

KENNEDALE CITY COUNCIL AGENDA
REGULAR MEETING
October 17, 2016
CITY HALL COUNCIL CHAMBERS, 405 MUNICIPAL DRIVE

WORK SESSION at 5:30 PM
REGULAR SESSION at 7:00 PM

I. CALL TO ORDER

II. WORK SESSION

***NOTE: Pursuant to Section 551.071, Texas Government Code, the City Council reserves the right to adjourn into Executive Session at any time during the work session or the regular session to discuss posted executive session items or to seek legal advice from the City Attorney on any item posted on the agenda.**

A. Discussion of recommendations from the Water Rate Committee

- Budget
- Utility Board
- Financial Policies
- Senior Restriction
- Donations
- Income based Discounts
- Rate Review
- Utility Fund Loans
- Issuance of Debt

B. Discussion of items on regular agenda

III. REGULAR SESSION

IV. ROLL CALL

V. INVOCATION

VI. UNITED STATES PLEDGE AND TEXAS PLEDGE

"Honor the Texas Flag; I Pledge Allegiance to Thee, Texas, One State under God; One and Indivisible."

VII. VISITOR/CITIZENS FORUM

At this time, any person with business before the City Council not scheduled on the Agenda may speak to the Council, provided that an official 'Speaker's Request Form' has been completed and submitted to the City Secretary prior to the start of the meeting. All comments must be directed towards the Mayor and Council, rather than individual council members or staff. All speakers must limit their comments to the subject matter as listed on the 'Speaker's Request Form.' No formal action or discussion can be taken on these items.

VIII. REPORTS/ANNOUNCEMENTS

In addition to any specific matters listed below, the city council may receive a report about items of community interest, including but not limited to recognition of individual officials, citizens or departments, information regarding holiday schedules, upcoming or attended events, etc.

- A. Updates from City Council
- B. Updates from the Mayor
 - 1. Proclamation presentation in recognizing Municipal Court Week
- C. Updates from the City Manager

IX. MONITORING INFORMATION

- A. Executive Limitations
- B. Ends Review - Balanced Scorecard

X. REQUIRED APPROVAL ITEMS (CONSENT)

All matters listed under incidental items (consent) have been previously discussed, require little or no deliberation, or are considered to be routine by the council. If discussion is desired, then an item will be removed from the consent agenda and considered separately.

- A. Consider approval of minutes from September 19, 2016 regular meeting
- B. Consider approval of minutes the City Council Board Interview meetings
- C. Consider Resolution 493 authorizing participation in various cooperative purchasing programs
- D. Consider Resolution 495 adopting an amended City of Kennedale Identity Theft Prevention Program Policy
- E. Consider Resolution 496 adopting an amended City of Kennedale Grant Submission & Acceptance Policy
- F. Consider Resolution 497 adopting an amended City of Kennedale Fraud Policy
- G. Consider Resolution 498 adopting an amended City of Kennedale Unclaimed Property Policy
- H. Consider Resolution 499 adopting an amended City of Kennedale Purchasing Policy
- I. Consider Resolution 500 adopting an amended City of Kennedale Procurement Card Program Policy
- J. Consider Resolution 501 adopting an amended City of Kennedale Investment Policy
- K. Consider approval of a city-developer agreement for the Glen of Village Creek
- L. Consider approval of a city-developer agreement for Falconcrest Addition
- M. Discuss and consider approval of Ordinance 610 amending Chapter 16, Article II "Parks and Recreation Board" of the Kennedale Code of Ordinances, establishing new membership appointments
- N. Discuss and consider authorizing the Mayor to execute documents accepting the Hazard Mitigation Grant Program sub-grant for acquisition and demolition of residential structure in the floodplain

O. Approval to cancel collection services with Valley Collections for utility billing

P. Discuss and consider approval of a contract with McCreary, Veselka, Bragg & Allen, P.C. collections services for utility billing

XI. DECISION ITEMS

A. **CASE # PZ 16-01** Public hearing and consider approval of Ordinance 592 regarding a request by Adam Blow for a zoning change from "C-1" General Commercial to "R-1" Single Family Residential located on 0.5 acre at 600 Little School Rd. legal description of J M Lilly Survey, A 980 Tr 6A.

1. Staff presentation
2. Applicant presentation
3. Public Hearing
4. Applicant response
5. Staff response and summary
6. Action by the City Council

B. Consider Resolution 494 adopting an amended City of Kennedale Financial Management Policy

C. Consider Resolution 502 adopting an amended City of Kennedale Internal Controls & Cash Handling Policy

D. Consider Ordinance 616 adopting City of Kennedale Credit Card Consumer Usage Fee Policy

E. Consider approval of an Ordinance 615 amending the city's schedule of administrative fees

F. Consider Resolution 503 adopting an amended Kennedale Fund Balance Policy

G. Consider Ordinance 614 establishing a Utility and Infrastructure Board

H. City Council to consider making appointments to the Board of Adjustment/Building Board of Appeals, Keep Kennedale Beautiful Commission, Kennedale Economic Development Corporation, Parks and Recreation Board, Planning and Zoning Commission, Library Advisory Board, Utility and Infrastructure Board, TownCenter Development District, and the Tax Increment Reinvestment Zone

I. Discuss the fall/winter City Council scheduled meeting dates:

- November 21, 2016
- December 19, 2016
- January 16, 2017 - MLK Day
- February 20, 2017 - President's Day
- April 17, 2017 - Easter Monday

XII. EXECUTIVE SESSION

A. The City Council may meet in closed session at any time during the work session or the regular session, pursuant to Section 551.071 of the Texas Government Code for consultation with the City Attorney pertaining to any matter in which the duty of the City Attorney under the Texas Disciplinary Rules of Professional Conduct may conflict with the Open Meetings Act, including discussion on any item posted on the agenda.

The City Council will meet in closed session pursuant to Section 551.072 of the Texas Government Code to deliberate the purchase, exchange, lease, or value of real property for the following:

1. 108 New Hope Road
2. 821 Corry A. Edwards Drive
3. New Hope Road Bridge Right-of-Way

XIII. RECONVENE INTO OPEN SESSION, AND TAKE ACTION NECESSARY PURSUANT TO EXECUTIVE SESSION, IF NEEDED

XIV. ADJOURNMENT

In compliance with the Americans with Disabilities Act, the City of Kennedale will provide for reasonable accommodations for persons attending City Council meetings. This building is wheelchair accessible, and parking spaces for disabled citizens are available. Requests for sign interpreter services must be made forty-eight (48) hours prior to the meetings. Please contact the City Secretary at 817.985.2104 or (TDD) 1.800.735.2989

CERTIFICATION

I certify that a copy of the October 17, 2016, agenda was posted on the City Hall bulletin board next to the main entrance of the City Hall building, 405 Municipal Drive, of the City of Kennedale, Texas, in a place convenient and readily accessible to the general public at all times and said agenda was posted at least 72 hours preceding the schedule time of said meeting, in accordance with Chapter 551 of the Texas Government Code.

A handwritten signature in cursive script, reading "Leslie Galloway", is written over a light gray rectangular background.

Leslie Galloway, City Secretary

Staff Report to the Honorable Mayor and City Council

Date: October 17, 2016

Agenda Item No: WORK SESSION - A.

I. Subject:

Discussion of recommendations from the Water Rate Committee

- Budget
- Utility Board
- Financial Policies
- Senior Restriction
- Donations
- Income based Discounts
- Rate Review
- Utility Fund Loans
- Issuance of Debt

II. Originated by:

III. Summary:

The water rate committee discussed and recommended several elements beyond the water rate design. Among the various recommendations were creation of a rate reduction for which a budget modification is necessary, utility advisory board, a finance committee, income based rates for families earning the poverty level, franchise fee, administration fees, donations, rate review, reconsider using utility funds for loans, and threshold for issuing debt.

The various elements are discussed below:

Budget modification. The adopted rates decreased budget revenues **\$273,000**.

Following are recommended budget adjustments:

Decrease water purchase from Fort Worth \$100,000

The use of greater ground water may lead to complaints about water taste and odor. This strategy is a good option unless a well goes down during the summer during peak usage or we have a major water line break.

Amend the financial practice to allow for credit fees to be passed along to customers \$54,000

63 customers currently use their credit cards for a monthly draft to pay for their utility bills. Also, some customers use credit cards to pay bills prior to terminating of service. The city currently passes along the convenience fee of 3% to customers in municipal court and for building permits.

Delinquent account collection \$3,000

Currently the city contract with Valley Collections to collect delinquent utility bills. The recommendation is to shift that account to MVBA, a delinquent collection law firm to collect these fees. MVBA currently collects delinquent municipal court citations. The 30% collection fee is passed along to the customer.

Engineering design of a connection point with Arlington \$50,000

The city has discussed purchasing water from Arlington. The engineering budget was to design and seek approval of the connection point between the two systems. The contract still needs to be negotiated

and approved by both cities. A potential impact may be the pending decision of Fort Worth to substantially increase impact fees on properties developing in Kennedale (and other customer cities).

Arlington sewer transportation and treatment fees \$66,000

These fees are subject in large part to rain events and the operation of the Arlington Feather Beach lift station. The city has placed a velocity meter downstream of the metering point to determine if sewer flows are “backward.” Arlington did adjust the transportation fee downward by 5 cents per 1000 gallons for an estimated annual savings of **\$8400**. This budget adjustment is based on staff belief that the operational decisions at the lift station can lead to reduced fees.

Total budget adjustment \$273,000

The creation of a utility advisory board. The creation of a utility board is too narrowly focused. It is recommended the council consider the creation of a Utility and Infrastructure Board to provide input for the five infrastructure dependent “utilities” – water, sewer, stormwater drainage, solid waste collection and recycling, and streets. The board could provide input into the annual revisions of the capital improvements plan (CIP), coordinate those plans with the KEDC Board and the P&Z Commission, recommend financing strategies for the identified improvements, and promote understanding of the needs of the various utilities. This board could provide input into the strategy for the cleanup of Village Creek; the emerging concern for erosion along the Village Creek tributaries, most notably Winding Creek, and policy development for protection of public and private properties long the various tributaries. A seven-member board is recommended with staff support drawn from the Public Works Director (Utilities), Street Superintendent, city manager, and finance director.

The creation of a finance committee. In reviewing what other cities do, I found some with a finance committee composed of two council members, two residents, the city manager, and finance director. They make recommendations to the council regarding financial policies, selection of the auditor, and review the audit prior to submission to the city council. A finance board as contemplated by the water rate committee appears to have conflicts with several charter provisions:

- Section 5.04 states the city manager is responsible for the preparation and submittal of the proposed annual budget.
- Section 6.04 grants to the entire city council the authority to select the city auditor.
- The general tone or tenor of the board duties appear to violate the council's governance policies. Additionally, all budgets and check registers are easily accessible to the public on the website, and the city undergoes an external audit annually. We feel this board would be redundant to transparency measures already in place. Consequently, it is recommended that council not pursue the creation of a finance board/committee.

Establishment of a rate structure that is income based for families earning the poverty level. It is difficult to estimate a cost of providing such a discount but assuming a 10% usage rate, the annual cost of offering the discount would be **\$87,000**.

Reduce the franchise fees to 4% (from the recommended 9%) and have the water and wastewater system pay for street repairs. The imposition of franchise fees is common among cities because franchise fees are imposed on privately owned utilities for the use of the public right of way. Utilities are established and treated as a private utility; hence, the requirement to pay for right of ways. The city council in 2007/2008 made the policy decision to establish a special revenue fund for streets and to finance it with franchise fees. The decision was made based on the condition of the streets at the time, largely reflected in the citizen opinion survey. Subsequent surveys indicate the public opinion has improved significantly from the investment. Streets is a major infrastructure service without a dedicated revenue stream to pay for its operation and maintenance. This is contrasted with the state where state highways are maintained through the gasoline tax.

The use of administrative fees. The general fund provides services to the water and wastewater fund including building space, finance support, management support, payroll, etc. Provision of these services can be done on an allocated basis. In the case of Kennedale, the allocations are reviewed annually and fairly reflect the costs of providing the service support.

Donations to the utility fund to assist customers who cannot financially afford their bills. Many utilities maintain such a donation system for customers experiencing hardship on a temporary case by case basis. They are not intended to assist month to month. Fathom has been instructed to create a line on the utility bill for such a donation. Disbursement of the funds has not been discussed. My initial thought would be to have the local ministerial alliance perform these duties. Alternatively, we could seek a regional provider.

Review rates annually rather than every three years. This can be incorporated into the budget preparation process.

Reconsider using utility funds for loans. This reference is the use of the utility fund reserves to loan funds to the TIRZ for the water and sewer line extension to serve Bloxom Park. Bloxom Park is in the TIRZ and the water and sewer lines are operational and earning revenue for the utility fund. The TIRZ will also repay for the loan with interest. The council did adopt a refunding resolution so these proceeds could be refunded through a debt issue, originally planned for March 2017.

Reconsider the threshold for issuing debt. The city uses debt for capital projects that expand the system capacity and repair projects that exceed funding availability. Debt can be issued through bonds, lease purchase, or equity financing. The lowest interest rates are through bonds, but to be cost effective they need to be at least \$800,000. In this regard, the committee recommended several projects be combined and done quicker.

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

VII. Alternative Actions:

VIII. Attachments:



Staff Report to the Honorable Mayor and City Council

Date: October 17, 2016

Agenda Item No: REPORTS/ANNOUNCEMENTS - A.

I. Subject:

Updates from City Council

II. Originated by:

City Council, City Council

III. Summary:

Updates and information from Council members .

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

None

VII. Alternative Actions:

VIII. Attachments:



Staff Report to the Honorable Mayor and City Council

Date: October 17, 2016

Agenda Item No: REPORTS/ANNOUNCEMENTS - B.

I. Subject:

Updates from the Mayor

1. Proclamation presentation in recognizing Municipal Court Week

II. Originated by:

III. Summary:

Updates and information from the Mayor.

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

VII. Alternative Actions:

VIII. Attachments:

1.	Municipal Court Week Proclamation	Municipal Court Week.docx
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PROCLAMATION

Municipal Court Week

November 7 – 11, 2016

A RESOLUTION RECOGNIZING THE IMPORTANCE OF MUNICIPAL COURTS, THE RULE OF LAW, AND THE FAIR AND IMPARTIAL ADMINISTRATION OF JUSTICE

WHEREAS, municipal courts play a significant role in preserving public safety and promoting quality of life in Texas;

WHEREAS, more people come in contact with municipal courts than all other Texas courts combined and public impression of the Texas judicial system is largely dependent upon the public's experience in municipal court;

WHEREAS, the City of Kennedale hosts the Kennedale Municipal Court since 1947;

WHEREAS, state law authorizes a municipality to either appoint or elect a municipal judge for a term of office, the Kennedale Municipal Court is a state court and its judges are members of the state judiciary;

WHEREAS, the procedures for the Kennedale Municipal Court operations are set forth in the Texas Code of Criminal Procedure and other laws of the State of Texas;

WHEREAS, the City of Kennedale is committed to the notion that our legal system is based on the principle that an independent, fair, and competent judiciary will interpret and apply the laws that govern us and that judges and court personnel should comply with the law and act in a manner that promotes public confidence in the integrity and impartiality of the judiciary;

WHEREAS, Kennedale Municipal Judges are not policy makers for the City of Kennedale but are bound by the law and the Canons of Judicial Conduct and are required to make decisions independent of the governing body of the City Council, city officials, and employees;

WHEREAS, the City Council recognizes that the Constitution and laws of the State of Texas contain procedural safeguards in criminal cases for all defendants, including indigent defendants, and supports the Kennedale Municipal Court in complying with such legal requirements.

NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF KENNEDALE, TEXAS that the week of November 7 - 11, 2016, is hereby recognized as Municipal Court Week in recognition of the fair and impartial justice offered to our citizens by the Municipal Court of Kennedale.

Dated this 17th day of October, 2016.

Mayor, Brian Johnson



Staff Report to the Honorable Mayor and City Council

Date: October 17, 2016

Agenda Item No: REPORTS/ANNOUNCEMENTS - C.

I. Subject:

Updates from the City Manager

II. Originated by:

Bob Hart

III. Summary:

Updates and information from City Manager, if any.

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

VII. Alternative Actions:

VIII. Attachments:



Staff Report to the Honorable Mayor and City Council

Date: October 17, 2016

Agenda Item No: MONITORING INFORMATION - A.

I. Subject:
Executive Limitations

II. Originated by:

III. Summary:
Reports are attached for review.

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

VII. Alternative Actions:

VIII. Attachments:

1.	Executive Limitations - October 2016	Executive Limitations 10.2016.docx
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POLICY TYPE: EXECUTIVE LIMITATIONS
POLICY TITLE: GLOBAL EXECUTIVE CONSTRAINT

The City Manager shall not cause or allow any organizational practice, activity, decision, or circumstance that is either unlawful, imprudent, or in violation of commonly accepted business and professional ethics.

Operations are in compliance with the global constraint policy.

POLICY TYPE: EXECUTIVE LIMITATIONS
POLICY TITLE: TREATMENT OF CUSTOMERS OF CITY SERVICES

With respect to interactions with customers, the City Manager shall not cause or allow conditions, procedures, or decisions that are unsafe, untimely, undignified, or unnecessarily intrusive.

The City Manager will not:

1. Elicit information for which there is no clear necessity.
2. Use methods of collecting, reviewing, transmitting, or storing customer information that fail to protect against improper access to the material
3. Operate facilities without appropriate accessibility and privacy.
4. Operate without establishing with customers a clear understanding of what may be expected and what may not be expected from the service offered.
5. Operate without informing customers of this policy or providing a way to be heard for persons who believe that they have not been accorded a reasonable interpretation of their rights under this policy.

Cyber security issues are a major concern in compliance with point 2. The city backs up files on a daily basis to avoid more common hacking attempts. Limitations have been placed on what websites can be accessed. Both the city manager and IT analyst are members of InfraGard to better understand the risks involved. I will attend the InfraGard meeting in early December.

POLICY TYPE: EXECUTIVE LIMITATIONS
POLICY TITLE: TREATMENT OF STAFF

With respect to the treatment of paid and volunteer staff, the City Manager shall not cause or allow conditions that are unfair, undignified, disorganized, or unclear.

The City Manager will not

1. Operate without written personnel rules that (a) clarify rules for staff, (b) provide for effective handling of grievances, and (c) protect against wrongful conditions, such as nepotism and grossly preferential treatment for personal reasons.
2. Retaliate against any staff member for non-disruptive expression of dissent.

3. Allow staff to be unaware of City Manager's interpretations of their protections under this policy.
4. Allow staff to be unprepared to deal with emergency situations.

The city maintains current personnel policy and orientation handbook. City operations are in compliance with the treatment of staff policy. Kelly Cooper works well with staff to ensure policies are followed. Staff recently completed supervisory and leadership training. Succession planning is underway for public works and police.

POLICY TYPE: EXECUTIVE LIMITATIONS
POLICY TITLE: EMERGENCY CITY MANAGER SUCCESSION

In order to protect the Council from sudden loss of the City Manager Services, the City Manager shall not permit there to be less than one other person familiar enough with Council and City Manager issues and procedures to be able to maintain organization services.

Kelly Cooper is the most informed of staff members. Rachel Roberts and Dennis Brown are working closely with me on Village Creek and the salvage yards. The department heads collectively are aware of on-going activities and projects, and I have been more attentive to this in both budget reviews and staff meetings. Krystal Crump is providing excellent support insofar as city finances are concerned. Jack Thompson (EDC & Chamber) is familiar with the business development activities.



Staff Report to the Honorable Mayor and City Council

Date: October 17, 2016

Agenda Item No: MONITORING INFORMATION - B.

I. Subject:

Ends Review - Balanced Scorecard

II. Originated by:

III. Summary:

Reports are attached for review.

IV. Fiscal Impact Summary:

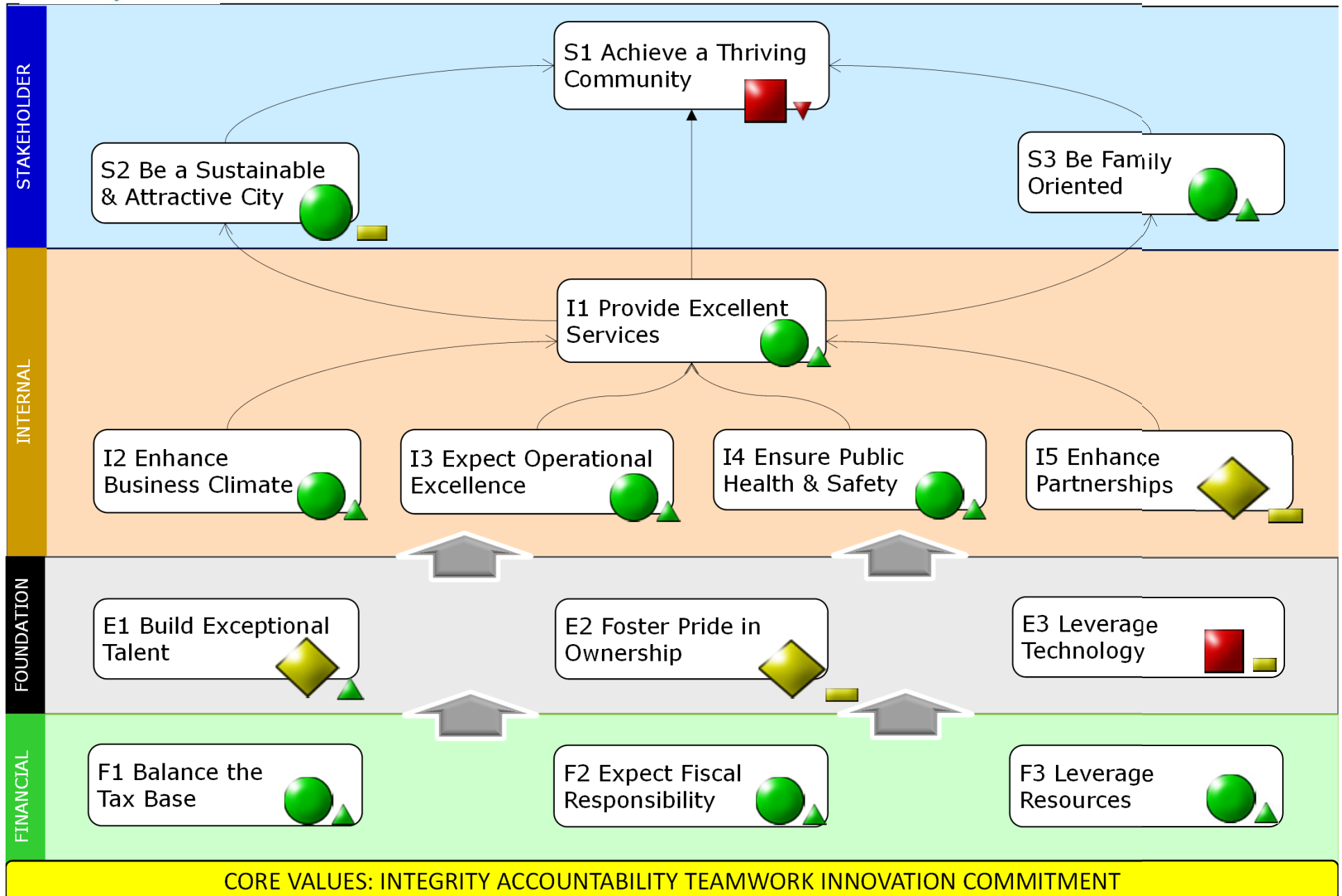
V. Legal Impact:

VI. Recommendation:

VII. Alternative Actions:

VIII. Attachments:

1.	September 2016 Balanced Scorecard	Kennedale Strategy Map 13-1.pdf
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Staff Report to the Honorable Mayor and City Council

Date: October 17, 2016

Agenda Item No: REQUIRED APPROVAL ITEMS (CONSENT) - A.

I. Subject:

Consider approval of minutes from September 19, 2016 regular meeting

II. Originated by:

III. Summary:

Please see the attached minutes for your approval.

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

Approve

VII. Alternative Actions:

VIII. Attachments:

1.	City Council Meeting Minutes - September 19-20, 2016	Sept 19-20, 2016.pdf
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KENNEDALE CITY COUNCIL

MINUTES

REGULAR MEETING

September 19-20, 2016

CITY HALL COUNCIL CHAMBERS, 405 MUNICIPAL DRIVE

WORK SESSION - 5:30 PM

REGULAR SESSION - 7:00 PM

I. CALL TO ORDER

Mayor Johnson called the meeting to order at 5:36 p.m.

II. WORK SESSION

***NOTE: Pursuant to Section 551.071, Texas Government Code, the City Council reserves the right to adjourn into Executive Session at any time during the work session or the regular session to discuss posted executive session items or to seek legal advice from the City Attorney on any item posted on the agenda.**

A. Receive water rate committee report

Water/Wastewater Rate Review Committee Chair Ernest Harvey presented the results and recommendations of the Committee's review to City Council. Mr. Harvey provided an overview of the City's current position, stating that the current purposed budget would bring in \$4.6 million; \$2.6 million from water and \$1.9 - \$2 million from sewer. Previously, there was a revenue shortfall of \$1.4 million, which lead to the current increases. He added that because most costs are fixed, we moved our recovery to a base rate system.

He continued with an overview of how impact fees work; stating that they are not fees that take care of the development of subdivisions. Developers put the infrastructure in place within the subdivision and then donate those lines back to the city for maintenance; basically, impact fees are a contribution into the expansion and growth of the City. These fees go into a Capital Improvement Fund for future enhancements and expansion of the City.

Mr. Harvey provides some background stating that originally, Kennedale pumped all their own water and the cost of that was about \$0.33/1,000 gallon to pump and treat; but demand outgrew the amount we could pull from the aquifers. We added Fort Worth as a second water supply, with an average cost of \$2.96/1,000 gallons. That cost has increased by about 34% over the past 5 years. Additionally, he added that about 40% of our water still comes from the wells. The combined cost per 1,000 gallons to pump and treat (not distribute, store, etc.) is about \$1.91/1,000 gallons. Sewer costs have also affected rates. A lot of work has been done to minimize inflow & infiltration (I & I) in an attempt to cut costs in the long-term. The Arlington sewer cost is about 2.5 times what it was five years ago, and about 90% of our water flows through Arlington.

He stated that the cash balance of the Water/Sewer Fund has been dwindling since 2008 because it has been used for short-falls in the budget and funding projects as they come

forward. Where did the money go? City Manager Bob Hart stated that the increases of overall costs incurred by the city to provide this service between 2013 and 2017 were 76%. The proposed revenues for FY16-17 are \$4.99 million. Our only revenue source for the water/sewer fund is utility billing. We cannot supplement with other revenues like other cities that can sell or transport water. Operations take up the bulk of the expenditures (total of \$4.829 million) at 53%. The Committee focused on the sundries to see if there was anywhere to save or adjust. Sundries are in the "variable cost" line item. That's where the Committee started seeing an opportunity to free up revenue. He stated that they feel their input has influenced the FY16-17 budget.

The AWWA sets the meter increase formula. You find your smallest meter and set that as 1, and then you multiply from there for larger meters with larger flows. The previous committee used this formula and set the $\frac{3}{4}$ " meter as 1, and set that base rate. Then the larger meter base rates were set using the AWWA formula. He showed the current rate based on those calculations; pointing out that the first 5,000 gallons was supplemented because the cost to the city is more than \$2.00/1,000 gallons.

Mr. Harvey listed the Committee recommendations:

- Establish a Utility Advisory Board to have increased citizen participation
- To conduct an annual Water/Wastewater Rate Review
- Adjust franchise fees to 4% (minimum); create a new line item and let it reflect the actual cost plus 20%
- Reduce/adjust administrative fee (paid to general fund) and review annually
- Change the issuing of bond governance; Lower threshold of what would qualify as a bond. For example, if we see that we're going to grow over the next 5 years, consider a large bond election to reduce the impact on our reserves. We need to make bonds a common practice
- Reconsider leveraging water/wastewater reserves. Use other financing options to fund TIRZ or Master Plan projects rather than loaning it from the water/wastewater fund reserves
- Increase the current \$15 Senior Discount to \$25; Ensuring the proper storage and destruction of private information used to establish these discounts
- Create a donate system to those who can't afford these rates. To provide an option on the bill for residents to donate to those who need assistance. This service should be handled by a third-party and solely benefit Kennedale utility users
- Offer a discount for downsizing meters. It costs about \$750 to \$1,000 to swap (excluding plumbing needed on your personal side). The Committee recommends a \$200 discount. This would reduce revenues, but it would also reduce the necessary capacity on the system
- Recommend providing a low-income discount for all ages
- Establish a Finance Advisory Board to review budget, audit, bonds, etc.

Mr. Harvey added that the Committee talked to residents last week and several suggested going back to the original rates. This is not a viable option because it is a decrease of \$2 million; so the Committee looked at the old rates plus 10%. That would leave us with a \$1.827 million shortfall. These calculations do not include any of our recommendations. He noted that the Committee wanted to show what a straight 10% increase would look like.

The following were the three (3) options presented to City Council:

- Rate Option 1: Consultant Carolyn Marshall queried the Public Utility Commission (PUC) to see how they did their rates. The PUC start at 1 for a 5/8" meter (instead of 3/4") which shifts all rates above 3/4" down. This option will leave a \$36,000 shortfall; which the Committee feels is something that could be dealt with. You also have to remember to add \$28,000 for the senior discounts and the possible reduction in meters, estimated at \$45,000. He noted that in all these options, the Committee did not change the sewer rates because most of that is fixed costs. He added that until they can resolve the large increases in sewer costs, they can't recommend a change.

Option 1 is the option that the Committee is recommending to Council.

- Option 2: Stay at base rate and offer suggested discounts; this option will leave no shortfall other than discounts.
- Option 3: To give a greater discount, but the risk becomes greater with these larger decreases. It is not really much of a discount per household, but leaves you with a \$273 million shortfall before additional discounts. Council could decide not to do capital projects such as Crestdale, and give this discount. Putting that project off would cover the shortfall, but it would push those improvements into another fiscal year budget; or even split it between two fiscal years. But you're really only offering an \$8.00 decrease.

He pointed out that in these options they had to increase the volume rates to decrease the base. You can pick and choose any of these recommendations or rates.

In conclusion, he provided potential future savings:

- The staff is still working on the I & I reduction; once this can be reduced, there are some savings, but we're spending up front
- Long-term sewer treatment options; look at what Arlington is charging us vs. Fort Worth. You might want to shift more over to Fort Worth.
- The same deal applies to the long-term water supply. Multiple sources for water, look at Arlington as an additional source
- Customer usage modifications; tiers are to encourage methodology
- The City's current billing and collection contract with FATHOM; there are opportunities, but you have to look at fulfilling contracts and how the changeover would work

He provided a timeline to show how long it will take to implement any rate changes that Council may approve. He noted that the estimated new rates would be on the December billing. In closing, he once again stated that these are the Committee's recommendations, Council may pick and choose, or modify the recommendations as they see fit.

B. Discussion of items on regular agenda

No items were discussed at this time. Council took a break before the regular session.

III. REGULAR SESSION

Mayor Johnson opened the regular session at 7:03 p.m.

IV. ROLL CALL

Present: Frank Fernandez, Brian Johnson , Kelly Turner, Liz Carrington, Charles Overstreet, Michael Walker

Absent: None

V. INVOCATION

Covenant Life Baptist Church Pastor Greg Adams provided the invocation.

VI. UNITED STATES PLEDGE AND TEXAS PLEDGE

"Honor the Texas Flag; I Pledge Allegiance to Thee, Texas, One State under God; One and Indivisible."

VII. VISITOR/CITIZENS FORUM

At this time, any person with business before the City Council not scheduled on the Agenda may speak to the Council, provided that an official 'Speaker's Request Form' has been completed and submitted to the City Secretary prior to the start of the meeting. All comments must be directed towards the Mayor and Council, rather than individual council members or staff. All speakers must limit their comments to the subject matter as listed on the 'Speaker's Request Form.' No formal action or discussion can be taken on these items.

Lynn Harris, 5010 Hawkins Cemetery Road, Arlington, stated that he would like to move back to Kennedale, but he has concerns regarding the remediation of the salvage yards and race tracks. He added that they are building some nice homes in these areas which will help the tax base. However, he'd like to see proper use of the land.

LaCresha Sanders, 5200 Andalusia Trail, Arlington, spoke to Council and citizens regarding the Wildcat Festival at R.F. Patterson Elementary on Saturday, October 29, 2016. She stated that they will be having a Fun Run and Keep Kennedale Beautiful (KKB) will be planting a tree that day. She invited all residents to attend and stated that they are still looking for sponsors and vendors for the event. Additionally, she provided handouts for the event.

VIII. REPORTS/ANNOUNCEMENTS

In addition to any specific matters listed below, the city council may receive a report about items of community interest, including but not limited to recognition of individual officials, citizens or departments, information regarding holiday schedules, upcoming or attended events, etc.

A. Updates from City Council

Liz Carrington informed the group that the Arlington watershed meeting will be this Thursday at Hughley in Burleson. It was noted that the Arlington watershed is the water that flows into Lake Arlington, and that the meeting is to discuss possible ways to protect it from pollutants.

Kelly Turner stated that he attended the Emergency Preparedness Planning Committee (EPPC) and the Regional Emergency Planning Advisory Committee (REPAC) meetings this past month. He informed the group that there are sixteen North Texas counties that come together to share ideas and work together on emergency preparedness. The Committee looks at making sure we are more prepared for emergencies that come through the area. He stated that this past year the state locally funded \$1.8 million for these efforts; a lot of those funds responded to tornadoes that occurred this past Christmas. He added that they will soon be having forty-eight mock

scenarios to practice the utilization of these resources, and that he hopes to share some of those locations next month. It was noted that these resources are accessible to Kennedale in the case of another tornado like the one 4 years ago.

Charles Overstreet stated that he and Mayor Johnson attended a reception for the new Chancellor for Tarrant Community College (TCC), and they also attended the 911 Memorial Ceremony at TownCenter Park. He added that there was a nice turnout for the 911 Memorial Ceremonies.

Frank Fernandez stated that he also attended the 911 Memorial Ceremony at TownCenter Park.

B. Updates from the Mayor

Mayor Brian Johnson stated that he attended the Tarrant Regional Transportation Coalition Executive Board meeting and that the big issue right now is the I-20/820/287 interchange. The state has allocated an additional \$36 billion over a ten-year period, noting that it is the number one priority for this area. That means it will take about a decade to get there. He also attended the Southeast Tarrant Transportation Partnership (SETTP) meeting; he added that they are getting a lot of support from Arlington, Mansfield and Grand Prairie to push the I-20/820/287 project forward. He added that he has been meeting with the Mayor of Burleson and they are working on a Community Summit to create healthy communities and opportunities for young people. In closing, he noted that he will be reading at the pancake supper at Delaney Elementary.

C. Updates from the City Manager

- 2015 CAFR Award

City Manager Bob Hart reported that the Kennedale Finance Department received the 2015 Comprehensive Annual Financial Report (CAFR) Award for our annual audit again this year. Additionally, he added that the citizen opinion survey will begin around October 1st, and will be used for the basis of the community-wide strategic plan update. The Mayor noted that the last update was in 2009 and that the strategic plan is what Council bases all their decisions on.

IX. MONITORING INFORMATION

Monitoring information updates are in the agenda packet for review.

A. Monthly Financials - July and August 2016

B. Executive Limitations

C. Ends Review - Balanced Scorecard

X. REQUIRED APPROVAL ITEMS (CONSENT)

All matters listed under incidental items (consent) have been previously discussed, require little or no deliberation, or are considered to be routine by the council. If discussion is desired, then an item will be removed from the consent agenda and considered separately.

A. Consider approval of minutes from August 12, 2016 special budget workshop meeting

B. Consider approval of minutes from August 15, 2016 regular meeting

C. Consider approval of minutes from September 8, 2016 special meeting

D. Consider casting a ballot for the Texas Municipal League Intergovernmental Risk Pool Board of Trustees Election.

E. Consider approval of Library Memorandum of Understanding for a family place grant through the Texas State Library and Archives Commission (TSLAC)

F. **CASE # PZ 16-09** To consider approval regarding a request by CHC Development for a final plat of the Glen of Village Creek (formerly Swiney Estates, plat abandoned by instrument numbers D214210746 and D216057891, PRTC) for approximately 15.982 acres located on Bowman Springs Rd, generally located south of Swiney Estates Block 1 Lot 4R, west of Bowman Springs Rd, north of Winding Creek Rd, and east of 1141 Bowman Springs Rd. The plat will create 35 residential lots and 3 open space parcels. Property addresses include 1201, 1305, & 1307 Bowman Springs Rd.

Motion To approve all required approval Items on (Consent) agenda. **Action** Approve, **Moved By** Charles Overstreet, **Seconded By** Frank Fernandez.
Motion passed Unanimously

XI. DECISION ITEMS

A. **CASE # PZ 16-10** Public Hearing to receive public comments and consider Ordinance No. 605, adopting a Unified Development Code to regulate land use within the City of Kennedale; establishing zoning districts to regulate and restrict the use of property for residential, commercial, industrial and other purposes; regulating parking, landscaping, screening, lighting, signs, building design and materials; providing for the submission of site plans, subdivision plats and other development applications; providing regulations for flood damage prevention, stormwater protection, erosion and sediment control; and providing for procedures for review, approval and administration of these regulations.

1. Staff presentation
2. Public Hearing
- 3 Staff response and summary
4. Action by the City Council

City Planner Rachel Roberts provided the staff presentation stating that we have been working on this project for over a year. She stated that in 2012 the City adopted an updated Comprehensive Land Use Plan; the new plan set forward recommendations for the Village Districts (small mixed-use districts) and looked at the intensity of development, and encourages connectivity. Unfortunately, our zoning regulations didn't allow the implementation of these comprehensive plan ideals; and up until now, you had to cross-reference multiple documents and codes to ensure you met standards. Last year, the City hired LSL Planning to update our regulations and it was determined that the best approach was to develop a Unified Development Code (UDC); which would list all codes and regulations in a single document. Rachel stated that LSL Planning met with the City and toured it. They also met several times with the Advisory Committee, town hall meetings were held, user groups, workshops, online visual preference survey, and public forums were all used.

