A Bonds to pay the principal of and interest thereon in any manner now or hereafter permitted by law, including by depositing with the Paying Agent/Registrar or with the State Treasurer of the State of Texas either:

(a) cash in an amount equal to the principal amount of such Series 2016A Bonds plus interest thereon to the date of maturity or redemption; or

(b) pursuant to an escrow or trust agreement, cash and/or (i) direct noncallable obligations of United States of America, including obligations that are unconditionally guaranteed by the United States of America; (ii) noncallable obligations of an agency or instrumentality of the United States, including obligations that are unconditionally guaranteed or insured by the agency or instrumentality and that, on the date the governing body of the issuer adopts or approves the proceedings authorizing the issuance of refunding bonds, are rated as to investment quality by a nationally recognized investment rating firm not less than AAA or its equivalent; or (iii) noncallable obligations of a state or an agency or a county, municipality, or other political subdivision of a state that have been refunded and that, on the date the governing body of the issuer adopts or approves the proceedings authorizing the issuance of refunding bonds, are rated as to investment quality by a nationally recognized investment rating firm not less than AAA or its equivalent, which, in the case of (i), (ii) or (iii), may be in book-entry form, and the principal of and interest on which will, when due or redeemable at the option of the holder, without further investment or reinvestment of either the principal amount thereof or the interest earnings thereon, provide money in an amount which, together with other moneys, if any, held in such escrow at the same time and available for such purpose, shall be sufficient to provide for the timely payment of the principal of and interest thereon to the date of maturity or earlier redemption;

provided, however, that if any of the Series 2016A Bonds are to be redeemed prior to their respective dates of maturity, provision shall have been made for giving notice of redemption as provided in this Ordinance. Upon such deposit, such Series 2016A Bonds shall no longer be regarded to be Outstanding or unpaid. Any surplus amounts not required to accomplish such defeasance shall be returned to the City.

Section 7.12. Legal Holidays. In any case where the date of maturity of interest on or principal of the Series 2016A Bonds or the date fixed for redemption of any Series 2016A Bonds shall be in the City a legal holiday or a day on which the Paying Agent/Registrar for the Series 2016A Bonds is authorized by law to close, then payment of interest or principal need not be made on such date but may be made on the next succeeding day not in the City a legal holiday or a day on which such Paying Agent Registrar is authorized by law to close with the same force and effect as if made on the date of maturity or the date fixed for redemption and no interest shall accrue for the period from the date of maturity or redemption to the date of actual payment.

Section 7.13. Unavailability of Authorized Publication. If, because of the temporary or permanent suspension of any newspaper, journal or other publication, or, for any reason, publication of notice cannot be made meeting any requirements herein established, any notice required to be published by the provisions of this Ordinance shall be given in such other manner and at such time or times as in the judgment of the City or of the Paying Agent/Registrar (or paying agent) for the Series 2016A Bonds shall most effectively approximate such required publication and the giving of such notice in such manner shall for all purposes of this Ordinance be deemed to be in compliance with the requirements for publication thereof.

Section 7.14. No Recourse Against City Officials. No recourse shall be had for the payment of principal of or interest on any Series 2016A Bonds or for any claim based thereon or

on this Ordinance against any official of the City or any person executing any Series 2016A Bonds.

Section 7.15. Amendment to Ordinance. The City may, with the consent of Owners holding a majority in aggregate principal amount of the Bonds then Outstanding affected thereby, amend, add to, or rescind any of the provisions of this Ordinance; provided that, without the consent of all Owners of Outstanding Bonds, no such amendment, addition, or rescission shall (1) extend the time or times of payment of the principal of, premium, if any, and interest on the Bonds, reduce the principal amount thereof, the redemption price therefor, or the rate of interest thereon, or in any other way modify the terms of payment of the principal of, premium, if any, or interest on the Bonds, (2) give any preference to any Bond over any other Bond, or (3) reduce the aggregate principal amount of Bonds required to be held by Owners for consent to any such amendment, addition, or rescission.

## **ARTICLE VIII CONCERNING THE PAYING AGENT/REGISTRAR**

Section 8.1. Acceptance. Wells Fargo Bank, N.A., Minneapolis, Minnesota is hereby appointed as the initial Paying Agent/Registrar for the Series 2016A Bonds. Such initial Paying Agent/Registrar and any successor Paying Agent/Registrar, by undertaking the performance of the duties of the Paying Agent/Registrar hereunder, and in consideration of the payment of fees and/or deposits of money pursuant to this Ordinance, shall be deemed to accept and agree to abide by the terms of this Ordinance. The registration of and payment of the principal of, premium, if any, and interest on the Series 2016A Bonds when due shall be effectuated pursuant to the terms of a Paying Agent/Registrar Agreement to be entered into by and between the City and the Paying Agent/Registrar, which shall be substantially in the form attached hereto as Exhibit B, the terms and provisions of which are hereby approved, and the Mayor and/or the Mayor Pro Tem are hereby authorized to execute and deliver such Paying Agent/Registrar Agreement on behalf of the City in multiple counterparts and the City Secretary is hereby authorized to attest and affix the City's seal thereto.

Section 8.2. Fiduciary Account. All money transferred to the Paying Agent/Registrar under this Ordinance (except sums representing Paying Agent/Registrar's fees) shall be held in a fiduciary account for the benefit of the City, shall be the property of the City, and shall be disbursed in accordance with this Ordinance.

Section 8.3. Bonds Presented. Subject to the provisions of Section 8.4, all matured Series 2016A Bonds properly and timely presented to the Paying Agent/Registrar for payment shall be paid without the necessity of further instructions from the City. Such Series 2016A Bonds shall be canceled as provided herein.

Section 8.4. Series 2016A Bonds Not Timely Presented. The Paying Agent/Registrar shall remit to the City, upon receipt of the certificate provided for herein, a sum equal to the aggregate face amount of all Series 2016A Bonds which have not been presented for payment prior to the date specified in such certificate. Such certificate shall:

- (a) Specify the Series 2016A Bonds or portions thereof to which it applies and the amount of each;
- (b) Specify the date on which the City believes itself to be no longer obligated to pay such Series 2016A Bonds or portions thereof by virtue of the expiration of the applicable statute of limitations under the laws of the State of Texas; and
- (c) Be signed by the Mayor and attested by the City Secretary.

Funds held by the Paying Agent/Registrar that represent principal of and interest on the Series 2016A Bonds remaining unclaimed by any Registered Owner after the expiration of three years from the date such funds have become due and payable (a) shall be reported and disposed of by the Paying Agent/Registrar in accordance with the provisions of Title 6 of the Texas Property Code, as amended, to the extent such provisions are applicable to such funds, or (b) to the extent such provisions do not apply to the funds, such funds shall be paid by the Paying Agent/Registrar to the City upon receipt by the Paying Agent/Registrar of a written request therefor from the City.

The Paying Agent/Registrar shall have no liability to the Owners of the Series 2016A Bonds by virtue of actions taken in compliance with this Section.

Section 8.5. Paying Agent/Registrar May Own Series 2016A Bonds. The Paying Agent/Registrar in its individual or any other capacity, may become the Owner or pledgee of Series 2016A Bonds with the same rights it would have if it were not the Paying Agent/Registrar.

Section 8.6. Successor Paying Agents/Registrars. The City covenants that at all times while any Series 2016A Bonds are Outstanding it will provide a legally qualified bank, trust company, financial institution, or other agency to act as Paying Agent/Registrar for the Series 2016A Bonds. If the Paying Agent/Registrar or its successor for any reason no longer acts as Paying Agent/Registrar hereunder, the City covenants that it will appoint a bank in the same city as the Paying Agent/Registrar initially appointed to perform the duties of Paying Agent/Registrar hereunder. Any successor Paying Agent/Registrar shall be either a national or state banking institution, and a corporation organized and doing business under the laws of the United States of America or any state, which is authorized under such laws to exercise trust powers and is subject to supervision or examination by federal or state authority.

The City reserves the right to change the Paying Agent/Registrar for the Series 2016A Bonds on not less than sixty (60) days written notice to the Paying Agent/Registrar, as long as any such notice is effective not less than sixty (60) days prior to the next succeeding principal or interest payment date on the Series 2016A Bonds. Promptly upon the appointment of any successor Paying Agent/Registrar, the previous Paying Agent/Registrar shall deliver the Register or a copy thereof to the new Paying Agent/Registrar and the new Paying Agent/Registrar shall notify each Registered Owner, by first-class mail, postage prepaid, of such change and of the address of the new Paying Agent/Registrar. Each Paying Agent/Registrar hereunder, by acting in that capacity, shall be deemed to have agreed to the provisions of this Ordinance.

**ARTICLE IX  
TAX EXEMPTION**

Section 9.1. Covenants to Maintain Tax Exempt Status.

(a) Definitions. When used in this Section, the following terms have the following meanings:

“Code” means the Internal Revenue Code of 1986, as amended by all legislation, if any, enacted on or before the Issue Date.

“Computation Date” has the meaning stated in Section 1.148-1(b) of the Regulations.

“Gross Proceeds” has the meaning stated in Section 1.148-1(b) of the Regulations.

“Investment” has the meaning stated in Section 1.148-1(b) of the Regulations.

“Issue Date” for each series or sub-series of the Series 2016A Bonds or other obligations of the City is the respective date on which such series or sub-series of the Series 2016A Bonds or other obligations of the City is delivered against payment therefor.

“Net Sale Proceeds” has the meaning stated in Section 1.148-1(b) of the Regulations.

“Nonpurpose Investment” has the meaning stated in Section 1.148-1(b) of the Regulations.

“Proceeds” has the meaning stated in Section 1.148-1(b) of the Regulations.

“Rebate Amount” has the meaning stated in Section 1.148-3 of the Regulations.

“Regulations” means the temporary or final Income Tax Regulations applicable to the Bonds issued pursuant to Sections 141 through 150 of the Code. Any reference to a section of the Regulations shall also refer to any successor provision to such section hereafter promulgated by the Internal Revenue Service pursuant to Sections 141 through 150 of the Code and applicable to the Series 2016A Bonds.

“Yield of”

any Investment shall be computed in accordance with Section 1.148-5 of the Regulations, and

the Series 2016A Bonds shall be computed in accordance with Section 1.148-4 of the Regulations.

(b) Not to Cause Interest to Become Taxable. The City shall not use, permit the use of or omit to use Gross Proceeds or any other amounts (or any property the acquisition, construction or improvement of which is to be financed directly or indirectly with Gross Proceeds) in a manner which, if made or omitted, respectively, would cause the interest on such Series 2016A Bond to become includable in the gross income, as defined in Section 61 of the Code, of the owner thereof for federal income tax purposes. Without limiting the generality of the foregoing, unless and until the City shall have received a written opinion of counsel nationally recognized in the field of municipal bond law to the effect that failure to comply with such covenant will not adversely affect the exemption from federal income tax of the interest on any Series 2016A Bond, the City shall comply with each of the specific covenants in this Section.