Rachel provided a power point presentation that highlights the new provisions that included:

- Use regulations; we have updated and condensed the schedule of uses
- Traffic Impact regulations
- Updated the plan development regulations

- Landscape and lighting
- Zoning districts; our existing zoning districts are still in place and no zoning will be changed with the adoption of the UDC. This simply adds additional regulations for those districts.

She stated that staff is recommending an effective date of October 1, 2016. The Planning and Zoning Board considered this UDC update at their August meeting, and recommended approval with the now-included edits

Rachel listed all the Board member and the Mayor questioned if we had a turn-out for the public meetings. Rachel replied that we did not have much turn-out, but we did get a decent response to the online visual survey. There was some discussion concerning historical districts, apartments, and if non-compliant properties will be grandfathered in. Councilman Turner stated that the UDC was very well done and thanked everyone one for all their hard work putting it together.

Public Hearing:

Mayor Johnson opened the public hearing;

Robert Mundy, 712 Shady Creek Drive, stated that he had the privilege to participate on this committee, and that he approached this very cautiously because zoning is very important for both present and future citizens. He stated that staff did an excellent job supporting the committee; but it is difficult to take all those documents and roll them into one. He added that it is necessary to do so if the City is going to move forward and that there are other advantages. Hopefully, it will decrease city legal costs, both in updating codes, and in opening ourselves up to suits. He feels it will help get projects going and reduce citizens' complaints. It is a real step forward for the City. He added that with a change this drastic, there will likely be improvements that will be necessary down the line. He encouraged Council to approval the Unified Development Corporation.

Mayor Johnson closed the Public Hearing.

Staff response and summary:

Rachel Roberts stated that staff recommends approval. Mayor Johnson questioned if in the past, was this a big problem for developers; stating that Kennedale has a reputation as not being business-friendly. Rachel replied that some of the developers probably try to hide their frustrations because they want their project to move forward. She felt that it was more frustrating for private residents and it was also frustrating for staff, which had to ensure they looked up all the requirements. This is especially problematic when you have staff turnover. The Mayor asked if there were contradictions. Rachel replied yes, when you update one code, sometimes there are related regulations in other codes that go without updating.

Motion To approve Ordinance 605 adopting the Unified Development Code. **Action** Approve, **Moved By** Kelly Turner, **Seconded By** Liz Carrington.
Motion passed Unanimously

B. Discuss and consider approval of Ordinance 612 fixing and levying municipal ad valorem taxes for the City of Kennedale, Texas, for the fiscal year beginning October 1, 2016, and ending September 30, 2017; directing the assessment and collection thereof; providing a severability clause; and an effective date

City Attorney Wayne Olsen stated that the City is adopting a rate that is not in excess of the effective tax rate.

Motion To approve Ordinance 612 fixing and levying Municipal Ad Valorem Taxes. **Action** Approve, **Moved By** Frank Fernandez, **Seconded By** Michael Walker.

Motion passed Unanimously

C. Discuss and consider approval of Ordinance 613 adopting the budget for the fiscal year beginning October 1, 2016, and ending September 30, 2017; amending budget figures for the prior fiscal year beginning October 1, 2015, and ending September 30, 2016; appropriating resources for each department, project, operation, activity, purchase, account and other expenditures; providing for emergency expenditures and expenditures as allowed by applicable state law; providing for the filing of the budget as required by state law; providing that this Ordinance shall be cumulative of all ordinances; providing a severability clause and providing an effective date

City Manager Bob Hart provided a presentation of the FY2016 - 17 Budget; noting that the entire annual operating budget and these presentations are on the city's website for citizen's to review. He stated that the budget is a means document necessary to accomplish the means established by Council., and that the Vision Statement came out of the Strategic Plan done in 2009. Bob stated that the following areas of focus were used during this and the current year: Create a community based on sustainable goals; Redevelop Oak Crest; Restore Village Creek; Establish residential subdivision in Southwest Kennedale; Redevelop Kennedale Parkway; Develop an excellent road network; Create an interconnected linear park system; and Build an organization of excellence and innovation. Additionally, he provided a budget fact sheet, an update on short-term and long-term projects, and a review of property taxes and exemptions.

It was noted that Council has completed a planning session, the review process and the required public hearings. Staff is now bringing the recommended FY 2016 - 17 Budget forward for City Council approval.

Motion To approve Ordinance 613 the adoption of the FY 2016-17 Budget. **Action** Approve, **Moved By** Charles Overstreet, **Seconded By** Kelly Turner.

Motion passed Unanimously

D. Discuss and consider approval for ratification of property tax rate in FY 2016-2017 adopted budget

Councilman Kelly Turner stated "I move to ratify the property tax increase reflected in the budget which will raise \$140,283 more revenue from property taxes than last year's budget, which is a 3.11 percent increase from last year's budget. The property tax revenue to be raised from property added to the tax roll this year is \$191,867".

Motion To approve ratification of the property tax increase per statement read aloud. **Action** Approve, **Moved By** Kelly Turner, **Seconded By** Charles Overstreet.

Motion passed Unanimously

E. **CASE # PZ 16-03** Public hearing to receive public comments and consider approval of a request by Hickman Consulting Engineers for MKP Associates, Inc. for a replat of approximately 5.005 acres at 1209 Swiney Hiatt Rd, being a replat of C C Swiney's Subdivision Lot 1, Kennedale, Tarrant County, to create Falcon Crest Estates Block 1 Lots 1-7.

1. Staff presentation
2. Applicant presentation
3. Public Hearing

4. Applicant response
5. Staff response and summary
6. Action by the City Council

City Planner Rachel Roberts provided the staff presentation stating that the property located at 1209 Swiney Hiatt Road is zoned R2 single family residential with no zoning change purposed. The property was originally part of a plat done in 1946, and most of the surrounding properties have redeveloped or subdivided since that time. This property has one house on it and has changed ownership; they wish to redevelop at this time.

She stated that the Comprehensive Land Use Plan shows this neighborhood is part of a neighborhood character district, which should be primarily residential in nature, and the purposed replat is for residential. Additionally, she stated that standard street regulations apply and the plat conforms to the Comprehensive Lane Use Plan.

Staff and City Engineers have reviewed the plat drawings and they meet technical specifications and the lots purposed meets the R2 zoning requirements. Staff considered the requirements to be met by the applicant and recommend approval of the replat. She reminded Council that if a plat meets all city requirements, you are required by state law to approve it.

Rachel noted that the Planning and Zoning Board considered this case at their September 15th meeting, and held a public hearing with two property owners questioning draining. We have obtained additional information about that and then voted to recommend approval.

Adlai Pennington with MKP Associates was available to answer questions in regard to the applicant presentation. There were a few questions from Council regarding location and lot size.

Public Hearing:

Mayor Johnson opened the public hearing; there was no one present requesting to speak. Mayor Johnson closed the public hearing.

Motion To approve a replat of approximately 5.005 acres at 1209 Swiney Hiatt Road. **Action** Approve, **Moved By** Liz Carrington, **Seconded By** Michael Walker.

Motion passed Unanimously

F. **CASE # PZ 16-11** Public Hearing to receive public comments and consider approval of a request by Ashton Holdings for a replat of approximately 0.988 acres at 408 3rd St, being a replat of Soto Addition Block 1 Lot 1R, Kennedale, Tarrant County, to create Soto Addition Lot 1R-1 and 1R-2.

1. Staff presentation
2. Applicant presentation
3. Public Hearing
4. Applicant response
5. Staff response and summary
6. Action by the City Council

City Planner Rachel Roberts provided the staff presentation stating that the property located at 408 3rd Street is in the Old Town sub-district, off the intersection of Cory A. Edwards and 3rd Street. Rachel noted that this property has been vacant for some time except for some out buildings that have recently been removed. Additionally, the property has been subject to drainage issues; however, it is not the source of the problem. Staffs is aware of the situation and

are working on a plan to resolve the issues. City Engineers have looked at the property and development will not exasperate the situation.

She stated that the surrounding property is primarily single family residential with some duplexes and quad-plexes nearby. She added that the lot is larger than required by zoning regulations.

She stated that they looked at the plat for compliance with the Comprehensive Land Use Plan; it shows this neighborhood as part of the Downtown Village character district. This should be based on the original street grid and block pattern, and usage should include a mix of residential and businesses. The proposed plat does preserve the existing block pattern and the streets, where they front, have with a 50 foot right-of-way; this is in compliance with the future transportation plan.

The technical specifications and the lots purposed for Old Town has been met. No plans are required for a development of this size; however, plans are required as part of the building development and staff will be reviewing to make sure they meet our code and drainage requirements. Staff considered the requirements to be met by the applicant and recommend approval of the replat.

Rachel noted that the Planning and Zoning Board considered this case at their September 15th meeting and held a public hearing where several property owners expressing concern about draining. Staff has informed the Public Works storm water staff and they will be contacting the property owner as part of that project. Planning and Zoning voted to recommend approval.

Adlai Pennington from Ashton Holdings was available for questions.

Public Hearing:

Mayor Johnson opened the public hearing; there was no one present requesting to speak. Mayor Johnson closed the public hearing.

Rachel reminded Council that if a plat meets all city requirements, you are required by state law to approve it.

Motion To approve a plat of approximately 0.988 acres at 408 3rd Street. **Action** Approve, **Moved By** Frank Fernandez, **Seconded By** Charles Overstreet.
Motion passed Unanimously

G. Consider approval of Ordinance 608 repealing Ordinance 589 water and sanitary sewer rates for service

There was no discussion on this item.

Motion To approve Ordinance 608 repealing Ordinance 589 water and sanitary sewer rates. **Action** Approve, **Moved By** Charles Overstreet, **Seconded By** Liz Carrington.
Motion passed Unanimously

H. Public Hearing to consider approval of Ordinance 611 approving the adoption of water and sanitary sewer service rates as recommended by the rate committee

1. Staff presentation
2. Public Hearing
3. Staff response and summary
4. Action by the City Council

Water/Wastewater Rate Review Committee Chair Ernest Harvey stated that this was fully presented during the work session. He provided a brief review stating that as a committee, they looked at the expenditures and revenues in the budget. He noted that many citizens have called for a return to the previous rate, but that had a shortfall of about \$1.5 million. Adding, that pumping water from the wells is the most affordable, but we can't meet the demand; so, we added Fort Worth as a water supply. He noted that right now, the average 1,000 gallons of water costs us \$1.91 to source, pump and treat; that does not cover storage or delivery.

He stated that this is where you can see the impact of the situation; we once were our own source provider, but now we are a combined water source and as we keep growing we will probably be sourcing at a higher percentage. Ernest provided a review of sewer cost, impact fees, budget, where the money goes, and the rate structure. Anything that's more than a 25% increase is unreasonable.

It was brought to the attention of those in attendance that state regulations require that cities meet 70% of capacity. The city's aim is to keep the system at 75-80% to allow for development. There were lengthy discussions among Council and the Committee.

Committee Chair Harvey presented their recommendations as follows:

- Establish a Utility Advisory Board
- Adjust franchise fees to 4% (minimum); create a new line item; let it reflect the actual cost plus 20%
- Reduce/adjust administrative fee (paid to general fund) and review annually
- Change the issuing of bond governance; lower threshold of what would qualify as a bond.
- Reconsider leveraging water/wastewater reserves. Use other financing options to fund TIRZ or Master Plan projects rather than loaning it from the water/wastewater fund reserves
- Increase the current \$15 Senior Discount to \$25; Ensuring the proper storage and destruction of private information used to establish these discounts
- Create a donate system to those who can't afford these rates. Provide option on the bill for residents to donate to those who need assistance.
- Offer a discount for downsizing meters. The Committee recommends a \$200 discount.
 - Recommend providing a low-income discount for all ages
- Establish a Finance Advisory Board to review budget, audit, bonds, etc.

The following were the three (3) options presented to City Council in regard to the rate structure:

- Rate Option 1: Consultant Carolyn Marshall queried the Public Utility Commission (PUC) to see how they did their rates. The PUC start at 1 for a 5/8" meter (instead of 3/4") which shifts all rates above 3/4" down. This option will leave a \$36,000 shortfall; which the Committee feels is something that could be dealt with. You also have to remember to add \$28,000 for the senior discounts and the possible reduction in meters, estimated at \$45,000. He noted that in all these options, the Committee did not change the sewer rates because most of that is fixed costs. He added that until they can resolve the large increases in sewer costs, they can't recommend a change.

Option 1 is the option that the Committee is recommending to Council.

- Option 2: Stay at base rate and offer suggested discounts; this option will leave no shortfall other than discounts.
- Option 3: To give a greater discount, but the risk becomes greater with these larger decreases. It is not really much of a discount per household, but leaves you with a \$273 million shortfall before additional discounts. Council could decide not to do capital projects such as Crestdale, and give this discount. Putting that project off would cover the shortfall, but it would push those improvements into another fiscal year budget; or even split it between two fiscal years. But you're really only offering an \$8.00 decrease.

He pointed out that in these options they had to increase the volume rates to decrease the base. You can pick and choose any of these recommendations or rates.

Suggested opportunities for potential future savings:

- The staff is still working on I & I reduction; once this can be reduced, there are some savings, but we're spending up front
- Long-term sewer treatment options; look at what Arlington is charging us vs. Fort Worth. You might want to shift more over to Fort Worth.
- The same deal applies to the long-term water supply. Multiple sources for water; look at Arlington as an additional source
- Customer usage modifications; tiers are to encourage methodology
- The City's current billing and collection contract with FATHOM; there are opportunities, but you have to look at fulfilling contracts and how the changeover would work

Mayor Johnson provided a review of how the committee was selected. He stated that he selected only one person from the previous committee, Adrienne Kay to provide a historical aspect. Ernest Harvey was asked to serve on the Committee because the Mayor has the highest regard for him and his integrity; noting that Ernest will tell the truth whether you like it or not, and he served as Chair for the Impact Fee Committee. He stated that Pastor Greg Adams is always here every month at the Council meetings and he didn't like the water rates, so we wanted his perspective. The Mayor added that he put Chris Pugh on the Committee because he was the first one to speak at the April meeting and he expressed that communication need to be improved. Gary Swan was part of the Shame of Kennedale group with opposing views, so we wanted to include their views and asked some others from the group to be part of the Committee. They said no, but suggested Cathy Brown. Additionally, it was noted that Bob sent all of Cathy Brown's recommendations to the Council and they have all reviewed what she recommended.

Public Hearing:

Mayor Johnson reviewed the rules and due to the large number of people signed up to speak, he requested that everyone limit their speaking to three minutes.

Mayor Johnson opened the public hearing;

John Hivale, 418 Coker Valley Drive, requested to know why Cathy Brown resigned from the Water Rate Review Committee. Additionally, he requested that Council allow the members of

the Committee to individually speak without fear of intimidation or retribution. He stated that he did support the questions brought forward by Councilman Fernandez. He noted that there are a couple of other plans besides the AWWA that could have been applied, such as the Equity Buying Method and the Incremental Cost Method. He stated that he has a lot more information and questions to be asked.

Mayor Johnson requested that all the Committee members stand and address the issue raised as to Committee members feeling intimidation or fearing retribution.

Committee member Adrienne Kay stated that she has been on three water committees and for the record she was the one who encouraged Cathy Brown to participate on this committee. She added that at no time did she feel intimidated; however, there was engaging debate and a lot of passion on the subject matter. The Committee as a whole agreed to support the recommendations, and she has no ill will or hard feelings toward anyone that she served on the committee with.

Committee member Chris Pugh stated that he was never contacted by anyone from City Council in regard to what we were discussing as a committee; City staff was assigned to help us and they answered any and all our questions. Bob went to great length to respond to a lengthy amount of questions. He added that there was very heated debate, and he thought that everyone had ideas that went out, and decisions that did not. But, in the end, they voted and majority rules. He stated that he didn't feel intimidated or that staff was trying to push their ideas onto the Committee. Staff presented us with frameworks and we used that to edit/manipulate the number until we came up with the options presented. He thanked the group for the opportunity to serve and noted that he really learned a lot.

Committee member Gary Swan stated he was asked to join the committee, and now has more appreciation for the people who work at the city full time. He stated that they looked at each measure, debated each measure and voted on each measure. The vote didn't go some of our ways at times, but at times it did. He stated that if he was not satisfied with the debate, perhaps he didn't debate strongly enough. He does however side with the committee.

Committee Greg Adams stated that It was a pleasure to serve. He agrees with what everyone has said; if we don't come together, this will do more harm than good. He added that he voted for it, but is not completely satisfied with the outcome. Noting that his water bill won't change one dime, but he feels like it is a start. The committee expects the rates to continue to move in the direction we're suggesting, he has hopes that it will continue to improve. He stated that Ernest did a great job leading, staff and Bob Hart did a great job of providing us information and then leaving the decision to us.

Rockie Gilley, 220 S Dick Price Road, questioned the statement in the presentation regarding Option 3 and the delay of the Crestdale repairs. He stated that wasn't the Crestdale repairs approved in the budget? Mayor Johnson replied yes it would be removed from the budget. Mr. Gilley stated that he guesses the budget is just a working document. He continued that if you have a functioning steady stage system that functions, you do not need a triple digit increase to repair and keep it functioning. Some amount of the increase is going to build out new infrastructure for new development. He feels that they are hearing the rest of the story tonight. He thinks there is a reasonable case for a 20-25% increase and predicts that most will only see a slight reduction. He defined an ordinary citizen as someone who is not a member of the Chamber, EDC, P&Z, or an expert on government. The ordinary citizens of Kennedale have minimal interest in the master plan and the rapid development of the city. He feels that the ordinary citizen is not well represented in Kennedale. In closing, he added that the reasons for

the large rate increases are to build new development and it is within Council's power to slow down development. He requested that they consider that option.

Councilman Walker question Mr. Gilley on what option he would consider reasonable? He stated that he would like to see a detailed breakdown of what cost goes to maintaining the water system/repairs and what go out for new development; he would like voters to have a say in the master plan; and he thinks that anything more than a 25% increase is unreasonable.

Pat Turner, 1013 Kennedale Sublett Road, voiced his disappointment in the way the community has acted towards Council and staff regarding the rate increases; especially on social media. He stated that Kennedale has the best and most educated Council that they have ever had; and the same goes for city staff. He stated that negotiation is where both parties are equally dissatisfied with the outcome. In closing he urged people to volunteer and be part of the solution.

Robert Mundy, 712 Shady Creek Drive, stated that he has served in various capacities over the past 30 years and he know what a hard job Council has; noting that they are the representatives for the people. He also realizes that it is hard not to say no to taxes and water rate increases; however, it is their decisions that will keep the city in good running order. He feels that Council and staff did their due diligence in the decision making process of the rate increase and in the repealing of the increase...they listened. His recommendation to Council is that they continue to do their due diligence and make sure to understand the options being presented this evening. He added that we do not need to be changing the rate every six months

Jan Joplin, 204 Hilltop Drive, thanked Council and the Water Rate Review Committee for all their hard work. She stated up front that knowing the process of the water rate committee, she thought she had some ideas of what it would be like, but it wasn't what he expected, and she is disappointed with that. She stated that during the presentation we heard a lot about risk for the city; however the risk of high water rates is a burden to the citizens. She feels that what is driving up the cost of water rates is all the additional items that are charged to the fund. She noted that it would be interesting to take all that out and see what it looks like without all those expenditures. She ask Council to buy and negotiate, to spend smart and to stay in budget; noting that citizen's do not want that risk to the city, because is causes their own risk.

Councilman Overstreet question Jan if she feels the rhetoric surrounding this issue has been blown out of proportion; if the committee is complete joke; and if this is a lost cause. She started that she doesn't agree with the statements about corruption and conspiracies and that it is more about choices. The process is not what it should be; she feels the citizens, as a whole, put on these types of committees are not qualified to make such decisions.

Thomas Newsom, 303 Pennsylvania Avenue, stated that we have concentrated on fixed cost and rates, but he questioned if there is a good understanding of what the rates start with. He believes it is a two phase process, you establish the revenue requirements and if you are going to collect that. He stated that it doesn't seem that there has been a lot of focus on the revenue. He questioned what goes into the revenue requirements and why is it that the rates are based upon the entire capital expenditures? He added that the city needs another form of notification besides the Star Telegram; suggesting that notices be added to social media. He had questions regarding the appropriations verbiage in the ordinance.

Mayor Johnson agreed that the notification process needed more options for citizens. City Attorney Wayne Olsen provided a legal opinion on the notification requirements and the verbiage in the ordinance.

John Clark, 100 Meadowlake Court, stated that he would like to see the city focus on the issues and the process. He addressed some of the statements that have been made and what could happen when we are forced to make budget cuts. He stated that we need a balance; he does not believe you can spend less in an emergency than if you plan for an expense. We need to be good stewards, not just manage from crisis to crisis or to discount what is needed to secure the city's future. We need to make reasonable, orderly decisions because hoping problems do not occur is not a good plan; planning for what will occur is a better policy. He added that we know there are problems in the structure, so we need to plan in advance for them. In closing, he encouraged Council members to look around at all the good decisions they have made to improve the city. He wished them luck.

Jack Dalrymple, 1008 Oakridge Court, expressed his support for the City Council, City Manager, City staff, and the Water Rate Review Committee. He stated that he was disappointed with the way the rate increase was originally handled. However, he feels that Council is making a good-faith effort to resolve a complicated issue in a manner that respects the best interest for all concerned. He stated that he doesn't know all the facts, but he does trust in a representative democracy. He listed several improvements that have occurred over the seven years he has been in Kennedale and he appreciates the efforts of the city officials.

Jerry Bacon, 6712 Lindale Road, thanked Council for cleaning up all the SOB's in his area of town. He added that he was disappointed in the rate increase and has had to adjust where his money goes in order to pay the high bills. He feels the fixed rate on meter size is not a fair system and asked if it cannot be prorated according to the amount of services used. He questioned if it was possible to have some type of variable fixed rate instead of a totally fixed rate.

Joe Taylor, 604 Bluebonnet Lane, stated that he appreciates Council's willingness to review the rates and organize a committee. He feels it has been an honorable approach. He noted that there is a fourth option and that is to haul water, and nobody wants that. He agrees with statements made by Pat Turner and John Clark. He understands the challenges of communication and working on boards. He thinks the improvement to the city the last several years have all been good; that the city is moving the right direction; and that they have been good stewards over the city. He encouraged others to be part of the solution.

Ronnie Nowell, 317 Bowles Court, stated that everything that he planned to say has been said. However, he wanted to brag on City Manager Bob Hart. He stated that because of Bob and past/present Council this city is growing and seeing improvements. He added that growth hurts and that is what Kennedale is experiencing now. He hopes everyone will come together and consider serving in some capacity. In closing, he offered the Mayor, Council and City Manager words of encouragement quoting Franklin D. Roosevelt: "When you come to the end of your rope, tie a knot and hang on."

Mayor Johnson closed the Public Hearing.

Staff response and summary:

Committee Chair Earnest Harvey stated that Council has heard from the Committee and from citizens. They request that Council take action. Bob Hart stated that the Ordinance in the packet reflects Option 1 with the meter rate change and the senior discount; if Council wants to make changes we need to amend the Ordinance.

Mayor Johnson stated that they will review the recommendations item by item.

- Establish a Utility Advisory Board to look at rates throughout the year

All were in agreement that this needs to happen. Councilman Turned stated that we need people who will commit to tenure, so we are not constantly having to reeducate.

- Establish a Finance Advisory Board

Council had differing opinions on this and agreed to study it more and determine the parameters. They agreed to add to a future agenda for further discussion.

Mayor Johnson moved on to Option 3 stating that he sees it as being the more palpable one, even with the risk factors. There was a lengthy discussion between Council and the Committee concerning the pros and cons of this option.

Due to the length of the meeting Council agreed to recess the meeting until tomorrow, Tuesday, September 20, 2016 at 7:30 p.m.

Motion To recess the meeting and to reconvene tomorrow, Tuesday, September 20, 2016 at 7:30 p.m. **Action** Meeting Recessed, **Moved By** Kelly Turner, **Seconded By** Liz Carrington.

Motion passed Unanimously

Meeting recessed at 11:25 p.m.

Mayor Johnson called the meeting to order and opened the regular session at 7:30 p.m. Tuesday, September 20, 2016.

Present: Frank Fernandez, Brian Johnson , Kelly Turner, Liz Carrington, Charles Overstreet, Michael Walker

Absent: None

City Manager Bob Hart, City Secretary Leslie Galloway, City Finance Director Krystal Crump, Public Works Director Larry Ledbetter and Water Rate Review Committee Chair Ernest Harvey were in attendance to answer questions that Council may have concerning the opinions presented.

Mayor Brian Johnson provided a summary of where they left off at last night's meeting. He stated that they agreed to establish a Utility Advisory Committee, but decided to have future discussion regarding the Financial Advisory Committee. Council began discussions of the rate options provided by the Water Rate Review Committee. There were lengthy discussions concerning all the options presented, calculations, discounts, rate structure, budget shortfalls, meter sizes, infrastructure repairs, risk factors, citizen concerns and community needs.

Motion To adopt Ordinance 611 approving water and sanitary sewer rates Option 3 as recommended by the Water Rate Committee. **Action** Approve, **Moved By** Liz Carrington, **Seconded By** Kelly Turner.

Motion passed with a vote of 4-1; with Frank Fernandez voting against approval.

XII. EXECUTIVE SESSION

Mayor Johnson recessed into executive session at 9:13 p.m. on Tuesday, September 20, 2016

A. The City Council may meet in closed session at any time during the work session or the regular session, pursuant to Section 551.071 of the Texas Government Code for consultation with the City Attorney pertaining to any matter in which the duty of the City Attorney under the Texas Disciplinary Rules of Professional Conduct may conflict with the Open Meetings Act, including discussion on any item posted on the agenda.

The City Council will meet in closed session pursuant to Section 551.072 of the Texas Government Code to deliberate the purchase, exchange, lease, or value of real property for the following:

1. 108 New Hope Road
2. 6727 Hudson Village Creek Road
3. 3575 W. Kennedale Parkway

XIII. RECONVENE INTO OPEN SESSION, AND TAKE ACTION NECESSARY PURSUANT TO EXECUTIVE SESSION, IF NEEDED

Mayor Johnson reconvened into open session at 9:50 p.m.

A. Consider approval of Resolution 492 authorizing the City Attorney to bring a condemnation action for the purpose of obtaining fee title of property to build a public street, or for other public purposes permitted by law

There was no action taken on this item.

XIV. ADJOURNMENT

The meeting was adjourned at 9:52 p.m.

APPROVED:

ATTEST:

Brian Johnson, Mayor

Leslie Galloway, City Secretary



Staff Report to the Honorable Mayor and City Council

Date: October 17, 2016

Agenda Item No: REQUIRED APPROVAL ITEMS (CONSENT) - B.

I. Subject:

Consider approval of minutes the City Council Board Interview meetings

II. Originated by:

III. Summary:

Please see the attached minutes for your approval.

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

VII. Alternative Actions:

VIII. Attachments:

1.	City Council Board Interviews Meeting Minutes - October 3, 2016	10-3-16 Interviews.pdf
2.	City Council Board Interviews Meeting Minutes - October 4, 2016	10-4-16 Interviews.pdf
3.	City Council Board Interviews Meeting Minutes - October 5, 2016	10-5-16 Interviews.pdf
4.	City Council Board Interviews Meeting Minutes - October 6, 2016	10-6-16 Interviews.pdf

**KENNEDALE CITY COUNCIL AGENDA
SPECIAL MEETING
MINUTES**

October 3, 2016 - 5:30 p.m.

**CITY HALL CONFERENCE ROOM
405 MUNICIPAL DRIVE**

I. CALL TO ORDER

Council Members met in City Hall Conference Room at 5:30 p.m. to conduct Board interviews.

Present: Kelly Turner, Liz Carrington, Charles Overstreet, Michael Walker

Absent: Brian Johnson and Frank Fernandez

II. BOARD APPLICANT INTERVIEWS

A. At this time, City Council will begin interviews for all board applicants. Interviews will be held Monday, October 3rd, Tuesday, October 4th, Wednesday, October 5th and Thursday, October 6th. Appointments will be approved at the next regular Council meeting scheduled for Monday, October 17th.

Council members interviewed potential candidates for placement or reappointment to various Boards within the City. The following individuals were scheduled to be interviewed: Kelli Rod, Sharon Dehnel, Chris Pugh, Tom Pirtle, Dora Ann Markle, Rebecca Clark, and Tayyab Yunus.

III. ADJOURNMENT

Council completed interviews at 8:30 p.m.

APPROVED:

ATTEST:

Brian Johnson, Mayor

Leslie Galloway, City Secretary

**KENNEDALE CITY COUNCIL AGENDA
SPECIAL MEETING
MINUTES**

October 4, 2016 - 5:30 p.m.

**CITY HALL CONFERENCE ROOM
405 MUNICIPAL DRIVE**

I. CALL TO ORDER

Council Members met in City Hall Conference Room at 5:30 p.m. to conduct Board interviews.

Present: Brian Johnson, Liz Carrington, Charles Overstreet, Michael Walker

Absent: Kelly Turner and Frank Fernandez

II. BOARD APPLICANT INTERVIEWS

- A. At this time, City Council will begin interviews for all board applicants. Interviews will be held Monday, October 3rd, Tuesday, October 4th, Wednesday, October 5th and Thursday, October 6th. Appointments will be approved at the next regular Council meeting scheduled for Monday, October 17th.

Council members interviewed potential candidates for placement or reappointment to various Boards within the City. The following individuals were scheduled to be interviewed: Pat Turner, Vinita Thomas, Ernest Harvey, Steven Higginbotham, Josh Altom, Patrick Filson, Mark Yearly, Robb Lecuyer and Greg Joplin.

III. ADJOURNMENT

Council completed interviews at 7:55 p.m.

APPROVED:

ATTEST:

Brian Johnson, Mayor

Leslie Galloway, City Secretary

**KENNEDALE CITY COUNCIL AGENDA
SPECIAL MEETING
MINUTES**

October 5, 2016 - 5:30 p.m.

**CITY HALL CONFERENCE ROOM
405 MUNICIPAL DRIVE**

I. CALL TO ORDER

Council Members met in City Hall Conference Room at 5:30 p.m. to conduct Board interviews.

Present: Brian Johnson, Kelly Turner, Charles Overstreet, Michael Walker

Absent: Frank Fernandez and Liz Carrington

II. BOARD APPLICANT INTERVIEWS

A. At this time, City Council will begin interviews for all board applicants. Interviews will be held Monday, October 3rd, Tuesday, October 4th, Wednesday, October 5th and Thursday, October 6th. Appointments will be approved at the next regular Council meeting scheduled for Monday, October 17th.

Council members interviewed potential candidates for placement or reappointment to various Boards within the City. The following individuals were scheduled to be interviewed: Jan Joplin, Gary Swan, Jeff Nevarez, Darlene Winters, and Harry Browne.

III. ADJOURNMENT

Council completed interviews at 7:45 p.m.

APPROVED:

Brian Johnson, Mayor

ATTEST:

Leslie Galloway, City Secretary

**KENNEDALE CITY COUNCIL AGENDA
SPECIAL MEETING
MINUTES**

October 6, 2016 - 5:30 p.m.

**CITY HALL CONFERENCE ROOM
405 MUNICIPAL DRIVE**

I. CALL TO ORDER

Council Members met in City Hall Conference Room at 5:30 p.m. to conduct Board interviews.

Present: Brian Johnson, Kelly Turner, Charles Overstreet, Michael Walker, and Frank Fernandez

Absent: Liz Carrington

II. BOARD APPLICANT INTERVIEWS

A. At this time, City Council will begin interviews for all board applicants. Interviews will be held Monday, October 3rd, Tuesday, October 4th, Wednesday, October 5th and Thursday, October 6th. Appointments will be approved at the next regular Council meeting scheduled for Monday, October 17th.

Council members interviewed potential candidates for placement or reappointment to various Boards within the City. The following individuals were scheduled to be interviewed: Steven Mora, Horace Young, Michael Chandler, Laurie Sanders, Robert Mundy and Greg Adams.

III. ADJOURNMENT

Council completed interviews at 7:55 p.m.

APPROVED:

Brian Johnson, Mayor

ATTEST:

Leslie Galloway, City Secretary

Staff Report to the Honorable Mayor and City Council

Date: October 17, 2016

Agenda Item No: REQUIRED APPROVAL ITEMS (CONSENT) - C.

I. Subject:

Consider Resolution 493 authorizing participation in various cooperative purchasing programs

II. Originated by:

Finance Director, Director of Finance & IT

III. Summary:

In an effort to streamline purchasing efforts and remain in compliance with State law, it is our intent to bring forth this policy to Council for review at least annually. Any new programs or changes will be recommended at that time.

The Purchasing Policy adopted by the Council allows the City to utilize cooperative purchasing programs with the approval of City Council. Purchases made through an approved Cooperative Purchasing Program satisfy state law competitive bid requirements, as well any internal quote process.

Attached is a resolution approving participation in those programs specifically listed in the resolution. Below is a listing that incorporates all programs, as well as a brief description of each program for which staff seeks Council approval. This list remains the same as last year's submission.

FEDERAL

US General Services Administration (GSA): GSA Advantage has been the most reliable and proven source for thousands of Federal purchasers worldwide. GSA Advantage offers the most comprehensive selection of approved products and services from GSA/VA Schedules, as well as all GSA Global Supply products. <http://www.gsa.gov>

STATE OF TEXAS

Department of Information Resources (DIR): Primary responsibility is to negotiate volume purchase agreements for quality products and services available to all Texas state agencies. <http://www.dir.state.tx.us>

Texas Building and Procurement Commission (TBPC): Primary responsibility is to provide goods, services and facilities to the State of Texas. One part of fulfilling this responsibility is to establish term contracts available to all Texas state agencies. <http://www.tbpc.state.tx.us>

Texas Multiple Award Schedules (TXMAS): Established by TPASS. Adapts existing contracts that have been competitively awarded by the federal government or any other governmental entity of any state. The vast majority of TXMAS Contracts are adapted from GSA Federal Supply Service contracts. <http://www.window.state.tx.us/procurement/prog/txmas/>

Texas Procurement and Support Services (TPASS): Awards and manages hundreds of statewide contracts on behalf of more than 200 state agencies and 1,700 local government agencies. <http://www.window.state.tx.us/procurement/>

MUNICIPALITY & COUNTY & SCHOOL

City of Fort Worth, Texas. <http://fortworthgov.org>

Tarrant County, Texas. <http://tarrantcounty.com>

Parker County, Texas. <http://www.co.parker.tx.us>

Texas Interlocal Purchasing System (TIPS): Sponsored by the Region VIII Education Service Center (ESC) and is available for use by all public and private schools, colleges, universities, cities, counties, and other government entities in the State of Texas. TIPS has competitively bid their contracts and has followed the HUB guidelines of the State of Texas. <http://www.tips-texas.com>

OTHER PUBLIC & PRIVATE ENTITIES

Houston-Galveston Area Council (H-GAC): Region-wide voluntary association of local governments in the 13-county Gulf Coast Planning region of Texas. Includes 1,600+ local governments, state agencies and qualifying non-profit corporations that provide one or more governmental functions and services. The program was established pursuant to the Texas' "Interlocal Cooperation Act" that allows governmental and qualifying non-profit entities to use the Act to obtain commonly needed services, including purchasing. <https://hgacbuy.com>

Local Government Purchasing Cooperative (BuyBoard): Created to increase the purchasing power of government entities and to simplify their purchasing by using a customized electronic purchasing system, called the BuyBoard. The Cooperative is administered by the Texas Association of School Boards (TASB) and is endorsed by the Texas Municipal League (TML) and the Texas Association of Counties (TAC). <http://buyboard.com>

The Cooperative Purchasing Network (TCPN): Provides quality contracts and services that are compliant with bid laws, convenient to use, and always competitively priced. TCPN is available for use by all public and private schools, colleges, universities, cities, counties, and other government entities in the State of Texas. <http://www.tcpn.org/>

US Communities: Nonprofit instrumentality of government that assists public agencies in reducing the cost of purchased goods through pooling the purchasing power of public agencies nationwide. This is accomplished through competitively solicited contracts for quality products through lead public agencies. They focus on high use, high volume items. <http://www.uscommunities.org>

Western States Contracting Alliance: Alliance of 15 states joining forces to get the quality goods and services at cost effective prices. This program focuses on state governments. Although Texas is not one of the original states forming WSCA, we are eligible for WSCA pricing. <http://www.aboutwsca.org>

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

Approve

VII. Alternative Actions:

VIII. Attachments:

1.	Resolution 493	Resolution 493.pdf
2.	State of Texas CO-OP Program Application/Resolution	State of Texas Co-op.pdf

RESOLUTION NO. 493

A RESOLUTION OF THE CITY OF KENNEDALE, TEXAS, AUTHORIZING PARTICIPATION IN VARIOUS COOPERATIVE PURCHASING PROGRAMS

WHEREAS, Chapter 271 of the Texas Local Government Code authorizes a local government to participate in a cooperative purchasing program and provides that purchases made pursuant to an agreement with a local cooperative organization satisfy state laws requiring the local government to seek competitive bids for the purchase of the goods or services; and

WHEREAS, the Purchasing Policy of the City of Kennedale authorize purchases from a cooperative purchasing program or other approved state program provided that the City Council has approved participation; and

WHEREAS, City's participation in the cooperative purchasing programs and other approved state programs will improve efficiency in the purchasing process by allowing the City to meet competitive bid requirements, to identify and purchase goods and services from qualified vendors of commodities, to relieve the burdens of the governmental purchasing function, and to realize the various potential economies, including administrative cost savings that such programs provide; and

WHEREAS, upon consideration of the cooperative purchasing programs specified in this Resolution, and all matters attendant and related thereto, the City Council is of the opinion that the City's participation in these programs is beneficial and should be approved, that this Resolution be adopted, and that the City Manager or his designee is appointed as the Program Coordinator for the City's membership in such cooperative programs; and

WHEREAS, in the event that participation in any of the cooperative purchasing programs approved by this Resolution requires the execution of an Agreement and / or the payment of a fee, the City Manager or his designee is hereby authorized to execute any necessary Agreements for participation in such program(s) and the Program Coordinator is authorized to approve the payment of applicable fees provided that funds are budgeted and available for such participation.