(c) No Private Use or Private Payments. Except as permitted by Section 141 of the Code and the regulations and rulings thereunder, the City shall, at all times after the Issue Date of any Series 2016A Bond and prior to the last stated maturity of the Series 2016A Bonds

- (1) exclusively own, operate, and possess all property the acquisition, construction, or improvement of which is to be financed directly or indirectly with Gross Proceeds of such Series 2016A Bond and not use or permit the use of such Gross Proceeds or any property acquired, constructed, or improved with such Gross Proceeds in any activity carried on by any person or entity other than a state or local government, unless such use is solely as a member of the general public, or
- (2) not directly or indirectly impose or accept any charge or other payment for use of Gross Proceeds of such Series 2016A Bond or any property the acquisition, construction or improvement of which is to be financed directly or indirectly with such Gross Proceeds other than taxes of general application and interest earned on investments acquired with such Gross Proceeds pending application for their intended purposes.

(d) No Private Loan. Except to the extent permitted by Section 141 of the Code and the regulations and rulings thereunder, the City shall not use Gross Proceeds of such Series 2016A Bond to make or finance loans to any person or entity other than a state or local government. For purposes of the foregoing covenant, Gross Proceeds are considered to be “loaned” to a person or entity if (1) property acquired, constructed or improved with Gross Proceeds is sold or leased to such person or entity in a transaction which creates a debt for federal income tax purposes, (2) capacity in or service from such property is committed to such person or entity under a take-or-pay, output, or similar contract or arrangement, or (3) indirect benefits, or burdens and benefits of ownership, of such Gross Proceeds or such property are otherwise transferred in a transaction which is the economic equivalent of a loan.

(e) Not to Invest at Higher Yield. Except to the extent permitted by Section 148 of the Code and the regulations and rulings thereunder, the City shall not, at any time prior to the earlier of the final stated maturity or final payment of such Series 2016A Bond, directly or indirectly invest Gross Proceeds of such Series 2016A Bond in any Investment (or use such Gross Proceeds to replace money so invested), if as a result of such investment the Yield of all

Investments allocated to such Gross Proceeds whether then held or previously disposed of, exceeds the Yield on the Series 2016A Bonds.

(f) Not Federally Guaranteed. Except to the extent permitted by Section 149(b) of the Code and the regulations and rulings thereunder, the City shall not take or omit to take any action which would cause the Series 2016A Bonds to be federally guaranteed within the meaning of Section 149(b) of the Code and the regulations and rulings thereunder.

(g) Information Report. The City shall timely file with the Secretary of the Treasury the information required by Section 149(e) of the Code with respect to each converted series of the Series 2016A Bonds on such forms and in such place as such Secretary may prescribe.

(h) Payment of Rebate Amount. Except to the extent otherwise provided in Section 148(f) of the Code and the regulations and rulings thereunder, the City shall:

- (1) account for all Gross Proceeds (including all receipts, expenditures and investments thereof) on its books of account separately and apart from all other funds (and receipts, expenditures and investments thereof) and shall retain all records of such accounting for at least six years after the final Computation Date. The City may, however, to the extent permitted by law, commingle Gross Proceeds of the Series 2016A Bonds with other money of the City, provided that the City separately accounts for each receipt and expenditure of such Gross Proceeds and the obligations acquired therewith,
- (2) calculate the Rebate Amount with respect to such Series 2016A Bond not less frequently than each Computation Date, in accordance with rules set forth in Section 148(f) of the Code, Section 1.148-3 of the Regulations, and the rulings thereunder. The City shall maintain a copy of such calculations for at least six years after the final Computation Date,
- (3) as additional consideration for the purchase of the Series 2016A Bonds by the initial purchasers thereof and the loan of the money represented thereby, and in order to induce such purchase by measures designed to ensure the excludability of the interest thereon from the gross income of the owners thereof for federal income tax purposes, pay to the United States the amount described in paragraph (2) above at the times, in the installments, to the place, in the manner and accompanied by such forms or other information as is or may be required by Section 148(f) of the Code and the regulations and rulings thereunder, and
- (4) exercise reasonable diligence to assure that no errors are made in the calculations required by paragraph (2) and, if such error is made, to discover and promptly to correct such error within a reasonable amount of time thereafter, including payment to the United States of any interest and any penalty required by the Regulations.

(i) Not to Divert Arbitrage Profits. Except to the extent permitted by Section 148 of the Code and the regulations and rulings thereunder, the City shall not, at any time after the Issue Date of the Series 2016A Bonds and prior to the earlier of the final stated maturity or final

payment of the Series 2016A Bonds, enter into any transaction that reduces the amount required to be paid to the United States pursuant to Subsection (h) of this Section because such transaction results in a smaller profit or a larger loss than would have resulted if the transaction had been at arm's length and had the Yield of the Series 2016A Bonds, not been relevant to either party.

## **ARTICLE X CONTINUING DISCLOSURE UNDERTAKING**

Section 10.1. Annual Reports. The City shall provide annually to the Municipal Securities Rulemaking Board (the "MSRB"), in an electronic format as prescribed by the MSRB and available via the Electronic Municipal Market Access ("EMMA") system at [www.emma.msrb.org](http://www.emma.msrb.org), within six months after the end of each fiscal year ending in or after 2016, financial information and operating data with respect to the City of the general type described in Exhibit F hereto. Any financial statements so to be provided shall be (1) prepared in accordance with the accounting principles described in Exhibit F hereto and (2) audited, if the City commissions an audit of such statements and the audit is completed within the period during which they must be provided. If audited financial statements are not so provided, then the City shall provide unaudited financial statements for the applicable fiscal year by the required time, and audited financial statements when and if audited financial statements become available.

If the City changes its fiscal year, it will notify the MSRB of the change (and of the date of the new fiscal year end) prior to the next date by which the City otherwise would be required to provide financial information and operating data pursuant to this Section.

The financial information and operating data to be provided pursuant to this Section may be set forth in full in one or more documents or may be included by specific reference to documents (including an official statement or other offering document) available to the public on the MSRB's internet web site or filed with the SEC, as permitted by the SEC Rule.

Section 10.2. Material Event Notices. The City shall notify the MSRB in a electronic format prescribed by the MSRB, in a timely manner (not in excess of ten (10) days after the occurrence of the event), of any of the following events with respect to the Series 2016A Bonds:

- (a) Principal and interest payment delinquencies;
- (b) Non-payment related defaults, if material;
- (c) Unscheduled draws on debt service reserves reflecting financial difficulties;
- (d) Unscheduled draws on credit enhancements reflecting financial difficulties;
- (e) Substitution of credit or liquidity providers, or their failure to perform;
- (f) Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with

respect to the tax status of the Bonds, or other material events affecting the tax status of the Bonds;

- (g) Modifications to rights of holders of the Series 2016A Bonds, if material;
- (h) Bond calls, if material, and tender offers;
- (i) Defeasances;
- (j) Release, substitution, or sale of property securing repayment of the Series 2016A Bonds, if material;
- (k) Rating changes;
- (l) Bankruptcy, insolvency, receivership or similar event of the City;
- (m) The consummation of a merger, consolidation, or acquisition involving the City or the sale of all or substantially all of the assets of the City other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material; and
- (n) Appointment of a successor or additional Paying Agent/Registrar or the change of name of Paying Agent/Registrar, if material.

For the purposes of the event identified in clause (l), the event is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent or similar officer for an obligated person in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the obligated person, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the obligated person.

The City shall notify the MSRB in an electronic format prescribed by the MSRB, in a timely manner, of any failure by the City to provide financial information or operating data in accordance with Section 10.1 of this Ordinance by the time required by such Section.

Section 10.3. Limitations, Disclaimers, and Amendments. The City shall be obligated to observe and perform the covenants specified in this Article for so long as, but only for so long as, the City remains an “obligated person” with respect to the Series 2016A Bonds within the meaning of the Rule, except that the City in any event will give the notice required by Section 10.2 of any Series 2016A Bond calls and defeasance that cause the City to be no longer such an “obligated person.”

The provisions of this Article are for the sole benefit of the Owners and beneficial owners of the Series 2016A Bonds, and nothing in this Article, express or implied, shall give any benefit or any legal or equitable right, remedy, or claim hereunder to any other person. The City undertakes to provide only the financial information, operating data, financial statements, and notices which it has expressly agreed to provide pursuant to this Article and does not hereby undertake to provide any other information that may be relevant or material to a complete presentation of the City's financial results, condition, or prospects or hereby undertake to update any information provided in accordance with this Article or otherwise, except as expressly provided herein. The City does not make any representation or warranty concerning such information or its usefulness to a decision to invest in or sell Series 2016A Bonds at any future date.

UNDER NO CIRCUMSTANCES SHALL THE CITY BE LIABLE TO THE OWNER OR BENEFICIAL OWNER OF ANY SERIES 2016A BOND OR ANY OTHER PERSON, IN CONTRACT OR TORT, FOR DAMAGES RESULTING IN WHOLE OR IN PART FROM ANY BREACH BY THE CITY, WHETHER NEGLIGENT OR WITHOUT FAULT ON ITS PART, OF ANY COVENANT SPECIFIED IN THIS ARTICLE, BUT EVERY RIGHT AND REMEDY OF ANY SUCH PERSON, IN CONTRACT OR TORT, FOR OR ON ACCOUNT OF ANY SUCH BREACH SHALL BE LIMITED TO AN ACTION FOR MANDAMUS OR SPECIFIC PERFORMANCE.

No default by the City in observing or performing its obligations under this Article shall constitute a breach of or default under this Ordinance for purposes of any other provision of this Ordinance.

Nothing in this Article is intended or shall act to disclaim, waive or otherwise limit the duties of the City under federal and state securities laws.

The provisions of this Article may be amended by the City from time to time to adapt to changed circumstances that arise from a change in legal requirements, a change in law, or a change in the identity, nature, status or type of operations of the City, but only if (1) the provisions of this Article, as so amended, would have permitted an underwriter to purchase or sell Series 2016A Bonds in the primary offering of the Series 2016A Bonds in compliance with the Rule, taking into account any amendments or interpretations of the Rule to the date of such amendment, as well as such changed circumstances, and (2) either (a) the Owners of a majority in aggregate principal amount (or any greater amount required by any other provision of this Ordinance that authorizes such an amendment) of the Outstanding Series 2016A Bonds consent to such amendment or (b) a person or entity that is unaffiliated with the City (such as nationally recognized bond counsel) determines that such amendment will not materially impair the interests of the Owners and beneficial owners of the Series 2016A Bonds. If the City so amends the provisions of this Article, it shall include with any amended financial information or operating data next provided in accordance with Section 10.1 an explanation, in narrative form, of the reasons for the amendment and of the impact of any change in the type of financial information or operating data so provided. The City may also amend or repeal the provisions of this Article if the SEC amends or repeals the applicable provisions of the Rule or a court of final jurisdiction enters judgment that such provisions of the Rule are invalid, and the City also may amend the provisions of this Article in its discretion in any other manner or circumstance, but in

either case only if and to the extent that the provisions of this sentence would not prevent an underwriter from lawfully purchasing or selling Series 2016A Bonds in the primary offering of the Series 2016A Bonds.

Section 10.4. Definitions. As used in this Article, the following terms have the meanings ascribed to such terms below:

“*MSRB*” means the Municipal Securities Rulemaking Board.

“*Rule*” means SEC Rule 15c2-12, as amended from time to time.

“*SEC*” means the United States Securities and Exchange Commission.

## **ARTICLE XI SALE AND DELIVERY OF BONDS; DEPOSIT OF PROCEEDS**

Section 11.1. Sale of Series 2016A Bonds. The sale of the Series 2016A Bonds to the Purchaser at a price of \$\_\_\_\_\_, (representing the principal amount of the Series 2016A Bonds plus a premium on the Series 2016A Bonds of \$\_\_\_\_\_ and less an underwriting discount of \$\_\_\_\_\_), plus accrued interest to the date of delivery of the Series 2016A Bonds, in accordance with the terms of the Bid Form presented to and hereby approved by the City Council, in substantially the form attached hereto as Exhibit C which price and terms are hereby found and determined to be the most advantageous reasonably obtainable by the City. The Mayor, Mayor Pro-Tem and all other officials, agents and representatives of the City are hereby authorized to do any and all things necessary or desirable to provide for the issuance and delivery of the Bonds.

Section 11.2. Approval, Registration and Delivery. The Mayor and the City Secretary are hereby authorized to have control and custody of the Series 2016A Bonds and all necessary records and proceedings pertaining thereto pending their delivery, and the Mayor of the City, the City Secretary of the City, the City Manager and Deputy City Manager of the City and other officers and employees of the City are hereby authorized, directed and instructed to make such certifications and to execute such instruments (including by printed facsimile signature, the Series 2016A Bonds) as may be necessary to accomplish the delivery of the Series 2016A Bonds and to assure the investigation, examination, and approval thereof by the Attorney General of Texas and the registration of the initial Series 2016A Bonds by the Comptroller of Public Accounts of the State of Texas. Upon registration of the Series 2016A Bonds, the Comptroller of Public Accounts of the State of Texas (or a deputy designated in writing to act for him) shall be requested to sign manually the registration certificate prescribed herein to be attached or affixed to each Series 2016A Bond initially delivered and the seal of the Comptroller of Public Accounts of the State of Texas shall be impressed or printed or lithographed thereon. Delivery of the Series 2016A Bonds is subject to the unqualified approving opinion as to the legality of the Series 2016A Bonds of the Attorney General of Texas and of Andrews Kurth LLP, Houston, Texas, Bond Counsel.

Section 11.3. Offering Documents; Ratings. The City hereby approves the form and contents of the Notice of Sale and the Preliminary Official Statement and the final Official Statement, dated as of the date hereof, relating to the Series 2016A Bonds, and any addenda,

supplement or amendment thereto, and ratifies and approves the distribution of such Preliminary Official Statement and Official Statement in the offer and sale of the Series 2016A Bonds and in the reoffering of the Series 2016A Bonds by the Purchaser, with such changes therein or additions thereto as the officials executing same may deem advisable, such determination to be conclusively evidenced by their execution thereof. The Mayor is hereby authorized and directed to execute, and the City Secretary is hereby authorized and directed to attest, the final Official Statement. It is further hereby officially found, determined and declared that the statements and representations contained in the Preliminary Official Statement and final Official Statement are true and correct in all material respects, to the best knowledge and belief of the City Council, and that, as of the date thereof, the Preliminary Official Statement was an official statement of the City with respect to the Series 2016A Bonds that was deemed “final” by an authorized official of the City except for the omission of no more than the information permitted by subsection (b)(1) of Rule 15c2-12 of the Securities and Exchange Commission. Copies of the Preliminary Official Statement and the Official Statement are attached hereto as Exhibits D and Exhibit E, respectively.

Further, the City Council hereby ratifies, authorizes and approves the actions of the Mayor, the City’s financial advisor and other consultants in seeking a rating on the Series 2016A Bonds from Moody’s Investors Service, Inc. and Standard & Poor’s Ratings Services and such actions are hereby ratified and confirmed.

Section 11.4. Application of Proceeds of Series 2016A Bonds. Proceeds from the sale of the Series 2016A Bonds shall, promptly upon receipt by the City, be applied as follows:

(a) First, accrued interest and premium, if any, shall be deposited into the Interest and Sinking Fund; and

(b) Second, the remaining proceeds from the sale of the Series 2016A Bonds shall be deposited to a separate construction fund of the City and used for the purposes set forth in Section 3.1 of this Ordinance and to pay all expenses arising in connection with the issuance of the Series 2016A Bonds. Any proceeds of the Series 2016A Bonds remaining after making all such deposits and payments shall be deposited into the Interest and Sinking Fund.

Section 11.5. Related Matters. In order that the City shall satisfy in a timely manner all of its obligations under this Ordinance, the Mayor, the City Manager, the City Secretary, the Director of Finance and all other appropriate officers, agents, representatives and employees of the City are hereby authorized and directed to take all other actions that are reasonably necessary to provide for the issuance and delivery of the Bonds, including, without limitation, executing and delivering on behalf of the City all certificates, consents, receipts, requests, notices, and other documents as may be reasonably necessary to satisfy the City’s obligations under this Ordinance and to direct the transfer and application of funds of the City consistent with the provisions of this Ordinance.

Section 11.6. Control and Delivery of Series 2016A Bonds.

(a) The City Manager and Deputy City Manager of the City are hereby authorized to have control of the Series 2016A Bonds and all necessary records and proceedings pertaining hereto pending investigation, examination and approval of the Attorney General of the State of Texas, registration by the Comptroller of Public Accounts of the State and registration with initial exchange or transfer by, the Paying Agent/Registrar.

(b) The Initial Bond(s) shall be the Bonds submitted to the Office of the Attorney General of the State of Texas for approval, certified and registered by the Office of the Comptroller of Public Accounts of the State of Texas and delivered to the Purchaser. After registration by the Comptroller of Public Accounts, delivery of the Bonds shall be made to the Purchaser under and subject to the general supervision and direction of the Mayor, against receipt by the City of all amounts due to the City under the terms of sale.

(c) The Mayor, the City Manager, the Deputy City Manager, the Director of Finance of the City, and all other officers, employees, and agents of the City, and each of them, shall be and they are expressly authorized, empowered, and directed from time to time and at any time to do and perform all such acts and things and to execute, acknowledge, and deliver in the name and under the corporate seal and on behalf of the City all such agreements, certificates, and instruments, whether herein mentioned, as may be necessary or desirable to carry out the terms and provisions of this Ordinance, the bonds, the sale and delivery of the Bonds, the DTC Blanket Letter of Representations and the Official Statement. The City Council hereby authorizes the payment of the fee of the Office of the Attorney General of the State of Texas for the examination of the proceedings relating to the issuance of the Bonds, in the amount determined in accordance with the provisions of Section 1202.004, Texas Government Code.

## **ARTICLE XII MISCELLANEOUS**

Section 12.1. Related Matters. In order that the City shall satisfy, in a timely manner, all of its obligations under the Ordinance, the Mayor, the City Secretary and other appropriate officers and agents of the City are hereby authorized and directed to take all other actions that are reasonably necessary to provide for issuance and delivery of the Series 2016A Bonds, including executing by manual or facsimile signature and delivering on behalf of the City all certificates, consents, receipts, requests, notices, investment agreements and other documents as may be reasonably necessary to satisfy the City's obligations under the Ordinance and to direct the transfer and application of funds of the City consistent with the provisions of such Ordinance. If requested by the Attorney General of Texas or his representatives, the Mayor may authorize such ministerial changes in the written text of this Ordinance as are necessary to obtain the Attorney General's approval and as he determines are consistent with the intent and purposes of this Ordinance, which determination shall be final.

Section 12.2. Severability. If any Section, paragraph, clause or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or

unenforceability of such Section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance.

Section 12.3. Open Meeting. It is hereby found, determined and declared that a sufficient written notice of the date, hour, place and subject of the meeting of the City Council at which this Ordinance was adopted was posted at a place convenient and readily accessible at all times to the general public at the City Hall of the City for the time required by law preceding this meeting, as required by the Open Meetings Act, Chapter 551, Texas Government Code, as amended, and that this meeting has been open to the public as required by law at all times during which this Ordinance and the subject matter thereof has been discussed, considered and formally acted upon. The City Council further ratifies, approves and confirms such written notice and the contents and posting thereof.

Section 12.4. Governing Law. This Ordinance shall be construed in accordance with and governed by the laws of the State of Texas.

Section 12.5. Repealer. All ordinances, or parts thereof inconsistent herewith, are hereby repealed to the extent of such inconsistency.

Section 12.6. Emergency. It is hereby officially found and determined that this Ordinance relates to an immediate public emergency affecting life, health, property and public peace, and that such emergency exists, the specific emergency being that the proceeds from the sale of the Series 2016A Bonds are required as soon as possible for necessary and urgently needed improvements, and that this Ordinance be passed and approved on the date of its introduction.

Section 12.7. Effective Date. This Ordinance shall be in force and effect from and after its passage on the date shown below.

PASSED AND APPROVED ON FIRST AND ONLY READING on the \_\_\_\_ day of \_\_\_\_\_, A.D., 2016.

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TOM REID  
MAYOR

ATTEST:

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YOUNG LORFING, TRMC  
CITY SECRETARY

APPROVED AS TO FORM:

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DARRIN M. COKER  
CITY ATTORNEY

Exhibit A	Form of Bond
Exhibit B	Paying Agent/Registrar Agreement
Exhibit C	Bid Form
Exhibit D	Preliminary Official Statement
Exhibit E	Official Statement
Exhibit F	Description of Annual Financial Information

**EXHIBIT A**

**FORM OF BOND**

United States of America  
State of Texas

NUMBER  
<sup>1</sup>R-  
REGISTERED

DENOMINATION  
\$ \_\_\_\_\_  
REGISTERED

CITY OF PEARLAND, TEXAS  
WATER AND SEWER SYSTEM REVENUE BONDS  
SERIES 2016A

<sup>2</sup>INTEREST RATE: \_\_\_\_\_%      DATED DATE: June 1, 2016      <sup>2</sup>MATURITY DATE: September 1, \_\_\_\_\_      <sup>2</sup>CUSIP:

REGISTERED OWNER: \_\_\_\_\_

PRINCIPAL AMOUNT: \_\_\_\_\_ DOLLARS

<sup>3</sup>THE CITY OF PEARLAND, TEXAS (the “City”), a municipal corporation duly incorporated under the laws of the State of Texas, for value received hereby promises to pay, but solely from certain Net Revenues as hereinafter provided, to the Registered Owner identified above or registered assigns, on the Maturity Date specified above, upon presentation and surrender of this Series 2016A Bond at the designated payment office of Wells Fargo Bank, N.A. in Minneapolis, Minnesota (the “Paying Agent/Registrar”), the principal amount identified above, in any coin or currency of the United States of America which on the date of payment of such principal is legal tender for the payment of debts due the United States of America, and to pay, solely from such Net Revenues, interest thereon at the rate described below, calculated on the basis of a 360-day year, composed of twelve 30-day months, from the later of the Dated Date

<sup>1</sup> Initial Bond shall be numbered T-1.

<sup>2</sup> Omitted from Initial Bond.

<sup>3</sup> The first sentence of the Initial Bond shall read as follows:

“THE CITY OF PEARLAND, TEXAS (the “City”), a municipal corporation duly incorporated under the laws of the State of Texas, for value received hereby promises to pay, but solely from certain Net Revenues as hereinafter provided, to the Registered Owner identified above or registered assigns, on the Maturity Date specified below, upon presentation and surrender of this Series 2016A Bond at the designated payment office of Wells Fargo Bank, N.A. in Minneapolis, Minnesota (the “Paying Agent/Registrar”), the principal amount set forth in the following schedule: [Insert information regarding years of maturity, principal amounts and interest rates from Section 3.3,] in any coin or currency of the United States of America which on the date of payment of such principal is legal tender for the payment of debts due the United States of America, and to pay, solely from such Net Revenues, interest thereon at the rate described above, calculated on the basis of a 360-day year, composed of twelve 30-day months, from the later of the Dated Date identified above or the most recent interest payment date to which interest has been paid or duly provided for.”

identified above or the most recent interest payment date to which interest has been paid or duly provided for. Interest on this Series 2016A Bond is payable by check sent by United States mail, first class, postage prepaid, payable on March 1 and September 1, beginning on March 1, 2017, mailed to the Registered Owner as shown on the books of registration kept by the Paying Agent/Registrar as of the fifteenth calendar day of the month next preceding each interest payment date. Any accrued interest payable at maturity or earlier redemption shall be paid upon presentation and surrender of this Series 2016A Bond at the principal corporate trust office of the Paying Agent/Registrar.