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

Section 1. The foregoing premises, which are hereby found to be true and to be in the best interest of the City of Kennedale and its citizens, are hereby adopted.

Section 2. The City's participation in the following cooperative purchasing programs is hereby authorized and approved in accordance with the terms of this Resolution:

US General Services Administration (GSA)
Department of Information Resources (DIR)
Texas Building and Procurement Commission (TBPC)
Texas Multiple Award Schedules (TXMAS)
Texas Procurement and Support Services (TPASS)
City of Fort Worth Cooperative Purchasing Program
Parker County Cooperative Purchasing Program
Tarrant County Cooperative Purchasing Program
Texas Interlocal Purchasing System (TIPS)
Houston-Galveston Area Council (H-GAC)
Local Government Purchasing Cooperative (BuyBoard)
The Cooperative Purchasing Network (TCPN)
US Communities
Western States Contracting Alliance

PASSED, ADOPTED AND APPROVED by the City Council of the City of Kennedale, Texas, this the 17th day of October, 2016.

APPROVED:

Mayor, Brian Johnson

ATTTEST:

City Secretary, Leslie Galloway



State of Texas CO-OP Program

What is the State of Texas CO-OP Program?

Created by legislation in 1979, the Texas Comptroller of Public Accounts (CPA) State of Texas CO-OP Program offers members a unique opportunity to make the most of their purchasing dollars and efforts by using the State of Texas volume buying power.

Who can join?

- Local governments
- MHMR community centers
- Assistance organizations
- Texas Rising Star Providers (certified by the Texas Workforce Commission)

Sections 271.081-271.083, Local Government Code, and Sections 2155.202 and 2175.001(1), Government Code, provide the legal authority for the CO-OP Program:

Why should you join the State of Texas CO-OP?

- **Get Best Value for Your Purchases** – Our purchasers competitively bid and award hundreds of contracts in accordance with state purchasing statutes and competitive bidding requirements. You reap the savings for your organization and ultimately for the citizens of Texas.
- **Save Valuable Time and Effort** – No bidding, just order from hundreds of established state contracts.
- **Search Thousands of Vendors** – Looking for something not on one of our negotiated contracts? Use our Centralized Master Bidder's List to identify vendors from our database of over 12,000 companies (including HUB). <http://www2.CPA.state.tx.us/cmb/cmbhub.html>
- **Post Bid and Award Notices on the Electronic State Business Daily** – As a CO-OP member, set up FREE password access to the Electronic State Business Daily (ESBD) where you can post your entity's solicitations to increase vendor participation and provide public notice of awards. <http://esbd.CPA.state.tx.us/>
- **Save Money on Travel** – Qualified CO-OP members may use the State Travel Management Program for discounted rates on rental cars and over 1,000 hotels.

If you have any questions or need more information about our program please feel free to e-mail coop@cpa.state.tx.us or call (512) 463-3368.



State of Texas CO-OP Program

Accessing the State of Texas CO-OP on the Internet

Go to the State of Texas CO-OP web site: <http://www.window.state.tx.us/coop>

- **CO-OP Forms Library:** This is the complete CO-OP forms library, to include the application, name change form, purchase order forms, and school bus specifications.
- **Term Contracts:** All CPA term contracts have been competitively bid, saving you valuable time. This is a complete numeric listing of all of the current CPA term contracts. To access the contract, click on the contract number. To use state term contracts please follow the ordering instructions on the contract. The state's online ordering system, TxSmartBuy will generate a state purchase order on your behalf, forwarding a copy to you and to the vendor. The vendor will then ship the merchandise and invoice your entity directly. CPA has awarded term contracts for many commodities and services, including:

- Copiers
- Vehicles
- Office Supplies
- Procurement Card Services
- Appliances
- Road and Highway Equipment
- Police Equipment
- Pharmaceuticals
- Cleaning Supplies
- Food

- **TXMAS Information:** This is a complete listing of the Texas Multiple Award Schedules (TXMAS). TXMAS contracts feature the most favored customer pricing and the possibility of negotiation. TXMAS can be used as alternative volume contracts if you cannot find the items you need on the CPA term contracts.
- **Managed Contracts:** Managed term contracts are established by TPASS, the Council on Competitive Government (CCG) or the Strategic Sourcing Division for unique items and allow you to order directly from the awarded contractor.
- **CMBL Search:** This feature enables you to access the state Centralized Master Bidders List to create a bid list by product/service code. You may narrow the search by entering a county, city or zip code. This is a vendor list only. You should use this only as a vendor resource. You will need to follow your local bid requirements to purchase from these vendors.
- **State Travel Management Program:** Texas Government Code, Sections 2171.001-2171.055 extend the state travel management contracts to certain members of the State of Texas CO-OP program. Eligible entities include Municipalities, Counties, School Districts, Public Junior and Community Colleges, and Emergency Communication Districts, hospital districts and transit/transportation districts.





State of Texas CO-OP Program

State of Texas CO-OP Application

Krystal Crump

Name of Authorized Individual

(NOTE: This person is authorized to sign for purchases and will receive all correspondence from CPA. Additional authorized signers or Agents of Record may be listed on the resolution with the signatures documented at the bottom of the resolution.)

City of Kennedale, Texas

Organization/Qualified Entity Name

405 Municipal Drive

Address

Kennedale, Texas 76060

City, State, Zip Code

kcrump@cityofkennedale.com

Email Address (More than one may be listed.)

817-985-2110

Phone Number

817-483-0720

Fax Number

The annual membership fee for participation in the State of Texas CO-OP is: **\$100.00 – FEE IS NON-REFUNDABLE**

Please make checks payable to:

Texas Comptroller of Public Accounts

Please mail to:

Texas Comptroller of Public Accounts

P.O. Box 13186

Austin, TX 78711

**PLEASE RETURN THIS FORM WITH PAYMENT
AND ALL REQUIRED DOCUMENTS AND SIGNATURES**

Questions? Contact the CO-OP at (512) 463-3368 or at coop@cpa.state.tx.us.



RESOLUTION

State of Texas

County of Tarrant

Whereas, the Texas Comptroller of Public Accounts is authorized to provide purchasing services for local governments pursuant to §§ 271.082 and 271.083 of the Local Government Code;

and **WHEREAS**, the City Council

(e.g., Commissioner's Court, City Council, School Board, Board of Directors)

of City of Kennedale, is a: (Check one of the following.)
(Name of Qualified Entity)

- | | |
|--|---|
| ☐ County | ☐ Independent School District |
| ☒ Municipality | ☐ Junior College District |
| ☐ Political Subdivision (Special Districts, Other) | ☐ Mental Health and Mental Retardation Community Center |
| ☐ Assistance Organization | ☐ Texas Rising Star Provider
(certified by the Texas Workforce Commission) |

defined as an entity qualified to participate in the Cooperative Purchasing Program of the Texas Comptroller of Public Accounts pursuant to § 271.081 of the Local Government Code; and

WHEREAS, in accordance with the requirements of 34 TAC §20.85 administrative rules, the Agent(s) of Record,
Krystal Crump, Finance Director

(Name of Person)

(Title)

(and Bob Hart, City Manager) is/are authorized to execute
(Name of Person) (Title)

any and all documentation for City of Kennedale pertaining to its participation in the Texas
Comptroller of Public Accounts Cooperative Purchasing Program; and

WHEREAS, City of Kennedale acknowledges its obligation to pay participation fees established
(Entity Name)

by the Texas Comptroller of Public Accounts.

NOW, THEREFORE BE IT RESOLVED, that request be made to the Texas Comptroller of Public Accounts to approve
City of Kennedale for participation in the Texas Comptroller of Public Accounts Cooperative Purchasing Program.
(Entity Name)

Adopted this 17 day of October, 2016 by City of Kennedale
(Entity Name)

By: _____
(Signature of Chair)
Brian Johnson
(Printed Name)
Mayor
(Title of Chair)

Krystal Crump
(Signature of Agent of Record)
Krystal Crump/Finance Director
(Name/Title of Agent of Record)
Bob Hart
(Signature of Agent of Record)
Bob Hart/City Manager
(Name/Title of Agent of Record)



State of Texas CO-OP Program

Documents required for proof of eligibility

Submit all documentation required as proof of eligibility at the time you apply for membership in the State of Texas CO-OP. All documentation must be on file at the State of Texas CO-OP BEFORE a determination of eligibility can be made.

Local Governments

County, Independent School District, Municipality, Jr. College District, Volunteer Fire Department

Documents required:

- ✓ Board approved resolution

MHMR Community Centers

Documents required:

- ✓ Board approved resolution

Special Districts or Other Legally Constituted Political Subdivisions of the State

Documents required:

- ✓ Board approved resolution
- ✓ Documentation evidencing creation of entity including statutory citation.
This can be in the form of:
 - a. Legislation in which the entity was created by name
 - b. A resolution passed by a city or a county stating that there is a need for the entity to exist and actually creating the entity

Assistance Organizations

Non-profit organizations that receive state funds and provide educational, health, or human services or provide assistance to homeless individuals

Documents required:

- ✓ Board approved resolution
- ✓ Articles of Incorporation and Certificate of Incorporation. A letter from the Secretary of State with the entity's charter number evidencing that the entity filed for incorporation will be accepted in lieu of a Certificate of Incorporation. **The State of Texas CO-OP cannot accept by-laws in lieu of Articles of Incorporation**
- ✓ Current contract or grant from a State agency to prove State funding. This document must show beginning and end dates for the current State of Texas Fiscal Year, and these dates must be valid at the time the application is reviewed.

Texas Rising Star Providers

Childcare providers certified as Texas Rising Star Providers by Texas Workforce Commission

Documents required:

- ✓ Board Approved Resolution

Staff Report to the Honorable Mayor and City Council

Date: October 17, 2016

Agenda Item No: REQUIRED APPROVAL ITEMS (CONSENT) - D.

I. Subject:

Consider Resolution 495 adopting an amended City of Kennedale Identity Theft Prevention Program Policy

II. Originated by:

Finance Director, Director of Finance & IT

III. Summary:

The Federal Trade Commission (FTC) adopted rules on identity theft “red flags” (i.e., warning signs) pursuant to the Fair and Accurate Credit Transactions (FACT) Act of 2003. The new rules requires any business with a “covered account” to adopt and implement an identity theft program. Most cities that operate a municipal utility will be affected by these new rules. A covered account is one where an entity (such as a municipal utility) provides a service or good before the consumer pays for it. For example, most municipal water utilities provide water to the customer, then the utility bills the customer later based on consumption.

It is the recommendation of our independent auditors that our main policies be reviewed by the Director of Finance for updates in relation to our internal control practices and submitted to Council at least annually. In order to demonstrate our review, it is custom practice for the governing board of a municipality to adopt a resolution to make the review an official public record.

There are no recommended changes at this time.

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

Approve

VII. Alternative Actions:

VIII. Attachments:

1.	Resolution 495	Resolution 495.pdf
2.	Exhibit A - Identity Theft Prevention Program Policy	20161017 Identity Theft Prevention Program Policy.pdf

RESOLUTION NO. 495

**A RESOLUTION ADOPTING AN AMENDED CITY OF KENNEDALE
IDENTITY THEFT PREVENTION PROGRAM (ITPP) POLICY**

WHEREAS, on November 13, 2008, City Council adopted the document entitled, "Identity Theft Prevention Program Policy," the Fair and Accurate Credit Transactions Act of 2003, Pub. L. 108-159, ("Red Flags Rule") requires certain financial institutions and creditors with "covered accounts" to prepare, adopt, and implement an identity theft prevention program to identify, detect, respond to and mitigate patterns, practices or specific activities which could indicate identity theft; and

WHEREAS, the City of Kennedale maintains certain continuing accounts with utility service customers and for other purposes which involve multiple payments or transactions, and such accounts are "covered accounts" within the meaning of the Red Flags Rule; and

WHEREAS, the City Council has reviewed the City's Identity Theft Prevention Program Policy.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE
CITY OF KENNEDALE, TEXAS:**

The City Council of the City of Kennedale, Texas hereby approves the amended Identify Theft Prevention Program Policy dated October 17, 2016, attached hereto as "Exhibit A."

PASSED, ADOPTED AND APPROVED by the City Council of the City of Kennedale, Texas, this the 17th day of October, 2016.

APPROVED:

Mayor, Brian Johnson

ATTEST:

City Secretary, Leslie Galloway

CITY OF KENNEDALE



IDENTITY THEFT PREVENTION PROGRAM POLICY

ORIGINALLY ADOPTED BY CITY COUNCIL: NOVEMBER 13, 2008

PREFACE

The Federal Trade Commission (FTC) recently adopted rules on identity theft “red flags” (i.e., warning signs) pursuant to the Fair and Accurate Credit Transactions (FACT) Act of 2003. The new rules, which mandate action by November 1, 2008 (recently extended to May 1, 2009), require any business with a “covered account” to adopt and implement an identity theft program. Most cities that operate a municipal utility will be affected by these new rules.

A covered account is one where an entity (such as a municipal utility) provides a service or good before the consumer pays for it. For example, most municipal water utilities provide water to the customer, then the utility bills the customer later based on consumption.

A city with such accounts must adopt and implement a written program that: (1) identifies relevant identity theft “red flags” to the utility or other covered entity; (2) provides for detection of those red flags; (3) provides for appropriate responses to any red flags that are detected; and (4) ensures that the program is updated periodically to address changing risks.

Red flags may include unusual account activity, altered identity documents that are used to apply for an account, and a variety of other signs. Appropriate action in response to a red flag might include, among other actions, verification of personal information, contacting the customer, or other action that would prevent identity theft.

It is our intent to bring forth this ITPP to Council for review at least annually. In order to demonstrate that review, it will be custom practice for the governing board of a municipality to adopt a resolution to make the review an official public record.

SUBSEQUENT REVIEW & ADOPTION

NOVEMBER 5, 2009
OCTOBER 14, 2010
OCTOBER 13, 2011
OCTOBER 3, 2012
OCTOBER 1, 2013
OCTOBER 13, 2014
OCTOBER 19, 2015
OCTOBER 17, 2016

I. PROGRAM ADOPTION

The City of Kennedale ("City") developed this Identity Theft Prevention Program ("Program") pursuant to the Federal Trade Commission's Red Flags Rule ("Rule"), which implements Section 114 of the Fair and Accurate Credit Transactions Act of 2003. 16 C. F. R. § 681.2. This Program was developed for the Utility Department of the City ("Utility") with oversight and approval of the City Council. After consideration of the size and complexity of the Utility's operations and account systems, and the nature and scope of the Utility's activities, the City Council determined that this Program was appropriate for the City's Utility, and therefore approved this Program on November 13, 2008.

II. PURPOSE AND DEFINITIONS

A. Establish an Identity Theft Prevention Program

To establish an Identity Theft Prevention Program designed to detect, prevent and mitigate identity theft in connection with the opening of a covered account or an existing covered account and to provide for continued administration of the Program in compliance with Part 681 of Title 16 of the Code of Federal Regulations implementing Sections 114 and 315 of the Fair and Accurate Credit Transactions Act (FACTA) of 2003

B. Establishing and Fulfilling Requirements of the Red Flags Rule

The Red Flags Rule ("Rule") defines "Identity Theft" as "fraud committed using the identifying information of another person" and a "Red Flag" ("Red Flag") as a pattern, practice, or specific activity that indicates the possible existence of Identity Theft.

Under the Rule, every financial institution and creditor is required to establish an "Identity Theft Prevention Program" tailored to its size, complexity and the nature of its operation. The Program must contain reasonable policies and procedures to:

- 1) Identify relevant Red Flags for new and existing covered accounts and incorporate those Red Flags into the Program;
- 2) Detect Red Flags that have been incorporated into the Program;
- 3) Respond appropriately to any Red Flags that are detected to prevent and mitigate Identity Theft; and
- 4) Ensure the Program is updated periodically, to reflect changes in risks to customers or to the safety and soundness of the creditor from Identity Theft.

C. Red Flags Rule Definitions Used In This Program

- 1) City: The City of Kennedale, Texas.
- 2) Covered Account: Under the Rule, a "covered account" is:

- a) Any account the Utility offers or maintains primarily for personal, family or household purposes, that involves multiple payments or transactions; or
 - b) Any other account the Utility offers or maintains for which there is a reasonably foreseeable risk to customers or to the safety and soundness of the Utility from Identity Theft.
- 3) Creditors: The Rule defines creditors “to include finance companies, automobile dealers, mortgage brokers, utility companies, and telecommunications companies. Where non-profit and government entities defer payment for goods or services, they, too, are to be considered creditors.”
- 4) Identifying Information is defined under the Rule as “any name or number that may be used, alone or in conjunction with any other information, to identify a specific person,” including: name, address, telephone number, social security number, date of birth, government issued driver’s license or identification number, alien registration number, government passport number, employer or taxpayer identification number, unique electronic identification number, computer’s Internet Protocol address, or routing code.
- 5) Program: The Identity Theft Prevention Program for the City.
- 6) Program Administrator: The Director of Finance is the Program Administrator for the Program.
- 7) Utility: The Utility is the Utility Department for the City.

III. IDENTIFICATION OF RED FLAGS

In order to identify relevant Red Flags, the Utility considers the types of accounts that it offers and maintains, the methods it provides to open its accounts, the methods it provides to access its accounts, and its previous experiences with Identity Theft. The Utility identifies the following red flags, in each of the listed categories:

A. Notifications and Warnings From Consumer Credit Reporting Agencies

- 1) Red Flags
 - a) Report of fraud accompanying a consumer credit report;
 - b) Notice or report from a consumer credit agency of a credit freeze on a customer or applicant;
 - c) Notice or report from a consumer credit agency of an active duty alert for an applicant; and
 - d) Indication from a consumer credit report of activity that is inconsistent with a customer’s usual pattern or activity, including but not limited to:
 - Recent and significant increase in volume of inquiries
 - Unusual number of recent credit applications
 - A material change in use of credit
 - Accounts closed for cause or abuse

B. Suspicious Documents

1) Red Flags

- a) Identification document or card that appears to be forged, altered or inauthentic;
- b) Identification document or card on which a person's photograph or physical description is not consistent with the person presenting the document;
- c) Other document with information that is not consistent with existing customer information (such as if a person's signature on a check appears forged); and
- d) Application for service that appears to have been altered or forged.

C. Suspicious Personal Identifying Information

1) Red Flags

- a) Identifying information presented that is inconsistent with other information the customer provides (example: inconsistent birth dates, lack of correlation between Social Security number range and date of birth);
- b) Identifying information presented that is inconsistent with other sources of information (for instance, Social Security number or an address not matching an address on a credit report);
- c) Identifying information presented that is the same as information shown on other applications that were found to be fraudulent;
- d) Identifying information presented that is consistent with fraudulent activity (such as an invalid phone number or fictitious billing address);
- e) Social Security number presented that is the same as one given by another customer;
- f) An address or phone number presented that is the same as that of another person;
- g) A person fails to provide complete personal identifying information on an application when reminded to do so (however, by law social security numbers must not be required) or an applicant cannot provide information requested beyond what could commonly be found in a purse or wallet; and
- h) A person's identifying information is not consistent with the information that is on file for the customer.

D. Suspicious Account Activity or Unusual Use of Account

1) Red Flags

- a) Change of address for an account followed by a request to change the account holder's name;
- b) Payments stop on an otherwise consistently up-to-date account;
- c) Account used in a way that is not consistent with prior use (example: very high activity);
- d) Mail sent to the account holder is repeatedly returned as undeliverable;
- e) Notice to the Utility that a customer is not receiving mail sent by the Utility;
- f) Notice to the Utility that an account has unauthorized activity;
- g) Breach in the Utility's computer system security; and
- h) Unauthorized access to or use of customer account information.

E. Alerts from Others

1) Red Flag

- a) Notice to the Utility from a customer, identity theft victim, fraud detection service, law enforcement or other person that it has opened or is maintaining a fraudulent account for a person engaged in Identity Theft.

IV. DETECTING RED FLAGS

A. New Accounts

In order to detect any of the Red Flags identified above associated with the opening of a new account, Utility personnel will take the following steps to obtain and verify the identity of the person opening the account:

1) Detect

- a) Require certain identifying information such as name, date of birth, residential or business address, principal place of business for an entity, driver's license or other identification;
- b) Verify the customer's identity (for instance, review a driver's license or other identification card);
- c) Review documentation showing the existence of a business entity;
- d) Request additional documentation to establish identity; and
- e) Independently contact the customer or business.

B. Existing Accounts

In order to detect any of the Red Flags identified above for an existing account, Utility personnel will take the following steps to monitor transactions with an account:

2) Detect

- a) Verify the identification of customers if they request information (in person, via telephone, via facsimile, via email);
- b) Verify the validity of requests to close accounts or change billing addresses; and
- c) Verify changes in banking information given for billing and payment purposes.

V. PREVENTING AND MITIGATING IDENTITY THEFT

In the event Utility personnel detect any identified Red Flags, such personnel shall take one or more of the following steps, depending on the degree of risk posed by the Red Flag:

A. Prevent and Mitigate

- 1) Continue to monitor an account for evidence of Identity Theft;
- 2) Contact the customer, sometimes through multiple methods;
- 3) Change any passwords or other security devices that permit access to accounts;
- 4) Not open a new account;
- 5) Close an existing account;
- 6) Do not close the account, but monitor or contact authorities;
- 7) Reopen an account with a new number;
- 8) Notify the Program Administrator for determination of the appropriate step(s) to take;
- 9) Notify law enforcement; or
- 10) Determine that no response is warranted under the particular circumstances.

B. Protect Customer Identifying Information

In order to further prevent the likelihood of identity theft occurring with respect to Utility accounts, the Utility will take the following steps with respect to its internal operating procedures to protect customer identifying information:

- 1) Ensure that its website is secure or provide clear notice that the website is not secure;
- 2) Where and when allowed, ensure complete and secure destruction of paper documents and computer files containing customer information;

- 3) Ensure that office computers are password protected and that computer screens lock after a set period of time;
- 4) Change passwords on office computers on a regular basis;
- 5) Ensure all computers are backed up properly and any backup information is secured;
- 6) Keep offices clear of papers containing customer information;
- 7) Request only the last 4 digits of social security numbers (if any);
- 8) Ensure computer virus protection is up to date; and
- 9) Require and keep only the kinds of customer information that are necessary for utility purposes.

VI. PROGRAM UPDATES

This Program will be periodically reviewed and updated to reflect changes in risks to customers and the soundness of the Utility from Identity Theft. At least annually, the Program Administrator will consider the Utility's experiences with Identity Theft situation, changes in Identity Theft methods, changes in Identity Theft detection and prevention methods, changes in types of accounts the Utility maintains and changes in the Utility's business arrangements with other entities, consult with law enforcement authorities, and consult with other City personnel. After considering these factors, the Program Administrator will determine whether changes to the Program, including the listing of Red Flags, are warranted. If warranted, the Program Administrator will update the Program or present the City Council with his or her recommended changes and the City Council will make a determination of whether to accept, modify or reject those changes to the Program.

VII. PROGRAM ADMINISTRATION

A. Oversight

Responsibility for developing, implementing and updating this Program lies with an Identity Theft Committee for the Utility. The Committee is headed by a Program Administrator who may be the head of the Utility or his or her appointee. Two or more other individuals appointed by the head of the Utility or the Program Administrator comprise the remainder of the committee membership. The Program Administrator will be responsible for the Program administration, for ensuring appropriate training of Utility staff on the Program, for reviewing any staff reports regarding the detection of Red Flags and the steps for preventing and mitigating Identity Theft, determining which steps of prevention and mitigation should be taken in particular circumstances and considering periodic changes to the Program.

B. Staff Training and Reports

Initially, all Utility staff shall be trained either by or under the direction of the Program Administrator in the detection of Red Flags, and the responsive steps to be taken when a Red Flag is detected. Thereafter, all Utility staff shall undergo update training not less than annually. Additionally, all new Utility employees shall undergo training.

All Utility staff shall submit reports as needed concerning the Utility's compliance with the program, the training that has been given and the effectiveness of the policies and procedures in addressing the risk of Identity Theft, including recommendations for changes to the Program. While incidents of Identity Theft are to be reported immediately to the Program Administrator, the reports shall contain a recap of the incident and include the steps taken to assist with resolution of the incident.

C. Service Provider Arrangements

In the event the Utility engages a service provider to perform an activity in connection with one or more accounts, including but not limited to franchise utility providers, the Utility will take the following steps to ensure the service provider performs its activity in accordance with reasonable policies and procedures designed to detect, prevent, and mitigate the risk of Identity Theft.

- 1) Require, by contract or contract amendment, that service providers have such policies and procedures in place; and
- 2) Require, by contract or contract amendment, that service providers review the Utility's Program and report any Red Flags to the Program Administrator.

D. Specific Program Elements and Confidentiality

For the effectiveness of Identity Theft prevention Programs, the Red Flag Rule envisions a degree of confidentiality regarding the Utility's specific practices relating to Identity Theft detection, prevention and mitigation. Therefore, under this Program, knowledge of such specific practices is to be limited to the Identity Theft Committee and those employees who need to know them for purposes of preventing Identity Theft. Because this Program is to be adopted by a public body and thus publicly available, it would be counterproductive to list these specific practices here. Therefore, only the Program's general red flag detection, implementation and prevention practices are listed in this document.

VIII. ANNUAL REVIEW

It is recommended that the Director of Finance shall, at a minimum, submit proposed amendments of this policy to the City Council annually.

Staff Report to the Honorable Mayor and City Council

Date: October 17, 2016

Agenda Item No: REQUIRED APPROVAL ITEMS (CONSENT) - E.

I. Subject:

Consider Resolution 496 adopting an amended City of Kennedale Grant Submission & Acceptance Policy

II. Originated by:

Finance Director, Director of Finance & IT

III. Summary:

From time to time, various city departments have the opportunity to seek, apply for and receive grant funding for, but not limited to federal, state and local sources. In an effort to support and advance the mission, goals and objectives of the City of Kennedale, this newly created policy establishes standard practices and procedures to create uniformity, economy, efficiency and effectiveness in the proper management and accounting of such grants.

It is the recommendation of our independent auditors that our main policies be reviewed by the Director of Finance for updates in relation to our internal control practices and submitted to Council at least annually. In order to demonstrate our review, it is custom practice for the governing board of a municipality to adopt a resolution to make the review an official public record.

There are no recommended changes at this time.

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

Approve

VII. Alternative Actions:

VIII. Attachments:

1.	Resolution 496	Resolution 496.pdf
2.	Exhibit A - Grant Submission & Acceptance Policy	20161017 Grant Submission & Acceptance Policy.pdf

RESOLUTION NO. 496

**A RESOLUTION ADOPTING AN AMENDED CITY OF KENNEDALE
GRANT SUBMISSION AND ACCEPTANCE POLICY**

WHEREAS, on March 11, 2010, City Council adopted the document entitled, “Grant Submission & Acceptance Policy,” which establishes standard practices and procedures to create uniformity, economy, efficiency and effectiveness in the proper management and accounting of such grants, and

WHEREAS, the City Council has reviewed the City’s Grant Submission & Acceptance Policy.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE
CITY OF KENNEDALE, TEXAS:**

The City Council of the City of Kennedale, Texas hereby approves the amended Grant Submission and Acceptance Policy dated October 17, 2016, attached hereto as “Exhibit A.”

PASSED, ADOPTED AND APPROVED by the City Council of the City of Kennedale, Texas, this the 17th day of October, 2016.

APPROVED:

Mayor, Brian Johnson

ATTEST:

City Secretary, Leslie Galloway

CITY OF KENNEDALE



GRANT SUBMISSION & ACCEPTANCE POLICY

ORIGINALLY ADOPTED BY CITY COUNCIL: MARCH 11, 2010

PREFACE

From time to time, various city departments have the opportunity to seek, apply for and receive grant funding for, but not limited to federal, state and local sources. In an effort to support and advance the mission, goals and objectives of the City of Kennedale, this policy establishes standard practices and procedures to create uniformity, economy, efficiency and effectiveness in the proper management and accounting of such grants.

It is the recommendation of our independent auditors that our main policies be reviewed by the Director of Finance for updates in relation to our internal control practices and submitted to Council at least annually. In order to demonstrate our review, it is custom practice for the governing board of a municipality to adopt a resolution to make the review an official public record.

SUBSEQUENT REVIEW & ADOPTION

OCTOBER 14, 2010

OCTOBER 13, 2011

OCTOBER 3, 2012

OCTOBER 1, 2013

OCTOBER 13, 2014

OCTOBER 19, 2015

OCTOBER 17, 2016

I. PURPOSE

To establish standard practices and procedures to create uniformity, economy, efficiency and effectiveness in the proper management and accounting of grants including, but not limited to federal, state and local sources.

II. POLICY

In an effort to support and advance the missions, goals and objectives of the City of Kennedale, city departments shall from time to time have the opportunity to seek, apply for and receive grant funding.

All solicitations for external funding, whether they require or make promise of matching funds from the City, must receive the appropriate Department Director, City Manager and/or City Council, and then Finance Department approval prior to application submission.

III. GRANT OFFICIALS

It is the policy of each Department Director to designate a Project Manager to maintain stringent control over all monies administered by their department and to ensure that all funds are used only for authorized purposes and managed in accordance with the city's budget and Finance Department. It is also the responsibility of the Project Manager within each department to maintain control over all documentation necessary to facilitate and manage the awarded grant. All grants are required to have three different grant officials.

A. Authorized Official

- 1) Only the City Manager, or an authorized designee, shall be authorized to sign all grant documents and be listed as the authorized official on behalf of the City of Kennedale.

B. Project Manager

- 1) The Project Manager shall be responsible for the day-to-day operations of the project. Each department within the city may have a different project manager per grant. The Project Manager must be a city employee and will have sole responsibility for program reporting.

C. Financial Officer

- 1) The Financial Officer is required to be the Chief Financial Officer (CFO) or Director of Finance for the City of Kennedale. This person shall be responsible for maintaining financial records, account for all grant funds, supplying required

financial reports as deemed necessary and providing all information during any and all grant funding audits.

III. GRANT SEARCH

- A. Each department within the city is responsible for monitoring grant announcements to identify new grant opportunities and actively pursue specific grants for existing or potential projects and/or programs and disseminating that information throughout the department.
- B. Each department shall be responsible in developing its project, program and research ideas.
- C. Each department shall be responsible to review funding agencies, compare the types of proposals and the amount of funding awarded with the goals of your project.

IV. GRANT SUBMISSION

- A. There may be several application processes each year depending on funding. When grant opportunities are discovered, each department shall be responsible for preparing a calendar for the grant application process. Special attention should be made to application deadlines.
- B. Once grant opportunities are identified, project managers must obtain the appropriate Department Director, City Manager and/or City Council, and then Finance Department approval prior to application submission. In the event that the City Manager deems it necessary to seek City Council approval, each department is responsible for the preparation and submission of a Staff Memo and supporting resolution to Council for the consideration of funding.
- C. The Finance Department aids Project Managers in the financial structure of the proposed projects. In order to successfully do such, the Project Manager must be knowledgeable of the financial and administrative requirements of the grantor agency, application instruction, and all other financial aspects of the proposed grant. Project managers and/or grant writers may submit applications to the Finance Department for review and analysis for accuracy and compliance with all applicable financial rules and regulations, including any applicable cash match requirement. The applications may be returned to the Project Manager as necessary for any revisions.
- D. The Project Manager will obtain all appropriate signatures and submit the grant applications, as well as any supporting documentation to the grantor agency by the submission deadline. The Project Manager shall also coordinate with other city departments should their involvement be required upon grant award and acceptance.

V. GRANT ACCEPTANCE

- A. Should funds be awarded, each grant must be scheduled for City Council acceptance and/or acknowledgement. In the event the City Manager deems acceptance necessary, the Project Manager shall prepare a packet and place the grant on the appropriate City Council agenda. The city shall officially accept each grant by completing all administrative requirements and obtaining appropriate signatures as specified in the Statement of Award. Each grant awarded outlines acceptance deadlines. Special care must be met to meet these deadlines.
- B. In cases where a local or other match is required by the city, the City Manager and Finance Department must work closely together with the Project Manager in order to meet the financial requirements of the grant.

VI. ESTABLISHING & MAINTAINING BUDGETS

- A. Once grants have been accepted and/or acknowledged by the City Council, the Finance Department shall set up the appropriate accounting/budget requirements, which will allow the city department to properly manage grant funds. Special care must be taken in that each grant has its own specific terms and conditions of expending funds.
- B. Expenditure and revenue reports shall be monitored by the Project Manager and Finance Department on a monthly basis for problems or errors. Necessary adjustments to the accounting system should be made at that time by the appropriate personnel.

VII. PAYMENT AUTHORIZATIONS

- A. All expensed funds, to include invoices, travel requests, purchase requests, etc., will be reviewed by the Project Manager to ensure that the appropriate line items are utilized according to grant application budget.
- B. The Finance Department shall have exclusive authority to deposit all grant funding received into appropriate accounts designated by Finance Department personnel.
- C. The Finance Department shall ensure that appropriate accounting measures are met to provide payments for each expense within the grant process and according to the city's Purchasing Policy.
- D. The Finance Department will assign general ledger numbers to segregate revenues and expenses unique to each project and budget category.
- E. As deemed necessary, the Finance Department shall produce monthly accounting reports in accordance with grant requirements.

- F. The Finance Department shall have exclusive authority to schedule, attend and monitor outside auditing of grant funds. All appropriate financial documents will be produced by finance department for audits.

VIII. GRANT REIMBURSEMENT

Grant funds cannot be obligated before the beginning or after the end of the grant period. Furthermore, each granting authority will provide specific requirements for the entity requesting reimbursement of funds. However, in an effort to ensure funds are reimbursed and received in a timely manner, please note the items below in reference to the following areas:

A. Travel Costs

- 1) Reimbursement is based on a cost for reasonable and allowable expenditures. Special attention should be made to the terms and conditions of your grant. Travel expenses to include mileage, per diem and lodging must comply with state and Internal Revenue Service (IRS) travel requirements, unless otherwise stated in your grant requirements.
- 2) Should travel be required for training, proof of attendance and/or training certificates must be maintained.
- 3) Records and supporting data must be documented for travel expenditures.

B. Salaries

- 1) Contact the Finance Department in order to calculate appropriate salary and/or benefits for the grant budget.
- 2) Maintain accurate record of timecards, including name of personnel, hours worked, assignments processed and signature of personnel and supervisor for each grant funding expended.
- 3) Maintain accurate records for volunteers, including name of volunteer, hours worked, assignments processed and signature of volunteer and supervisor for each grant project.
- 4) Maintain log of daily activities performed for all hours worked.
- 5) Clear distinction must be made for all personnel to accurately differentiate between time spent on grant activities and time spent on other activities.

- 6) Overtime compensation to any personnel must be budgeted and/or approved prior to payment.

C. Purchasing

- 1) While each grant may have specific guidelines, any and all purchases must also comply with the city's Purchasing Policy.
- 2) An inventory of all items purchased through external funding must be updated and maintained by the Finance Department, with particular attention paid to the categorization of fixed assets.

IX. GRANT REPORTING

- A. Project Managers must report their progress in meeting goals, objectives and measures stated in their application. These progress reports are used to comply with local, state and federal requirements.
- B. Each grant will outline the necessary reporting requirements. The Project Manager will take every precaution to meet these deadlines.
- C. The Project Manager will prepare and provide the necessary reports to each department in order to obtain the appropriate information and signatures as required by the grant.

X. GRANT CLOSING

- A. Closure is initiated by the Project Manager as outlined by the grant. The following steps shall be monitored by the Project Manager:
 - 1) Ensure that all grant funds have been properly recorded and a final Financial Status Report submitted.
 - 2) Ensure that all grant funds have been properly recorded and any other reports submitted as required.
 - 3) Demonstrate that all budgeted expenditures have been captured and grant funds have been used appropriately.
 - 4) Ensure that the grantor has accepted all required reports. This includes completion of final expenditure report and inventory reports for any equipment purchased with grant funds. The inventory total must equal the total equipment as reported on the final expenditure report. Any unused funds disbursed from the grantor agency must be returned with the final report.

- 5) All expenditure reports for the granting agency have been reconciled to the city's accounting system.
 - 6) Request disposition of equipment purchased with grant funds, following grant requirements and city's disposition policy.
- B. Once these items are complete, the Project Manager should notify the Finance Department that the grant should be closed within the city's accounting system. It is also the Finance Department's responsibility to closely monitor the overall status of all grants and work with each city department to ensure appropriate closure.

XI. RECORDKEEPING

- A. Each department must maintain all grant records, supporting documents, statistical records, and all other records pertinent to your grant for at least three (3) years following the closure of the most recent audit report or submission of the final expenditure if the audit report requirement has been waived. Records should be retained in their original format.
- B. While each department is responsible for maintaining the aforementioned items, the Finance Department will maintain any and all grant documents related to the reimbursement of funds, as well as other basic documentation for auditing purposes (e.g., copy of grant application, award letter, other supporting documentation, etc.).
- C. If any litigation, claim, negotiation, audit, or other action involving grant records has been started before the expiration of three years, the records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular three (3) year period, whichever is later.
- D. Grantors may require retention periods in excess of three (3) years. Departments must ensure they comply with retention requirements specified by each grantor.
- E. Retention requirements extend to books of original entry, source documents supporting accounting transactions, the general ledger, subsidiary ledgers, personnel and payroll records, cancelled checks, and related documents and records.

XII. ANNUAL REVIEW

It is recommended that the Director of Finance shall, at a minimum, submit proposed amendments of this policy to the City Council annually.

Staff Report to the Honorable Mayor and City Council

Date: October 17, 2016

Agenda Item No: REQUIRED APPROVAL ITEMS (CONSENT) - F.

I. Subject:

Consider Resolution 497 adopting an amended City of Kennedale Fraud Policy

II. Originated by:

Finance Director, Director of Finance & IT

III. Summary:

A fraud policy is established to facilitate the development of controls that will aid in the prevention, deterrence and detection of fraud against City of Kennedale.

It is the recommendation of our independent auditors that our main policies be reviewed by the Director of Finance for updates in relation to our internal control practices and submitted to Council at least annually. In order to demonstrate our review, it is custom practice for the governing board of a municipality to adopt a resolution to make the review an official public record.

There are no recommended changes at this time.

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

Approve

VII. Alternative Actions:

VIII. Attachments:

1.	Resolution 497	Resolution 497.pdf
2.	Exhibit A - Fraud Policy	20161017 Fraud Policy.pdf

RESOLUTION NO. 497

**A RESOLUTION ADOPTING AN AMENDED CITY OF KENNEDALE
FRAUD POLICY**

WHEREAS, on January 13, 2005, City Council adopted the document entitled, "Fraud Policy," a framework in which the aim is to safeguard the reputation and financial viability of the City of Kennedale through improved management of fraud risk; and

WHEREAS, a fraud policy is established to facilitate the development of controls that will aid in the prevention, deterrence and detection of fraud against City of Kennedale. It is the intent of City of Kennedale to promote consistent organizational behavior by providing guidelines and assigning responsibility of the development of controls and conduct of investigations; and

WHEREAS, the City Council has reviewed the City's Fraud Policy.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE
CITY OF KENNEDALE, TEXAS:**

The City Council of the City of Kennedale, Texas hereby approves the amended Fraud Policy dated October 17, 2016, attached hereto as "Exhibit A."

PASSED, ADOPTED AND APPROVED by the City Council of the City of Kennedale, Texas, this the 17th day of October, 2016.

APPROVED:

Mayor, Brian Johnson

ATTEST:

City Secretary, Leslie Galloway

CITY OF KENNEDALE



FRAUD POLICY

ORIGINALLY ADOPTED BY CITY COUNCIL: JANUARY 13, 2005

PREFACE

The aim of the Fraud Policy is to safeguard the reputation and financial viability of the City of Kennedale through improved management of fraud risk.

The fraud policy is established to facilitate the development of controls that will aid in the prevention, deterrence and detection of fraud against City of Kennedale. It is the intent of City of Kennedale to promote consistent organizational behavior by providing guidelines and assigning responsibility of the development of controls and conduct of investigations.

It is our intent to bring forth this policy to Council for review at least annually. In order to demonstrate that review, it will be custom practice for the governing board of a municipality to adopt a resolution to make the review an official public record.

SUBSEQUENT REVIEW & ADOPTION

DECEMBER 11, 2008
NOVEMBER 5, 2009
OCTOBER 14, 2010
OCTOBER 13, 2011
OCTOBER 3, 2012
OCTOBER 1, 2013
OCTOBER 13, 2014
OCTOBER 19, 2015
OCTOBER 17, 2016

I. BACKGROUND

The City of Kennedale fraud policy is established to facilitate the development of controls that will aid in the detection, deterrence and prevention of fraud against City of Kennedale. It is the intent of City of Kennedale to promote consistent organizational behavior by providing guidelines and assigning responsibility of the development of controls and conduct of investigations.

II. SCOPE OF POLICY

This policy applies to any irregularity, or suspected irregularity, involving employees as well as consultants, vendors, contractors, outside agencies doing business with employees of such agencies, and/or any other parties with a business relationship with City of Kennedale.

Any investigative activity required will be conducted with regard to the suspected wrongdoer's length of service, position/title, or relationship to the City of Kennedale.

III. POLICY

Management is responsible for the detection and prevention of fraud, misappropriations, and other irregularities. Fraud is defined as the intentional, false representation or concealment of a material fact for the purpose of inducing another to act upon it to his or her inquiry. Each member of the management team will be familiar with the types of improprieties that might occur within his or her area of responsibility, and be alert for any indication of irregularity.

Any irregularity that is detected or suspected must be confidentially reported immediately to the City Manager, who coordinates all investigations with the legal counsel and other affected areas both internal and external.

IV. ACTIONS CONSTITUTING FRAUD

The terms defalcation, misappropriation, and other fiscal irregularities refer to, but are not limited to:

- A. Any dishonest or fraudulent act;
- B. Misappropriation of funds, securities, supplies, or other assets;
- C. Impropriety in the handling or reporting of money or financial transactions;
- D. Profiteering as a result of insider knowledge of City activities;
- E. Disclosing confidential and proprietary information to outside parties;

- F. Disclosing to other persons activities engaged in contemplated by the City of Kennedale;
- G. Accepting or seeking anything of material value from contractors, vendors, or persons providing services/materials to the City of Kennedale. Exception: Gifts less than \$25 in value;
- H. Destruction, removal, or inappropriate use of records, furniture, fixtures, and equipment; and /or
- I. Any similar or related irregularity.

V. OTHER IRREGULARITIES

Irregularities concerning an employee's moral, ethical, or behavioral conduct should be resolved by departmental management and Human Resources.

If there is any question as to whether an action constitutes fraud, contact the appropriate department head for guidance.

VI. INVESTIGATION RESPONSIBILITIES

City Manager has the primary responsibility for the investigation of all suspected fraudulent acts as defined in the policy. Should an investigation substantiates that fraudulent activities have occurred, the City Manager will issue reports to appropriate designated personnel, and if appropriate, to the City Council.

Decisions to prosecute or refer the examination results to the appropriate law enforcement and/or regulatory agencies for independent investigation will be made in conjunction with legal counsel and senior management, as will final decisions on disposition of the case.

VII. CONFIDENTIALITY

All parties involved will treat all information received confidentially. Any employee who suspects dishonest or fraudulent activity will notify the City Manager Office immediately, and **should not attempt to personally conduct investigations or interview/interrogations** related to any suspected fraudulent act (see REPORTING PROCEDURE section below).

Investigation results **will not be disclosed or discussed** with anyone other than those who have a legitimate need to know. This is important in order to avoid damaging the reputations of persons suspected but subsequently found innocent of wrongful conduct and to protect the City of Kennedale from potential civil liability.

VIII. AUTHORIZATION FOR INVESTIGATING SUSPECTED FRAUD

All searches must be authorized in advance by the City Manager and conducted under the direction of the Department Head and/or City Manager. The City Manager or designee will have:

- A. Free and unrestricted access to all City of Kennedale records and premises at any time, whether owned or rented; and
- B. The authority to conduct unannounced searches or inspections of the worksite, including, but not limited to, City property used by employees such as lockers, file cabinets, desks, vehicles and offices, whether secured, unsecured or secured by a lock provided by the employee; and
- C. If reasonable suspicion exists, the authority to conduct unannounced searches or inspection of the employee's personal property located on City premises, included purses, lunch boxes, brief cases and private vehicles or vehicles used to conduct City business located on City property; and
- D. **Employees are not entitled to any expectation of privacy with respect to such or similar items. Employee refusal to cooperate with a search will likely be subject to disciplinary action, up to and including termination.**

IX. REPORTING PROCEDURES

Great care must be taken in the investigation of suspected improprieties or irregularities so as to avoid mistaken accusations or alerting suspected individuals that an investigation is under way.

An employee who discovers or suspects fraudulent activity will **contact his or her department head immediately**. The employee or other complainant may remain anonymous. All inquiries concerning the activity under investigation from the suspected individual, his or her attorney or representative, or any other inquirer should be directed to the City Manager or his designee or the legal counsel. No information concerning the status of an investigation will be given out. The proper response to any inquiries is: **"I am not at liberty to discuss this matter." Under no circumstances should any reference be made to "the allegation," "the crime," "the fraud," "the forgery," "the misappropriation" or any other specific reference.**

The reporting individual should be informed of the following:

- A. Do not contact the suspected individual in an effort to determine facts or demand restitution.

- B. Do not discuss the case, facts, suspicions, or allegations with anyone unless specifically asked to do so by the legal counsel or the investigating agency.

X. TERMINATION

If an investigation results in a recommendation to terminate an individual, the recommendation will be reviewed for approval by the designated representatives from Human Resources and the legal counsel before any such action is taken. Should the employee believe the management decision inappropriate for the facts presented, the facts will be presented to executive level management for a decision through the appropriate appeals process in personnel policy.

XI. ADMINISTRATION

City Management is responsible for the administration, revision, interpretation, and application of this policy.

XII. ANNUAL REVIEW

The Director of Finance shall, at a minimum, submit proposed amendments of this policy to the City Council annually.

Staff Report to the Honorable Mayor and City Council

Date: October 17, 2016

Agenda Item No: REQUIRED APPROVAL ITEMS (CONSENT) - G.

I. Subject:

Consider Resolution 498 adopting an amended City of Kennedale Unclaimed Property Policy

II. Originated by:

Finance Director, Director of Finance & IT

III. Summary:

All financial institutions, businesses, government entities, and organizations that are holding abandoned property belonging to Texas residents should file a report with the Texas Comptroller's office. Title 6 of the Texas Property Code governs the State of Texas Unclaimed Property Program. Chapters 72 through 75 apply to the reporting, delivery and claims process for abandoned property. Chapter 76 applies specifically to unclaimed property held and reported by Texas counties, municipalities, independent school districts and junior colleges.

The aim of the Unclaimed Property Policy is to guide the City of Kennedale in the required annual review of its records and reporting of all tangible and intangible property presumed abandoned that is held or is owed in the ordinary course of Kennedale's business and remained unclaimed by the owner for more than a specified period of time after it became payable or distributable.

It is our intent to bring forth this policy to Council for review at least annually. In order to demonstrate that review, it will be custom practice for the governing board of a municipality to adopt a resolution to make the review an official public record.

There are no recommended changes at this time.

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

Approve

VII. Alternative Actions:

VIII. Attachments:

1.	Resolution 498	Resolution 498.pdf
2.	Exhibit A - Unclaimed Property Policy	20161017 Unclaimed Property Policy.pdf

RESOLUTION NO. 498

**A RESOLUTION ADOPTING AN AMENDED CITY OF KENNEDALE
UNCLAIMED PROPERTY POLICY**

WHEREAS, on November 17, 2011, City Council adopted the document entitled, “Unclaimed Property Policy,” a framework to guide the City of Kennedale in the required annual review of its records and reporting of all tangible and intangible property presumed abandoned that is held or is owed in the ordinary course of Kennedale’s business and remained unclaimed by the owner for more than a specified period of time after it became payable or distributable; and

WHEREAS, the City of Kennedale recognizes its responsibility to make a good faith effort to determine the whereabouts of the owner of property, and also recognizes that there are limits to what can be done to locate the rightful owner of property; and

WHEREAS, the City Council has reviewed the City’s Unclaimed Property Policy.

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

The City Council of the City of Kennedale, Texas hereby approves the amended Unclaimed Property Policy dated October 17, 2016, attached hereto as “Exhibit A.”

PASSED, ADOPTED AND APPROVED by the City Council of the City of Kennedale, Texas, this the 17th day of October, 2016.

APPROVED:

Mayor, Brian Johnson

ATTEST:

City Secretary, Leslie Galloway

CITY OF KENNEDALE



UNCLAIMED PROPERTY POLICY

ORIGINALLY ADOPTED BY CITY COUNCIL: NOVEMBER 17, 2011

PREFACE

The aim of the Unclaimed Property Policy is to guide the City of Kennedale in the required annual review of its records and reporting of all tangible and intangible property presumed abandoned that is held or is owed in the ordinary course of Kennedale's business and remained unclaimed by the owner for more than a specified period of time after it became payable or distributable.

It is our intent to bring forth this policy to Council for review at least annually. In order to demonstrate that review, it will be custom practice for the governing board of a municipality to adopt a resolution to make the review an official public record.

SUBSEQUENT REVIEW & ADOPTION

OCTOBER 3, 2012

OCTOBER 10, 2013

OCTOBER 13, 2014

OCTOBER 19, 2015

OCTOBER 17, 2016

I. BACKGROUND

All financial institutions, businesses, government entities, and organizations that are holding abandoned property belonging to Texas residents should file a report with the Texas Comptroller's office. Title 6 of the Texas Property Code governs the State of Texas Unclaimed Property Program. Chapters 72 through 75 apply to the reporting, delivery and claims process for abandoned property. Chapter 76 applies specifically to unclaimed property held and reported by Texas counties, municipalities, independent school districts and junior colleges.

Unclaimed property can be any financial asset that appears to have been abandoned by the owner, such as the following:

- Uncashed dividends, payroll, cashier's checks;
- Stocks, bonds, mutual fund accounts;
- Utility deposits and other refunds;
- Bank accounts and safe deposit box contents;
- Insurance proceeds;
- Mineral interest or royalty payments; and/or
- Court deposits, trust funds, escrow accounts.

The abandonment period is the number of years that an entity holds the property before sending it to the state Comptroller's office. The property type determines the length of the abandonment period.

The City of Kennedale recognizes its responsibility to make a good faith effort to determine the whereabouts of the owner of property, and also recognizes that there are limits to what can be done to locate the rightful owner of property.

II. POLICY

On an annual basis, the City of Kennedale is required to review its records and determine whether it is holding any funds, securities or other property that has been unclaimed for the required dormancy period, and to report and remit these unclaimed funds to the State of Texas.

III. LEGAL REQUIREMENTS

A. Property is classified as unclaimed if it has reached the required abandonment period as of March 1st each year. The City must hold property until the appropriate abandonment period has run, and if property is determined to be unclaimed after this date, it must be included in the next annual remittance to the State.

- 1) The abandonment period is determined by the property type. For more specific detail, refer directly to the Texas Comptroller of Public Accounts: Unclaimed

Property Reporting Instructions. Instructions are subject to change due to new or revised requirements, so annual review of this manual is required.

- B. Prior to remitting property to the Comptroller's Office as described below, the City must mail a written notice to the owner on property valued at **more than \$250.00** no later than May 1st of the year in which the property is classified as unclaimed per Section 74.1011 of the Texas Property Code. This notice requirement does not apply if a letter has already been mailed to the missing owner earlier in the abandonment period. For sample letter, refer directly to the Texas Comptroller of Public Accounts: Unclaimed Property Reporting Instructions. Instructions are subject to change due to new or revised requirements, so annual review of this manual is required.
- C. Property that is valued at **more than \$100.00** will be delivered, along with the required report form(s), to the State Comptroller's Office by July 1st **following** the date the property is classified as unclaimed. Should the City not have unclaimed property individually valued at more than \$100, there is no report required.
 - 1) Property that is due July 1st may be remitted any time after the annual cut-off date of March 1st and before July 1st.
- D. Per Chapter 74 of the Texas Property Code, property that is valued at **less than \$100.00** will be retained by the City.
 - 1) Per Title 6, Chapter 76 of the Texas Property Code, the City shall publish a notice in its official newspaper (general circulation in the jurisdiction of the holder) on or before July 1st in the calendar year **immediately following** the year in which the property report is filed. For example: Notices for property classified as unclaimed on March 1, 2015 must be published by July 1, 2015.
 - 2) At a minimum, the owner's name and last known address must be listed.
 - 3) If at all possible, the City will also include this notice on its official website.
 - 4) While the City is required to publish a notice, it may elect to advertise only those properties with a value greater than a specified amount of its choosing (i.e., greater than \$50.00 but less than \$100.00). For the City's purposes, the Finance Department will include **all** property valued at \$50.00 to \$99.99.

IV. CLAIMS PROCESS

- A. There is no statute of limitation on filing a claim.
- B. Claimants must fill out a claim form and present proof of ownership.

- C. Within **90 days** from the date of receiving the returned claim form, the Finance Department will determine in good faith if the claim is valid. If the claim is valid, the City will pay the full amount of the claim.
- D. If the claim is determined to be invalid, it will be rejected. The claimant may appeal this decision in accordance with Section 76.504 of the Texas Property Code.

V. ACCOUNTING

- A. For property, which is valued at **less than \$100.00** and retained by the City, the Finance Department will transfer funds from the City's operating funds to the Unclaimed Property Fund on or before March 1st for property classified as unclaimed.
 - 1) Finance Department must void account payable entries code to a liability account in Unclaimed Property Fund versus hitting an expense line item.
- B. The Finance Department will transfer all funds retained by the City on **an annual basis**. This transfer will be conducted from the Unclaimed Property Fund to the General Fund. The General Fund will then become responsible for paying a valid claim should a valid claim be submitted.
 - 1) This action will clear out the liability account in the Unclaimed Property Fund and provide revenue to the General Fund.
- C. All publication and postage expenditures will be charged to Finance Department within the General Fund. These items are budgeted annually.
- D. For the purpose of simplicity, the Unclaimed Property Fund is not allocated earned interest. The City is not obligated to pay interest to a claimant. Only the original amount of the unclaimed property will be paid to the claimant.

VI. ANNUAL REVIEW

The Director of Finance shall, at a minimum, submit proposed amendments of this policy to the City Council annually.

Staff Report to the Honorable Mayor and City Council

Date: October 17, 2016

Agenda Item No: REQUIRED APPROVAL ITEMS (CONSENT) - H.

I. Subject:

Consider Resolution 499 adopting an amended City of Kennedale Purchasing Policy

II. Originated by:

Finance Director, Director of Finance & IT

III. Summary:

State law (Local Government Code, Chapter 252: Purchasing and Contracting Authority of Municipalities) serves as the primary purchasing authority for the City of Kennedale. This Policy establishes standard practices and procedures to create uniformity, economy, efficiency and effectiveness in our purchasing program.

It is the recommendation of our independent auditors that our main policies be reviewed by the Director of Finance for updates in relation to our internal control practices and submitted to Council at least annually. In order to demonstrate our review, it is custom practice for the governing board of a municipality to adopt a resolution to make the review an official public record.

There are no recommended changes at this time.

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

Approve

VII. Alternative Actions:

VIII. Attachments:

1.	Resolution 499	Resolution 499.pdf
2.	Exhibit A - Purchasing Policy	20161017 Purchasing Policy.pdf

RESOLUTION NO. 499

**A RESOLUTION ADOPTING AN AMENDED CITY OF KENNEDALE
PURCHASING POLICY**

WHEREAS, on November 13, 2008, the City Council adopted the document entitled, "Purchasing Policy," as guidelines for future City procurement; and

WHEREAS, a Purchasing Policy establishes standard practices and procedures to create uniformity, economy, efficiency and effectiveness in our purchasing program; and

WHEREAS, the City Council has reviewed the City's Purchasing Policy.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE
CITY OF KENNEDALE, TEXAS:**

The City Council of the City of Kennedale, Texas hereby approves the Purchasing Policy dated October 17, 2016, attached hereto as "Exhibit A."

PASSED, ADOPTED AND APPROVED by the City Council of the City of Kennedale, Texas, this the 17th day of October, 2016.

APPROVED:

Mayor, Brian Johnson

ATTEST:

City Secretary, Leslie Galloway

CITY OF KENNEDALE



PURCHASING POLICY

ORIGINALLY ADOPTED BY CITY COUNCIL: NOVEMBER 13, 2008

PREFACE

State law (Local Government Code, Chapter 252: Purchasing and Contracting Authority of Municipalities) serves as the primary purchasing authority for the City of Kennedale. In addition to several administrative updates, which further establish standard practices and procedures to create uniformity, economy, efficiency and effectiveness in our purchasing program, Staff incorporated a major revision due to a change in statute. Specifically, the expenditure threshold increased from \$25,000 to \$50,000 in reference to competitive bidding and proposal requirements per Senate Bill 1765.

This policy was formally adopted by the Council on November 13, 2008. However, prior to this date, it was created on May 16, 2005 and reviewed administratively.

It is our intent to bring forth this policy to Council for review at least annually. In order to demonstrate that review, it will be custom practice for the governing board of a municipality to adopt a resolution to make the review an official public record.

SUBSEQUENT REVIEW & ADOPTION

NOVEMBER 5, 2009
NOVEMBER 17, 2011
OCTOBER 3, 2012
OCTOBER 1, 2013
OCTOBER 13, 2014
OCTOBER 19, 2015
OCTOBER 17, 2016

I. PURPOSE

The purpose of this policy is to establish standard practices and procedures to create a uniformity, economy, efficient and effective purchasing program for the City of Kennedale.

II. POLICY

It is the policy of the City of Kennedale to authorize purchases at time and place needed in the proper quantity and of the proper quality, all goods and services required for City operations. Goods and services shall be procured at the lowest possible cost consistent with prevailing economic conditions while establishing and maintaining a reputation for fairness and integrity, with the express intent to promote open and fair conduct in all aspects of the purchasing process.

III. GOVERNING AUTHORITY

The primary governing authority for the City of Kennedale's Purchasing Policy shall be the City's Charter, in conjunction with Chapter 252 of the Local Government Code: Purchasing and Contracting Authority of Municipalities. All procurement activity shall be governed in accordance with applicable federal, state, and local statutes, ordinances, and codes.

IV. CODE OF ETHICS

Every time items are purchased, city funds are committed. Therefore, this is a responsibility that should not be taken lightly. By participating in the purchasing process, employees of the City of Kennedale agree to:

- A. Make purchases in the conduct of the City's business only. **To acquire or purchase goods and services for other than official use of the City is fraudulent use and may subject the employee to disciplinary action, up to and including dismissal as specified in the City's Personnel Policy and/or criminal prosecution.**
- B. Avoid the intent and appearance of unethical or compromising practice in relationships, actions, and communications.
- C. Demonstrate loyalty to the City of Kennedale by diligently following the lawful instructions of the employer, using reasonable care, and only authority granted.
- D. Refrain from any private business or professional activity that would create a conflict between personal interests and the interest of the City of Kennedale.
- E. Refrain from soliciting or accepting money, loans, credits, or prejudicial discounts, and the acceptance of gifts, entertainment, favors, or services from present or potential suppliers that might influence, or appear to influence purchasing decisions.

- F. Never discriminate unfairly by the dispensing of special favors or privileges to anyone, whether as payment for services or not; and never accept for himself or herself or for family members, favors or benefits under circumstance which might be construed by reasonable persons as influencing the performance of Governmental duties.
- G. Engage in no business with the City of Kennedale, directly or indirectly, which is inconsistent with the conscientious performance of Governmental duties.
- H. Handle confidential or proprietary information belonging to employer or suppliers with due care and proper consideration of ethical and legal ramifications and governmental regulations.
- I. Never use any information gained confidentially in the performance of Governmental duties as a means of making private profit.
- J. Promote positive supplier relationships through courtesy and impartiality in all phases of the purchasing cycle.
- K. Know and obey the letter and spirit of laws governing the purchasing function and remain alert to the legal ramifications of purchasing decisions.
- L. Expose corruption and fraud wherever discovered.
- M. Uphold these principles, ever conscious that public office is a public trust.

V. FUND AVAILABILITY & PAYMENT AUTHORIZATION

- A. Verification of fund availability is the responsibility of the User Department.
- B. Finance Department shall verify available funds through the City's financial reporting system during requisition entry. If funds are not available at the time, no purchase will be made until funds are made available with approval from City Manager.
- C. At a minimum, payment approval is required from Department Head to pay for **all** products and/or services.
- D. As a tax-exempt government agency, the City of Kennedale does **not** pay sales tax on applicable items. The cardholders can request a copy of the City's tax exemption certificate from Accounts Payable City's. Furthermore, a sales tax identification number is provided on the face of the City's Procurement Card should it be utilized. Employees are responsible for ensuring that the vendor does not include sales tax in the transaction, unless an item is subject to sales tax. **If tax is included in error, the employee may be responsible for reimbursing the tax to the City if it is not recovered**

from the vendor. Contact Accounts Payable for questions in regards to which purchases are subject to tax.

- E. Approved invoices are forwarded directly to the Finance Department with the appropriate supporting documentation and signatures. **If an employee misplaces or loses a receipt or is unable to provide adequate details concerning a purchase, a *Missing Or Lost Receipt Form* must accompany the employer's request for payment. Recurring instances of misplaced or lost receipts may result in the revocation of employee purchasing privileges. Furthermore, the employee will be responsible for reimbursing the City of Kennedale for all applicable charges, and the City is authorized to deduct any applicable charges from the payroll of the employee if not otherwise reimbursed.**
- F. Payments for goods and services must be paid **no later than 30 days after the later of:**
 - 1) Receipt of goods/services OR receipt of the invoice for the goods/services.
 - 2) Goods/services will be considered received when they have been accepted as usable by the User Department.

VI. LEGAL REQUIREMENTS

- A. *Texas Local Government Code, Subchapter B, Section 252.021* defines the requirements for competitive bids. Under no circumstances shall multiple requisitions be used in combination to avoid otherwise applicable bidding requirements or City Council approval. Intentionally splitting purchases to circumvent the competitive bid process (i.e. two or more purchases made to keep the amount under \$50,000) will result in disciplinary action.
- B. Likewise, intentionally splitting purchases to circumvent the three (3) quote requirement process (i.e. two or more purchases made to keep the amount under \$3,000.01) will result in disciplinary action.
- C. Purchases made through an approved Cooperative Purchasing Program satisfy state law competitive bid requirements, as well the City of Kennedale's requirement for any quote process. Cooperative purchasing occurs when **two or more** governmental entities coordinate some or all purchasing efforts to reduce administrative costs, take advantage of quantity discounts, share specifications, and create a heightened awareness of legal requirements. Cooperative purchasing can occur through interlocal agreements, state contracts, piggybacking, and joint purchases.
- D. Any exemption per *Section 252.022, General Exemption of Texas Local Government Code* will need the approval from City Manager. The Department Head will need to include a written explanation, as well as copies of all the quotes for City Manager review. Upon

approval from City Manager, attach written explanation and all documentation and send to Finance Department for payment.

VII. QUOTES

- A. Purchases of non-contract goods or services totaling **\$3000 or less require no quotation**. In such instances, departments should make every effort to use the City's procurement card.
- B. Except where otherwise exempted by applicable State law, purchases totaling **\$3,000.01 to \$49,999.99 require a minimum of three (3) quotes**. All quotations received must be in writing from the vendor and will be evaluated by the Department Head who will then authorize the purchase.
 - 1) Chapter 252.0215 of the Local Government Code: Competitive Bidding in Relation to Historically Underutilized Business (HUB) Vendors, states that a municipality, in making an expenditure of **more than \$3,000 but less than \$50,000**, shall contact **at least two HUBs** on a rotating basis. If the list fails to identify a disadvantaged business in the county in which the City is situated, the City is exempt from this section.
 - 2) Historically Underutilized Business (HUB) are defined as any business determined by the State of Texas to be a disadvantaged (minority/woman owned) vendor.
 - 3) Refer to Appendix B for specific instructions on how to conduct a HUB search.

VIII. SEALED COMPETITIVE PROCESS

Except as otherwise exempted by applicable State law, requisitions for item(s) whose aggregate total cost is **\$50,000 or more** must be processed as competitive solicitations (e.g. sealed bids, request for proposals).

- 1) With the approval from the City Manager to begin the competitive process, the User Department shall prepare a bid package with specifications and any other pertinent information. Along with the specifications and other information, the Department may submit suggested vendors for the item(s) requested.
- 2) A notice will be published in Kennedale's official newspaper to indicate the City's intent to accept bids in accordance with State law. **Bids must be advertised for two (2) consecutive weeks with the first publication at least 14 days prior to the bid opening date.**
- 3) Vendor pre-bid conferences may be conducted if, in the opinion of requesting Department, further explanation or coordination is needed due to the nature of the bid.

- 4) The City Secretary or designee shall publicly open the bids received and read them aloud at a designated time and as indicated in the bid packet. The City Secretary or designee will indicate to those present when the Council will most likely address this item and will make available to those present the names of the vendors and the amount of their respective bids. In the case of an RFP, only the submitter's names will be announced. A tabulation will then be created. A representative from the User Department should be present during bid openings.

IX. AWARD OF CONTRACT

The City of Kennedale shall award contracts based on criteria deemed in the best interest of the City. The Texas Local Government Code, Section 252.043, states, in part:

- 1) If the competitive sealed bidding requirement applies to the contract for goods or services, the contract must be awarded to the lowest responsible bidder or to the bidder who provides goods or services at the best value for the municipality.
- 2) Before awarding a contract under this section, a municipality must indicate in the bid specifications and requirements that the contract may be awarded either to the lowest responsible bidder or to the bidder who provides goods or services at the best value for the municipality.

X. RECIPROCITY

The State of Texas Reciprocity Law provides that the State or political subdivision cannot award contracts or purchases to non-resident bidders having local preference laws in their resident states, unless their bid is lower than the lowest bid submitted by a responsible Texas resident bidder by the amount that a Texas resident bidder would be required to underbid a nonresident bidder to obtain a comparable contract in the state in which the nonresident's principal place of business is located.

XI. DISCLOSURE OF INFORMATION

Access to bidder-declared trade secrets or confidential information shall be in accordance with the Texas Government Code Chapter 552, the Public Information Act, and applicable City policies implementing this chapter. The Texas Local Government Code Chapter 252.049(b) states, in part:

- A. If provided in a Request For Proposal (RFP), proposals shall be opened in a manner that avoids disclosure of the contents to competing offers and keeps the proposals secret during negotiations. All proposals are open for public inspection after the contract is awarded, but trade secrets and confidential information in the proposals are not open for public inspection.

XII. AUTOMATED INFORMATION TECHNOLOGY PURCHASES

Departments may contact the Finance Department for all technology procurements, so that it can coordinate with Information Technology to ensure that the appropriate solicitation procedure is used and product is sought. Automated information technology purchases include:

- A. The computers on which the information system is automated;
- B. A service related to the automation of the system, including computer software, or the computer; and
- C. A telecommunications apparatus or device that serves as a component of a voice, data, or video communications network for transmitting, switching, routing, multiplexing, modulating, amplifying, or receiving signals on the network.

XIII. PROFESSIONAL SERVICES (EXEMPT FROM SEALED COMPETITIVE PROCESS)

Personal and professional services are exempted from the competitive bidding process and are procured through the use of Request for Qualification (RFQ) documents. The Finance Department is available to consult with departments regarding the preparation of information; however, the presentation of technical and qualifications aspects of personal and/or professional services included in the RFQ documents is the sole responsibility of the requesting department.

- A. Texas Government Code, Chapter 2254, Subchapter A, Professional Services, states that contracts for the procurement of defined professional services may not be awarded on the basis of competitive bids. Instead, they must be awarded on the basis:
 - 1) Of demonstrated competence and qualifications to perform the services;
 - 2) For a fair and reasonable price;
 - 3) Fees are allowed;
 - 4) Must be consistent with and not higher than the recommended practices and fees published by the applicable professional associations; and
 - 5) May not exceed any maximum provided by law.
- B. Professional Services, for the purposes of Government Code Chapter 2254, are defined as those “services within the scope of the practice, as defined by state law, of accounting, architecture, landscape architecture, land surveying, medicine, optometry,

professional engineering, real estate appraising, or professional nursing, or provided in connection with the professional employment or practice of a person who is licensed or registered as a certified public accountant, an architect, a landscape architect, a land surveyor, a physician, including a surgeon, an optometrist, a professional engineer, a state certified or state licensed real estate appraiser, or a registered nurse.”

XIV. SOLE SOURCE PURCHASES (EXEMPT FROM SEALED COMPETITIVE PROCESS)

Sole-source purchases are items that are available from only one source because of patents, copyrights, secret processes, or natural monopolies as defined by local government code. When a department has identified a specific item with unique features or characteristics essential and necessary to the requesting department and no alternate products are available, a written justification must be provided to the Finance Department upon purchase. The legislature exempted certain items from sealed bidding in the Vernon's Texas Codes Annotated - Local Government Code Section 252.022 (a) 7, in part:

- A. Items that are available from only one source because of patents, copyrights, secret processes, or natural monopolies;
- B. films, manuscripts, or books;
- C. gas, water and other utility services;
- D. capital replacement parts or components for equipment;
- E. books, papers, and other library materials for a public library that are available only from the person holding exclusive distribution rights to the materials; and
- F. management services provided by a nonprofit organization to a municipal museum, park, zoo, or other facility to which the organization has provided significant financial or other benefits.

XV. EMERGENCY PURCHASES (EXEMPT FROM SEALED COMPETITIVE PROCESS)

Valid emergencies are those that occur as a result of the breakdown of equipment, which must be kept in operation to maintain the public's safety or health, or whose breakdown would result in the disruption of City operations. When this situation occurs, the department shall contact the Finance Department to conduct the procurement of supplies and services. The Legislature exempted certain items from the competitive sealed process in the Texas Local Government Code Section 252.022(a), including, but not limited to:

- A. A procurement made because of a public calamity that requires the immediate appropriation of money to relieve the necessity of the municipality's residents or to preserve the property of the municipality;

- B. A procurement necessary to preserve or protect the public health or safety of the municipality's residents;
- C. A procurement necessary.

XVI. INELIGIBLE VENDORS

- A. An ineligible vendor shall not be allowed to conduct business until:
 - 1) Financial arrears are paid in full.
 - 2) Inappropriate practices are corrected.
 - 3) Vendors have satisfied any and all penalties imposed by the City.
 - 4) If applicable, a listing of ineligible vendors will be developed and distributed annually by the Finance Department to all other departments, unless a greater frequency is determined by the Director of Finance.
 - 5) At the recommendation of a User Department, the Finance Department may declare a vendor ineligible if it has failed to comply with the terms of a previous award, specifications of a bid or conducted inappropriate business practices.
 - 6) The penalty imposed may be for a period of up to twelve (12) months during which time bids submitted by such vendor shall not be considered.
 - 7) A penalty greater than twelve (12) months due to the severity of the infraction requires the approval of the City Manager or designee.
- B. The City of Kennedale reserves the right to change, modify, amend, revoke or rescind all or part of this policy in the future.

XVII. AUDIT OF DEPARTMENTAL RECORDS

The Finance Department may audit User Department purchasing files to ensure compliance with the procedures described herein.

XVIII. ANNUAL REVIEW

The Director of Finance shall, at a minimum, submit proposed amendments of this policy to the City Council annually.

APPENDIX A

CITY OF KENNEDALE, TEXAS PURCHASING MATRIX

PURCHASE	\$0 - \$3,000.00	\$3,000.01 - \$49,999.99	\$50,000 & Above
SIGNATURES REQUIRED	▪ Department Head	▪ Department Head ▪ City Manager	▪ City Manager ▪ City Council
PURCHASE ORDER	▪ Not Required ▪ Only If Vendor Needs	▪ Not Required ▪ Only If Vendor Needs	▪ Not Required ▪ Only If Vendor Needs
LEGAL REQUIREMENT	▪ N/A	▪ Three (3) Quotes ▪ Two (2) Of Three (3) Quotes Must Be HUB Vendors In Tarrant County ▪ If HUB(s) not listed, City Is Exempt	▪ Competitive Bid Or ▪ Competitive Proposal
EXEMPT FROM LEGAL REQUIREMENT	▪ N/A	▪ Cooperative Programs Purchases ▪ Sole Source Purchases ▪ Emergency Purchases ▪ Professional Service Purchase	▪ Cooperative Programs Purchases ▪ Sole Source Purchases ▪ Emergency Purchases ▪ Professional Service Purchase - MUST USE REQUEST FOR QUALIFICATIONS PROCESS. REFER TO SECTION XIII.
MINIMUM PAYMENT DOCUMENT(S)	▪ Pay Request ▪ Invoice (Not Quote) ▪ Applicable Receipts ▪ Backup Documents	▪ Pay Request ▪ Invoice (Not Quote) ▪ Applicable Receipts ▪ Backup Documents	▪ Pay Request ▪ Invoice (Not Quote) ▪ Applicable Receipts ▪ Backup Documents
PAYMENT TERMS	▪ TX Prompt Payment Act (No Later 30 Days)	▪ TX Prompt Payment Act (No Later 30 Days)	▪ TX Prompt Payment Act (No Later 30 Days)

Cooperative Programs (Approved Annually As Of 10/03/12): US General Services Administration (GSA), Department of Information Resources (DIR), Texas Building and Procurement Commission (TBPC), Texas Multiple Award Schedules (TXMAS), Texas Procurement and Support Services (TPASS), City of Fort Worth Cooperative Purchasing Program, Parker County Cooperative Purchasing Program, Tarrant County Cooperative Purchasing Program, Texas Interlocal Purchasing System (TIPS), Houston-Galveston Area Council (H-GAC), Local Government Purchasing Cooperative (BuyBoard), The Cooperative Purchasing Network (TCPN), US Communities and Western States Contracting Alliance.

APPENDIX B

CITY OF KENNEDALE, TEXAS HISTORICALLY UNDERUTILIZED BUSINESS (HUB) PROCEDURES

Excerpts from the Texas Local Government Code, Chapter 252, Subchapter B:

- A. Section 252.0215, “ A municipality, in making an expenditure of **more than \$3,000 but less than \$50,000**, shall contact at least two historically underutilized businesses on a rotating basis, based on information provided by the comptroller pursuant to Chapter 2161, Government Code. If the list fails to identify a historically underutilized business in the county in which the municipality is situated, the municipality is exempt from this section.”
- B. Centralized Master Bidders List & Historically Underutilized Business (HUB) Search
 - 1) Go to <http://www.window.state.tx.us/procurement/cmb/cmbhub.html>
 - 2) Click “HUBS on CMBL.”
 - 3) Enter “Class Code, Item Code, District” if available. Description of each is provided by clicking on link directly below.
 - 4) Select “Tarrant” on Texas County dropdown list.
 - 5) Click “Submit Search.”
 - 6) Select appropriate Output Fields on “Select Fields For Detail List” page.
 - 7) Click “Go.”
 - 8) Results will appear.

Staff Report to the Honorable Mayor and City Council

Date: October 17, 2016

Agenda Item No: REQUIRED APPROVAL ITEMS (CONSENT) - I.

I. Subject:

Consider Resolution 500 adopting an amended City of Kennedale Procurement Card Program Policy

II. Originated by:

Finance Director, Director of Finance & IT

III. Summary:

The City of Kennedale Purchasing Policy allows the City to utilize cooperative purchasing programs with the approval of City Council. Furthermore, city purchases made through an approved Cooperative Purchasing Program satisfy state law competitive bid requirements and any internal quote process.

The State of Texas or Texas Procurement and Support Services (TPASS) originally secured a contract with JPMorgan Chase to provide MasterCard corporate travel and procurement charge card services for state agencies, universities and eligible State of Texas CO-OP entities from June 13, 2003 through August 31, 2010. Council approved the City's participation in 2010. Since this time, the State has secured another vendor; however, the City elected to remain with JPMorgan Chase through a cooperative purchasing program agreement with the City of Fort Worth to receive the same type of benefits that we did while on the state contract.