THIS SERIES 2016A BOND IS ONE OF A DULY AUTHORIZED SERIES OF BONDS (the "Series 2016A Bonds") aggregating \$\_\_\_\_, issued for the purpose of constructing certain repairs, improvements, additions and extensions to the City's waterworks and sanitary sewer system and payment of costs of issuance of the Series 2016A Bonds, all under and pursuant to Chapter 1502, Texas Government Code, as amended, and an ordinance adopted by the City on May 23, 2016 (the "Ordinance"), and other applicable law. Capitalized terms used herein without definition are defined in the Ordinance.

THIS SERIES 2016A BOND AND THE SERIES OF WHICH IT IS A PART are special obligations of the City that are payable from and are equally and ratably secured by a first lien on and pledge of the Net Revenues collected and received by the City from the operation and ownership of the City's water and sewer system as defined and provided in the Ordinance, which Net Revenues are required to be set aside and pledged to the payment of the Outstanding Bonds, as described in the Ordinance, the Series 2016A Bonds, and all Additional Bonds issued on a parity therewith, in the Interest and Sinking Fund and the Reserve Fund maintained for the payment of all such Bonds, all as more fully described and provided for in the Ordinance.

THIS SERIES 2016A BOND AND THE SERIES OF WHICH IT IS A PART ARE PAYABLE SOLELY FROM SUCH NET REVENUES AND NEITHER THE STATE, NOR ANY POLITICAL SUBDIVISION OR AGENCY OF THE STATE, SHALL BE OBLIGATED TO PAY THE SAME OR THE INTEREST THEREON AND NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE STATE, THE CITY, OR ANY OTHER POLITICAL CORPORATION, SUBDIVISION OR AGENCY THEREOF IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF OR THE INTEREST ON THE SERIES 2016A BONDS. THE OWNER HEREOF SHALL NEVER HAVE THE RIGHT TO DEMAND PAYMENT OF THIS SERIES 2016A BOND OUT OF ANY FUNDS RAISED OR TO BE RAISED BY AD VALOREM TAXATION.

REFERENCE IS HEREBY MADE TO THE ORDINANCE, a copy of which is on file in the office of the Paying Agent/Registrar, and to all of the provisions of which the Registered Owner of this bond by the acceptance hereof hereby assents, for definitions of terms; the description of and the nature and extent of the security for the Series 2016A Bonds; the priority for the application and use of the income and revenues of the System; the Net Revenues pledged to the payment of the principal of and interest on the Series 2016A Bonds; the nature and extent and manner of enforcement of the lien and pledge securing the payment of the Series 2016A Bonds; the terms and conditions for the issuance of additional revenue obligations, including Additional Bonds; the terms and conditions for amending the Ordinance; the terms and conditions relating to the transfer or exchange of this bond; the rights, duties, and obligations of

the City and the Paying Agent/Registrar; the terms and provisions upon which the liens, pledges, charges and covenants made therein may be discharged at or prior to the maturity of this bond, and deemed to be no longer Outstanding thereunder; and for the other terms and provisions thereof. Capitalized terms used herein, unless otherwise defined, have the same meanings assigned in the Ordinance.

THE CITY RESERVES THE RIGHT, at its option, to redeem the Series 2016A Bonds maturing on September 1, 2027, and thereafter prior to their scheduled maturities, in whole or in part, in integral multiples of \$5,000 on September 1, 2026, or any date thereafter at par plus accrued interest on the principal amounts called for redemption to the date fixed for redemption.

THE SERIES 2016A BONDS MATURING on September 1 in the year \_\_\_\_\_(the “Term Bonds”) are subject to mandatory sinking fund redemption in the following amounts (subject to reduction as hereinafter provided), on the following dates, in each case at a redemption price equal to the principal amount of the Series 2016A Bonds or the portions thereof so called for redemption plus accrued interest to the date fixed for redemption:

	<u>Mandatory Redemption Dates</u>	<u>Principal Amounts</u>
Term Bonds Maturing September 1, ____		

The particular Term Bonds to be redeemed shall be selected by the Registrar by lot or other customary random selection method, on or before July 15 of each year in which Term Bonds are to be mandatorily redeemed. The principal amount of Term Bonds to be mandatorily redeemed in each year shall be reduced by the principal amount of such Term Bonds that have been optionally redeemed on or before July 15 of such year and which have not been made the basis for a previous reduction.

NOT LESS THAN THIRTY (30) DAYS prior to a redemption date, a notice of redemption will be sent by U.S. mail, first class postage prepaid, in the name of the City to each registered owner of a Series 2016A Bond to be redeemed in whole or in part at the address of the registered owner appearing on the registration books of the Paying Agent/Registrar at the close of business on the business day next preceding the date of mailing. When Series 2016A Bonds or portions thereof have been called for redemption and due provision has been made to redeem the same, the amounts so redeemed shall be payable solely from the funds provided for redemption, and interest which would otherwise accrue on the Series 2016A Bonds or portions thereof called for redemption shall terminate on the date fixed for redemption.

<sup>4</sup>THIS Series 2016A Bond shall not be valid or obligatory for any purpose or be entitled to any benefit under the Ordinance unless this Bond is authenticated by the Paying Agent/Registrar by due execution of the authentication certificate endorsed hereon.

THIS SERIES 2016A BOND IS TRANSFERABLE only upon presentation and surrender at the designated payment office of the Paying Agent/Registrar, duly endorsed for transfer or accompanied by an assignment duly executed by the Registered Owner or his authorized representative, subject to the terms and conditions of the Ordinance.

THIS SERIES 2016A BOND IS EXCHANGEABLE at the corporate trust office of the Paying Agent/Registrar for bonds in the principal amount of \$5,000 or any integral multiple thereof, subject to the terms and conditions of the Ordinance.

THE PAYING AGENT/REGISTRAR IS NOT REQUIRED to accept for transfer or exchange any Series 2016A Bond called for redemption in whole or in part during the 45 day period immediately prior to the date fixed for redemption.

THE REGISTERED OWNER of this Series 2016A Bond, by acceptance hereof, acknowledges and agrees to be bound by all the terms and conditions of the Ordinance.

THE CITY has covenanted in the Ordinance that it will at all times provide a legally qualified Paying Agent/Registrar for the Series 2016A Bonds and will cause notice of any change of Paying Agent/Registrar to be mailed to each Registered Owner.

THE CITY HAS RESERVED THE RIGHT TO ISSUE ADDITIONAL PARITY BONDS, subject to the restrictions contained in the Ordinance, which may be equally and ratably payable from, and secured by a first lien on and pledge of, the Net Revenues in the same manner and to the same extent as the Outstanding Bonds, which includes this Series 2016A Bond and the series of which it is a part.

IT IS HEREBY DECLARED AND REPRESENTED that this Series 2016A Bond has been duly and validly issued and delivered; that all acts, conditions, and things required or proper to be performed, to exist, and to be done precedent to or in the issuance and delivery of this Series 2016A Bond have been performed, have existed, and have been done in accordance with law; that the Series 2016A Bonds do not exceed any statutory limitation; and that provision has been made for the payment of the principal of and interest on this Series 2016A Bond and all of the Series 2016A Bonds by the creation of the aforesaid lien on and pledge of the Net Revenues.

IN WITNESS WHEREOF, the City has caused its corporate seal to be impressed or placed in facsimile hereon and has caused this Series 2016A Bond to be executed by the Mayor and countersigned by the City Secretary by manual, lithographed, or printed facsimile signatures.

<sup>4</sup> In the Initial Bond, this paragraph shall read as follows: "THIS SERIES 2016A BOND shall not be valid or obligatory for any purpose or be entitled to any benefit under the Ordinance unless this Bond is registered by the Comptroller of Public Accounts of the State of Texas by registration certificate attached or affixed hereto."

CITY OF PEARLAND, TEXAS

\_\_\_\_\_  
Mayor

(SEAL)

COUNTERSIGNED

\_\_\_\_\_  
City Secretary

\* \* \* \* \*

**[FORM OF COMPTROLLER’S REGISTRATION CERTIFICATE]**

The following form of Comptroller’s Registration Certificate shall be attached or affixed to each of the Series 2016A Bonds initially delivered.

THE STATE OF TEXAS

REGISTER NO. \_\_\_\_\_

OFFICE OF THE COMPTROLLER  
OF PUBLIC ACCOUNTS

I hereby certify that there is on file and of record in my office a certificate of the Attorney General of the State of Texas to the effect that this bond and the proceedings for the issuance hereof have been examined by him as required by law, that he finds that it has been issued in conformity with the Constitution and laws of the State of Texas and that it is a valid and binding special obligation of the City of Pearland, Texas, payable from the revenues and other funds pledged to its payment by and in the proceedings authorizing the same, and I do further certify that this bond has this day been registered by me.

WITNESS MY SIGNATURE AND SEAL OF OFFICE this \_\_\_\_\_  
\_\_\_\_\_.

\_\_\_\_\_  
Comptroller of Public Accounts  
of the State of Texas

[SEAL]

\* \* \* \* \*

**[FORM OF AUTHENTICATION CERTIFICATE]**

The following form of Authentication Certificate shall appear on each of the Series 2016A Bonds.

**AUTHENTICATION CERTIFICATE**

This bond is one of the Series 2016A Bonds described in and delivered pursuant to the within-mentioned Ordinance; and, except for the Series 2016A Bonds initially delivered, this bond has been issued in conversion of and exchange for or replacement of a bond, bonds or a portion of a bond or bonds of an issue which originally was approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts of the State of Texas.

WELLS FARGO BANK, N.A., Minneapolis,  
Minnesota

By: \_\_\_\_\_  
Authorized Signature: \_\_\_\_\_  
Date of Authentication: \_\_\_\_\_

\* \* \* \* \*

**[FORM OF ASSIGNMENT]**

The following form of assignment shall appear on each of the Series 2016A Bonds.

**ASSIGNMENT**

For value received, the undersigned hereby sells, assigns, and transfers unto

\_\_\_\_\_.

\_\_\_\_\_  
*(Social Security or Other Identifying Number)*

\_\_\_\_\_  
*(Print or type name, address, and zip code of transferee)*

the within bond and hereby irrevocably constitutes and appoints \_\_\_\_\_ attorney to transfer said bond on the books kept for registration thereof, with full power of substitution in the premises.

DATED: \_\_\_\_\_

Signature Guaranteed:

\_\_\_\_\_

\_\_\_\_\_  
Registered Owner

NOTICE: The signature must be guaranteed by a commercial bank or a member firm of a national securities exchange. Notarized or witnessed signatures are not acceptable.

NOTICE: The signature on this assignment must correspond with the name of the Registered Owner as it appears on the face of the within bond in every particular, without alteration or enlargement or any change whatever.

\* \* \* \*

**EXHIBIT B**

**PAYING AGENT/REGISTRAR AGREEMENT**

See Tab \_\_

**EXHIBIT C**

**BID FORM**

See Tab \_\_

**EXHIBIT D**

**PRELIMINARY OFFICIAL STATEMENT**

See Tab \_\_

**EXHIBIT E**

**OFFICIAL STATEMENT**

See Tab \_\_

## **EXHIBIT F**

### **DESCRIPTION OF ANNUAL FINANCIAL INFORMATION**

The following information is referred to in Article X of this Ordinance:

#### **Annual Financial Statements and Operating Data**

The financial information and operating data with respect to the City to be provided annually in accordance with such Article are as specified below:

1. The financial statements of the City for the most recently concluded fiscal year and the information in the Official Statement under the headings "CITY REVENUE DEBT," and "THE SYSTEM."

#### **Accounting Principles**

The accounting principles referred to in Article X are the accounting principles described in the notes to the financial statements referred to in paragraph 1 above.



**AGENDA REQUEST  
BUSINESS OF THE CITY COUNCIL  
CITY OF PEARLAND, TEXAS**

<b>AGENDA OF:</b>	5.23.2016	<b>ITEM NO.:</b>	Ordinance No. 1524
<b>DATE SUBMITTED:</b>	5.11.2016	<b>DEPT. OF ORIGIN:</b>	Parks and Recreation
<b>PREPARED BY:</b>	Chris Orlea, PhD	<b>PRESENTOR:</b>	Chris Orlea, PhD
<b>REVIEWED BY:</b>	Jon R. Branson	<b>REVIEW DATE:</b>	
<b>SUBJECT: Ordinance-1524 - An ordinance of the City Council of the City of Pearland, Texas, approving an update to the Parkland Dedication Ordinance.</b>			
<b>EXHIBITS: Ordinance-1524, Exhibit 'A' Parkland Dedication Ordinance Fee Calculation; Exhibit B – Consolidated Park Zone Map; C – Parkland Dedication Ordinance Revision White Paper (Early Budget Input 2016)</b>			
<b>FUNDING:</b> <div style="display: flex; justify-content: space-between; margin-top: 5px;"> <div style="width: 25%;"><input type="checkbox"/> Bonds To Be Sold</div> <div style="width: 25%;"><input type="checkbox"/> Grant <input type="checkbox"/> Bonds- Sold</div> <div style="width: 25%;"><input type="checkbox"/> Developer/Other <input type="checkbox"/> L/P – Sold</div> <div style="width: 25%;"><input type="checkbox"/> Cash <input type="checkbox"/> L/P – To Be Sold</div> </div>			
<b>EXPENDITURE REQUIRED: N/A</b> <b>AMOUNT BUDGETED:</b> <b>AMOUNT AVAILABLE:</b> <b>ACCOUNT NO.:</b> <b>ADDITIONAL APPROPRIATION REQUIRED: None</b> <b>ACCOUNT NO.:</b> <b>PROJECT NO.:</b>			

**EXECUTIVE SUMMARY**

**BACKGROUND**

Parkland dedication is a local government requirement imposed on subdivision developers or builders, mandating that they dedicate land for a park and/or pay a fee to be used by the government entity to acquire and develop park facilities. These dedications are a means of providing park facilities in newly developed areas of a jurisdiction without burdening existing city residents. They may be conceptualized as a type of up-front user fee because the intent is that the landowner, developer, or new homeowners, who are responsible for creating the demand for the new park

facilities, should pay for the cost of new parks. The parks also create amenities that add value to the areas long-term. The City is responsible for the ongoing maintenance and upkeep of these additions.

An appealing feature of parkland dedication is that it is responsive to market conditions. If fewer new people come to the city than predicted, then less money is forthcoming, so fewer parks are built. Similarly, as costs for acquisition and development of parks increase (or decrease), then parkland dedication requirements can be increased (or decreased) accordingly. (Crompton, 2010) The mean cost per acre for calculations was assessed using 5 sample properties from each proposed zone, in areas reasonably commensurate with future land available for residential development.

As a tool to geographically allocate funds within the area they were procured, a series of 13 park zones were established. This defines geographical boundaries to permit funding from dollars collected by means of the Parkland Dedication requirements, particularly the payment in lieu of dedication component. The current configuration of zones was defined in a 2005 Parks & Recreation Master Plan and attempted to install socially equitable zones based on current data from that period.

For comparison, the following are single-family residential fees for parkland dedication in other accredited agencies in Texas:

**College Station:** \$1,078 (Includes fee in lieu of land and development fee)

**City of Austin:**  $[5 \times (\# \text{ of dwelling units}) \times (\text{density}) / 1000] = \text{acres of land required for development} + \$650 \text{ Development Fee per dwelling Unit}$

**City of Ft. Worth:** \$500/Dwelling Unit Development Fee + \$30,000 per acre of required land for community park development

## **SCHEDULE**

Upon adoption all new fees would be placed into the FY2017 Fee Ordinance for consideration and adoption providing time to educate the development community on the upcoming amendment to the ordinance.

## **POLICY/GOAL CONSIDERATION**

Fiscally Responsible; Parks, Recreation, and Events; Sustainable Infrastructure.

## **CURRENT AND FUTURE FUNDING /FINANCIAL IMPACTS**

Adjusting the ordinance to reflect a market based strategy assuming current property values the initial impact should produce a 63% increased contribution to the Parkland Dedication accounts to off-set General Fund dollars, primarily for Capital Improvements.

## **O&M IMPACT INFORMATION**

N/A

## **RECOMMENDED ACTION**

That City Council hereby adopts the updated Parkland Dedication Ordinance, a copy of which is attached hereto and made a part hereof for all purposes, as resolved in R2016-XXX.

## **ORDINANCE NO. 1524**

**An Ordinance of the City Council of the City of Pearland, Texas, adopting a Park Dedication Formula and a Fee in Lieu of Dedication Calculation Formula; amending the Park Benefit Zone Map; containing a savings clause, a severability clause and a repealer clause; providing for publication and an effective date.**

**WHEREAS**, in order to eliminate the burden on existing residents in the City, the City's Unified Development Code ("UDC") requires new development to dedicate park land and/or a fee in lieu of the dedication of park land; and

**WHEREAS**, the dedicated park land and/or fees are used by the City to acquire new park land or facilities to serve the City's growing population; and

**WHEREAS**, the UDC authorizes the creation of Park Benefit Zones earmarked specifically to use collected park fees for the development of park facilities within each Park Zone; and

**WHEREAS**, the City desires to adopt a new Park Dedication Formula, Fee in Lieu of Dedication Calculation Formula and Park Benefit Zone Map; now therefore,

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS:**

**Section 1.** That the Park Dedication and Fee in Lieu of Park Dedication Calculation Formulas ("Fee"), attached hereto as **Exhibit "A,"** are hereby adopted.

**Section 2.** That the Fee shall be implemented in phases: 60% of the Fee beginning October 1, 2016; 80% of the Fee beginning October 1, 2017 and 100% of the Fee beginning October 1, 2018.

**Section 3.** That the Park Benefit Zone Map, attached hereto as **Exhibit "B,"** is hereby adopted.

**Section 4.** **Savings.** All rights and remedies which have accrued in favor of the City under this Chapter and amendments thereto shall be and are preserved for the benefit of the City.

**ORDINANCE NO. 1524**

**Section 5.**    **Severability.** If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid, unconstitutional or otherwise unenforceable by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

**Section 6.**    **Repealer.** All ordinances and parts of ordinances in conflict herewith are hereby repealed but only to the extent of such conflict.

**Section 7.**    **Publication and Effective Date.** The City Secretary shall cause this Ordinance, or its caption, to be published in the official newspaper of the City of Pearland, upon passage of such Ordinance. The Ordinance shall then become effective beginning October 1, 2016.

PASSED and APPROVED ON FIRST READING this the \_\_\_\_\_ day of \_\_\_\_\_, A.D., 2016.

\_\_\_\_\_  
TOM REID  
MAYOR

ATTEST:

\_\_\_\_\_  
YOUNG LORFING, TRMC  
CITY SECRETARY

APPROVED AS TO FORM:

\_\_\_\_\_  
DARRIN M. COKER  
CITY ATTORNEY

**Exhibit 'A'**

**A. Dedication Requirements for Neighborhood Parks in the City of Pearland**

1. Land Requirements: Based on the 2013 population of 100,065 residents, the current level of service is one (1) acre per 323 people.
2. 2.90 Persons per Household (PPH) for Single Family and 2.13 PPH for Multi-Family based on Census information for owner and renter-occupied units.

***Single Family***

323 people/2.90 PPH = 111 DUs

**Dedication Requirement:** 1 Acre  
per 111 DUs

***Multi-Family***

323 people/2.13 PPH = 151 DUs

**Dedication Requirement:** 1 Acre per  
151 DUs

**B. Fee in Lieu of Land: (Assumes 1 acre costs \$136,000 to purchase).**

1. *Single Family*: \$136,000/111 DUs = \$1225 per DU
2. *Multi-Family*: \$136,000/151 DUs = \$900 per DU
3. **Park Development Fee**: The cost of improvements in an average park in Pearland is \$630,520. One park serves 6,254 people, based on a total city population of 100,065 being served by 16 parks (count includes 10 neighborhood parks, 4 community parks, a nature trail, and a connectivity trail system as a singular unit). Average cost is estimated to be \$100.82 per person (\$630,520/6,254) to develop a typical park.