Our JPMorgan Chase Procurement Card Program continues to allow for more flexibility of use, simplified tracking and invoicing, streamlining of payments, enhanced customer service, and online access to view charges and make changes to organizational features and settings. In addition, the Program Administrator (Director of Finance) has the ability to restrict card usage based on necessity, as well as issue out temporary cards to employees specifically for travel.

It is the recommendation of our independent auditors that our main policies be reviewed by the Director of Finance for updates in relation to our internal control practices and submitted to Council at least annually. In order to demonstrate our review, it is custom practice for the governing board of a municipality to adopt a resolution to make the review an official public record.

There are no recommended changes at this time.

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

Approve

VII. Alternative Actions:

VIII. Attachments:

1.	Resolution 500	Resolution 500.pdf
2.	Exhibit A - Procurement Card Program Policy	20161017 Procurement Card Program Policy.pdf

RESOLUTION NO. 500

**A RESOLUTION ADOPTING AN AMENDED CITY OF KENNEDALE
PROCUREMENT CARD POLICY**

WHEREAS, the City Council allows the City to utilize cooperative purchasing programs with the approval of City Council; and.

WHEREAS, on January 24, 2003, the City Council adopted the document entitled, "Procurement Card Program Policy," a guide to aid in establishing a more efficient, cost-effective method of purchasing and paying for small dollar transactions, as well as high volume, repetitive purchases, and

WHEREAS, the City Council has reviewed the Procurement Card Program Policy.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE
CITY OF KENNEDALE, TEXAS:**

The City Council of the City of Kennedale, Texas hereby approves the Procurement Card Program Policy dated October 17, 2016, attached hereto as "Exhibit A."

PASSED, ADOPTED AND APPROVED by the City Council of the City of Kennedale, Texas, this the 17th day of October, 2016.

APPROVED:

Mayor, Brian Johnson

ATTEST:

City Secretary, Leslie Galloway

CITY OF KENNEDALE



PROCUREMENT CARD PROGRAM POLICY

ORIGINALLY ADOPTED BY CITY COUNCIL: JANUARY 24, 2003

PREFACE

The Procurement Card Program Policy aids in establishing a more efficient, cost-effective method of purchasing and paying for small dollar transactions, as well as high volume, repetitive purchases. The Procurement Card Program is as an alternative to the traditional purchasing process (departmental purchase orders) for supplies, materials and travel. Furthermore, the Procurement Card can be used with any supplier that accepts MasterCard as a form of payment.

If used to its potential, the Procurement Card Program will result in a significant reduction in the volume of purchase orders and related documentation, including invoices and checks. In addition, corresponding work processes associated with ordering and check writing will be eliminated.

It is our intent to bring forth this policy to Council for review at least annually. In order to demonstrate that review, it will be custom practice for the governing board of a municipality to adopt a resolution to make the review an official public record.

SUBSEQUENT REVIEW & ADOPTION

JUNE 10, 2010
NOVEMBER 17, 2011
OCTOBER 3, 2012
OCTOBER 1, 2013
OCTOBER 13, 2014
OCTOBER 19, 2015
OCTOBER 17, 2016

I. PURPOSE

The Procurement Card Program (herein referred to as the “Program”) is intended to streamline and simplify the Purchasing and Accounts Payable functions by eliminating waste and low value activities. The Procurement Card (herein referred to as the “Card”) is a tool that reduces transaction costs, facilitates timely acquisition of materials and supplies, automates data flow for accounting purposes and offers flexible controls to help ensure proper usage.

The Program is designed as an alternative to a variety of processes including petty cash, check requests and low dollar purchase orders. It is not intended to avoid or bypass appropriate procurement of payment procedures. Rather, the Program complements the existing processes available. The Card is a MasterCard credit card that is issued by JP Morgan Chase. Some minimal record keeping is essential to ensure the successful use of the Card. This is not an extraordinary requirement; standard payment policies require retention of receipts, etc.

This Procurement Card Program Policy provides information about the process, the types of purchases that can and cannot be made, records that must be maintained and reconciled for each cycle, and a variety of other program information.

Every time the Card is utilized, city funds are committed. Therefore, this is a responsibility that should not be taken lightly. **Each cardholder is responsible for all charges made to his/her specific card, and any intentional misuse or fraudulent abuse may result in disciplinary action, up to and including dismissal.**

The Card has no impact on personal credit. Although the Card lists an individual's name, the card is actually issued to the City of Kennedale.

II. DEFINITIONS

For the purpose of this policy the following definitions apply:

- A. Program Administrator – Individual who has a direct relationship with the Bank and is the City’s point of control for the Program, monitors all usage of the card, and is the point of contact for any cardholder questions or problems. All procurement card requests, issues and cancellations must go through the Program Administrator. The Program Administrator and his/her designated assistant are knowledgeable on all the procedures in the Procurement Card Program Policy and are responsible for ensuring all cardholders are properly trained in the use of the Card before it is issued. The Program Administrator will also report to the City Manager any Cardholder infractions or potential infractions. **For the purposes of this program, the Director of Finance will serve as the Program Administrator, with the Accounting Technician acting as the designated backup until such time that the City Manager chooses to designate differently.** The Director of Finance is responsible for developing written guidelines on accounting, cash handling, and other financial matters in relation to the Program.

- B. Approver – The Department Head or his/her designee is responsible for designating cardholders and approvers. The Department Head shall designate which employees will be issued a card, and with the guidance of the Finance Department, determine what transaction and merchant limits shall apply to the Card's use. The Department Head ensures that purchases are authorized and within City policies. Departments may implement more stringent internal authorization procedures that its cardholders must follow in order to make purchases with the Card. In addition, activity reports are available for additional review by the Department Head if so requested.
- C. Cardholder - Individual who has been issued the Card and who is authorized to make purchases in accordance with these procedures.
- D. Single Purchase/Transaction Limit - A dollar limitation of purchasing authority delegated to a Cardholder, which represents the maximum amount that can be charged to the Card for a single purchase or transaction. This dollar limit may vary from Cardholder to Cardholder.
- E. Cycle/Monthly Limit - A dollar amount limitation of purchasing authority delegated to a Cardholder, which represents the maximum amount that can be charged to the Card during a period of one calendar month. This dollar limit may vary from Cardholder to Cardholder.
- F. Vendor - A company from which a Cardholder is purchasing materials and/or equipment or services under the provisions of this procedure. Also referred to as supplier, merchant, etc.

III. PROCEDURES

- A. Obtaining The Card - Only full/part-time employees of the City of Kennedale are eligible to receive the Card. Contractors or temporary employees are **not** eligible, unless authorized by the City Manager.
 - 1) Department Head must request the Card via the *Procurement Card Enrollment Form (Appendix A)*.
 - 2) If needed, the Department Head may consult with the Program Administrator to determine appropriate transaction limits.
 - 3) The Program Administrator will request the issue of the Card from JPMorgan Chase.
 - 4) Upon receipt of the Card, the Program Administrator will conduct Cardholder training, and upon completion, the Cardholder will sign the *Procurement Cardholder Acknowledgement Form (Appendix B)*.

- 5) The new cardholder will also be instructed as to where he/she can find the Procurement Card Program Policy and Purchasing Policy for reference purposes.
- B. Activating The Card - The Cardholder must call (800) 316-6056 to activate the Card before using it.
- C. Authorized Use Of The Card - The Cardholder is responsible for the security of their Card, and the transactions made against it. When a Cardholder receives his/her Card, only that Cardholder is authorized to use that card. The Cardholder may make transactions on behalf of others in their Department. However, the Cardholder is responsible for all use of his/her Card. **At no time should the Cardholder loan or let other individuals utilize his/her card.**
- 1) The Card is to be used in the conduct of the City's business only. The use of the Card to acquire or purchase goods and services for other than official use of the City is fraudulent use and may subject the employee to disciplinary action, up to and including dismissal as specified in the City's Personnel Policy and/or criminal prosecution.
 - 2) The total value of a transaction shall not exceed a Cardholder's single purchase limit.
 - 3) The Cardholder will retain vendor's receipts and/or records of telephone, Internet, and/or mail orders and file for future reconciliation of the Card statement.
- D. Unauthorized Use Of The Card - The credit card shall **not** be utilized for any of the following:
- 1) Personal identification or purchases, to include the payment of spouse/family expenses incurred while traveling. Only City business expenses are allowable, and the Cardholder should pay personal expenses separately.
 - 2) A purchase that exceeds the Cardholder's single and/or monthly purchase limits;
 - 3) Cash refunds and advances;
 - a. When an item is returned, the vendor shall issue the Cardholder a credit, which should appear on a subsequent statement. **Under no circumstances should the Cardholder accept cash in lieu of a credit to the credit card account. However, should cash be received, a Cardholder must return it to the City. Otherwise, the City is authorized to deduct any applicable charges from the payroll of the employee if not otherwise reimbursed.**
 - 4) Any purchase of goods/services or at a merchant type not considered prudent or of good judgment;

- 5) Fuel and/or maintenance purchases on any **personal** vehicles whether for city purpose or not (city owned vehicles are authorized);
 - 6) Alcohol or liquor of any kind;
 - 7) Separate, sequential, and component purchases or any transaction made with the intent to circumvent the City's Purchasing Policy or state law;
 - 8) Any other purchase specifically excluded in the City's Purchasing Policy.
- E. Cardholder Revocation - The Card is subject to revocation at any time at the discretion of the Department Head. The Program Administrator, if not the Director of Finance, may also recommend to the Director of Finance and Department Head that the Card be revoked upon indication of any violation of the Procurement Card Program Policy. When a Card is revoked, changes are made on-line and take effect immediately. The Program Administrator is further authorized to temporarily suspend use of the Card via electronic methods if unauthorized use is discovered and such use poses a threat to internal financial controls.
- F. Cardholder Separation – Prior to separation from the City of Kennedale, the Cardholder shall surrender the Card and all current credit card receipts and documentation to his/her Approver. Upon receipt, the Approver will follow the steps outlined under Section VI: Cardholder Statement Review & Payment Submission, and then forward the Card to the Program Administrator to be destroyed.

IV. CARDHOLDER LIMITS

As part of a Cardholder's application, the Department Head will identify which levels of transaction and cycle spending limits best accommodates the department and City's business requirements. **Suggested levels** for limits are outlined below; however, selection may vary based on particular need or function.

<u>Position</u>	<u>Single Transaction Limit</u>	<u>Monthly Cycle Limit</u>
Line Staff	\$500	\$1,000
Supervisor	\$1000	\$2,500
Dept. Head	\$3,000	\$5,000
City Manager	\$3,000	\$25,000

V. CARDHOLDER PURCHASES

- A. Sales Tax - As a tax-exempt government agency, the City of Kennedale does **not** pay sales tax on applicable items. The City's sales tax identification number is provided on the face of the Card, and Cardholders can request a copy of the City's tax exemption certificate

from Accounts Payable should it be needed. Cardholders are responsible for ensuring that the vendor does not include sales tax in the transaction, unless an item is subject to sales tax. **If tax is included in error, the Cardholder may be responsible for reimbursing the tax amount to the City if it is not recovered from the vendor.** Contact Accounts Payable for questions in regards to which purchases are subject to tax.

- B. Returns - Each Cardholder is responsible for coordinating returns with the vendor and ensuring a proper credit slip is obtained. Credit shall be issued to the Cardholder account. - **Under no circumstances should the Cardholder accept cash in lieu of a credit to the credit card account. However, should cash be received, a Cardholder must return it to the City. Otherwise, the City is authorized to deduct any applicable charges from the payroll of the employee if not otherwise reimbursed.**
- C. Point Of Sale Decline - Should a Cardholder be declined at the point of sale for any reason, please contact either the JP Morgan Chase Bank Customer Service Center 24 hours a day, 7 days a week at (800) 316-6056 or the Program Administrator. Every effort will be made to determine why the transaction was declined.
- D. Restricted Vendors - The Program may restrict certain types of vendors based on their use. The restriction of vendors is accomplished by the Program Director upon the Cardholder's application; therefore, if you present the Card for payment to any of these "opted-out" vendors, the authorization request will be declined. Should an authorization request be declined, please contact either the JP Morgan Chase Bank Customer Service Center 24 hours a day, 7 days a week at (800) 316-6056 or the Program Administrator. Once it is determined that the authorization request was denied due to vendor type/use restriction, the Program Administrator will work with the Cardholder to ascertain whether or not the restriction should remain or be lifted.
- E. Vendor Refusal Of Card - Vendors are to be encouraged to become involved in the Program so that Cardholders can leverage their purchasing efforts most effectively. Vendors may contact their local bank or financial institution to become credit card capable. For those vendors that are unwilling to participate in the Program, alternative sources should be found. Cardholders may also feel free to make contact with any vendors he/she would like to begin accepting the Card.
- F. Errors & Disputes - In the case of an error, first contact the vendor directly and try to reach an agreement. Most disputes can be resolved in this manner. If you are unable to reach an agreement with the vendor, complete a *Procurement Card Transaction Dispute Form* and send it to JP Morgan Chase Bank. All disputes must be submitted in writing to JP Morgan Chase Bank within **sixty (60) days** of the statement date via the following:
 - 1) Fax (847) 931-8861; or

2) Mail to: JP Morgan Chase Commercial Card, Attention: Disputes Department, PO Box 2015, Elgin, Illinois 60121.

- G. Lost Or Stolen Cards - If a card is lost or stolen, **both** JP Morgan Chase Bank's Customer Service and the Program Administrator should be notified immediately. The Customer Service Center is available 24 hours a day, 7 days a week and can be contacted at (800) 316-6056. A *Procurement Card Lost/Stolen Card Notification Form* should also be completed as soon as possible and submitted to the Program Administrator. A new card shall be promptly issued to the Cardholder after the reported loss or theft. A card that is subsequently found by the Cardholder after being reported lost shall be destroyed.

VI. CARDHOLDER STATEMENT REVIEW & PAYMENT SUBMISSION

Each Cardholder is responsible for the accurate review of his/her monthly statement, as well as the timely submission to Accounts Payable with all appropriate signatures, supporting receipts and documentation to pay his/her bill.

Monthly, each Cardholder will receive a statement(s) from Accounts Payable identifying each transaction made against the Card during the prior billing cycle. While the cycle cut-off date may vary, it generally occurs during the **first week of every month (5th)**. The City of Kennedale is required to pay JP Morgan Chase Bank in full each month **no later than the 30th calendar day after statement close** for all purchases made during the prior billing cycle. Therefore, please pay specific attention to the request deadline stipulated by Accounts Payable upon initial dissemination of the statement.

The statement (with attached receipts/documentation) must be reconciled against Cardholder retained receipts/documentation, signed by the Cardholder as proof of reconciliation, and then forwarded to the Department Head or his/her designee for approval.

Always obtain a receipt when using the Card. Furthermore, detailed receipts must be presented for all meal reimbursements (i.e., credit card charge slip will **not** be considered adequate documentation). Alcoholic beverage purchases are strictly prohibited from card usage, and the purpose of the business meal, and the names of those in attendance must also be indicated.

If the Cardholder misplaces or loses a receipt or is unable to provide adequate details concerning a purchase, a *Missing Or Lost Receipt Form* must accompany the Cardholder's request for payment. Recurring instances of misplaced or lost receipts may result in the revocation of Cardholder privileges. Furthermore, the Cardholder will be responsible for reimbursing the City of Kennedale for all applicable charges, and the City is authorized to deduct any applicable charges from the payroll of the Cardholder if not otherwise reimbursed.

NOTE: During the month of September, purchases may be restricted to facilitate the Fiscal Year end closing. It is imperative that careful planning is done to ensure that appropriate levels of supplies are on hand to last until the beginning of the new Fiscal Year.

VII. CARDHOLDER RECORD KEEPING

- A. Any Means - Whenever a credit card purchase is made, either over-the-counter or by other means, documentation shall be obtained as proof of purchase. Such documentation will be used to verify the purchases listed on the Cardholder's monthly statement of account.
- B. Over-the-Counter - When the purchase is made over-the-counter, the Cardholder shall retain the invoice and "customer copy" of the charge receipt. The Cardholder is responsible for checking that the vendor lists the quantity and fully describes the item(s) prior to the Cardholder signing the slip.
- C. Internet - When the purchase is made over the Internet, the Cardholder shall print a copy of the receipt and order confirmation before exiting the site.
- D. Telephone - When a purchase is made over the telephone, the Cardholder shall have the vendor fax them a copy of the receipt.
- E. Mail - When the purchase is made by mail, the Cardholder shall retain all confirmations and shipping documentation.

VIII. CARDHOLDER SECURITY

It is the Cardholder's responsibility to safeguard the Card and account number to the same degree that a Cardholder safeguards his/her personal credit information. A violation of this trust may result in that Cardholder having his/her card withdrawn and possible disciplinary action.

If a card is lost or stolen, **both** JP Morgan Chase Bank's Customer Service and the Program Administrator should be notified immediately. The Customer Service Center is available 24 hours a day, 7 days a week and can be contacted at (800) 316-6056. A *Procurement Card Lost/Stolen Card Notification Form* should also be completed as soon as possible and submitted to the Program Administrator. A new card shall be promptly issued to the Cardholder after the reported loss or theft. A card that is subsequently found by the Cardholder after being reported lost shall be destroyed.

A Cardholder may have two (2) cards replaced due to loss. Any additional requests may result in the revocation of Cardholder privileges. If a Cardholder is determined to be negligent in regards to security, replacement cards will not be issued.

IX. JP MORGAN CHASE

- A. Payment - The Card is a corporate pay arrangement with JP Morgan Chase. Account balances will be **paid in full each month no later than the 30th calendar day after statement close**. The Program Administrator will receive a centralized statement detailing all Cardholder activity. A copy of the centralized statement will be provided to each applicable Cardholder to review, complete the appropriate form, obtain appropriate signature(s) and return all attached receipts and documentation. Accounts Payable will designate a pay request deadline to Cardholders upon initial dissemination of the centralized statement in order to ensure payment will be made to JP Morgan Chase as agreed. Cardholders should **not** receive a separate cardholder statement directly from JP Morgan Chase. Should this occur, please disregard the statement and notify Accounts Payable.
- B. Audit – All cardholder activity is subject to audit by Corporate Audit, the Program Administrator, his or her designee, Approvers, and any other appropriate City of Kennedale personnel or outside audit firm. Audits help ensure adherence to the Program's policies and procedures.
- C. Customer Service – There are several methods or avenues available for assistance.
- 1) For Individual Cardholder: The Program is serviced using a team approach with JP Morgan Chase Bank's Customer Service Center, which can be reached at (800) 316-6056. This center is available 24 hours a day, 7 days a week to assist the Cardholder with general questions about the procurement card account. If a card is lost or stolen, **both** Customer Service and the Program Administrator should be notified immediately. A *Procurement Card Lost/Stolen Notification* Form should also be completed as soon as possible and submitted to the Program Administrator.
 - 2) For Program Administrator Only: The Program Coordinator Service Team for the State of Texas is a specialized group that provides service strictly to Program Administrators and helps with day-to-day activities and updating of Merchant Account Code (MAC) authorizations. This group can be contacted at (888) 508-9758, (888) 297-0785 fax, or email ccs-public-sector@jpmchase.com. The Program Coordinators are available from 7:00 AM to 6:00 PM CST. When calling the Program Coordinators, please be prepared to provide a Company Number, Agent Number and Security Identifier. **Individual Cardholders should not utilize this phone number.**
 - 3) For Program Administrator Only: Client Application Support provides assistance with the Smart Data On-Line software application. This group answers questions about functionality, resets Program Administrator passwords and helps trouble shoot any other application related issues. Client Application Support can be contacted at (877) 967-1100, Option 2.

X. ANNUAL REVIEW

The Director of Finance shall, at a minimum, submit proposed amendments of this policy to the City Council annually.



CITY OF KENNEDALE
PROCUREMENT CARD ENROLLMENT FORM
(Appendix A)

I. EMPLOYEE/CARDHOLDER INFORMATION

Name: _____ Social Security (Last 4 Only): _____

Department/Division: _____ Mother's Maiden Name: _____

Date of Birth: _____ Office Phone: _____

II. CARD LIMITS: MAXIMUM PURCHASE LIMITS: Please note that these are "suggested" levels based on position; however, selection may vary based on particular need or function.

<u>Position</u>	<u>Single Transaction Limit</u>	<u>Monthly Cycle Limit</u>
Line Staff	\$500	\$1,000
Supervisor	\$1000	\$2,500
Dept Head	\$3,000	\$5,000
City Manager	\$3,000	\$25,000

Single Transaction Limit Requested: _____

Monthly Cycle Limit Requested: _____

Department Head Name: _____

Department Head Signature: _____ Date: _____

II. CARD ORDER & RECEIPT

Date Ordered: _____ Who Ordered: _____

Date Received: _____

Cardholder's Name as it Appears on the Card: _____

Card Number: _____ Expiration Date: _____



CITY OF KENNEDALE
PROCUREMENT CARDHOLDER ACKNOWLEDGEMENT FORM
(Appendix B)

I understand that the general use of the City of Kennedale credit card for small purchases is a standard procedure of the City.

- 1) I will be expected to use the credit card issued to me as directed by the provisions of the City's Procurement Card Program Policy.
- 2) I will not permit another person to use the credit card issued to me. Any such purchases made with my card will be considered to be made by me and my responsibility.
- 3) I will be responsible for the safe keeping of the credit card issued to me and if lost or stolen, I will report its loss immediately to **both** JP Morgan Chase Bank's Customer Service and the Program Administrator (Finance Department).
- 4) I understand that my personal credit will not be affected by any use of the City of Kennedale's credit card.
- 5) By accepting the Card, I recognize that I may be subject to periodic internal control reviews and audits designed to protect the interests of the City, and I agree to comply with these reviews and audits.
- 6) In the event of termination of employment whether for retirement, voluntary separation, resignation or dismissal, I also agree to surrender and cease use of the Card. In addition, I must surrender and cease use of the Card in the event of transfer or relocation.
- 7) I may also be asked to surrender the Card at any time deemed necessary by management.
- 8) The use of a City credit card to acquire or purchase goods and services for other than the official use of the City is fraudulent use. An employee guilty of fraudulent use will be subject to disciplinary action, up to and including dismissal.
- 9) I agree that any reimbursement owed the City may be deducted from my wages as outlined in the City Procurement Card Program Policy.

By signing below, I acknowledge that I have read and agree to the terms and conditions of this document, as well as the City of Kennedale's Procurement Card Program Policy.

Employee Name: _____

Employee Signature: _____

Date: _____



CITY OF KENNEDALE
PROCUREMENT CARD LOST/STOLEN/FRAUD NOTIFICATION FORM
(Appendix C)

Cardholder's Name: _____

Card Number: _____

Card Was (Please Check One):

_____ Lost
_____ Stolen
_____ Other (Describe): _____

Describe How Card Was Lost/Stolen: _____

Was Police Report Filed (Circle): Yes or No

If Yes: Department: _____

Report Number: _____

Credit Card Company Notified: Date: _____

Time: _____

Cardholder's Signature: _____

Date: _____

Finance Director's Signature: _____

Date: _____



CITY OF KENNEDALE
PROCUREMENT CARD TRANSACTION DISPUTE FORM
(Appendix D)

Cardholder's Name: _____ Card Number: _____

Cardholder's Signature: _____ Date: _____

Vendor Name: _____

Statement Date: _____ Transaction Date: _____

Transaction #: _____ Posting Date: _____

Amount Disputed: _____

_____ There is a difference in the amount I authorized, and the amount I was billed (a copy of your charge must be attached).

_____ I only transacted one charge and I was previously billed for it (date of previous charge _____).

_____ The above transaction is mine but I am disputing the transaction (please state your reasons why in detail).

_____ I do not recognize the above transaction.

_____ I have received a credit voucher for the above transaction, but it has not yet appeared on my account (a copy of the credit voucher must be attached).

_____ My account has been charged for the above transaction, but I have not received the merchandise. The details of my attempt to resolve the dispute with the vendor and the vendor's response are indicated below.

Attach the completed form to your monthly statement for review and approval by your Approving Supervisor and Accounts Payable.

Staff Report to the Honorable Mayor and City Council

Date: October 17, 2016

Agenda Item No: REQUIRED APPROVAL ITEMS (CONSENT) - J.

I. Subject:

Consider Resolution 501 adopting an amended City of Kennedale Investment Policy

II. Originated by:

Finance Director, Director of Finance & IT

III. Summary:

State law (Government Code, Chapter 2256: Public Funds Investment Act) requires the Council to review the City Investment Policy at least annually. Furthermore, it is also the recommendation of our independent auditors that our main policies be reviewed by the Director of Finance for updates in relation to our internal control practices and submitted to Council at least annually. In order to demonstrate our review, it is custom practice for the governing board of a municipality to adopt a resolution to make the review an official public record.

There are no recommended changes at this time.

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

Approve

VII. Alternative Actions:

VIII. Attachments:

1.	Resolution 501	Resolution 501.pdf
2.	Exhibit A - Investment Policy	20161017 Investment Policy.pdf

RESOLUTION NO. 501

**A RESOLUTION ADOPTING AN AMENDED CITY OF KENNEDALE
INVESTMENT POLICY**

WHEREAS, on September 13, 2001, City Council adopted the document entitled, “Investment Policy,” a framework that provides the guidelines by which the City of Kennedale will maintain the minimum amount of cash in its bank accounts to meet daily needs, and to provide protection for its principal and liquidity while receiving the highest yield possible from investing all temporary excess cash; and

WHEREAS, this serves to satisfy the statutory requirements of defining and adopting a formal investment policy and is authorized by the Public Funds Investment Act as amended; and

WHEREAS, the City Council has reviewed the City’s Investment Policy.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE
CITY OF KENNEDALE, TEXAS:**

The City Council of the City of Kennedale, Texas hereby approves the amended Investment Policy dated October 17, 2016, attached hereto as “Exhibit A.”

PASSED, ADOPTED AND APPROVED by the City Council of the City of Kennedale, Texas, this the 17th day of October, 2016.

APPROVED:

Mayor, Brian Johnson

ATTEST:

City Secretary, Leslie Galloway

CITY OF KENNEDALE



INVESTMENT POLICY

ORIGINALLY ADOPTED BY CITY COUNCIL: SEPTEMBER 13, 2001

PREFACE

State and local public laws govern the investment process for City funds. Laws cannot ensure that public officials manage public funds in a disciplined and prudent manner. The actions of public officials responsible for investing public funds must be guided by knowledge, skills, systems, policies, procedures and confidence that can be described only as professional discipline.

It is the policy of the City of Kennedale, that giving due regard to safety and risk of investments, all available funds shall be invested in conformance with these legal and administrative guidelines. All City funds shall be invested, to the maximum extent possible, at the highest rates obtainable at the time of the investment.

Effective cash management is recognized as essential to good fiscal management. An aggressive cash management and investment policy will be pursued. To that end, investment interest will be used as a viable and material revenue source for all City funds. Earnings from investments will be used in a manner that will best serve the interest of the City of Kennedale.

The City's portfolio shall be designed and managed in a manner responsive to the public trust and consistent with state and local law.

SUBSEQUENT REVIEW & ADOPTION

SEPTEMBER 12, 2002
OCTOBER 9, 2003
SEPTEMBER 9, 2004
SEPTEMBER 13, 2005
SEPTEMBER 14, 2006
SEPTEMBER 13, 2007
NOVEMBER 13, 2008
NOVEMBER 5, 2009
NOVEMBER 17, 2011
OCTOBER 3, 2012
OCTOBER 1, 2013
OCTOBER 13, 2014
OCTOBER 19, 2015
OCTOBER 17, 2016

I. PURPOSE

Chapter 2256 of the Government Code, as amended from time to time by the Texas State Legislature (“Public Funds Investment Act”) requires each city to adopt rules governing its investment practices and to define the authority of the investment official. The Investment Policy addresses the methods, procedures and practices which must be exercised to ensure effective and prudent fiscal management of the City of Kennedale funds.

II. SCOPE

The Investment Policy applies to the investment and management of all funds under direct authority of the City of Kennedale.

A. These funds are accounted for in the City’s Annual Financial Report (CAFR) and include the following:

- 1) General Fund;
- 2) Special Revenue Funds;
- 3) Capital Project Funds;
- 4) Enterprise/Proprietary Funds;
- 5) Trust and Agency Funds, to the extent not required by law or existing contract to be kept segregated and managed separately;
- 6) Debt Service Funds, including reserves and sinking funds to the extent not required by law or existing contract to be kept segregated and managed separately; and
- 7) Any new fund created by the City, unless specifically exempted from this policy by the City or by law.

This investment policy shall apply to all transactions involving the financial assets and related activity of all the foregoing funds.

B. This policy excludes:

- 1) Employee Retirement and Pension Funds administered or sponsored by the City.

2) Defeased bond funds held in trust escrow accounts.

- C. Review & Amendment: The City Council is required by state statute and by this investment policy to review this investment policy and investment strategies not less than annually and to adopt a resolution stating the review has been completed and recording any changes made to either the policy or strategy statements.

III. PRUDENCE

Investments shall be made with judgment and care, under prevailing circumstances, that a person of prudence, discretion, and intelligence would exercise in the management of the person's own affairs, not for speculation, but for investment, considering the probable safety of capital and the probable income to be derived.

In determining whether an investment official has exercised prudence with respect to an investment decision, the determination shall be made taking into consideration:

- 1) the investment of all funds, or funds under the entity's control, over which the officer had responsibility rather than a consideration as to the prudence of a single investment; and
- 2) whether the investment decision was consistent with the written investment policy of the City.

All participants in the investment program will seek to act responsibly as custodians of the public trust. Investment officials will avoid any transaction that might impair public confidence in the City's ability to govern effectively. Investment officials shall recognize that the investment portfolio is subject to public review and evaluation. The overall program shall be designed and managed with a degree of professionalism which is worthy of the public trust. Nevertheless, the City recognizes that in a marketable, diversified portfolio, occasional measured losses are inevitable and must be considered within the context of the overall portfolio's investment rate of return.

Investment officials, acting in accordance with written procedures and exercising due diligence, shall not be held personally responsible for market price changes, provided that these deviations from expectations are reported immediately to the Director of Finance, the City Manager and the City Council of the City of Kennedale, and that appropriate action is taken by the investment officials and their oversight managers to control adverse developments.

IV. OBJECTIVES

- A. Preservation & Safety of Principal: Preservation of capital is the foremost objective of the City. Each investment transaction shall seek first to ensure that capital losses are avoided, whether the loss occurs from the default of a security or from erosion of market value.
- B. Liquidity: The City's investment portfolio will remain sufficiently liquid to enable the City to meet all operating requirements which can be reasonably anticipated. Liquidity will be achieved by matching investment maturities with forecasted cash flow requirements and by investing in securities with active secondary markets.
- C. Yield: The investment portfolio of the City shall be designed to meet or exceed the average rate of return on 91-day U.S. treasury bills throughout budgetary and economic cycles, taking into account the City's investment risk constraints and the cash flow characteristics of the portfolio. Legal constraints on debt proceeds that are not exempt from federal arbitrage regulations are limited to the arbitrage yield of the debt obligation. Investment officials will seek to maximize the yield of these funds in the same manner as all other City funds. However, if the yield achieved by the City is higher than the arbitrage yield, positive arbitrage income will be averaged over a five year period, netted against any negative arbitrage income and the net amount shall be rebated to the federal government as required by federal regulations.

V. RESPONSIBILITY & CONTROL

- A. Delegation: Management responsibility to establish written procedures for the operation of the investment program consistent with this investment policy has been assigned to the Director of Finance by the City Manager. Such procedures shall include explicit delegation of authority to persons responsible for the daily cash management operation, the execution of investment transactions, overall portfolio management and investment reporting. The Director of Finance may delegate the daily investment responsibilities to either an internal investment official or an external investment advisor in combination with an internal investment official. The Director of Finance and/or his representative(s) will be limited by conformance with all federal regulations, ordinances, and the statements of investment strategy.
- B. Subordinates: All persons involved in investment activities shall be referred to as "Investment Officials." No person shall engage in an investment transaction, except as provided under the terms of this policy, the procedures established by the Director of Finance and the explicit authorization by the City Manager to withdraw, transfer, deposit and invest the City's funds. The Director of Finance shall be responsible for all transactions undertaken, and shall establish a system of controls to regulate the activities of subordinate Investment Officials.

- C. Internal Controls: Internal controls shall be designed to prevent losses of public funds arising from fraud, employee error, misrepresentation by third parties, unanticipated changes in financial markets, or imprudent actions by investment officials. Controls deemed most important would include: control of collusion, separation of duties, third-party custodial safekeeping, avoidance of bearer-form securities, clear delegation of authority, specific limitations regarding securities losses and remedial action, written confirmation of telephone transactions, minimizing the number of authorized investment officials, and documentation of and rationale for investment transactions.

In conjunction with the annual independent audit, a compliance audit of management controls on investments and adherence to the Investment Policy and the Investment Strategy may be performed by the City's independent auditor.

- D. Ethics & Conflicts of Interest: An investment officer of the City who has a personal business relationship with a business organization offering to engage in an investment transaction with the City shall file a statement disclosing that personal business interest. An investment officer who is related within the second degree of affinity or consanguinity to an individual seeking to sell an investment to the City shall file a statement disclosing that relationship with the Texas Ethics Commission and the City Council. For purposes of this section, an investment officer has a personal business relationship with a business organization if:

- 1) the investment officer owns 10 percent or more of the voting stock or shares of the business organization or owns \$5,000 or more of the fair market value of the business organization;
- 2) funds received by the investment officer from the business organization exceed 10 percent of the investment officer's gross income for the previous year; or
- 3) the investment officer has acquired from the business organization during the previous year investments with a book value of \$2,500 or more for the personal account of the investment officer.

Investment officials of the City shall refrain from personal and business activities involving any of the City's custodians, depositories, broker/dealers or investment advisors which may influence the officer's ability to conduct his duties in an unbiased manner. Investment officials will not utilize investment advice concerning specific securities or classes of securities obtained in the transaction of the City's business for personal investment decisions, will in all respects subordinate their personal investment transactions to those of the City, particularly with regard to the timing of purchase and sales and will keep all investment advice obtained on behalf of the City and all transactions contemplated and completed by the City confidential, except when disclosure is required by law.

- E. Investment Training Requirements: The Director of Finance and the Investment officials shall attend at least one ten hour training session relating to their investment responsibilities within 12 months after assuming their duties. In addition to this ten hour requirement, each investment officer shall receive not less than ten hours of instruction in their investment responsibilities at least once during each two year period that begins on October 1st and consists of the two consecutive fiscal years after that date. The investment training session shall be provided by an independent source. For purposes of this policy, an “independent source” from which investment training shall be obtained shall include a professional organization, an institute of higher learning or any other sponsor other than a Business Organization with whom the City of Kennedale may engage in an investment transaction. Such training shall include education in investment controls, credit risk, market risk, investment strategies, and compliance with investment laws, including the Texas State Public Funds Investment Act.

VI. AUTHORIZED INVESTMENTS

- A. Obligations, including letters of credit, of the United States or its agencies and instrumentalities.
- B. Direct obligations of the State of Texas or its agencies and instrumentalities.
- C. Other obligations, the principal and interest of which are unconditionally guaranteed or insured by, the State of Texas, or the United States or its instrumentalities.
- D. Obligations of states, agencies, cities, and other political subdivisions of any state rated as to investment quality by a nationally recognized investment rating firm not less than “A” or its equivalent.
- E. Joint Investment Pools of political subdivisions in the State of Texas which invest in instruments and follow practices allowed by current law. A pool must be continuously rated no lower than AAA or AAA-m or at an equivalent rating by at least one nationally recognized rating service.
- F. Certificates of Deposit issued by a depository institution that has its main office or branch office in Texas;
 - 1) and such Certificates of Deposit are:
 - guaranteed or insured by the Federal Deposit Insurance Corporation or the National Credit Union Share Insurance Fund or their successors; or
 - secured by obligations described in Article VI, sections A through D above.

- 2) or such depository institution contractually agrees to place the funds in federally insured depository institutions in accordance with the conditions prescribed in Section 2256.010(b) of the Government Code (Public Funds Investment Act) as amended.

Certificates of Deposit brokered by an authorized broker/dealer that has its main office or a branch office in Texas who contractually agrees to place the funds in federally insured depository institutions in accordance with the conditions prescribed in Section 2256.010(b) of the Government Code (Public Funds Investment Act) as amended.

- G. Fully collateralized repurchase or reverse repurchase agreements, including flexible repurchase agreements (flex repo), with a defined termination date secured by a combination of cash and obligations of the United States or its agencies and instrumentalities pledged to the City held in the City's name by a third party selected by the City. Repurchase agreements must be purchased through a primary government securities dealer, as defined by the Federal Reserve, or a financial institution doing business in Texas. The securities received for repurchase agreements must have a market value greater than or equal to 103 percent at the time funds are disbursed. All transactions shall be governed by a Master Repurchase Agreement between the City and the primary government securities dealer or financial institution initiating Repurchase Agreement transactions.

The term of any reverse security repurchase agreement may not exceed 90 days after the date the reverse security repurchase agreement is delivered. Money received under the terms of a reverse security repurchase agreement shall be used to acquire additional authorized investments, but the term of the authorized investments acquired must mature not later than the expiration date stated in the reverse security repurchase agreement.

- H. No-load money market mutual funds if the mutual fund:

- 1) is registered with and regulated by the Securities and Exchange Commission;
- 2) has a dollar-weighted average stated maturity of 90 days or fewer; and
- 3) includes in its investment objectives the maintenance of a stable net asset value of one dollar for each share.

- I. Investment instruments not authorized for purchase by the City of Kennedale include the following:

- 1) Banker's Acceptances;

- 2) "Bond" Mutual Funds;
 - 3) Collateralized Mortgage Obligations of any type; and
 - 4) Commercial Paper, except that the City can invest in local government investment pools and money market mutual funds that have commercial paper as authorized investments. A local government investment pool or money market mutual fund that invests in commercial paper must meet the requirements of Article VI, Sections E and H above.
- J. If an investment in the City's portfolio becomes an unauthorized investment due to changes in the Investment Policy or the Public Funds Investment Act, or an authorized investment is rated in a way that causes it to become an unauthorized investment, the investment officials of the City shall review the investment and determine whether it would be more prudent to hold the investment until its maturity, or to redeem the investment. Officials shall consider the time remaining until maturity of the investment, the quality of the investment, and the quality and amounts of any collateral which may be securing the investment in determining the appropriate steps to take.