***Single Family***

\$100.82 x 2.80 PPH =  
\$292.378 per DU

***Multi-Family***

\$100.82 x 2.13 PPH = \$214.75 per D U

**Total Park Fee**

***Single Family***

\$292+\$1225=**\$1,517**  
**per DU**

***Multi-Family***

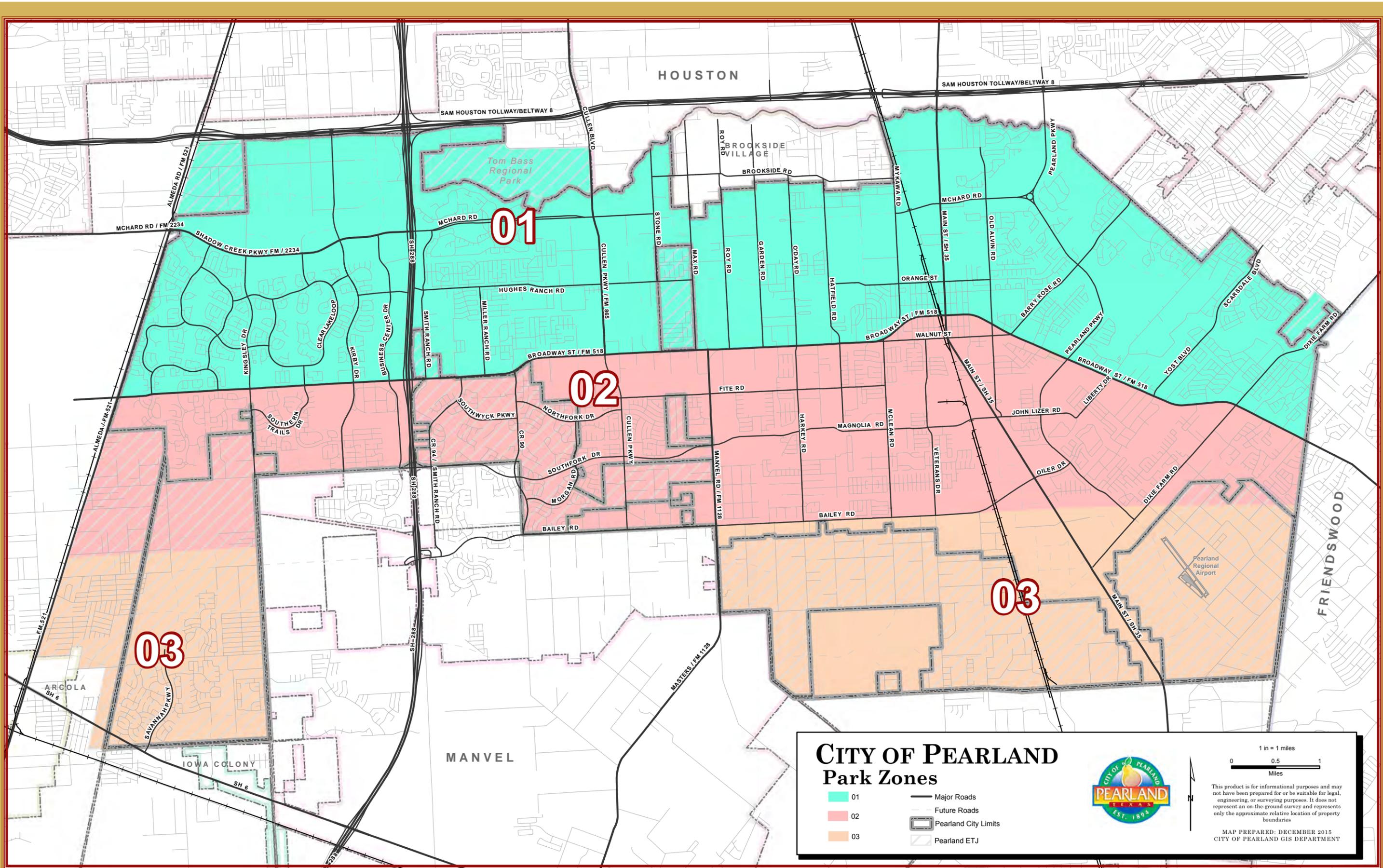
\$214 + \$900 = **\$1,114 per DU**

Part 1 derives the current level of service of one acre per 323 people for neighborhood parks by dividing the city's population by its existing public park acreage. The level of service standard is transformed to dwelling units (DUs) by dividing the 323 people by the average number of people in single and multi-family dwellings. These averages are available from the U.S. Census Bureau. This establishes the land dedication requirement at one acre per 111 DUs for single family and 151 DUs for multi-family units.

Part 2 calculates the fee in lieu based on an average land cost in the city of Pearland at \$136,000 per acre. This cost is an average of samples taken at 5 geographically opposing locations.

Part 3 in Table 1 calculates the park development fee.

The resultant fee of \$273 per person is then multiplied by the number of people per household to derive dwelling unit fees of \$764 and \$622 for single and multi-family units, respectively. Part 4 aggregates Parts 2 and 3 to derive total park fees of \$1,517 and \$1,114 for single and multi-family units, respectively. If the city accepted land (Part 1) rather than a fee in lieu (Part 2) the developer would be required to pay only the park development fee. (Crompton, 2010)



## CITY OF PEARLAND Park Zones

<ul style="list-style-type: none"> <li><span style="display: inline-block; width: 15px; height: 10px; background-color: #00FF99; border: 1px solid black; margin-right: 5px;"></span> 01</li> <li><span style="display: inline-block; width: 15px; height: 10px; background-color: #FF6666; border: 1px solid black; margin-right: 5px;"></span> 02</li> <li><span style="display: inline-block; width: 15px; height: 10px; background-color: #FF9966; border: 1px solid black; margin-right: 5px;"></span> 03</li> </ul>	<ul style="list-style-type: none"> <li> Major Roads</li> <li> Future Roads</li> <li> Pearland City Limits</li> <li> Pearland ETJ</li> </ul>	<div style="text-align: right;"> <p>1 in = 1 miles</p> <p>Miles</p> </div> <p style="font-size: small;">This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.</p> <p style="font-size: x-small; text-align: right;">MAP PREPARED: DECEMBER 2015 CITY OF PEARLAND GIS DEPARTMENT</p>
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## Memo

To: Clay Pearson – City Manager

From: Chris Orlea, PhD – Director of Parks & Recreation

A handwritten signature in black ink, appearing to be "CO", located to the right of the "From:" line.

CC: Jon Branson – Deputy City Manager;

Trent Epperson – Assistant City Manager; John McCarter –

Management Assistant; Carry Capers – Assistant Director of Parks &

Recreation; Lata Krishnarao – Director of Community Development

Date: 1.11.2016

Re: Parkland Dedication Ordinance Revision

### **BACKGROUND**

Parkland dedication is a local government requirement imposed on subdivision developers or builders, mandating that they dedicate land for a park and/or pay a fee to be used by the government entity to acquire and develop park facilities. These dedications are a means of providing park facilities in newly developed areas of a jurisdiction without burdening existing city residents. They may be conceptualized as a type of up-front user fee because the intent is that the landowner, developer, or new homeowners, who are responsible for creating the demand for the new park facilities, should pay for the cost of new parks. The parks also create amenities that add value to the areas long-term. The City is responsible for the ongoing maintenance and upkeep of these additions.

An appealing feature of parkland dedication is that it is responsive to market conditions. If fewer new people come to the city than predicted, then less money is forthcoming, so fewer parks are built. Similarly, as costs for acquisition and development of parks increase (or decrease), then parkland dedication requirements can be increased (or decreased) accordingly. (Crompton, 2010)

Originally resolved through Ordinance 741-1 in 1999, a Parkland Dedication Ordinance joined the City of Pearland Code of Ordinances as a new section titled 'Section 27-11'. The City of Pearland sought to collect parkland dedication, and fees in lieu of, in accordance with the named parkland dedication requirements and the then current Parks & Recreation Master Plan. The intent of this ordinance was to ensure that as land was subdivided the burden on Parks & Recreation facilities was recognized and future growth was planned and accounted for fiscally.

On February 27, 2006, by Ordinance 2000-T, the Land Use and Urban Development Ordinance was repealed after a second and final reading providing for the adoption of the now effective Unified Development Code (UDC) to administer the planning and development directives of the City of Pearland. In an amendment titled Ordinance 2000-T-12, on May 17, 2010 the Planning and Zoning Commission met and recommended an amendment to the UDC that would include incorporating the Parkland Dedication Ordinance in to the Subdivision standards of that document. Subsequently on June 28, 2010 at a second and final reading the City Council of the City of Pearland confirmed that recommendation and the current Parkland Dedication Ordinance was placed as a development standard, in its current capacity, within the UDC.

### **Parks Zones**

As a tool to geographically allocate funds within the area they were procured, a series of 13 park zones were established. This would define geographical boundaries to permit funding from dollars collected by means of the Parkland Dedication requirements, particularly the payment in lieu of dedication component. **The current configuration of zones was defined in a 2005 Parks & Recreation Master Plan and attempted to install socially equitable zones based on current data from that period.**

At present Parkland Dedication Fees are collected at the time of platting, via the Community Development Department. In this transaction all Developers are responsible for a \$750 per dwelling unit fee, with the exception of developments that have received approved Planned Development Documents adopted by the Planning and Zoning Commission and ultimately City Council. In Planned Developments Developers have the opportunity to provide parkland to the City of Pearland with or without added amenities when that method would greater serve the leisure purposes of the residents as deemed appropriate by the Parks & Recreation Department, and that recommendation is made to the approving bodies for subsequent approval.

The current fee of \$750 per dwelling unit was adopted prior to the 2010 Master Plan, and that plan included the following commentary:

" 1. Amend Ordinance No. 741 -2A, Parkland Dedication, to establish a new park zone structure that reflects the Parks and Recreation System Plan and ensures that fees collected or lands dedicated are in accordance with this master plan. Park zones should be identified for both community and neighborhood parks, with a proportional allocation of funds based upon the needs assessment. Other modifications of the ordinance include, among others: 1) allow the Staff the discretionary authority to accept land or fees in lieu of land on a case-by-case basis; 2) establish that land dedication or construction of parks are proportionally concurrent with each phase of development; 3) specify the standards and required equipment and improvements for privately constructed parks; 4) allow credit toward the dedication requirements for golf courses, lakes and ponds, trails, detention basins, etc.; and, 5) consider a parkland dedication fee on a square foot basis for non-residential development. **The fee in lieu amount has not been updated since May 2005 meaning that it is due to reflect increased unit and improvement costs. The fee amount should be considered annually.**"

To date, beginning in Fiscal Year 2000, the Parkland Dedication Fund has collected \$2.9M, and has funded projects such as the playground replacement at Centennial Park, and contributed to many new projects and renovations throughout the City.

### **POLICY/GOAL CONSIDERATION**

The current Parkland Dedication Ordinance structure does not capitalize on the dynamic growth within the City of Pearland. Reaching record number of permits issued for dwelling units in the preceding year the work completed by Dr. John Crompton is being considered for incorporation into the suggested revisions.

Revision to the current ordinance is proposed to distribute the responsibility of parkland dedication into two distinct components: parkland dedication, or fees in lieu of, a parkland development fee, and a redistricting of the current park benefit zones (Fund 49). As found in the *Turtle Rock* case, this practice is a valid exercise of the city's police power because it [will] substantially relate[d] to the health, safety and general welfare of the people.

This new structure will ensure that communities gain pedestrian access to neighborhood parks, and that the City would collect fiscal contributions to develop larger community parks in additional central locations throughout the City.

The concept of increased pedestrian access to smaller parks and a greater number of larger offerings is a response to desires indicated through survey response via a Master Plan conducted in calendar years 2014-2015.

This revision also seeks to return to a formula based structure to set dedication fees by resolution and provide for a fair market rate that accommodates current economic trends.

In this amendment the following work by Dr. John Crompton, et al, is being recommended:

The most widely accepted approach to meeting Dolan's "rough proportionality" criterion is to assume that new residents' demands will require the same level of service as those of existing residents in the community. It is important to note that the courts have consistently ruled that standards for new residents cannot be set at a higher level than those prevailing for existing residents. Thus, deficiencies in supply of park amenities arising from demand generated by earlier development cannot be funded by imposing higher dedications on new developments. A recommended approach for calculating a parkland dedication requirement based on existing level of service is illustrated in Table 1, which describes how the City of College Station ascertained its parkland dedication requirement for both neighborhood parks and community parks. There are four parts to the calculation.

Table 1. Park Land Dedication and Development Fees Methodology for Neighborhood and Community Parks.

\*The work of initial calculations performed by Dr. John Crompton in 2010 have been amended to numbers representative of demographics within the City of Pearland.

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#### Dedication Requirements for Neighborhood Parks in the City of Pearland

Land Requirements: The current level of service is one (1) acre per 323 people. 2013 Total Population: 100,065

2.90 Persons per Household (PPH) for Single Family and 2.13 PPH for Multi-Family based on Census information for owner and renter-occupied units.

##### *Single Family*

323 people/2.90 PPH = 111 DUs

1 Acre per 111 DUs

##### *Multi-Family*

323 people/2.13 PPH = 151 DUs

1 Acre per 151 DUs

Fee in Lieu of Land: (*Assume 1 acre costs \$136,000 to purchase*).

##### *Single Family*

\$136,000/111 DUs = \$1225 per DU

##### *Multi-Family*

\$136,000/151 DUs = \$900 per DU

Park Development Fee

The cost of improvements in an average park in Pearland is \$630,520.

One park serves 6,254 people, based on a total city population of 100,065 being served by 16 parks (count includes 10 neighborhood parks, 4 community parks, a nature trail, and a connectivity trail system as a singular unit).costs \$100.82 per person (\$630,520/6,254) to develop an average park.

*Single Family*

\$100.82 x 2.80 PPH =  
\$292.378 per DU

*Multi-Family*

\$100.82 x 2.13 PPH = \$214.75 per D U

Total Park Fee

*Single Family*

\$292+\$1225=\$1,517

*Multi-Family*

\$214 + \$900 = \$1,114

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Part 1 derives the current level of service of one acre per 323 people for neighborhood parks by dividing the city's population by its existing public park acreage. The level of service standard is transformed to dwelling units (DUs) by dividing the 323 people by the average number of people in single and multi-family dwellings. These averages are available from the U.S. Census Bureau. This establishes the land dedication requirement at one acre per 111 DUs for single family and 151 DUs for multi-family units.

Part 2 calculates the fee in lieu based on an average land cost in the city of Pearland at \$136,000 per acre. This cost is an average of samples taken at 5 geographically opposing locations.

Part 3 in Table 1 calculates the park development fee.

The resultant fee of \$273 per person is then multiplied by the number of people per household to derive dwelling unit fees of \$764 and \$622 for single and multi-family units, respectively. Part 4 aggregates Parts 2 and 3 to derive total park fees of \$1,517 and \$1,114 for single and multi-family units, respectively. If the city accepted land (Part 1) rather than a fee in lieu (Part 2) the developer would be required to pay only the park development fee. (Crompton, 2010)

#### FINANCIAL IMPACT & OPTIONS (OPERATIONAL, CIP & REVENUE)

Following the historical construction trends that have new development migrating in a southern direction, the recommendation is being made to update park benefit zones to reflect the activity and provide for a greater level of social equity community-wide leveraging growth to off-set utilization. The installation of latitudinal divisions in the updated and consolidated park benefit zones will permit new construction occurring to supplement established infrastructure in adjacent areas to provide for a consistent level of service enduring population growth. **This amendment would reduce the number of benefit zones from 13 to 3 more encompassing regions.**

#### CONTRACT/AGREEMENT IN PLACE

Public Park Benefit Zone Map

Unified Development Code 12<sup>th</sup> Edition (Revised December 2015)

#### KEY STAFF

This ordinance revision will be based on collaborative efforts from the Parks & Recreation Department as well as the Community Development Department. Once a final draft has been approved to form by Administration. An affirmative vote from the Planning and Zoning Commission as well as the City Council would update the document and make these new standards available to the Development Community

**AGENDA REQUEST  
BUSINESS OF THE CITY COUNCIL  
CITY OF PEARLAND, TEXAS**

<b>AGENDA OF:</b>	May 23, 2016	<b>ITEM NO.:</b>	R2016-74
<b>DATE SUBMITTED:</b>	May 16, 2016	<b>DEPT. OF ORIGIN:</b>	Public Works
<b>PREPARED BY:</b>	Eric Hammond	<b>PRESENTOR:</b>	Michael Leech
<b>REVIEWED BY:</b>	Trent Epperson	<b>REVIEW DATE:</b>	May 18, 2016
<b>SUBJECT: Resolution No. R2016-74;</b> A resolution of the City Council of the City of Pearland, Texas renewing a unit supply contract for landscape maintenance services (medians, right of ways and City facilities) with Maldonado Nursery & Landscaping, Inc. in the estimated amount of \$599,480.40 from June 1, 2016 through May 31, 2017.			
<b>EXHIBITS:</b> R2016-74 Exhibit A – Bid Tab Exhibit B – Maintenance Schedule Exhibit C - Maintenance Map (All maintained locations) Exhibit D - Second Quarter Landscape Update			
<b>FUNDING:</b>			
<input type="checkbox"/> Grant <input type="checkbox"/> Developer/Other <input checked="" type="checkbox"/> Cash <input type="checkbox"/> Bonds To Be Sold <input type="checkbox"/> Bonds- Sold <input type="checkbox"/> L/P – Sold <input type="checkbox"/> L/P – To Be Sold			
<b>EXPENDITURE REQUIRED:</b> \$599,480.40 (est.) <b>AMOUNT BUDGETED:</b> \$599,480.40			
<b>AMOUNT AVAILABLE:</b> \$599,480.40		<b>PROJECT NO.:</b>	
<b>ACCOUNT NO.:</b> 100-305-315-5400-090; U of H 375-305-330-5400-090			
<b>ADDITIONAL APPROPRIATION REQUIRED:</b>			
<b>ACCOUNT NO.:</b>			
<b>PROJECT NO.:</b>			
<b>To be completed by Department:</b>			
X Finance	X Legal	Ordinance	X Resolution

**EXECUTIVE SUMMARY**

**BACKGROUND**

Pursuant to Resolution #R2014-20, City Council approved a bid award to Maldonado Nursery & Landscaping, Inc. in May, 2014 for Landscape Maintenance of City Facilities, Right of Ways and Medians. In May of 2015, City Council approved the first of two (2) one-year renewal options.

## **SCOPE OF CONTRACT**

Renewal for one (1) year, with zero (0) renewal options remaining.

## **BID AND AWARD**

The initial contract for mowing, edging, mulching, sprinkler maintenance, flowers and landscape services was for a period of one (1) year, with two (2) additional one (1) year renewal options. These options are available upon the mutual agreement of both parties and the approval of City Council. See attached list for maintained locations within this contract.

Maldonado Nursery & Landscaping, Inc. has agreed to renew their contracts with a 2% price increase (based on current CPI). Pricing for the final renewal period will be at the unit prices originally bid, plus 2%.

- During the first renewal option, City Council approved an amendment of the contract, to include four City Facility locations previously maintained by the Parks Department. Beginning October 1, 2015 (Old Fire Station #3, New Fire Station #3, Old Fire Station #2, and New Fire Station #2 which is to be added once complete) \$13,259 was included into the 2016 base budget for these services.
- Also during the first renewal option, City Council approved an amendment for the quantity of services for Class B properties (24 visits) to match that of Class A properties (48 visits) for Median and Right of Way locations. This provided a consistent mowing schedule for neighboring properties (Class B - shoulders to Class A - medians)

Additional information may be found in the attached exhibits.

## **SCHEDULE**

Based on Maintenance Schedule – Exhibit A for the period of June 1, 2016 through May 31, 2017.

## **POLICY/GOAL CONSIDERATION**

Strategy 5.0 in the Pearland 20/20 Strategic Plan, facilitated by the PEDC and adopted by Council, relates to the development of a comprehensive beautification strategy and specific tactics related to the maintenance and standards along landscaped roads and corridors.

In keeping with that strategy, and recognizing the need for improvement in the appearance of our landscaped areas, PEDC enlisted the support of a landscape architect to review and recommend service enhancements to the existing bid specifications and those recommendations were incorporated into the bids.

Proper ground maintenance services are needed in order to complete City mowing projects for a well-maintained, aesthetically-pleasing community, and play a role in the economic development and image of the community. The Strategic Priority to provide reliable and well-maintained infrastructure relies heavily upon the support of landscape contracts such as this. Contracts that not only provide routine grounds maintenance but tree care, irrigation maintenance, pest control, litter removal, turf care, plantings and landscape maintenance. These steps combined, ensure the preservation of long term investments.

**CURRENT AND FUTURE FUNDING /FINANCIAL IMPACTS**

Funding for the purchase of this service will come from the General Fund for Public Works. This contract will provide landscape maintenance services for the remainder of fiscal year 2016 and into fiscal year 2017.

<b>Fiscal Year</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>
Expenditure	\$382,173.00	\$507,427(Est.)	\$599,480 (Est.)

**RECOMMENDED ACTION**

A resolution of the City Council of the City of Pearland, Texas renewing a unit supply contract for landscape maintenance services (medians, rights of way and City facilities) with Maldonado Nursery & Landscaping, Inc. in the estimated amount of \$599,480 from June 1, 2016 through May 31, 2017.

**LOCATION LIST FOR CITY FACILITIES INCLUDED IN CONTRACT:**

Package	Location	Annual Charges	2% Increase	2016 Annual Charges
1	FIRE STATION #5 - 3100 KIRBY DRIVE	\$14,708.00	\$294.16	\$15,002.16
2	PUBLIC SAFETY BUILDING - 2525 CULLEN PARKWAY	\$11,468.40	\$229.37	\$11,697.77
3	RECREATION CENTER AND NATATORIUM - 4141 BAILEY ROAD	\$47,685.00	\$953.70	\$48,638.70
4	FIRE DEPARTMENT ADMINISTRATION BUILDING - 2703 VETERANS DRIVE	\$29,718.00	\$594.36	\$30,312.36
5	CITY HALL - 3519 LIBERTY DRIVE	\$21,335.00	\$426.70	\$21,761.70
6	COMMUNITY CENTER - 3523 LIBERTY DRIVE	\$15,518.00	\$310.36	\$15,828.36
7	TOM REID LIBRARY - 3522 LIBERTY DRIVE	\$23,946.00	\$478.92	\$24,424.92
8	UNIVERSITY OF HOUSTON CLEAR LAKE/PEARLAND CAMPUS - 1200 PEARLAND PARKWAY	\$48,840.00	\$976.80	\$49,816.80
9	OLD FIRE STATION #2	\$3,888.00	\$77.76	\$3,965.76
10	NEW FIRE STATION #2	\$6,217.00	\$124.34	\$6,341.34
11	OLD FIRE STATION #3	\$2,400.00	\$48.00	\$2,448.00
12	NEW FIRE STATION #3	\$6,800.00	\$136.00	\$6,936.00
13	EXTRA SERVICES	\$4,778.80	\$95.58	\$4,874.38
	Sub-total	\$237,302.20	\$4,746.04	\$242,048.24

**LOCATION LIST FOR MEDIANS AND RIGHT OF WAYS INCLUDED IN CONTRACT**

Package	Location	Annual Charges	2% Increase	2016 Annual Charges
1	BUSINESS CENTER DRIVE FROM FM 518 TO CR 59	\$12,365.88	\$247.32	\$12,613.20
2	DIXIE FARM FROM HWY 35 TO BLACKHAWK	\$20,669.00	\$413.38	\$21,082.38
3	FM 518 FROM SH 288 TO FM 521	\$33,979.00	\$679.58	\$34,658.58
4	FM 2234 FROM SH 288 TO FM 521	\$10,192.00	\$203.84	\$10,395.84
5	KIRBY DRIVE AT FM 518 AND PEARLAND TOWN CENTER	\$4,103.00	\$82.06	\$4,185.06
6	KIRBY DRIVE FROM FM 2234 TO BELTWAY 8	\$8,516.00	\$170.32	\$8,686.32
7	MAGNOLIA FROM PEARLAND PARKWAY TO MORGAN (INCLUDES CULLEN FROM MAGNOLIA TO N. FORK)	\$37,033.00	\$740.66	\$37,773.66
8	MCHARD FROM CULLEN TO COUNTRY PLACE PARKWAY	\$69,119.00	\$1,382.38	\$70,501.38
9	PEARLAND PARKWAY FROM OILER DRIVE TO CLEAR CREEK BRIDGE	\$81,647.00	\$1,632.94	\$83,279.94
10	BROADWAY FLOWERBEDS FROM MYKAWA TO SMITH RANCH	\$10,896.00	\$217.92	\$11,113.92
11	MAIN STREET FLOWERBEDS FROM FM 518 TO BELTWAY 8	\$12,552.00	\$251.04	\$12,803.04
12	NORTH SPECTRUM BLVD	\$4,548.00	\$90.96	\$4,638.96
13	24 ADDITIONAL CLASS B VISITS	\$40,035.00	\$800.70	\$40,835.70
14	EXTRA SERVICES	\$4,768.80	\$95.38	\$4,864.18
	Sub-total	\$350,423.68	\$7,008.47	\$357,432.15