VII. PORTFOLIO AND INVESTMENT ASSET PARAMETERS

- A. Bidding Process for Investments: It is the policy of the City to require competitive bidding for all investment transactions (securities and bank C.D.'s) except for:
- 1) transactions with money market mutual funds and local government investment pools (which are deemed to be made at prevailing market rates); and
 - 2) treasury and agency securities purchased at issue through an approved broker/dealer.

At least three (3) bids or offers must be solicited for all other investment transactions. In a situation where the exact security being offered is not offered by other dealers, offers on the closest comparable investment may be used to establish a fair market price of the security. Security swaps are allowed, as long as maturity extensions, credit quality changes and profits or losses taken are within the other guidelines set forth in this policy.

- B. Maximum Maturities: The City of Kennedale will manage its investments to meet anticipated cash flow requirements. Unless matched to a specific cash flow, the City will not directly invest in securities maturing more than five (5) years from the date of purchase.

- C. Maximum Dollar-Weighted Average Maturity: Under most market conditions, the composite portfolio will be managed to achieve a one-year or less dollar-weighted average maturity. However, under certain market conditions investment officials may need to shorten or lengthen the average life or duration of the portfolio to protect the City. The maximum dollar-weighted average maturity based on the stated final maturity, authorized by this investment policy for the composite portfolio of the City shall be three (3) years.
- D. Diversification: The allocation of assets in the portfolios should be flexible depending upon the outlook for the economy and the securities markets. In establishing specific diversification strategies, the following general policies and constraints shall apply.
- 1) Portfolio maturities and call dates shall be staggered in a way that avoids undue concentration of assets in a specific sector. Maturities shall be selected which provide for stability of income and reasonable liquidity.
 - 2) To attain sufficient liquidity, the City shall schedule the maturity of its investments to coincide with known disbursements. Risk of market price volatility shall be controlled through maturity diversification such that aggregate realized price losses on instruments with maturities exceeding one (1) year shall not be greater than coupon interest and investment income received from the balance of the portfolio.
 - 3) The following maximum limits, by instrument, are established for the City's total portfolio:
 - Certificates of Deposit.....25%
 - Local Government Investment Pools (*See D.(5) below*).....100%
 - Money Market Mutual Funds (*See D.(5) below*).....100%
 - Obligations of states, agencies, cities & other political subdivisions of any state.....25%
 - Repurchase Agreements (*See D. (4) below*).....50%
 - State of Texas Obligations & Agencies.....25%
 - US Treasury & US Agency Callables.....25%
 - US Government Agencies & Instrumentalities.....100%
 - US Treasury Notes/Bills.....100%
 - 4) The City shall not invest more than 50% of the investment portfolio in repurchase agreements, excluding bond proceeds and reserves.
 - 5) The investment committee shall review diversification strategies and establish or confirm guidelines on at least an annual basis regarding the percentages of the total portfolio that may be invested in securities other than U.S. Government Obligations. The investment committee shall review quarterly

investment reports and evaluate the probability of market and default risk in various investment sectors as part of its consideration.

VIII. AUTHORIZED BROKER/DEALERS & FINANCIAL INSTITUTIONS

- A. Investment officials will maintain a list of financial institutions and broker/dealers selected by credit worthiness, who are authorized to provide investment services to the City. These firms may include:

- 1) all primary government securities dealers; and
- 2) those regional broker/dealers who qualify under Securities and Exchange Commission Rule 15C3-1(uniform net capital rule), and who meet other financial credit criteria standards in the industry.

The investment officials may select up to six (6) firms from the approved list to conduct a portion of the daily City investment business. These firms will be selected based on their competitiveness, participation in agency selling groups and the experience and background of the salesperson handling the account. The approved broker/dealer list will be reviewed and approved along with this investment policy at least annually by the investment committee.

- B. All financial institutions and broker/dealers who desire to become qualified bidders for investment transactions must supply the investment officials with the following:

- 1) Audited financial statements;
- 2) Proof of National Association of Securities Dealers (N.A.S.D.) certification, unless it is a bank;
- 3) Resumes of all sales representatives who will represent the financial institution or broker/dealer firm in dealings with the City; and
- 4) An executed written instrument, by the qualified representative, in a form acceptable to the City and the business organization substantially to the effect that the business organization has received and reviewed the investment policy of the City and acknowledges that the business organization has implemented reasonable procedures and controls in an effort to preclude investment transactions conducted between the City and the organization that are not authorized by the City's investment policy, except to the extent that this authorization is dependent on an analysis of the makeup of the City's entire portfolio or requires an interpretation of subjective investment standards.

IX. SAFEKEEPING & CUSTODY OF INVESTMENT ASSETS

All security transactions, including collateral for repurchase agreements entered into by the City shall be conducted using the delivery vs. payment (DVP) basis. That is, funds shall not be wired or paid until verification has been made that the correct security was received by the safekeeping bank. The only exceptions to DVP settlement shall be wire transactions for money market funds and government investment pools. The safekeeping or custody bank is responsible for matching up instructions from the City's investment officials on an investment settlement with what is wired from the broker/dealer, prior to releasing the City's designated funds for a given purchase. The security shall be held in the name of the City or held on behalf of the City in a bank nominee name. Securities will be held by a third party custodian designated by the investment officials and evidenced by safekeeping receipts or statements. The safekeeping bank's records shall assure the notation of the City's ownership of or explicit claim on the securities. The original copy of all safekeeping receipts shall be delivered to the City. A safekeeping agreement must be in place which clearly defines the responsibilities of the safekeeping bank.

X. COLLATERAL

The City's depository bank shall comply with Chapter 2257 of the Government Code, Collateral for Public Funds, as required in the City's bank depository contract.

- A. Market Value: The Market Value of pledged Collateral must be equal to or greater than 102% of the principal and accrued interest for cash balances in excess of the Federal Deposit Insurance Corporation (FDIC) or National Credit Union Share Insurance Fund (NCUSIF) insurance coverage. The Federal Reserve Bank and the Federal Home Loan Bank are designated as custodial agents for collateral. An authorized City representative will approve and release all pledged collateral. The securities comprising the collateral will be marked to market on a monthly basis using quotes by a recognized market pricing service quoted on the valuation date, and the City will be sent reports monthly.
- B. Collateral Substitution: Collateralized investments often require substitution of collateral. The Safekeeping bank must contact the City for approval and settlement. The substitution will be approved if its value is equal to or greater than the required collateral value.
- C. Collateral Reduction: Should the collateral's market value exceed the required amount, the Safekeeping bank may request approval from the City to reduce Collateral. Collateral reductions may be permitted only if the collateral's market value exceeds the required amount.

- D Letters of Credit: Letters of Credit, as defined in Article VI (A), are acceptable collateral for Certificates of Deposit. Upon the discretion of the City, a Letter of Credit can be acceptable collateral for City funds held by the City's bank depository.

XI. INVESTMENT REPORTS

- A. Reporting Requirements: The investment officials shall prepare a quarterly investment report in compliance with section 2256.023 of the Public Funds Investment Act of the State of Texas. The report shall be submitted to the City Council and the Investment Committee within 30 days following the end of the quarter.
- B. Investment Records: An investment official designated by the City Manager shall be responsible for the recording of investment transactions and the maintenance of the investment records with reconciliation of the accounting records and of investments carried out by an accountant. Information to maintain the investment program and the reporting requirements, including pricing or marking to market the portfolio, may be derived from various sources such as: broker/dealer research reports, newspapers, financial on-line market quotes, direct communication with broker/dealers, market pricing services, investment software for maintenance of portfolio records, spreadsheet software, or external financial consulting services relating to investments.
- C. Auditor Review: The City's independent external auditor may formally review the quarterly investment reports annually to ensure compliance with the State of Texas Public Funds Investment Act, and any other applicable State Statutes.

XII. INVESTMENT COMMITTEE

- A. Members: An Investment Committee, consisting of the City Manager or designee and the Director of Finance, shall review the City's investment strategies and monitor the results of the investment program at least quarterly. This review can be done by reviewing the quarterly written reports and by holding committee meetings as necessary. The committee will be authorized to invite other advisors to attend meetings as needed.
- B. Scope: The Investment Committee shall include in its deliberations, such topics as economic outlook, investment strategies, portfolio diversification, maturity structure, potential risk to the City's funds, evaluation and authorization of broker/dealers, rate of return on the investment portfolio, review and approval of training providers and compliance with the investment policy. The Investment Committee will also advise the City Council of any future amendments to the investment policy that are deemed necessary or recommended.

XIII. INVESTMENT STRATEGY STATEMENTS

The City of Kennedale portfolio will be structured to benefit from anticipated market conditions and to achieve a reasonable return. Relative value among asset groups shall be analyzed and pursued as part of the investment program within the restrictions set forth by the investment policy. The City of Kennedale maintains portfolios which utilize four specific investment strategy considerations designed to address the unique characteristics of the fund groups represented in the portfolios.

A. Operating Funds

- 1) Suitability - All investments authorized in the Investment Policy are suitable for Operating Funds.
- 2) Preservation & Safety of Principal - All investments shall be high quality securities with no perceived default risk.
- 3) Liquidity - Investment strategies for the pooled operating funds have as their primary objective to assure that anticipated cash flows are matched with adequate investment liquidity. The dollar-weighted average maturity of operating funds, based on the stated final maturity date of each security, will be calculated and limited to one year or less. Constant \$1 NAV investment pools and money market mutual funds shall be an integral component in maintaining daily liquidity. Investments for these funds shall not exceed an 18-month period from date of purchase.
- 4) Marketability - Securities with active and efficient secondary markets will be purchased in the event of an unanticipated cash requirement.
- 5) Diversification - Maturities shall be staggered throughout the budget cycle to provide cash flows based on anticipated needs. Investment risks will be reduced through diversification among authorized investments.
- 6) Yield - The City's objective is to attain a competitive market yield for comparable securities and portfolio constraints. The benchmark for Operating Funds shall be the 91 day Treasury bill.

B. Reserve & Deposit Funds

- 1) Suitability - All investments authorized in the Investment Policy are suitable for Reserve and Deposit Funds.
- 2) Preservation & Safety of Principal - All investments shall be high quality securities with no perceived default risk.

- 3) Liquidity - Investment strategies for reserve and deposit funds shall have as the primary objective the ability to generate a dependable revenue stream to the appropriate reserve fund from investments with a low degree of volatility. Except as may be required by the bond ordinance specific to an individual issue, investments should be of high quality, with short-to-intermediate-term maturities. The dollar-weighted average maturity of reserve and deposit funds, based on the stated final maturity date of each security, will be calculated and limited to three years or less.
- 4) Marketability - Securities with active and efficient secondary markets will be purchased in the event of an unanticipated cash requirement.
- 5) Diversification - Maturities shall be staggered throughout the budget cycle to provide cash flows based on anticipated needs. Investment risks will be reduced through diversification among authorized investments.
- 6) Yield - The City's objective is to attain a competitive market yield for comparable securities and portfolio constraints. The benchmark for Reserve and Deposit Funds shall be the 91 day Treasury bill.

C. Bond & Certificate Capital Project Funds & Special Purpose Funds

- 1) Suitability - All investments authorized in the Investment Policy are suitable for Bond and Certificate Capital Project Funds and Special Purpose Funds.
- 2) Preservation & Safety of Principal - All investments shall be high quality securities with no perceived default risk.
- 3) Liquidity - Investment strategies for bond and certificate capital project funds, special projects and special purpose funds portfolios will have as their primary objective to assure that anticipated cash flows are matched with adequate investment liquidity. The stated final maturity dates of investments held should not exceed the estimated project completion date or a maturity of no greater than five years. The dollar-weighted average maturity of bond and certificate capital project funds and special purpose funds, based on the stated final maturity date of each security, will be calculated and limited to three years or less.
- 4) Marketability - Securities with active and efficient secondary markets will be purchased in the event of an unanticipated cash requirement.

- 5) Diversification - Maturities shall be staggered throughout the budget cycle to provide cash flows based on anticipated needs. Investment risks will be reduced through diversification among authorized investments.
- 6) Yield - The City's objective is to attain a competitive market yield for comparable securities and portfolio constraints. The benchmark for Bond and Certificate Capital Project Funds and Special Purpose Funds shall be the 91 day Treasury bill. A secondary objective of these funds is to achieve a yield equal to or greater than the arbitrage yield of the applicable bond or certificate.

D. Debt Service Funds

- 1) Suitability - All investments authorized in the Investment Policy are suitable for Debt Service Funds.
- 2) Preservation & Safety of Principal - All investments shall be high quality securities with no perceived default risk.
- 3) Liquidity - Investment strategies for debt service funds shall have as the primary objective the assurance of investment liquidity adequate to cover the debt service obligation on the required payment date. Securities purchased shall not have a stated final maturity date which exceeds the debt service payment date. The dollar-weighted average maturity of debt service funds, based on the stated final maturity date of each security, will be calculated and limited to one year or less.
- 4) Marketability - Securities with active and efficient secondary markets will be purchased in the event of an unanticipated cash requirement.
- 5) Diversification - Maturities shall be staggered throughout the budget cycle to provide cash flows based on anticipated needs. Investment risks will be reduced through diversification among authorized investments.
- 6) Yield - The City's objective is to attain a competitive market yield for comparable securities and portfolio constraints. The benchmark for Debt Service Funds shall be the 91 day Treasury bill.

XIV. ANNUAL REVIEW

The Director of Finance shall, at a minimum, submit proposed amendments of this policy to the City Council annually.

APPENDIX A

**CITY OF KENNEDALE, TEXAS
TEXAS PUBLIC FUNDS INVESTMENT ACT
CERTIFICATION BY BUSINESS ORGANIZATION**

This certification is executed on behalf of the City of Kennedale, Texas and _____ (the Business Organization) pursuant to the Public Funds Investment Act, Chapter 2256, Texas Government Code, (the Act) in connection with investment transactions conducted between the Investor and the Business Organization.

The undersigned Qualified Representative of the Business Organization hereby certifies on behalf of the Business Organization that:

The undersigned is a Qualified Representative of the Business Organization offering to enter an investment transaction with the City of Kennedale, Texas (as defined in the Act); and

The Qualified Representative of the Business Organization has received and reviewed the Investment Policy furnished by the City of Kennedale, Texas; and

The Qualified Representative of the Business Organization has implemented reasonable procedures and controls in an effort to preclude investment transactions conducted between the Business Organization and the City of Kennedale, Texas that are not authorized by the investment policy of the City of Kennedale, Texas, except to the extent that this authorization is dependent on an analysis of the makeup of the City of Kennedale, Texas entire portfolio or requires an interpretation of subjective investment standards.

Qualified Representative of the Business Organization

Name _____

Title _____

Date _____

Staff Report to the Honorable Mayor and City Council

Date: October 17, 2016

Agenda Item No: REQUIRED APPROVAL ITEMS (CONSENT) - K.

I. Subject:

Consider approval of a city-developer agreement for the Glen of Village Creek

II. Originated by:

III. Summary:

As part of approving final plats, city code requires approval of a city-developer agreement. This agenda item is to consider approval of the agreement between the City of Kennedale and the developer of The Glen of Village Creek (CHC Development).

The agreement describes the respective responsibilities assigned to the City and the developer in terms of infrastructure and facilities to be provided. The agreement uses the City's standard language for city-developer agreements and addresses topics such as who is responsible for the costs of installing water and sewer lines and street lights and the bonds we require a developer to have.

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

Approve

VII. Alternative Actions:

VIII. Attachments:

1.	Developer agreement -- Glen of Village Creek	Developer Agreement - The Glen of Village Creek.pdf
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CITY OF KENNEDALE
DEVELOPER'S AGREEMENT
FOR THE
THE GLEN OF VILLAGE CREEK ADDITION

STATE OF TEXAS §
§
COUNTY OF TARRANT §

THIS AGREEMENT is entered into on the ____ day of _____, 2016, between the City of Kennedale, Texas, hereinafter referred to as the "CITY", and Impression Homes, whose address is 420 North Carroll Ave. Suite 150, Southlake, Texas 76092, hereinafter referred to as the "DEVELOPER."

WHEREAS, the DEVELOPER has requested the CITY to permit the platting and/or development of a tract of land known as the Glen of Village Creek Addition (the "Addition"); and

WHEREAS, the CITY has approved such platting and/or development which requires the construction of community facilities and improvements to serve the Addition as provided herein; and

WHEREAS, this Agreement shall operate as a covenant running with the land and shall be binding upon the DEVELOPER and its successors, heirs, assigns, grantees, trustees and representatives; and

WHEREAS, the DEVELOPER has agreed to create a homeowner's association for the Addition which shall be considered to be a successor and assign of the DEVELOPER for purposes of carrying out future obligations of the DEVELOPER pursuant to this Agreement.

NOW, THEREFORE, the CITY and the DEVELOPER, in consideration of the mutual covenants and agreements contained herein, do mutually agree as follows:

A. ZONING, PLATTING and ADDITION PLANNING

All property owned by the DEVELOPER and located within the limits of the Addition shall be zoned and platted in accordance with the Zoning Ordinance and the Subdivision Ordinance of the CITY before any Building Permit will be issued. The DEVELOPER shall dedicate, at no cost to the CITY, all easements and other dedications as required by CITY regulations at the time of platting.

The DEVELOPER shall comply with all requirements in this Agreement as a condition of approval of the Addition.

B. PUBLIC IMPROVEMENTS

All public and private infrastructure improvements, including streets, utilities, drainage, sidewalks, street lighting, street signage, and all other required improvements, shall be provided by the DEVELOPER, at no cost to the CITY, in accordance with the Subdivision Ordinance and other Regulations of the CITY, and as approved by the City Engineer or his agent. Such improvements shall be installed within all applicable time frames in accordance with the Subdivision Ordinance of the CITY and this Agreement.

The DEVELOPER shall employ a civil engineer licensed to practice under Chapter 1001 of the Texas Occupations Code for the design and preparation of plans and specifications for the construction of the public improvements. The DEVELOPER shall assume all responsibility for the adequacy and accuracy of the design, plans and specifications. Engineering studies, plan/profile sheets, and other construction documents (hereinafter referred to as the "Construction Plans") prepared by the licensed engineer shall be provided by the DEVELOPER at the time of platting as required by the Subdivision Ordinance. Such documents shall be approved by the City Engineer or his agent prior to approval and filing of a Final Plat. Construction of such improvements shall not be initiated until a Pre-Construction Conference has been conducted regarding the proposed construction.

In accordance with the Subdivision Ordinance of the CITY, construction of all public improvements shall be subject to routine review by the City Engineer or his agent to evaluate conformance with the construction plans, project specifications and CITY standards. However, such review and evaluation shall not relieve the DEVELOPER, his engineer and/or agent of responsibility for the design, construction and maintenance of the improvements as set out in this Agreement and relevant ordinances of the CITY.

Upon completion of construction of public improvements as required by this Agreement and the Subdivision Ordinance, the DEVELOPER shall deliver to the CITY the following As-Built construction plans for the public improvements constructed or engineered by the DEVELOPER:

1. One FULL set in AutoCAD 14 (or the City's most recent version);
2. One FULL MYLAR set;
3. One FULL Blue-Line set;
4. One FULL PDF Set;
5. One Blue-Line copy of the executed ("filed") Final Plat sheet;
6. One 11" X 17" copy of the Final Plat Sheet;
7. Two (2) Blue-Line copies of the Water and Sanitary Sewer Layout sheet at a scale of 1:200; and
8. One Blue-Line copy of the Storm Drain Layout sheet at a scale of 1:200.
9. Shapefiles (GIS) providing the location of water and sanitary sewer layout and storm drain layout. The shapefiles shall be provided in the Texas NAD83 State Plane coordinate system for North Central Texas.

No building permits will be issued for the Addition until all public improvements have been installed and inspected and a Letter of Acceptance has been issued by the City.

C. CONSTRUCTION BONDS

Prior to initiating any construction for the Addition, the construction contractor(s) for the DEVELOPER shall provide the CITY with one original and one quality copy of the following construction bonds:

1. PERFORMANCE BOND

A good and sufficient Performance Bond in an amount equal to one hundred percent (100%) of the total contract price of the contract between the DEVELOPER and the Prime Contractor for the construction of public improvements (and any private improvements constructed in lieu thereof), guaranteeing the full and faithful execution of the work and performance of this contract and for the protection of the CITY against any improper execution of the work or the use of inferior materials. The Performance Bond shall guarantee completion of the improvements within one year of execution of this Agreement.

2. **PAYMENT BOND**

A good and sufficient Payment Bond in an amount equal to one hundred percent (100%) of the total contract price of the contract between the DEVELOPER and the Prime Contractor for the construction of public improvements (and any private improvements constructed in lieu thereof), guaranteeing payment for all labor, materials and equipment used in the construction of the improvements.

3. **MAINTENANCE BOND**

A good and sufficient Maintenance Bond in an amount equal to one hundred percent (100%) of the total cost of the public improvements (and any private improvements constructed in lieu thereof), guaranteeing the maintenance in good condition of the facilities for a period of two (2) years from and after the date that a Letter of Acceptance is issued by the CITY indicating that the public improvements have been completed by the DEVELOPER and accepted by the CITY.

Each of the above bonds shall be in a form acceptable to the CITY. Any surety company through which a bond is written shall be duly authorized to do business in the State of Texas, provided that the CITY, through its Mayor, shall retain the right to reject any surety company for any work under this Agreement regardless of such company's authorization to do business in the State of Texas. Approval by the City shall not be unreasonably withheld or delayed.

D. STREETS

1. In conjunction with the platting and development of the Addition, all required on-site and off-site street improvements shall be constructed by the DEVELOPER in accordance with the plans and specifications prepared by the Developer's engineer and accepted by the CITY prior to the issuance of any Building Permit. Streets shall be constructed of portland cement and the DEVELOPER shall install curb and gutter in accordance with CITY standards or with the standards published in the North Central Texas Council of Government's *Public Works Construction Standards*, whichever is stricter. The CITY shall assume maintenance responsibilities of any public street improvements installed by the DEVELOPER once the two-year maintenance bond is released. The DEVELOPER shall be responsible for maintenance of all private drives or access ways. No bonds issued by or backed by

Developers Surety and Indemnity Company, also known as AmTrust Surety, shall be acceptable to the CITY.

2. Street lighting shall be installed by TXU Delivery Company or its agent ("TXU") in accordance with a street lighting layout plan provided by TXU and approved by the City Engineer or his agent. The DEVELOPER shall be responsible for the installation costs of any required street lighting as provided herein.

E. SIDEWALKS

Sidewalks are required to be installed by the Home builder before a final inspection shall be approved in accordance with the CITY's Subdivision Ordinance.

F. UTILITIES

1. WATER

All required on-site and off-site water mains, valves, fire hydrants and other improvements shall be constructed by the DEVELOPER in accordance with the plans and specifications prepared by the DEVELOPER's engineer and accepted by the CITY prior to the issuance of any building permit. The CITY shall assume maintenance responsibilities of the water system once the two-year maintenance bond is released.

2. SANITARY SEWER

All required on-site and off-site sanitary sewer mains, manholes and other improvements shall be constructed by the DEVELOPER in accordance with the plans and specifications prepared by the DEVELOPER's engineer and accepted by the CITY prior to the issuance of any building permit. The CITY shall assume maintenance responsibilities of the sewer system once the two-year maintenance bond is released.

3. DRAINAGE

All required on-site and off-site drainage improvements shall be constructed by the DEVELOPER in accordance with the plans and specifications prepared by the DEVELOPER's engineer and accepted by the CITY prior to the issuance of any building

permit. The DEVELOPER agrees to comply with all applicable EPA, TCEQ and other Federal, State and local requirements relating to the planning, permitting and management of storm water. The DEVELOPER agrees to construct the necessary drainage facilities within the Addition. These facilities shall be designed and constructed in accordance with the CITY's Subdivision Ordinance and the Construction Plans. The DEVELOPER agrees to comply with all provisions of the Texas Water Code. The City shall assume maintenance responsibilities of the drainage facilities once the two-year maintenance bond is released, with the exception of the detention facilities, which will be maintained by the DEVELOPER.

G. PUBLIC FACILITIES TO BE PROVIDED BY THE CITY

1. The CITY makes no guarantee that water supply or wastewater treatment capacity will be available at any particular time or place, it being fully understood by both parties hereto that the ability of the CITY to supply water and wastewater services is subject to the CITY's water and wastewater system capacity. The CITY shall be the sole judge of the availability of such capacity to supply such water and/or wastewater services, provided, however, that the CITY will use its best efforts to insure that said water supply and wastewater treatment capacity is available.
2. The CITY notes to the Developer that along Bowman Springs Road on the west side, a 12 inch diameter water main exists for connection.
3. The CITY notes to the Developer that along Bowman Springs Road on the Southeast side along Pennsylvania Avenue, a 10 inch diameter sanitary sewer main exists for connection. A sanitary sewer manhole is required for 6-inch and larger connections.

H. FEES TO BE PAID BY THE DEVELOPER

1. **PLAT FEES AND REZONING FEES**
The DEVELOPER will pay the CITY for all plat fees. The Final Plat was approved by the City Council on September 19, 2016.

The platting fees owed are \$1,650 for the preliminary plat and \$3,150 for the final plat.

The fee owed for rezoning applications is \$1,500.

2. CONSTRUCTION INSPECTION FEES

The DEVELOPER hereby agrees to pay the CITY construction inspection fees equal to four percent (4%) of the construction costs of water and sanitary sewer infrastructure improvements and four percent (4%) of the construction costs of street and drainage improvements for the Addition. Payment is due prior to initiating construction of these infrastructure improvements.

3. STREET NAME SIGNS and TRAFFIC CONTROL DEVICE SIGNAGE

The DEVELOPER is responsible for material costs, installation costs and maintenance costs of all street name signs, traffic control devices and school zone signs, including flashing light school zone signs as required by the City Engineer. All street name signs and traffic control device signs shall meet the current CITY standards or and comply with the requirements of the Texas Manual on Uniform Traffic Control Devices at the time of installation. Installation must be completed prior to CITY acceptance of the Addition's infrastructure improvements. Traffic Control or regulatory signs shall be installed by the DEVELOPER where required.

4. IMPACT FEES

It is understood and agreed that impact fees will be assessed by the CITY at the time of final platting of the Addition, including the applicable sanitary sewer and water impact fees assessed by both the CITY and the City of Fort Worth. These fees must be paid prior to obtaining building permits for lots in the Addition.

5. PARK FEES

Required park fees (in lieu of dedication of park land) shall be paid by the DEVELOPER before construction of the public improvements. The park fee for the Addition is calculated as follows: The Developer will dedicate 7 plus acres of land to the Kennedale Art and Culture Foundation, a 501.3C nonprofit organization of the State of Texas.

6. PUBLIC UTILITIES

The DEVELOPER agrees to pay the public utility companies (Charter Communications Cable Company, SBC Telephone Company, TXU Energy Company, TXU Gas Company and TXU Delivery Company) for their required costs of main installations, for street lighting, etc. for the Addition.

I. GENERAL CONDITIONS

1. LAW COMPLIANCE

The DEVELOPER agrees to comply with all federal, state and local laws that are applicable to development of the Addition.

2. EROSION CONTROL

During construction of the Addition and after the streets have been installed, the DEVELOPER agrees to keep the streets free from soil build-up. The DEVELOPER agrees to use soil control measures such as silt screening, hydromulch, etc., to prevent soil erosion. It will be the DEVELOPER'S responsibility to present to the City Engineer a soil control development plan that will be implemented for the Addition. When, in the opinion of the City Engineer or his agent, there is sufficient soil build-up on the streets or other drainage areas and notification has been given to the DEVELOPER, the DEVELOPER will have twenty-four (24) hours to clear the soil from the streets or affected areas. If the DEVELOPER does not remove the soil from the streets within the twenty-four (24) hours, the CITY may cause the soil to be removed either by contract or CITY forces and place the soil within the Addition at the DEVELOPER'S expense. All expenses incurred by the CITY in doing so must be paid to the CITY prior to acceptance of the Addition.

3. PRIVATE AMENITIES

It is understood that the Addition may incorporate a number of unique amenities and aesthetic improvements such as ponds, aesthetic lakes, unique landscaping, fences and walls, street furniture, etc. and may incorporate specialty signage and accessory facilities. The DEVELOPER agrees to accept responsibility for the construction and maintenance of all such aesthetic or specialty items. The CITY shall not be responsible for the maintenance or replacement of these items under any

circumstances.

4. AMENITIES WITHIN PUBLIC RIGHT-OF-WAY

Only those amenities or specialty items listed in this section may be constructed within the public right-of-way. The CITY shall not be responsible for the replacement of these items under any circumstances. The DEVELOPER agrees to accept responsibility for the installation and maintenance of all landscaping and irrigation, as specified on the approved Construction Plans, within any open spaces or other public right-of-way within the Addition and agrees to indemnify and hold harmless the CITY from any and all damage, loss or liability of any kind whatsoever by reason of injury to property or third persons occasioned by the location of these amenities within the public right-of-way, and the DEVELOPER shall defend and protect the CITY against all such claims and demands. The DEVELOPER shall replace any plants, trees, or grass that die with the same type of plant, tree, or grass that is the same size and in the same stage of growth as the landscaping that died.

5. VENUE

Venue for any action brought hereunder shall be in Tarrant County, Texas.

6. ASSIGNMENT

This Agreement or any part hereof or any interest herein shall not be assigned by the DEVELOPER without the express written consent of the Mayor, which consent shall not be unreasonably withheld.

7. HOMEOWNERS' ASSOCIATION

DEVELOPER shall create a Homeowners' Association for the purpose of assuming the responsibility for continuing maintenance of facilities and infrastructure that are the responsibility of DEVELOPER. The provisions for the creation and operation of the Homeowners' Association shall be a covenant running with the land and shall provide for adequate funding of the Homeowners' Association for purposes of carrying out the obligations of this Agreement. The provisions for the creation and operation of the Homeowners' Association shall be subject to approval by the CITY.

J. FINAL ACCEPTANCE OF SUBDIVISION INFRASTRUCTURE

The CITY will not issue a Letter of Acceptance until the Addition's public improvements are completely constructed (Final Completion) to the satisfaction of the City Engineer or his agent. However, upon Substantial Completion, a "punch list" of outstanding items shall be presented to the DEVELOPER'S contractor(s) indicating those outstanding items and their deficiencies that need to be addressed for Final Completion of the Addition.

The DEVELOPER agrees to deliver to the CITY clear and unencumbered title to all public improvements. Upon issuance of a Letter of Acceptance, title to all public improvements mentioned herein shall be vested in the CITY and the DEVELOPER hereby relinquishes any right, title or interest in and to such improvements or any part thereof. It is understood and agreed that the CITY shall have no liability or responsibility in connection with such public improvements until the Letter of Acceptance is issued.

K. NON-WAIVER

The DEVELOPER expressly acknowledges that by entering into this Agreement, the DEVELOPER shall never construe this Agreement as waiving any of the requirements of the Zoning Ordinance or Subdivision Ordinance or any other ordinance of the CITY.

L. HOLD HARMLESS AGREEMENT

THE DEVELOPER SPECIFICALLY ACKNOWLEDGES AND AGREES THAT APPROVAL BY THE CITY ENGINEER OR OTHER CITY EMPLOYEE OF THE CONSTRUCTION PLANS OR ANY OTHER PLANS, DESIGNS OR SPECIFICATIONS SUBMITTED BY THE DEVELOPER PURSUANT TO THIS AGREEMENT SHALL NOT CONSTITUTE OR BE DEEMED TO BE A RELEASE OF THE RESPONSIBILITY AND LIABILITY OF THE DEVELOPER, HIS ENGINEER, EMPLOYEES, OFFICERS OR AGENTS FOR THE ACCURACY AND COMPETENCY OF THEIR DESIGN AND SPECIFICATIONS. SUCH APPROVAL SHALL NOT BE DEEMED TO BE AN ASSUMPTION OF SUCH RESPONSIBILITY AND LIABILITY BY THE CITY FOR ANY DEFECT IN THE DESIGN AND SPECIFICATIONS PREPARED BY THE DEVELOPER'S ENGINEER, HIS OFFICERS, AGENTS, SERVANTS OR EMPLOYEES, IT BEING THE INTENT OF THE PARTIES THAT APPROVAL BY THE CITY ENGINEER SIGNIFIES THE CITY'S APPROVAL ON ONLY THE GENERAL DESIGN CONCEPT OF THE

IMPROVEMENTS TO BE CONSTRUCTED. IN THIS CONNECTION, THE DEVELOPER SHALL, FOR A PERIOD OF TWO (2) YEARS AFTER THE ACCEPTANCE BY THE CITY OF THE COMPLETED CONSTRUCTION OF INFRASTRUCTURE FOR THE ADDITION, INDEMNIFY AND HOLD HARMLESS THE CITY, ITS OFFICERS, AGENTS, SERVANTS AND EMPLOYEES, FROM ANY LOSS, DAMAGE, LIABILITY OR EXPENSE ON ACCOUNT OF DAMAGE TO PROPERTY AND INJURIES, INCLUDING DEATH, TO ANY AND ALL PERSONS WHICH MAY ARISE OUT OF ANY DEFECT, DEFICIENCY OR NEGLIGENCE OF THE DEVELOPER'S ENGINEER'S DESIGNS AND SPECIFICATIONS INCORPORATED INTO ANY IMPROVEMENTS CONSTRUCTED IN ACCORDANCE THEREWITH, WHETHER OR NOT CAUSED, IN WHOLE OR IN PART, BY THE NEGLIGENCE OF THE CITY, ITS OFFICERS, AGENTS, SERVANTS OR EMPLOYEES, AND THE DEVELOPER SHALL DEFEND AT HIS OWN EXPENSE ANY SUITS OR OTHER PROCEEDINGS BROUGHT AGAINST THE CITY, ITS OFFICERS, AGENTS, SERVANTS OR EMPLOYEES OR ANY OF THEM, ON ACCOUNT THEREOF, AND SHALL PAY ALL EXPENSES (INCLUDING WITHOUT LIMITATION REASONABLE FEES AND EXPENSES OF ATTORNEYS) AND SATISFY ALL JUDGMENTS WHICH MAY BE INCURRED BY OR RENDERED AGAINST THEM OR ANY OF THEM IN CONNECTION THEREWITH.

THE DEVELOPER DOES HEREBY FULLY RELEASE AND AGREE TO, INDEMNIFY, HOLD HARMLESS AND DEFEND THE CITY, ITS OFFICERS, AGENTS, SERVANTS AND EMPLOYEES FROM ALL CLAIMS, SUITS, JUDGMENTS, AND DEMANDS OF ANY NATURE WHATSOEVER, FOR PROPERTY DAMAGE OR PERSONAL INJURY, INCLUDING DEATH, RESULTING FROM OR IN ANY WAY CONNECTED WITH THIS AGREEMENT OR THE CONSTRUCTION OF INFRASTRUCTURE IMPROVEMENTS AND FACILITIES IN THE ADDITION OR THE FAILURE TO SAFEGUARD THE CONSTRUCTION WORK, OR ANY OTHER ACT OR OMISSION OF THE DEVELOPER RELATED THERETO, WHICH ACCRUE PRIOR TO ACCEPTANCE OF THE IMPROVEMENTS BY THE CITY, WHETHER OR NOT CAUSED, IN WHOLE OR IN PART, BY THE NEGLIGENCE OF THE CITY, ITS OFFICERS, AGENTS OR EMPLOYEES.

M. AMENDMENTS

This Agreement may be changed or modified only with the written consent of both the DEVELOPER and the City Council of the CITY.

N. ASSESSMENT

In the event the DEVELOPER fails to comply with any of the provisions of this Agreement, the CITY shall be authorized to cease issuance of any further Certificates of Occupancy or building permits on property owned by the DEVELOPER, and the CITY shall be further authorized to file this Agreement in the Mechanic's Lien/Deed Records of Tarrant County as a mechanic's lien against the DEVELOPER'S property; and in the alternative, the CITY shall be authorized to levy an assessment against the DEVELOPER'S property for public improvements in accordance with applicable state law.

O. CONTINUITY

This Agreement shall be a covenant running with the land and shall be binding upon the DEVELOPER, its successors, heirs, assigns, grantees, trustees and representatives. The use of the term DEVELOPER in this Agreement shall include the DEVELOPER'S successors, heirs, assigns, grantees, trustees and representatives.

P. SEVERABILITY

The provisions of this Agreement are severable and, in the event any word, phrase, sentence, paragraph, section or other provision of this Agreement, or the application thereof to any person or circumstance, shall ever be determined by a court of competent jurisdiction to be invalid, illegal, or unenforceable for any reason, the remainder of this Agreement shall remain in full force and effect and the application thereof to any other person or circumstance shall not be affected thereby. The invalid, illegal or unenforceable provision shall be rewritten by the parties to this Agreement to accomplish the parties' original intent as nearly as possible.

Q. TERMINATION AND RELEASE

Upon the satisfactory completion by the DEVELOPER and final acceptance by the CITY of all requirements of this Agreement, this Agreement shall terminate and if this Agreement has been filed in the county records, the CITY will execute a release of covenant to the DEVELOPER and the CITY shall file said release in the county records.

In Witness whereof, each of the parties hereto has caused this Agreement to be executed by its undersigned duly authorized representative as of the date herein above first mentioned.

DEVELOPER: Impression Homes

By: _____
Bruce Heikkinen Date

CITY OF KENNEDALE

By: _____
Brian Johnson, Mayor Date

ATTEST:

By: _____
Leslie Galloway, City Secretary

ACKNOWLEDGMENT

STATE OF TEXAS §
§
COUNTY OF TARRANT §

BEFORE ME, the undersigned authority in and for Tarrant County, Texas, on this day personally appeared _____ known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he is the President of _____ and that he executed the same on behalf of _____ for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the ____ day of _____, 2016.

Notary Public in and for the State of Texas

Type or Print Notary's Name

My Commission Expires: _____



Staff Report to the Honorable Mayor and City Council

Date: October 17, 2016

Agenda Item No: REQUIRED APPROVAL ITEMS (CONSENT) - L.