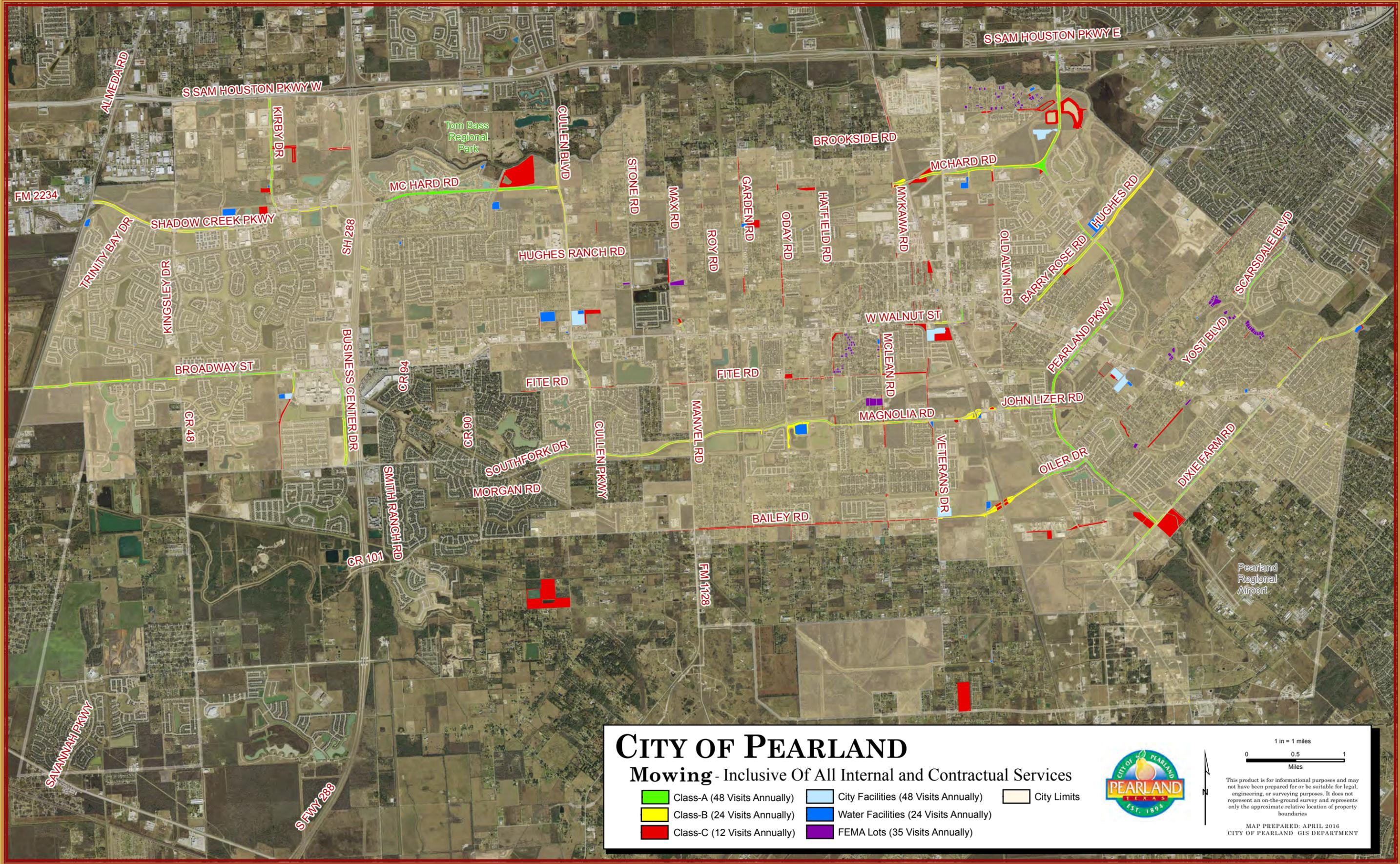
**Totals      \$587,725.88    \$11,754.52    \$599,480.40**

**EXHIBIT B**  
Maintenance Schedule

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec
Mowing and edging Class A areas	3	3	4	5	4	4	5	4	5	4	4	3
Mowing and edging Class B areas	3	3	4	5	4	4	5	4	5	4	4	3
Trash removal from roadway	3	3	4	5	4	4	5	4	5	4	4	3
Fertilize Turf - Class A areas			1			1				1		
Fertilize Turf - Class B areas			1			1				1		
Summer Fertilize Turf - Class A areas						1						
Broadleaf herbicide application			1							1		
Monthly irrigation inspection	1	1	1	1	1	1	1	1	1	1	1	1
Quarterly irrigation inspection		1			1			1			1	
Prune shrubs and trim groundcovers	1			1			1			1		
Complete weeding of planting/shrub beds	1	1	2	2	2	2	2	2	2	2	1	1
Pre-emergent weed control**												
Dead heading of annuals/perennials	1	1	1	1	1	1	1	1	1	1	1	1
Prune/thin of ground cover			1			1			1			
Fertilize planting/shrub beds			1						1			
Cultivate planting/shrub beds			1						1			
Change out seasonal color				1						1		
Mulching of planting/shrub beds			1			1			1			
Weed control in hardscape	1	1	1	1	1	1	1	1	1	1	1	1
Fire ant spot treatment	1	1	1	1	1	1	1	1	1	1	1	1
Removal of sucker growth from trees	1	1	1	1	1	1	1	1	1	1	1	1
Annual tree pruning***												
Cultivate tree rings and tree areas			1						1			
Mulching of tree rings and tree areas			1			1			1			

\*\*Twice A Year, As Needed; At Contractor's Discretion.

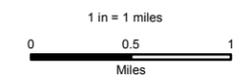
\*\*\*Annual Tree pruning shall take place between December 1 and February 28



# CITY OF PEARLAND

## Mowing - Inclusive Of All Internal and Contractual Services

- Class-A (48 Visits Annually)
- Class-B (24 Visits Annually)
- Class-C (12 Visits Annually)
- City Facilities (48 Visits Annually)
- Water Facilities (24 Visits Annually)
- FEMA Lots (35 Visits Annually)
- City Limits



This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

MAP PREPARED: APRIL 2016  
CITY OF PEARLAND GIS DEPARTMENT



## Memo

To: Clay Pearson, City Manager

From: Eric Hammond, Right of Way Superintendent

CC: Trent Epperson, Assistant City Manager  
 Eric Wilson, Director of Public Works  
 Michael Leech, Assistant Director of Public Works

Date: May 2, 2016

Re: **Second Quarter Landscape Update (Jan – Mar)**

5/5/2016

To: Mayor and City Council members

Background and pictures of progress and forthcoming continuation consideration of our maintenance on portion of public right-of-way and property. Clay

In October of 2015, the Pearland City Council funded a budget to support the contracted grounds maintenance program of several City owned properties. Since the adoption of that budget, **key improvement efforts have been conducted within the facility and right-of-way landscapes.**

Examples of these improvements range from timely grounds maintenance, landscape installations and irrigation repairs. **The landscape budget is appropriately funded to make necessary enhancements and ensure those improvements are sustained.** As such, we anticipate continued progress within our facility and right-of-way landscapes.

**At the May 23, 2016 City Council meeting, the renewal of our main landscaping contract is scheduled for its final one year extension option. The extension of this program is a key component in ensuring landscape enhancements and routine maintenance across the community.**

The following photos identify the improvement in service levels and aesthetics, throughout the recent months.

Before photos:



After photos:





Additional Enhancement & Maintenance Photos:



**RESOLUTION NO. R2016-74**

**A Resolution of the City Council of the City of Pearland, Texas, renewing a unit supply contract for landscape maintenance services (medians, right of ways and City facilities) with Maldonado Nursery & Landscaping, Inc. in the estimated amount of \$599,480.40 from June 1, 2016 through May 31, 2017.**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS:**

**Section 1.** That the City obtained unit supply pricing for the landscape maintenance services, and such bid was awarded.

**Section 2.** That the City Council hereby renews the bid with Maldonado Nursery & Landscape, in the unit supply amounts reflected in Exhibit "A" attached hereto.

**Section 3.** The City Manager or his designee is hereby authorized to execute a contract for landscape maintenance services.

PASSED, APPROVED and ADOPTED this the \_\_\_\_\_ day of \_\_\_\_\_,  
A.D., 2016.

\_\_\_\_\_  
TOM REID  
MAYOR

ATTEST:

\_\_\_\_\_  
YOUNG LORFING, TRMC  
CITY SECRETARY

APPROVED AS TO FORM:

\_\_\_\_\_  
DARRIN M. COKER  
CITY ATTORNEY

## Young Lorfing

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**From:** Darrin Coker  
**Sent:** Wednesday, May 18, 2016 2:20 PM  
**To:** Tony Carbone  
**Cc:** Greg Hill; Jon Branson; Young Lorfing  
**Subject:** Re: Agenda item for 5/23 City Council meeting -- ROW Mowing issue

Thanks! Will do, and we will make sure that BDD4 is aware that this item will be discussed.

Sent from my iPad

**Darrin Coker**  
City Attorney | Legal  
City of Pearland | 3519 Liberty Drive | Pearland, TX 77581  
P: 281.652.1664  
[pearlandtx.gov](http://pearlandtx.gov)



On May 18, 2016, at 1:33 PM, Tony Carbone <[tcarbone@pearlandtx.gov](mailto:tcarbone@pearlandtx.gov)> wrote:

I agree. Please add.

Sent from my iPhone

**Tony Carbone**  
Mayor Pro-Tem | City Council  
City of Pearland | 3519 Liberty Drive | Pearland, TX 77581  
P: 281.652.1662  
[pearlandtx.gov](http://pearlandtx.gov)



On May 18, 2016, at 1:33 PM, Greg Hill <[ghill@pearlandtx.gov](mailto:ghill@pearlandtx.gov)> wrote:

Darrin --

Please add, as an agenda item for the 5/23 council meeting, the issue of right-of-way mowing responsibilities throughout various parts of the city. I have copied Council member Carbone on this email for his response.

Sent from my iPhone

 **Greg Hill** | Councilmember Position 5 | City Council  
City of Pearland | [3519 Liberty Drive](http://3519LibertyDrive.com) | Pearland, TX 77581  
T: [281-652-1662](tel:281-652-1662) C:  
[pearlandtx.gov](http://pearlandtx.gov)

Please note my new email address of [ghill@pearlandtx.gov](mailto:ghill@pearlandtx.gov)

**Greg Hill**  
Councilmember Position 5 | City Council  
City of Pearland | 3519 Liberty Drive | Pearland, TX 77581