I. Subject:

Consider approval of a city-developer agreement for Falconcrest Addition

II. Originated by:

III. Summary:

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

VII. Alternative Actions:

VIII. Attachments:

1.	Falconcrest Addition Developer Agreement	Falconcrest Addition CDA.pdf
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CITY OF KENNEDALE
DEVELOPER'S AGREEMENT
FOR THE
FALCONCREST ADDITION

STATE OF TEXAS §
§
COUNTY OF TARRANT §

THIS AGREEMENT is entered into on the 4 day of October, 2016, between the City of Kennedale, Texas, hereinafter referred to as the "CITY", and MKP Development, whose address is 1375 Gilman Road, Fort Worth, Texas, hereinafter referred to as the "DEVELOPER."

WHEREAS, the DEVELOPER has requested the CITY to permit the platting and/or development of a tract of land known as the Falconcrest Addition (the "Addition"); and

WHEREAS, the CITY has approved such platting and/or development which requires the construction of community facilities and improvements to serve the Addition as provided herein; and

WHEREAS, this Agreement shall operate as a covenant running with the land and shall be binding upon the DEVELOPER and its successors, heirs, assigns, grantees, trustees and representatives; and

WHEREAS, the DEVELOPER has agreed to create a homeowner's association for the Addition which shall be considered to be a successor and assign of the DEVELOPER for purposes of carrying out future obligations of the DEVELOPER pursuant to this Agreement.

NOW, THEREFORE, the CITY and the DEVELOPER, in consideration of the mutual covenants and agreements contained herein, do mutually agree as follows:

A. ZONING, PLATTING and ADDITION PLANNING

All property owned by the DEVELOPER and located within the limits of the Addition shall be zoned and platted in accordance with the Zoning Ordinance and the Subdivision Ordinance of the CITY before any Building Permit will be issued. The DEVELOPER shall dedicate, at no cost to the CITY, all easements and other dedications as required by CITY regulations at the time of platting.

The DEVELOPER shall comply with all requirements in this Agreement as a condition of approval of the Addition.

B. PUBLIC IMPROVEMENTS

All public and private infrastructure improvements, including streets, utilities, drainage, sidewalks, street lighting, street signage, and all other required improvements, shall be provided by the DEVELOPER, at no cost to the CITY, in accordance with the Subdivision Ordinance and other Regulations of the CITY, and as approved by the City Engineer or his agent. Such improvements shall be installed within all applicable time frames in accordance with the Subdivision Ordinance of the CITY and this Agreement.

The DEVELOPER shall employ a civil engineer licensed to practice under Chapter 1001 of the Texas Occupations Code for the design and preparation of plans and specifications for the construction of the public improvements. The DEVELOPER shall assume all responsibility for the adequacy and accuracy of the design, plans and specifications. Engineering studies, plan/profile sheets, and other construction documents (hereinafter referred to as the "Construction Plans") prepared by the licensed engineer shall be provided by the DEVELOPER at the time of platting as required by the Subdivision Ordinance. Such documents shall be approved by the City Engineer or his agent prior to approval and filing of a Final Plat. Construction of such improvements shall not be initiated until a Pre-Construction Conference has been conducted regarding the proposed construction.

In accordance with the Subdivision Ordinance of the CITY, construction of all public improvements shall be subject to routine review by the City Engineer or his agent to evaluate conformance with the construction plans, project specifications and CITY standards. However, such review and evaluation shall not relieve the DEVELOPER, his engineer and/or agent of responsibility for the design, construction and maintenance of the improvements as set out in this Agreement and relevant ordinances of the CITY.

Upon completion of construction of public improvements as required by this Agreement and the Subdivision Ordinance, the DEVELOPER shall deliver to the CITY the following As-Built construction plans for the public improvements constructed or engineered by the DEVELOPER:

1. One FULL set in AutoCAD 14 (or the City's most recent version);
2. One FULL MYLAR set;
3. One FULL Blue-Line set;
4. One FULL PDF Set;
5. One Blue-Line copy of the executed ("filed") Final Plat sheet;
6. One 11" X 17" copy of the Final Plat Sheet;
7. Two (2) Blue-Line copies of the Water and Sanitary Sewer Layout sheet at a scale of 1:200; and
8. One Blue-Line copy of the Storm Drain Layout sheet at a scale of 1:200.
9. Shapefiles (GIS) providing the location of water and sanitary sewer layout and storm drain layout. The shapefiles shall be provided in the Texas NAD83 State Plane coordinate system for North Central Texas.

No building permits will be issued for the Addition until all public improvements have been installed and inspected and a Letter of Acceptance has been issued by the City.

C. CONSTRUCTION BONDS

Prior to initiating any construction for the Addition, the construction contractor(s) for the DEVELOPER shall provide the CITY with one original and one quality copy of the following construction bonds:

1. PERFORMANCE BOND

A good and sufficient Performance Bond in an amount equal to one hundred percent (100%) of the total contract price of the contract between the DEVELOPER and the Prime Contractor for the construction of public improvements (and any private improvements constructed in lieu thereof), guaranteeing the full and faithful execution of the work and performance of this contract and for the protection of the CITY against any improper execution of the work or the use of inferior materials. The Performance Bond shall guarantee completion of the improvements within one year of execution of this Agreement.

2. **PAYMENT BOND**

A good and sufficient Payment Bond in an amount equal to one hundred percent (100%) of the total contract price of the contract between the DEVELOPER and the Prime Contractor for the construction of public improvements (and any private improvements constructed in lieu thereof), guaranteeing payment for all labor, materials and equipment used in the construction of the improvements.

3. **MAINTENANCE BOND**

A good and sufficient Maintenance Bond in an amount equal to one hundred percent (100%) of the total cost of the public improvements (and any private improvements constructed in lieu thereof), guaranteeing the maintenance in good condition of the facilities for a period of two (2) years from and after the date that a Letter of Acceptance is issued by the CITY indicating that the public improvements have been completed by the DEVELOPER and accepted by the CITY.

Each of the above bonds shall be in a form acceptable to the CITY. Any surety company through which a bond is written shall be duly authorized to do business in the State of Texas, provided that the CITY, through its Mayor, shall retain the right to reject any surety company for any work under this Agreement regardless of such company's authorization to do business in the State of Texas. Approval by the City shall not be unreasonably withheld or delayed.

D. STREETS

1. In conjunction with the platting and development of the Addition, all required on-site and off-site street improvements shall be constructed by the DEVELOPER in accordance with the plans and specifications prepared by the Developer's engineer and accepted by the CITY prior to the issuance of any Building Permit. Streets shall be constructed of portland cement and the DEVELOPER shall install curb and gutter in accordance with CITY standards or with the standards published in the North Central Texas Council of Government's *Public Works Construction Standards*, whichever is stricter. The CITY shall assume maintenance responsibilities of any public street improvements installed by the DEVELOPER once the two-year maintenance bond is released. The DEVELOPER shall be responsible for maintenance of all private drives or access ways. No bonds issued by or backed by

Developers Surety and Indemnity Company, also known as AmTrust Surety, shall be acceptable to the CITY.

2. Street lighting shall be installed by TXU Delivery Company or its agent ("TXU") in accordance with a street lighting layout plan provided by TXU and approved by the City Engineer or his agent. The DEVELOPER shall be responsible for the installation costs of any required street lighting as provided herein.

E. SIDEWALKS

Sidewalks are required to be installed by the Home builder before a final inspection shall be approved in accordance with the CITY's Subdivision Ordinance.

F. UTILITIES

1. WATER

All required on-site and off-site water mains, valves, fire hydrants and other improvements shall be constructed by the DEVELOPER in accordance with the plans and specifications prepared by the DEVELOPER's engineer and accepted by the CITY prior to the issuance of any building permit. The CITY shall assume maintenance responsibilities of the water system once the two-year maintenance bond is released.

2. SANITARY SEWER

All required on-site and off-site sanitary sewer mains, manholes and other improvements shall be constructed by the DEVELOPER in accordance with the plans and specifications prepared by the DEVELOPER's engineer and accepted by the CITY prior to the issuance of any building permit. The CITY shall assume maintenance responsibilities of the sewer system once the two-year maintenance bond is released.

3. DRAINAGE

All required on-site and off-site drainage improvements shall be constructed by the DEVELOPER in accordance with the plans and specifications prepared by the DEVELOPER's engineer and accepted by the CITY prior to the issuance of any building

permit. The DEVELOPER agrees to comply with all applicable EPA, TCEQ and other Federal, State and local requirements relating to the planning, permitting and management of storm water. The DEVELOPER agrees to construct the necessary drainage facilities within the Addition. These facilities shall be designed and constructed in accordance with the CITY's Subdivision Ordinance and the Construction Plans. The DEVELOPER agrees to comply with all provisions of the Texas Water Code. The City shall assume maintenance responsibilities of the drainage facilities once the two-year maintenance bond is released, with the exception of the detention facilities, which will be maintained by the DEVELOPER.

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1. The CITY makes no guarantee that water supply or wastewater treatment capacity will be available at any particular time or place, it being fully understood by both parties hereto that the ability of the CITY to supply water and wastewater services is subject to the CITY's water and wastewater system capacity. The CITY shall be the sole judge of the availability of such capacity to supply such water and/or wastewater services, provided, however, that the CITY will use its best efforts to insure that said water supply and wastewater treatment capacity is available.
2. The CITY notes to the Developer that along Swiney Heitt Road, a 12 inch diameter water main exists for connection.
3. The CITY notes to the Developer that along Swiney Heitt Road, a 5 foot sanitary sewer manhole exists for connection.

H. FEES TO BE PAID BY THE DEVELOPER

1. PLAT FEES
The DEVELOPER will pay the CITY for all plat fees. The Final Plat was approved by the City Council on _____, 2016.
2. CONSTRUCTION INSPECTION FEES

The DEVELOPER hereby agrees to pay the CITY construction inspection fees equal to four percent (4%) of the construction costs of water and sanitary sewer infrastructure improvements and four percent (4%) of the construction costs of street and drainage improvements for the Addition. Payment is due prior to initiating construction of these infrastructure improvements.

3. **STREET NAME SIGNS and TRAFFIC CONTROL DEVICE SIGNAGE**

The DEVELOPER is responsible for material costs, installation costs and maintenance costs of all street name signs, traffic control devices and school zone signs, including flashing light school zone signs as required by the City Engineer. All street name signs and traffic control device signs shall meet the current CITY standards or and comply with the requirements of the Texas Manual on Uniform Traffic Control Devices at the time of installation. Installation must be completed prior to CITY acceptance of the Addition's infrastructure improvements. Traffic Control or regulatory signs shall be installed by the DEVELOPER where required.

4. **IMPACT FEES**

It is understood and agreed that impact fees will be assessed by the CITY at the time of final platting of the Addition, including the applicable sanitary sewer and water impact fees assessed by both the CITY and the City of Fort Worth. These fees must be paid prior to obtaining building permits for lots in the Addition.

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Required park fees (in lieu of dedication of park land) shall be paid by the DEVELOPER before construction of the public improvements. The park fee for the Addition is calculated as follows: \$1,200 per lot.

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1. LAW COMPLIANCE

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landscaping and irrigation, as specified on the approved Construction Plans, within any open spaces or other public right-of-way within the Addition and agrees to indemnify and hold harmless the CITY from any and all damage, loss or liability of any kind whatsoever by reason of injury to property or third persons occasioned by the location of these amenities within the public right-of-way, and the DEVELOPER shall defend and protect the CITY against all such claims and demands. The DEVELOPER shall replace any plants, trees, or grass that die with the same type of plant, tree, or grass that is the same size and in the same stage of growth as the landscaping that died.

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Venue for any action brought hereunder shall be in Tarrant County, Texas.

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DEVELOPER shall create a Homeowners' Association for the purpose of assuming the responsibility for continuing maintenance of facilities and infrastructure that are the responsibility of DEVELOPER. The provisions for the creation and operation of the Homeowners' Association shall be a covenant running with the land and shall provide for adequate funding of the Homeowners' Association for purposes of carrying out the obligations of this Agreement. The provisions for the creation and operation of the Homeowners' Association shall be subject to approval by the CITY.

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for Final Completion of the Addition.

The DEVELOPER agrees to deliver to the CITY clear and unencumbered title to all public improvements. Upon issuance of a Letter of Acceptance, title to all public improvements mentioned herein shall be vested in the CITY and the DEVELOPER hereby relinquishes any right, title or interest in and to such improvements or any part thereof. It is understood and agreed that the CITY shall have no liability or responsibility in connection with such public improvements until the Letter of Acceptance is issued.

K. NON-WAIVER

The DEVELOPER expressly acknowledges that by entering into this Agreement, the DEVELOPER shall never construe this Agreement as waiving any of the requirements of the Zoning Ordinance or Subdivision Ordinance or any other ordinance of the CITY.

L. HOLD HARMLESS AGREEMENT

THE DEVELOPER SPECIFICALLY ACKNOWLEDGES AND AGREES THAT APPROVAL BY THE CITY ENGINEER OR OTHER CITY EMPLOYEE OF THE CONSTRUCTION PLANS OR ANY OTHER PLANS, DESIGNS OR SPECIFICATIONS SUBMITTED BY THE DEVELOPER PURSUANT TO THIS AGREEMENT SHALL NOT CONSTITUTE OR BE DEEMED TO BE A RELEASE OF THE RESPONSIBILITY AND LIABILITY OF THE DEVELOPER, HIS ENGINEER, EMPLOYEES, OFFICERS OR AGENTS FOR THE ACCURACY AND COMPETENCY OF THEIR DESIGN AND SPECIFICATIONS. SUCH APPROVAL SHALL NOT BE DEEMED TO BE AN ASSUMPTION OF SUCH RESPONSIBILITY AND LIABILITY BY THE CITY FOR ANY DEFECT IN THE DESIGN AND SPECIFICATIONS PREPARED BY THE DEVELOPER'S ENGINEER, HIS OFFICERS, AGENTS, SERVANTS OR EMPLOYEES, IT BEING THE INTENT OF THE PARTIES THAT APPROVAL BY THE CITY ENGINEER SIGNIFIES THE CITY'S APPROVAL ON ONLY THE GENERAL DESIGN CONCEPT OF THE IMPROVEMENTS TO BE CONSTRUCTED. IN THIS CONNECTION, THE DEVELOPER SHALL, FOR A PERIOD OF TWO (2) YEARS AFTER THE ACCEPTANCE BY THE CITY OF THE COMPLETED CONSTRUCTION OF INFRASTRUCTURE FOR THE ADDITION, INDEMNIFY AND HOLD HARMLESS THE CITY, ITS OFFICERS, AGENTS, SERVANTS AND EMPLOYEES, FROM ANY LOSS, DAMAGE, LIABILITY OR EXPENSE ON ACCOUNT OF DAMAGE TO PROPERTY AND INJURIES, INCLUDING DEATH, TO ANY AND ALL PERSONS WHICH MAY ARISE OUT OF ANY DEFECT, DEFICIENCY OR NEGLIGENCE OF

THE DEVELOPER'S ENGINEER'S DESIGNS AND SPECIFICATIONS INCORPORATED INTO ANY IMPROVEMENTS CONSTRUCTED IN ACCORDANCE THEREWITH, WHETHER OR NOT CAUSED, IN WHOLE OR IN PART, BY THE NEGLIGENCE OF THE CITY, ITS OFFICERS, AGENTS, SERVANTS OR EMPLOYEES, AND THE DEVELOPER SHALL DEFEND AT HIS OWN EXPENSE ANY SUITS OR OTHER PROCEEDINGS BROUGHT AGAINST THE CITY, ITS OFFICERS, AGENTS, SERVANTS OR EMPLOYEES OR ANY OF THEM, ON ACCOUNT THEREOF, AND SHALL PAY ALL EXPENSES (INCLUDING WITHOUT LIMITATION REASONABLE FEES AND EXPENSES OF ATTORNEYS) AND SATISFY ALL JUDGMENTS WHICH MAY BE INCURRED BY OR RENDERED AGAINST THEM OR ANY OF THEM IN CONNECTION THEREWITH.

THE DEVELOPER DOES HEREBY FULLY RELEASE AND AGREE TO, INDEMNIFY, HOLD HARMLESS AND DEFEND THE CITY, ITS OFFICERS, AGENTS, SERVANTS AND EMPLOYEES FROM ALL CLAIMS, SUITS, JUDGMENTS, AND DEMANDS OF ANY NATURE WHATSOEVER, FOR PROPERTY DAMAGE OR PERSONAL INJURY, INCLUDING DEATH, RESULTING FROM OR IN ANY WAY CONNECTED WITH THIS AGREEMENT OR THE CONSTRUCTION OF INFRASTRUCTURE IMPROVEMENTS AND FACILITIES IN THE ADDITION OR THE FAILURE TO SAFEGUARD THE CONSTRUCTION WORK, OR ANY OTHER ACT OR OMISSION OF THE DEVELOPER RELATED THERETO, WHICH ACCRUE PRIOR TO ACCEPTANCE OF THE IMPROVEMENTS BY THE CITY, WHETHER OR NOT CAUSED, IN WHOLE OR IN PART, BY THE NEGLIGENCE OF THE CITY, ITS OFFICERS, AGENTS OR EMPLOYEES.

M. AMENDMENTS

This Agreement may be changed or modified only with the written consent of both the DEVELOPER and the City Council of the CITY.

N. ASSESSMENT

In the event the DEVELOPER fails to comply with any of the provisions of this Agreement, the CITY shall be authorized to cease issuance of any further Certificates of Occupancy or building permits on property owned by the DEVELOPER, and the CITY shall be further authorized to file this Agreement in the Mechanic's Lien/Deed Records of Tarrant County as a mechanic's lien against the DEVELOPER'S property; and in the alternative, the CITY shall be authorized to levy an assessment against the DEVELOPER'S property for public improvements in

accordance with applicable state law.

O. CONTINUITY

This Agreement shall be a covenant running with the land and shall be binding upon the DEVELOPER, its successors, heirs, assigns, grantees, trustees and representatives. The use of the term DEVELOPER in this Agreement shall include the DEVELOPER'S successors, heirs, assigns, grantees, trustees and representatives.

P. SEVERABILITY

The provisions of this Agreement are severable and, in the event any word, phrase, sentence, paragraph, section or other provision of this Agreement, or the application thereof to any person or circumstance, shall ever be determined by a court of competent jurisdiction to be invalid, illegal, or unenforceable for any reason, the remainder of this Agreement shall remain in full force and effect and the application thereof to any other person or circumstance shall not be affected thereby. The invalid, illegal or unenforceable provision shall be rewritten by the parties to this Agreement to accomplish the parties' original intent as nearly as possible.

Q. TERMINATION AND RELEASE

Upon the satisfactory completion by the DEVELOPER and final acceptance by the CITY of all requirements of this Agreement, this Agreement shall terminate and if this Agreement has been filed in the county records, the CITY will execute a release of covenant to the DEVELOPER and the CITY shall file said release in the county records.

In Witness whereof, each of the parties hereto has caused this Agreement to be executed by its undersigned duly authorized representative as of the date herein above first mentioned.

DEVELOPER: MKP Development

By. _____

Adlai Pennington

10/4/16

Date

CITY OF KENNEDALE

By: _____
Brian Johnson, Mayor

_____ Date

ATTEST:

By: _____
Leslie Galloway, City Secretary

ACKNOWLEDGMENT

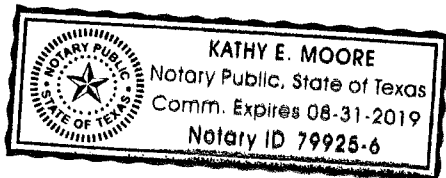
STATE OF TEXAS §
 §
COUNTY OF TARRANT §

BEFORE ME, the undersigned authority in and for Tarrant County, Texas, on this day personally appeared Adlai Pennington known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he is the President of AKP Development and that he executed the same on behalf of AKP Development for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 4 day of Oct, 2018.

Kathy E. Moore
Notary Public in and for the State of Texas

Kathy E. Moore
Type or Print Notary's Name



My Commission Expires: 8-31-19

Staff Report to the Honorable Mayor and City Council

Date: October 17, 2016

Agenda Item No: REQUIRED APPROVAL ITEMS (CONSENT) - M.

I. Subject:

Discuss and consider approval of Ordinance 610 amending Chapter 16, Article II "Parks and Recreation Board" of the Kennedale Code of Ordinances, establishing new membership appointments

II. Originated by:

Bob Hart

III. Summary:

Council has discussed the composition of the Parks and Recreation Board for several years. A nine-member board has been difficult to fill and the size has made the five-member quorum attendance difficult. Consequently, staff recommends the board size be reduced to five members with a quorum requirement of three. The board recently completed an updated Park Master Plan and has limited resources going forward; hence, the level of activity is low. Staff recommends adoption of the ordinance as proposed reducing the composition of the board from nine members to five.

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

Approve

VII. Alternative Actions:

VIII. Attachments:

1.	Ordinance 610	Ordinance 610.pdf
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ORDINANCE NO. 610

AN ORDINANCE AMENDING CHAPTER 16, ARTICLE II, "PARKS AND RECREATION BOARD", OF THE CODE OF ORDINANCES OF THE CITY OF KENNEDALE, TEXAS, AS AMENDED, BY REVISING THE MEMBERSHIP OF THE BOARD; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Kennedale is a home rule city acting under its charter adopted by the electorate pursuant to Article X1, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, The City Council previously adopted an ordinance providing for the creation and appointment of the Parks and Recreation Board; and

WHEREAS, the City Council now desires to amend said ordinance to revise the provisions regarding membership on the board.

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

SECTION 1.

Chapter 16, Article II of the Kennedale City Code is hereby amended by revising Section 16-11, Membership, to read as follows:

Sec. 16-11. - Membership.

- (a) Appointed by a majority vote of the City Council, this board shall consist of five (5) regular members designated by Places 1 through 5. Appointments shall take place in October of each year, with Places 1, 3, and 5 appointed in odd numbered years and Places 2 and 4 appointed in even numbered years. The terms for each place shall be two (2) years. Members must meet the following qualifications:
 - (1) Be a register voter of the city;
 - (2) Shall have resided in the corporate limits of the city for at least one (1) year; and
 - (3) Shall continue residency in the city during the term of office.
- (b) The City Council shall appoint a replacement to fill any vacancy for the unexpired term of the member whose place has become vacant.

- (c) The City Council shall have the authority to remove any member at any time, with or without cause.

**SECTION 2.
CUMULATIVE CLAUSE**

This ordinance shall be cumulative of all other ordinances of the City of Kennedale, Texas, and shall not repeal any of the provisions of such ordinance except in those instances when provisions of such ordinances are in direct conflict with the provisions of this ordinance, in which event the conflicting provisions of such ordinances are hereby repealed.

**SECTION 3.
SEVERABILITY CLAUSE**

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

**SECTION 4.
EFFECTIVE DATE**

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

PASSED AND APPROVED ON THIS 17th DAY OF OCTOBER, 2016.

Mayor, Brian Johnson

ATTEST:

City Secretary, Leslie Galloway

APPROVED AS TO FORM AND LEGALITY:

City Attorney, Wayne K. Olson

Staff Report to the Honorable Mayor and City Council

Date: October 17, 2016

Agenda Item No: REQUIRED APPROVAL ITEMS (CONSENT) - N.

I. Subject:

Discuss and consider authorizing the Mayor to execute documents accepting the Hazard Mitigation Grant Program sub-grant for acquisition and demolition of residential structure in the floodplain

II. Originated by:

III. Summary:

The City was awarded a total grant of \$171,600 under FEMA's Hazard Mitigation Grant Program authorized under the 2015 Memorial Day Floods. This grant is to purchase, relocate and demolish one residential structure in the Village Creek floodplain. The City will have until September 2018 to complete all phases of the grant, although staff anticipates it will be complete during the fiscal year. The local match of \$42,900 is in the Stormwater Drainage Utility fund. The initial planning session with the state is scheduled for November 1.

Staff recommends that the mayor be authorized to sign the acceptance award document and all subsequent documents.

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

Approve

VII. Alternative Actions:

VIII. Attachments:

1.	Flood Grant Award Letter	Flood Grant Award Letter.pdf
2.	Flood Grant Environmental Consideration	Flood Grant-Environmental Consideration.pdf
3.	Flood Grant Scope of Work	Flood Grant-Scope of Work.pdf
4.	Flood Grant Terms and Conditions	Flood Grant Terms-Conditions.docx

TEXAS DEPARTMENT OF PUBLIC SAFETY

5805 N. LAMAR BLVD. - BOX 4087 - AUSTIN, TEXAS 78773-0220
512/424-2000
www.dps.texas.gov



STEVEN C. McCRAW
DIRECTOR
DAVID G. BAKER
ROBERT J. BODISCH, SR.
DEPUTY DIRECTORS



COMMISSION
A. CYNTHIA LEON, CHAIR
MANNY FLORES
FAITH JOHNSON
STEVEN P. MACH
RANDY WATSON

September 30, 2016

The Honorable Brian Johnson
City of Kennedale Mayor
405 Municipal Drive
Kennedale, TX 76060

DUNS Number 050373653
TINS Number 75-6003070-6
FIPS Number 439-38896-00

RE: Hazard Mitigation Grant Program, DR-4223, 2015 Memorial Day Floods
Catalog of Federal Domestic Assistance (CFDA) 97-039
FEMA Project Number: DR-4223-028
Project Title: City of Kennedale Acquisitions
Period of Performance: September 16, 2016 to September 16, 2018

Hazard Mitigation Grant Program subgrant has been awarded by Texas Division of Emergency Management (TDEM).

DR-4223-028						
Version / Amendment	Date	Total Subgrant Amount	Federal Cost Share Percentage	Federal Cost Share Amount	Local Cost Share Percentage	Local Cost Share Amount
0	9/10/2016	\$171,600	75%	\$128,700	25%	\$42,900

This award is not for research or development as defined in 2 CFR 200.87.

A copy of the approved scope of work is attached. The terms and conditions of this award are also attached.

Signing and returning this award letter indicates subrecipient's acceptance of the scope of the subaward, the ability to pay the state match and all grant terms and conditions outlined in the attached documents.

Acceptance of the subaward must be returned to TDEM before payment on the subaward can be processed.

It is important that the subrecipient read, understand and comply with the scope and all terms and conditions. It is also vital that this information be disseminated to subrecipient's staff and contractors that are involved in work related to administrative support or administration of the subgrant.

If changes are needed to the scope of the subaward, period of performance or costs associated to the subaward, the subrecipient should immediately contact TDEM. No change will be considered approved to the subaward until the subrecipient is notified in writing by TDEM.

Please sign below to acknowledge acceptance of this subaward and agreement to abide by all terms and conditions.

Designated Subrecipient Agent

Date

Should you wish to appeal any determination related to this subaward you must do so within 60 days of receipt of the notice of the action. You will need to provide your appeal with any documentation supporting your position to your assigned TDEM project officer within the allotted time.

If you have any questions please contact Christy King, Assistant Mitigation Officer at 512-424-7501 or email at christina.king@dps.texas.gov.

Sincerely,



W. Nim Kidd, CEM[®]

Chief

Texas Division of Emergency Management

Assistant Director

Texas Homeland Security

Texas Department of Public Safety

ATTACHMENTS: Grant Terms and Conditions
Scope of Work
Record of Environmental Considerations

Record of Environmental Consideration

See 44 Code of Federal Regulation Part 10.

Project Name/Number: HMGP DR-4223-TX, Project #28, City of Kennedale Acquisition and Demolition Project

Project Location: 832 Trent Street, Kennedale, Tarrant County, TX 76060 (32.655562, -97.235245)

Project Description: The proposed HMGP project is the acquisition and demolition of the residential structure at 832 Trent Street Kennedale, TX. The acquired property will be demolished and remain as open space in perpetuity and maintained by the City of Kennedale for future use as a community resource. This HMGP project aims to remove this home which has a history of flood damage.

Documentation Requirements

- ☐ No Documentation Required **(Review Concluded)**
- ☐ **(Short version)** All consultation and agreements implemented to comply with the National Historic Preservation Act, Endangered Species Act, and Executive Orders 11988, 11990 and 12898 are completed and no other laws apply. **(Review Concluded)**
- ☒ **(Long version)** All applicable laws and executive orders were reviewed. Additional information for compliance is attached to this REC.

National Environmental Policy Act (NEPA) Determination

- ☐ Statutorily excluded from NEPA review. **(Review Concluded)**
- ☐ Programmatic Categorical Exclusion - **(Review Concluded)**
- ☒ Categorical Exclusion - Category (vii)
- ☒ No Extraordinary Circumstances exist.
- Are project conditions required? ☒ Yes (see section V) ☐ No **(Review Concluded)**
- ☐ Extraordinary Circumstances exist (See Section IV).
- ☐ Extraordinary Circumstances mitigated. (See Section IV comments)
- Are project conditions required? ☐ Yes (see section V) ☐ No **(Review Concluded)**
- ☐ Environmental Assessment
- ☐ Supplemental Environmental Assessment (Reference EA or PEA in comments)
- ☐ Environmental Impact Statement

Comments: 44 CFR 10.8 (d)(2)(vii) "The acquisition of properties and the associated demolition/removal or relocation of structures under any applicable authority when the acquisition is from a willing seller, and the buyer coordinated the acquisition planning with affected authorities, and the acquired property will be dedicated in perpetuity to uses that are compatible with open space, recreational, or wetland practices."

Reviewer and Approvals

☐ Project is Non-Compliant (See attached documentation justifying selection).

FEMA Environmental Reviewer.

Name: James A. Leamy III, Environmental and Historic Preservation Specialist

Signature James A. Leamy III Date 6/21/16

FEMA Regional Environmental Officer or delegated approving official.

Name: Kevin Jaynes, Regional Environmental Officer

Signature Kevin Jaynes Date 6/21/2016

I. Compliance Review for Environmental Laws (other than NEPA)**A. National Historic Preservation Act**

- ☐ Not type of activity with potential to affect historic properties. **(Review Concluded)**
- ☐ Applicable executed Programmatic Agreement. Otherwise, conduct standard Section 106 review.
- ☐ Activity meets Programmatic Allowance #
- Are project conditions required? ☐ Yes (see section V) ☐ No **(Review Concluded)**

HISTORIC BUILDINGS AND STRUCTURES

- ☐ No historic properties that are listed or 45/50 years or older in project area. **(Review Concluded)**
- ☒ Building or structure listed or 45/50 years or older in project area and activity not exempt from review.
- ☒ Determination of No Historic Properties Affected (FEMA finding/SHPO/THPO concurrence on file)
- Are project conditions required? ☐ Yes (see section V) ☒ No **(Review Concluded)**
- ☐ Determination of Historic Properties Affected (FEMA finding/SHPO/THPO concurrence on file)
- ☐ Property a National Historic Landmark and National Park Service was provided early notification during the consultation process. If not, explain in comments
- ☐ No Adverse Effect Determination (FEMA finding/SHPO/THPO concurrence on file).
- Are project conditions required? ☐ Yes (see section V) ☐ No **(Review Concluded)**
- ☐ Adverse Effect Determination (FEMA finding/SHPO/THPO concurrence on file)
- ☐ Resolution of Adverse Effect completed. (MOA on file)
- Are project conditions required ☐ Yes (see section V) ☐ No **(Review Concluded)**

ARCHEOLOGICAL RESOURCES

- ☒ Project affects only previously disturbed ground. **(Review Concluded)**
- ☐ Project affects undisturbed ground.
- ☐ Project area has no potential for presence of archeological resources
- ☐ Determination of no historic properties affected (FEMA finding/SHPO/THPO concurrence or consultation on file). **(Review Concluded)**
- ☐ Project area has potential for presence of archeological resources
- ☐ Determination of no historic properties affected (FEMA finding/SHPO/THPO concurrence on file)
- Are project conditions required ☐ Yes (see section V) ☐ No **(Review Concluded)**
- ☐ Determination of historic properties affected
- ☐ NR eligible resources not present (FEMA finding/SHPO/THPO concurrence on file).
- Are project conditions required ☐ Yes (see section V) ☐ No **(Review Concluded)**
- ☐ NR eligible resources present in project area. (FEMA finding/ SHPO/THPO concurrence on file)
- ☐ No Adverse Effect Determination. (FEMA finding/ SHPO/THPO concurrence on file)
- Are project conditions required? ☐ Yes (see section V) ☐ No **(Review Concluded)**
- ☐ Adverse Effect Determination. (FEMA finding/ SHPO/THPO concurrence on file)
- ☐ Resolution of Adverse Effect completed. (MOA on file)
- Are project conditions required? ☐ Yes (see section V) ☐ No **(Review Concluded)**

Comments: FEMA has determined that there will be No Historic Properties Affected. SHPO concurrence with this determination was received, dated April, 12, 2016.

Correspondence/Consultation/References:

B. Endangered Species Act

☐ No listed species and/or designated critical habitat present in areas affected directly or indirectly by the Federal action.

(Review Concluded)

☒ Listed species and/or designated critical habitat present in the areas affected directly or indirectly by the Federal action.

☒ No effect to species or designated critical habitat.

Are project conditions required? ☐ Yes (see section V) ☒ No **(Review Concluded)**

☐ May affect, but not likely to adversely affect species or designated critical habitat (FEMA determination/USFWS/NMFS concurrence on file)

Are project conditions required? ☐ Yes (see section V) ☐ No **(Review Concluded)**

☐ Likely to adversely affect species or designated critical habitat

☐ Formal consultation concluded. (Biological Assessment and Biological Opinion on file)

Are project conditions required? ☐ YES (see section V) ☐ NO **(Review Concluded)**

Comments: None.

Correspondence/Consultation/References:

C. Coastal Barrier Resources Act

☒ Project is not on or connected to CBRA Unit or Otherwise Protected Area **(Review Concluded)**.

☐ Project is on or connected to CBRA Unit or Otherwise Protected Area. (FEMA determination/USFWS consultation on file)

☐ Proposed action an exception under Section 3505.a.6 **(Review Concluded)**

☐ Proposed action not excepted under Section 3505.a.6.

Are project conditions required? ☐ YES (see section V) ☐ NO **(Review Concluded)**

Comments: None.

Correspondence/Consultation/References:

D. Clean Water Act

☒ Project would not affect any waters of the U.S. **(Review Concluded)**

☐ Project may affect waters, including wetlands, of the U.S.

☐ Project exempted as in kind replacement or other exemption. **(Review Concluded)**

☐ Project may require Section 404/401/or Section 9/10 (Rivers and Harbors Act) permit, including qualification under Nationwide Permits.

Are project conditions required? ☐ YES (see section V) ☐ NO **(Review Concluded)**

Comments: None.

Correspondence/Consultation/References:

E. Coastal Zone Management Act

☒ Project is not located in a coastal zone area and does not affect a coastal zone area **(Review concluded)**

☐ Project is located in a coastal zone area and/or affects the coastal zone

☐ State administering agency does not require consistency review. **(Review Concluded)**

☐ State administering agency requires consistency review.

Are project conditions required? ☐ YES (see section V) ☐ NO **(Review Concluded)**

Comments: None.

Correspondence/Consultation/References:

F. Fish and Wildlife Coordination Act

- ☒ Project does not affect, control, or modify a waterway/body of water. (Review Concluded)
- ☐ Project affects, controls or modifies a waterway/body of water.
- ☐ Coordination with USFWS conducted
- ☐ No Recommendations offered by USFWS. (Review Concluded)
- ☐ Recommendations provided by USFWS.
- Are project conditions required? ☐ YES (see section V) ☐ NO (Review Concluded)

Comments: None.*Correspondence/Consultation/References:***G. Clean Air Act**

- ☒ Project will not result in permanent air emissions. (Review Concluded)
- ☐ Project is located in an attainment area. (Review Concluded)
- ☐ Project is located in a non-attainment area.
- ☐ Coordination required with applicable state administering agency.
- Are project conditions required? ☐ YES (see section V) ☒ NO (Review Concluded)

Comments: None.*Correspondence/Consultation/References:***H. Farmland Protection Policy Act**

- ☒ Project does not affect designated prime or unique farmland. (Review Concluded)
- ☐ Project causes unnecessary or irreversible conversion of designated prime or unique farmland.
- ☐ Coordination with Natural Resource Conservation Commission required.
- ☐ Farmland Conversion Impact Rating, Form AD-1006, completed.
- Are project conditions required? ☐ YES (see section V) ☐ NO (Review Concluded)

Comments: None.*Correspondence/Consultation/References:***I. Migratory Bird Treaty Act**

- ☐ Project not located within a flyway zone. (Review Concluded)
- ☒ Project located within a flyway zone.
- ☒ Project does not have potential to take migratory birds.
- Are project conditions required? ☐ Yes (see section V) ☒ No (Review Concluded)
- ☐ Project has potential to take migratory birds.
- ☐ Contact made with USFWS
- Are project conditions required? ☐ YES (see section V) ☐ NO (Review Concluded)

Comments: None.*Correspondence/Consultation/References:***J. Magnuson-Stevens Fishery Conservation and Management Act**

- ☒ Project not located in or near Essential Fish Habitat. (Review Concluded)
- ☐ Project located in or near Essential Fish Habitat.
- ☐ Project does not adversely affect Essential Fish Habitat.
- Are project conditions required? ☐ Yes (see section V) ☐ No (Review Concluded)
- ☐ Project adversely affects Essential Fish Habitat (FEMA determination/USFWS/NMFS concurrence on file)
- ☐ NOAA Fisheries provided no recommendation(s)
- Are project conditions required? ☐ Yes (see section V) ☐ No (Review Concluded)
- ☐ NOAA Fisheries provided recommendation(s)
- ☐ Written reply to NOAA Fisheries recommendations completed.
- Are project conditions required? ☐ YES (see section V) ☐ NO (Review Concluded)

Comments: None.

Correspondence/Consultation/References:

K. Wild and Scenic Rivers Act

- ☒ Project is not along and does not affect Wild or Scenic River (WSR) - **(Review Concluded)**
- ☐ Project is along or affects WSR
- ☐ Project adversely affects WSR as determined by NPS/USFS. **FEMA cannot fund the action.** (NPS/USFS/USFWS/BLM consultation on file) **(Review Concluded)**
- ☐ Project does not adversely affect WSR. (NPS/USFS/USFWS/BLM consultation on file)
- Are project conditions required? ☐ YES (see section V) ☐ NO **(Review Concluded)**

Comments: None.

Correspondence/Consultation/References:

L. Other Relevant Laws and Environmental Regulations

Resource Conservation and Recovery Act (RCRA): Unusable equipment, debris and material shall be disposed of in an approved manner and location. In the event significant items (or evidence thereof) are discovered during implementation of the project, applicant shall handle, manage, and dispose of petroleum products, hazardous materials and toxic waste in accordance to the requirements and to the satisfaction of the governing local, state, and federal agencies.

National Emission Standards for Hazardous Air Pollutants (NESHAP): If any asbestos containing materials, lead based paint and/or other hazardous materials are found during remediation or repair activities, the applicant must comply with all federal, state and local abatement and disposal requirements under the National Emissions Standards for Hazardous Air Pollutants (NESHAP).

II. Compliance Review for Executive Orders

A. E.O. 11988 - Floodplains

- ☐ No Effect on Floodplains/Flood levels and project outside Floodplain - **(Review Concluded)**
- ☒ Located in Floodplain or Effects on Floodplains/Flood levels
- ☐ No adverse effect on floodplain and not adversely affected by the floodplain.
- Are project conditions required? ☐ Yes (see section V) ☐ No **(Review Concluded)**
- ☒ Beneficial Effect on Floodplain Occupancy/Values **(Review Concluded).**
- ☐ Possible adverse effects associated with investment in floodplain, occupancy or modification of floodplain environment
- ☐ 8 Step Process Complete - documentation on file
- Are project conditions required? ☐ YES (see section V) ☐ NO **(Review Concluded)**

Comments: The project is located within "AE" and "AE Floodway" zones, areas of 100-yr flooding, per Flood Insurance Rate Map (FIRM) panel 48439C0340K, dated 09/25/2009. The proposed action is not likely to result in any potential direct impacts that will adversely affect the natural values and function of floodplains nor is it likely to increase the risk of flood loss.

Correspondence/Consultation/References:

B. E.O. 11990 - Wetlands

- ☒ No Effects on Wetland(s) and project located outside Wetland(s) - **(Review Concluded)**
- ☐ Located in Wetland or effects Wetland(s)
- ☐ Beneficial Effect on Wetland - **(Review Concluded)**
- ☐ Possible adverse effect associated with constructing in or near wetland
- ☐ Review completed as part of floodplain review
- ☐ 8 Step Process Complete - documentation on file
- Are project conditions required? ☐ YES (see section V) ☐ NO **(Review Concluded)**

Comments: A review of the National Wetland Inventory (NWI) online mapper, accessed on June 21, 2016, for the site indicates that the area is not located within nor does it affect a designated wetland.

Correspondence/Consultation/References:

C. E.O. 12898 - Environmental Justice For Low Income and Minority Populations

- ☐ No Low income or minority population in, near or affected by the project - **(Review Concluded)**
- ☒ Low income or minority population in or near project area
- ☒ No disproportionately high and adverse impact on low income or minority population- **(Review Concluded)**
- ☐ Disproportionately high or adverse effects on low income or minority population
- Are project conditions required? ☐ YES (see section V) ☐ NO **(Review Concluded)**

Comments: None.

Correspondence/Consultation/References:

III. Other Environmental Issues

Identify other potential environmental concerns in the comment box not clearly falling under a law or executive order (see environmental concerns scoping checklist for guidance).

Comments: None.

Correspondence/Consultation/References:

IV. Extraordinary Circumstances

Based on the review of compliance with other environmental laws and Executive Orders, and in consideration of other environmental factors, review the project for extraordinary circumstances.

* A "Yes" under any circumstance may require an Environmental Assessment (EA) with the exception of (ii) which should be applied in conjunction with controversy on an environmental issue. If the circumstance can be mitigated, please explain in comments. If no, leave blank.

Yes

- ☐ (i) Greater scope or size than normally experienced for a particular category of action
- ☐ (ii) Actions with a high level of public controversy
- ☐ (iii) Potential for degradation, even though slight, of already existing poor environmental conditions;
- ☐ (iv) Employment of unproven technology with potential adverse effects or actions involving unique or unknown environmental risks;
- ☐ (v) Presence of endangered or threatened species or their critical habitat, or archaeological, cultural, historical or other protected resources;
- ☐ (vi) Presence of hazardous or toxic substances at levels which exceed Federal, state or local regulations or standards requiring action or attention;
- ☐ (vii) Actions with the potential to affect special status areas adversely or other critical resources such as wetlands, coastal zones, wildlife refuge and wilderness areas, wild and scenic rivers, sole or principal drinking water aquifers;
- ☐ (viii) Potential for adverse effects on health or safety; and
- ☐ (ix) Potential to violate a federal, state, local or tribal law or requirement imposed for the protection of the environment.
- ☐ (x) Potential for significant cumulative impact when the proposed action is combined with other past, present and reasonably foreseeable future actions, even though the impacts of the proposed action may not be significant by themselves.

Comments: None.

V. Environmental Review Project Conditions

General comments: None

Project Conditions:

1. In the event that archeological deposits, including any Native American pottery, stone tools, bones, or human remains, are uncovered, the project shall be halted and the applicant shall stop all work immediately in the vicinity of the discovery and take reasonable measures to avoid or minimize harm to the finds. All archeological findings will be secured and access to the sensitive area restricted. The applicant will inform FEMA immediately and FEMA will consult with the State Historic Preservation Office (SHPO) or Tribal Historic Preservation Office (THPO) and Tribes and work in sensitive areas cannot resume until consultation is completed and appropriate measures have been taken to ensure that the project is in compliance with the National Historic Preservation Act (NHPA).
2. Unusable equipment, debris and material shall be disposed of in an approved manner and location. In the event significant items (or evidence thereof) are discovered during implementation of the project, applicant shall handle, manage, and dispose of petroleum products, hazardous materials and toxic waste in accordance to the requirements and to the satisfaction of the governing local, state, and federal agencies.
3. If any asbestos containing materials, lead based paint and/or other hazardous materials are found during remediation or repair activities, the applicant must comply with all federal, state and local abatement and disposal requirements under the National Emissions Standards for Hazardous Air Pollutants (NESHAP).
4. Applicant must coordinate with the local floodplain administrator and obtain required permits prior to initiating work. All coordination pertaining to these activities and applicant compliance with any conditions should be documented and copies forwarded to the state and FEMA for inclusion in the permanent project files.
5. The applicant is required to obtain and comply with all local, state, and federal permits, approvals, and requirements prior to initiating work on this project.
6. Changes, additions, and/or supplements to the approved scope of work which alter the existing use and function of the structure, including additional work not funded by FEMA but performed substantially at the same time, will require re-submission of the application prior to construction to FEMA for re-evaluation under the National Environmental Policy Act.

Monitoring Requirements: None.

SCOPE OF WORK

KENNEDALE ACQUISITION/DEMOLITION

FEMA-4223-DR APPLICATION

KENNEDALE FLOOD HISTORY

The City of Kennedale, Texas has historically experienced flooding along Village Creek. Severe flooding has been documented within the watershed for events that occurred in 1916, 1922, 1945, 1949, 1957, 1962, 1965, 1968, 1969, 1970, 1976, 1977, 1979, 1980, 1985, 1989, 1991, 1997, 2004, 2007, and 2010. The City of Kennedale has taken several proactive steps to minimize the flood risk to residents within the Village Creek watershed. A “Flood Study of Village Creek within the City of Kennedale” was prepared in June 2012.

The study updated the current effective FEMA hydraulics model to reflect the 2012 conditions of the watershed. The study identified 133 buildings that have estimated finished floor elevations below the 100-year flood elevation within the Village Creek watershed. The total estimated damages for the 5-year flood event are approximately \$351,000 and total estimated damages for a 100-year flood is approximately \$6,356,000. The report identified several flood reduction plans including six buyout alternatives. The study determined that they buyout of all structures in the 5-year floodplain would result in a benefit cost ratio of 2.15.

PURPOSE OF PROJECT

This project will help to alleviate flood damages and to reduce flood risks within the Village Creek watershed by the voluntary buyout of structures that are impacted by flood threats from Village Creek. Buildings that are acquired will be demolished and the land will be dedicated as open space in perpetuity. Removal of buildings within the Village Creek floodplain will reduce the public and private costs associated with flood fighting and recovery; reduce business, commercial, and residential losses resulting from a loss of production and/or economic activity due to flooding; and improve overall health, safety and quality of life of the citizens of Kennedale. Voluntary buyout letters were sent out to residential and commercial businesses within the Village Creek floodplain. This project will only include buildings that have a voluntary buyout interest letter from the owner. One voluntary acquisition and demolition letter was returned for the property located at 832 Trent St. A copy of the voluntary letter is included in this HMGP application.

DESCRIPTION OF PROPOSED PROJECT

The City of Kennedale proposes a voluntary acquisition and demolition of the residential building located at 832 Trent Street. The residential property is location within the FEMA floodway and Village Creek 5-year floodplain. Four FEMA flood insurance claims have been made on this property for approximately \$51,000 due to past flooding. After demolition is complete the vacant land will be deed restricted to open use for perpetuity in order to protect and preserve the natural floodplain. The proposed acquisition and demolition of 832 Trent Street falls within the parameters

of the pre-calculated benefit cost ratio requirements because the property value is less than \$276,000 and is within the FEMA 100-year floodplain.

PROJECT ALTERNATIVES

The first alternative is to do nothing along the Village Creek watershed. Flooding is expected to continue within the area and will require careful monitoring by the City of Kennedale. As flood water rises within the Village Creek area blockades will have to be put up along flooded streets. Table 1 presents the numbers of buildings that will be flooded and the estimated total damages for storm events along Village Creek based on the June 2012 Village Creek Flood Study. Existing conditions expected average annual flood damages are estimated to be \$564,000.

Table 1. Estimated Damages for Do Nothing Alternative

Flood Event	Number of Buildings in Floodplain	Damage to Affected Building	Damage to Affected Content	Total Estimated Damages
1-Year	0	\$0	\$0	\$0
2-Year	0	\$0	\$0	\$0
5-Year	40	\$221,000	\$130,000	\$351,000
10-Year	70	\$1,001,000	\$539,000	\$1,540,000
25-Year	106	\$2,133,000	\$1,130,000	\$3,263,000
50-Year	124	\$2,950,000	\$1,561,000	\$4,511,000
100-Year	133	\$4,175,000	\$2,181,000	\$6,356,000
500-Year	149	\$5,703,000	\$2,935,000	\$8,638,000
Notes:				
1. Damages were computed using FDA and the Village Creek Flood Study Results (June 2012)				

The second alternative is to elevate the residential structure located at 836 Trent Street above the FEMA floodplain. The 1,900 square foot residential building was built in 1960 and is located in a predominately industrial area. Elevation of the structure was not selected based on the age, value, and the location of the residential structure in an industrial area.

The third alternative is to buyout the residential structure located at 836 Trent Street. The building is located within the FEMA floodway as shown on FIRM Panel 48439C0340K dated September 25, 2009. The cost of acquisition and demolition of the building is estimated to cost \$120,000. No voluntary participation letter was received for this property. This alternative was selected because of the low project cost.

COST ESTIMATES

Cost estimates were obtained using several local resources. Acquisition cost estimates were obtained from the Halff Associates Right-of-Way office for similar acquisition projects within the Dallas-Fort Worth Metroplex. Acquisition cost estimates include estimated closing costs, appraisal fees, and acquisition services. Acquisition services consist of the researching and preparing an offer for the

buyout property, explaining the appraisal to the property owner, negotiating the offer if necessary, preparing open space in perpetuity deed documents, and ensuring the offer is complete for closing.

Land market value was determined by using the Tarrant Appraisal District (TAD) 2015 values. The 2015 certified TAD listed values have been the same since 2010. The frozen TAD value was adjusted by adding 3% of the values for the last 5 years. To estimate the fair market value for the proposed acquisition the tax assessment records plus 25% was used as the value.

Demolition cost estimates were obtained by contacting Mandy Clark with the City of Arlington to get the average cost of demolition from their previous acquisition and demolition projects. Average demolition costs and asbestos abatement were estimated at \$15 per square foot for the City of Arlington projects. Additional cost included to site stabilization consisting of hydromulch and temporary irrigation of \$4,700 per property would be required. An additional demolition estimate was obtained by contacting Intercon Environmental. A costs of \$3.25 per square foot for building demolition not including asbestos abatement and \$1 per square foot for drive and sidewalk demolition. Asbestos inspection and asbestos abatement cost estimates were also obtained from the City of Arlington previous acquisition and demolition project.

Pre-award cost to develop the DR-4223 HMGP application was \$12,000. The initial application included in the potential buyout 133 properties located within the FEMA 100-year floodplain. Halff Associates determined which of the properties qualified as repetitive loss and severe repetitive loss properties based on NFIP information provided by the City of Kennedale. Halff Associates compiled the documentation for the HMGP application based on the voluntary letters received by the City of Kennedale. Documentation for the application included researching the current property value, determine if the property qualified as a repetitive loss or severe repetitive loss property, photos of the property, researching local buyout projects to determine the estimated costs, scopes, and schedules, and preparation of the TxDem required forms for the HMGP application. Halff Associates, assisted the City staff with compiling all the necessary documentation and submitting the HMGP application to FEMA. After the application was submitted Halff Associates coordinated with TxDem to respond to requests for information including revising the preliminary scope, budget, schedule and other HMGP documents as requested by TxDem.

The proposed cost for the acquisition and demolition of the property located at 832 Trent Street is estimated to cost \$150,750. A total cost estimate for the project with the pre-award costs and acquisition and demolition is \$162,750. A detailed proposed cost estimate is included after this report. The FEMA T-properties spreadsheet is included with this HMGP Application.

SCHEDULE

The acquisition and demolition of 832 Trent St is estimated to take approximately 24 months from the award date. The proposed Schedule is presented after this statement of work. Preliminary environmental assessment, appraisal, contract negotiation, close on property, environmental

remediation (if necessary), demolition, removal of debris, and project close out are the expected steps for the acquisition and buyout of the residential property.

IDENTIFICATION OF PROPERTIES TO BE MITIGATED

The property to be mitigated is shown on the FIRMette included after this statement of work. Table 2 presents the address, building use, location with the Special Flood Hazard Area (SFHA), year built, total square footage of the principle structure, and estimated land and improvement cost. A signed Voluntary Interest letter has been obtained for each property listed in the table below. Estimated land and improvement costs are based on 2015 Tarrant Appraisal District (TAD) data. The TAD Market values were compared to the “Real Estate Market Study Price Range Analysis, Village Creek Flood Study, Kennedale, Texas” prepare by Tom Kyser in April 2012. The real estate market values were found to be similar to the TAD data. A copy of the Real Estate Market Study Price Range Analysis is included with this HMGP Application. A preliminary cost estimate is included after this scope of work.

Table 2. Voluntary Acquisition Properties

Property Address	Building Use	SFHA Location	Year Built	Total Square Footage including Garage Space	Estimated Land and Improvement Cost
832 Trent St	Residential	Floodway	1960	1900 sf	\$106,650

OUTCOMES

The proposed voluntary floodplain property acquisition and demolition project will allow the City of Kennedale to alleviate flood damages and provide additional safety the citizens of Kennedale. Demolition of the buildings in the SFHA will reduce the flood risks and damages by removing the residential building with a history of flooding. The demolition of the severe repetitive loss structure that experienced flood damages during the 1989, 1991, and 2004. The structure has had approximately \$51,000 of flood insurance claims in the past.

The proposed acquisition/demolition project will remove one buildings from the 5-year floodplain and FEMA floodway. The proposed buyout and demolition will also help the City of Kennedale move closer to the Village Creek Master Plan of the Village Creek floodplain area from becoming park land and removing all commercial and residential buildings from the Village Creek floodplain area. The total estimated cost for the acquisition and demolition of the property located at 832 Trent Street is \$162,760 with a 25% match for Kennedale of \$40,688.

SPECIAL PROJECT COMPONENTS

No special project components are proposed for this project.

OTHER PROJECTS

The City of Kennedale is currently coordinating with the United State Corps' of Engineer's (USACE) about the development for a possible channel reclamation project.

GRANT TERMS AND CONDITIONS

This Grant Agreement (consisting of FEMA Disaster Award and these Terms and Conditions) is made and entered into by and between the Department of Public Safety / Texas Division of Emergency Management, an agency of the State of Texas, hereinafter referred to as "DPS/TDEM," and the funds recipient, hereinafter referred to as the "Applicant" or "Subrecipient." Furthermore, DPS/TDEM and the Subrecipient are collectively hereinafter referred to as the "Parties."

Subrecipient may not assign or transfer any interest in this Grant without the express, prior written consent of DPS/TDEM. If Subrecipient issues subawards as part of this Grant project, Subrecipient shall include and require its subawardees to comply with the terms and conditions of this Grant.

The term "Subrecipient agreement funds" as used in this Grant means funds provided by DPS/TDEM under the United States Department of Homeland Security (DHS) Federal Emergency Management Agency (FEMA) grant programs (also referred to herein as DHS/FEMA). The term "Subrecipient's funds" or match funds as used in this Grant means funds provided by the Subrecipient.

- A. **Standard of Performance.** Subrecipient shall perform all activities as approved by DPS/TDEM. Any change to a project shall receive prior written approval by TDEM and, if required, by FEMA. Subrecipient shall perform all activities in accordance with all terms, provisions and requirements set forth in this Grant, including but not limited to the following Exhibits:
1. Assurances – Non-Construction Programs, hereinafter referred to as "Exhibit A"
 2. Assurances – Construction Programs, hereinafter referred to as "Exhibit B"
 3. Certifications for Grant Agreements, hereinafter referred to as "Exhibit C"
 4. State of Texas Assurances, hereinafter referred to as "Exhibit D"
 5. Environmental Review Certification, hereinafter referred to as "Exhibit E"
 6. Additional Grant Conditions, hereinafter referred to as "Exhibit F"
 7. Additional Grant Certifications, hereinafter referred to as "Exhibit G"
- B. **Failure to Perform.** In the event Subrecipient fails to implement the project(s) entered and approved in the DPS/TDEM web-based grants management system, or comply with any provision of this Grant, Subrecipient shall be liable to DPS/TDEM for an amount not to exceed the award amount of this Grant and may be barred from applying for or receiving additional DHS/FEMA grant program funds or any other grant program funds administered by DPS until repayment to DPS/TDEM is made and any other compliance or audit finding is satisfactorily resolved, in addition to any other remedy specified in this Grant. Failure to timely implement projects may reduce future funding in additional DHS/FEMA and/or other grant programs administered by DPS.
- C. **Funding Obligations.** DPS/TDEM shall not be liable to Subrecipient for any costs incurred by Subrecipient that are not allowable costs.
1. Notwithstanding any other provision of this Grant, the total of all payments and other obligations incurred by DPS/TDEM under this Grant shall not exceed the Total Award Amount listed on the Grant Subrecipient Award.
 2. Subrecipient shall contribute the match funds listed on the Grant Subrecipient Award.
 3. Subrecipient shall refund to DPS/TDEM any sum of these Grant funds that has been determined by DPS/TDEM to be an overpayment to Subrecipient or that DPS/TDEM

determines has not been spent by Subrecipient in accordance with this Grant. No refund payment(s) shall be made from local, state or federal Grant funds unless repayment with Grant funds is specifically permitted by statute or regulation. Subrecipient shall make such refund to DPS/TDEM within thirty (30) calendar days after

4. DPS/TDEM requests such refund.

D. **Performance Period.** The performance period for this Grant is listed on the Grant Subrecipient Award letter. **All projects shall be completed within the performance period AND all reimbursement requests shall be submitted to DPS/TDEM within 60 days for the end of the performance period.** Subrecipient shall have expended all Grant funds and submitted reimbursement requests, invoices and any supporting documentation to DPS/TDEM within 60 days of the end of the performance period. DPS/TDEM shall not be obligated to reimburse expenses incurred after the performance period or submitted after the deadline.

E. **Uniform Administrative Requirements, Cost Principals and Audit Requirements.** Except as specifically modified by law or this Grant, Subrecipient shall administer this Grant through compliance with the most recent version of all applicable laws and regulations, including but not limited to DHS program legislation, Federal awarding agency regulations, and the terms and conditions of this Grant. A non-exclusive list is provided below [not all may apply in every projects]:

- Public Law 93-288, as amended (Stafford Act)
- 44 CFR, Emergency Management and Assistance
- Disaster Mitigation Act of 2000
- OMB Regulations 2 CFR, Grant and Agreements
- Executive Order 11988, Floodplain Management
- Executive Order 11990, Protection of Wetlands
- Executive Order 12372, Intergovernmental Review of Programs and Activities
- Executive Order 12549, Debarment and Suspension
- Executive Order 12612, Federalism
- Executive Order 12699, Seismic Design
- Executive Order 12898, Environmental Justice
- Coastal Barrier Resources Act, Public Law 97-348
- Single Audit Act, Public Law 98-502
- Sandy Recovery Improvement Act publications
- 16 U.S.C. § 470, National Historic Preservation Act
- 16 U.S.C. § 1531, Endangered Species Act References
- FEMA program publications, guidance and policies

F. **State Requirements for Grants.** Subrecipient shall comply with all other federal, state, and local laws and regulations applicable to this Grant including but not limited to the laws and the regulations promulgated in Texas Government Code, Chapter 783, Uniform Grant and Contract Management, (UGMS) at:

<http://www.window.state.tx.us/procurement/catrad/ugms.pdf>

and the program State Administrative Plan, available at:

<http://www.txdps.state.tx.us/dem/GrantsResources/index.htm>.

Subrecipient shall, in addition to the assurances and certifications, comply and require each of its subcontractors employed in the completion of the project to comply with all applicable

statutes, regulations, executive orders, OMB circulars, terms and conditions of this Grant and the approved application.

Grant funds may not be awarded to or expended by any entity which performs political polling. This prohibition does not apply to a poll conducted by an academic institution as part of the institution's academic mission that is not conducted for the benefit of a particular candidate or party.

Grant funds may not be expended by a unit of local government unless the following limitations and reporting requirements are satisfied:

1. Texas General Appropriations Act, Art. IX, Parts 2 and 3, except there is no requirement for increased salaries for local government employees;
2. Texas Government Code Sections 556.004, 556.005, and 556.006, which prohibits using any money or vehicle to support the candidacy of any person for office, influencing positively or negatively the payment, loan, or gift to a person or political organization for a political purpose, and using Grant funds to influence the passage or defeat of legislation including not assisting with the funding of a lobbyist, or using Grant funds to pay dues to an organization with a registered lobbyist;
3. Texas Government Code Sections 2113.012 and 2113.101, which prohibits using Grant funds to compensate any employee who uses alcoholic beverages on active duty and Subrecipient may not use Grant funds to purchase an alcoholic beverage and may not pay or reimburse any travel expense for an alcoholic beverage;
4. Texas General Appropriations Act, Art. IX, Section 6.13, which requires Subrecipient to make every effort to attain key performance target levels associated with this Grant, including performance milestones, milestone time frames, and related performance reporting requirements; and
5. General Appropriations Act, Art. IX, Sections 7.01 and 7.02, and Texas Government Code §2102.0091, which requires that this Grant may only be expended if Subrecipient timely completes and files its reports.

G. Restrictions and General Conditions.

1. Use of Funds. DHS/FEMA Grant funds may only be used for the purposes set forth in this Grant, and shall be consistent with the statutory authority for this Grant. Grant funds may not be used for matching funds for other Federal grants/cooperative agreements, lobbying, or intervention in Federal regulatory or adjudicatory proceedings. In addition, Federal funds may not be used to sue the Federal government or any other government entity.
2. Federal Employee Prohibition. Federal employees are prohibited from serving in any capacity (paid or unpaid) on any proposal submitted under this Grant. Federal employees may not receive funds under this Grant.
3. Points of Contacts. Within 30 calendar days of any change, Subrecipient shall notify DPS/TDEM of any change or correction to the Designation of Applicant's Agent, chief elected official, program, and/or financial points of contact in the DPS/TDEM grant management system.
4. DUNS Number. Subrecipient confirms its Data Universal Numbering Systems (DUNS) Number is the number listed on this Grant. The DUNS Number is the nine digit number established and assigned by Dun and Bradstreet, Inc., at 866/705-5711 or <http://fedgov.dnb.com/webform>
5. Central Contractor Registration and Universal Identifier Requirements. Subrecipient maintains that it has registered on the System for Award Management (SAM) at

www.sam.gov or other federally established site for contractor registration, and entered DPS/TDEM-required information. Subrecipient shall keep current, and then review and update the information at least annually. Subrecipient shall keep information current in the SAM database until the later of when it submits this Grant's final financial report or receives final Grant award payment. Subrecipient agrees that it shall not make any subaward agreement or contract related to this Grant without first obtaining the vendor/subawardee's mandatory DUNS number. See Section §200.32 of OMB 2 C.F.R.

6. Reporting Total Compensation of Subrecipient Executives. 2 C.F.R. §200.331; see FEMA Information Bulletin 350.
 - a. Applicability and what to report: Subrecipient shall report whether Subrecipient received \$25 million or more in Federal procurement contracts or financial assistance subject to the Transparency Act per 2 C.F.R. §200.331. Subrecipient shall report whether 80% or more of Subrecipient's annual gross revenues were from Federal procurement contracts or Federal financial assistance. If Subrecipient answers "yes" to both questions, Subrecipient shall report, along with Subrecipient's DUNS number, the names and total compensation (see 17 C.F.R. §229.402(c)(2)) for each of Subrecipient's five most highly compensated executives for the preceding completed fiscal year.
 - b. Where and when to report: Subrecipient shall report executive total compensation at www.sam.gov or other federally established replacement site. By signing this Grant, Subrecipient certifies that, if required, Subrecipient's jurisdiction has already registered, entered the required information, and shall keep information in the SAM database current, and update the information at least annually for each year until the later of when the jurisdiction submits its final financial report or receives final payment. Subrecipient agrees that it shall not make any subaward agreement or contract without first obtaining the subawardee's mandatory DUNS number.
7. Debarment and Suspension. Subrecipient shall comply with Executive Order 12549 and 12689, which provide protection against waste, fraud, and abuse by debarring or suspending those persons deemed irresponsible in their dealings with the Federal government.
8. Direct Deposit. If Subrecipient has not received reimbursements from DPS/TDEM within the past eleven (11) months (prior to date of award), it shall forward a new/updated direct deposit form to DPS/TDEM. Completed direct deposit forms from Subrecipient shall be emailed to TDEM project officer. The email subject line and attachment name shall include the subrecipient name and identify the document attached (i.e. "*Sample County DD form*"). The direct deposit form is currently available at <http://www.window.state.tx.us/taxinfo/taxforms/74-176.pdf>.
9. Property Management and Inventory. Subrecipient shall maintain property/inventory records which, at minimum, shall include a description of the property, a serial number or other identification number, the source of property, who holds title, the acquisition date, the cost of the property, the percentage of Federal participation in the cost of the property, the location, use and condition of the property, and any ultimate disposition data including the date of disposal and sale price of the property. Subrecipient shall develop and implement a control system to prevent loss, damage or theft of property and Subrecipient shall investigate and document any loss, damage or theft of property funded under this Grant.
10. Site Visits. DHS and/or DPS/TDEM, through its authorized representatives, have the right at all reasonable times to make site visits to review project accomplishments and management control systems and to provide such technical assistance as may be required. If any site visit is made by DHS on the premises of Subrecipient or a contractor under this Grant, Subrecipient shall provide and shall require its contractors to provide

all reasonable facilities and assistance for the safety and convenience of the government representatives in the performance of their duties. All site visits and evaluations shall be performed in such a manner that will not unduly delay the work.

H. **Procurement and Contracting.**

1. **Procurements.** Subrecipient shall comply with all applicable federal, state, and local laws and requirements, including but not limited to proper competitive solicitation processes where required, for any procurement which utilizes federal funds awarded under this Grant in accordance with 2 C.F.R. 200.318
2. **Contract Provisions.** All contracts executed using funds awarded under this Grant shall contain the contract provisions listed under 2 C.F.R. 200.326 and Appendix II (A), Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.
3. Procurement activities must follow the most restrictive of Federal, State and Local procurement regulations:
 - a. Procurement by micro purchase
 - b. Procurement by small purchase
 - c. Procurement by sealed bid
 - d. Procurement by competitive proposal
 - e. Procurement by non-competitive proposal, solely when the award of a contract is unfeasible under the other methods

The State must be contacted for approval to use a noncompetitive procurement method. Failure to follow eligible procurement methods will result in ineligible costs. Other types of agreements for services must have State approval prior to use or execution. A copy of the local procurement policy must be provided to the State before initial payment.

The **cost plus a percentage of cost** and **percentage of construction** cost methods of contracting are **ineligible**.

Must perform **cost/price analysis** for purchases over \$3000.

Must negotiate profit as a separate element where required.

4. Evidence of non-debarment for vendors must be documented through <http://www.sam.gov/portal/public/SAM> and http://www.window.state.tx.us/procurement/prog/vendor_performance/debarred/ and submitted for review.
 5. Comply with rules related to underutilized businesses (small and minority businesses, women's enterprises and labor surplus firms) at 2 CFR 200.321
- I. **Monitoring.** Subrecipient will be monitored periodically by federal, state or local entities, both programmatically and financially, to ensure that project goals, objectives, performance requirements, timelines, milestone completion, budget, and other program-related criteria are met.

DPS/TDEM, or its authorized representative, reserves the right to perform periodic desk/office-based and/or on-site monitoring of Subrecipient's compliance with this Grant and of the adequacy and timeliness of Subrecipient's performance pursuant to this Grant. After each monitoring visit, DPS/TDEM shall provide Subrecipient with a written report of the monitor's findings. If the monitoring report notes deficiencies in Subrecipient's performance

under this Grant, the monitoring report shall include requirements for the timely correction of such deficiencies by Subrecipient. Failure by Subrecipient to take action specified in the monitoring report may be cause for suspension or termination of this Grant pursuant to the Suspension and/or Termination Section herein.

J. **Audit.**

1. **Audit of Federal and State Funds.** Subrecipient shall arrange for the performance of an annual financial and compliance audit of funds received and performances rendered under this Grant as required by the Single Audit Act (OMB 2 C.F.R. 200.501, formerly A-133). Subrecipient shall comply, as applicable, with Texas Government Code, Chapter 783, the Uniform Grant Management Standards (UGMS), the State Uniform Administrative Requirements for Grants and Cooperative Agreements.
2. **Right to Audit.** Subrecipient shall give the United States Department of Homeland Security (DHS), Federal Emergency Management Agency (FEMA), the Comptroller General of the United States, the Texas State Auditor, DPS/TDEM, or any of their duly authorized representatives, access to and the right to conduct a financial or compliance audit of Grant funds received and performances rendered under this Grant. Subrecipient shall permit DPS/TDEM or its authorized representative to audit Subrecipient's records. Subrecipient shall provide any documents, materials or information necessary to facilitate such audit.
3. **Subrecipient's Liability for Disallowed Costs.** Subrecipient understands and agrees that it shall be liable to DPS/TDEM for any costs disallowed pursuant to any financial or compliance audit(s) of these funds. Subrecipient further understands and agrees that reimbursement to DPS/TDEM of such disallowed costs shall be paid by Subrecipient from funds that were not provided or otherwise made available to Subrecipient pursuant to this Grant or any other federal contract.
4. **Subrecipient's Facilitation of Audit.** Subrecipient shall take such action to facilitate the performance of such audit(s) conducted pursuant to this Section as DPS/TDEM may require of Subrecipient. Subrecipient shall ensure that this clause concerning the authority to audit funds received indirectly by subcontractors through Subrecipient and the requirement to cooperate is included in any subcontract it awards.
5. **State Auditor's Clause.** Subrecipient understands that acceptance of funds under this Grant acts as acceptance of the authority of the State Auditor's Office to conduct an audit or investigation in connection with those funds. Subrecipient further agrees to cooperate fully with the State Auditor's Office in the conduct of the audit or investigation, including providing all records requested. Subrecipient shall ensure that this clause concerning the State Auditor's Office's authority to audit funds and the requirement to cooperate fully with the State Auditor's Office is included in any subgrants or subcontracts it awards. Additionally, the State Auditor's Office shall at any time have access to and the rights to examine, audit, excerpt, and transcribe any pertinent books, documents, working papers, and records of Subrecipient relating to this Grant.

K. Retention and Accessibility of Records.

1. Retention of Records. Subrecipient shall maintain fiscal records and supporting documentation for all expenditures of this Grant's funds pursuant to the applicable OMB 2 C.F.R. Subpart D – Post Federal Award Requirements, of Part 200 UGMS § .42, and this Grant. Subrecipient shall retain these records and any supporting documentation for a minimum of three (3) years from the later of the completion of this project's public objective, submission of the final expenditure report, any litigation, dispute, or audit. Records shall be retained for three (3) years after any real estate or equipment final disposition. The DHS or DPS/TDEM may direct Subrecipient to retain documents or to transfer certain records to DHS custody when DHS determines that the records possess long term retention value.
2. Access to Records. Subrecipient shall give the United States Department of Homeland Security, the Comptroller General of the United States, the Texas State Auditor, DPS/TDEM, or any of its duly authorized representatives, access to and the right to examine all books, accounts, records, reports, files, other papers, things or property belonging to or in use by Subrecipient pertaining to this Grant including records concerning the past use of DHS/FEMA funds. Such rights to access shall continue as long as the records are retained by Subrecipient.

L. Changes, Amendments, Suspension or Termination

1. Modification. FEMA or DPS/TDEM may modify this Grant after an award has been made. Once notification has been made in writing, any subsequent request for funds indicates Subrecipient's acceptance of the changes to this Grant. Any alteration, addition, or deletion to this Grant by Subrecipient is not valid.
2. Effect of Changes in Federal and State Laws. Any alterations, additions, or deletions to this Grant that are required by changes in federal and state laws, regulations or policy are automatically incorporated into this Grant without written amendment to this Grant and shall become effective upon the date designated by such law or regulation. In the event FEMA or DPS/TDEM determines that changes are necessary to this Grant after an award has been made, including changes to the period of performance or terms and conditions, Subrecipient shall be notified of the changes in writing. Once notification has been made, any subsequent request for funds will indicate Subrecipient's acceptance of the changes to this Grant.
3. Suspension. In the event Subrecipient fails to comply with any term of this Grant, DPS/TDEM may, upon written notification to Subrecipient, suspend this Grant, in whole or in part, withhold payments to Subrecipient and prohibit Subrecipient from incurring additional obligations of this Grant's funds.
4. Termination. DPS/TDEM shall have the right to terminate this Grant, in whole or in part, at any time before the end of the Performance Period, if DPS/TDEM determines that Subrecipient has failed to comply with any term of this Grant. DPS/TDEM shall provide written notice of the termination and include:
 - a. The reason(s) for such termination;
 - b. The effective date of such termination; and
 - c. In the case of partial termination, the portion of this Grant to be terminated.
 - d. Appeal may be made to the Deputy Assistant Director of Texas Division of Emergency Management- Recovery Mitigation and Standards, Texas Department of Public Safety.

- M. Enforcement.** If Subrecipient materially fails to comply with any term of this Grant, whether stated in a federal or state statute or regulation, an assurance, in a state plan or application,

a notice of award, or elsewhere, DPS/TDEM or DHS may take one or more of the following actions, as appropriate in the circumstances:

1. Increased monitoring of projects and require additional financial and performance reports
2. Require payments as reimbursements rather than advance payments
3. Temporarily withhold payments pending correction of the deficiency
4. Disallow or deny use of funds and matching credit for all or part of the cost of the activity or action not in compliance;
5. Request FEMA to wholly or partially de-obligate funding for a project
6. Temporarily withhold cash payments pending correction of the deficiency by subrecipient or more severe enforcement action by DPS/TDEM or DHS;
7. Withhold further awards for the grant program
8. Take other remedies that may be legally available

In taking an enforcement action, DPS/TDEM will provide Subrecipient an opportunity for a hearing, appeal, or other administrative proceeding to which Subrecipient is entitled under any statute or regulation applicable to the action involved.

The costs of Subrecipient resulting from obligations incurred by Subrecipient during a suspension or after termination of this Grant are not allowable unless DPS/TDEM or DHS expressly authorizes them in the notice of suspension or termination or subsequently.

Other Subrecipient costs during suspension or after termination which are necessary and not reasonably avoidable are allowable if:

- The costs result from obligations which were properly incurred by Subrecipient before the effective date of suspension or termination, are not in anticipation of it, and in the case of a termination, are non-cancellable; and
- The costs would be allowable if this Grant were not suspended or expired normally at the end of the funding period in which the termination takes effects.

The enforcement remedies identified in this section, including suspension and termination, do not preclude Subrecipient from being subject to "Debarment and Suspension" under E.O. 12549. 2 C.F.R., Appendix II to Part 200, (I).

- N. **Conflicts of Interest.** The subrecipient will maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts and will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest or personal gain.
- O. **Closing of this Grant.** DPS/TDEM will close a subaward after receiving all required final documentation from the Subrecipient. If the close out review and reconciliation indicates that Subrecipient is owed additional funds, DPS/TDEM will send the final payment automatically to Subrecipient. If Subrecipient did not use all the funds received, DPS/TDEM will recover the unused funds.

At the completion of Subrecipient's performance period, DPS/TDEM will de-obligate all uncommitted funds and de-obligate all unexpended funds if final documentation is not received by the deadline.

The closeout of this Grant does not affect:

1. DHS or DPS/TDEM's right to disallow costs and recover funds on the basis of a later audit or other review;
2. Subrecipient's obligation to return any funds due as a result of later refunds, corrections, or other transactions;
3. Records retention requirements, property management requirements, and audit requirements, as set forth herein; and
4. Any other provisions of this Grant that impose continuing obligations on Subrecipient or that govern the rights and limitations of the parties to this Grant after the expiration or termination of this Grant.

EXHIBIT A

ASSURANCES - NON-CONSTRUCTION PROGRAMS See Standard Form 424B

As the duly authorized representative of Subrecipient, I certify that Subrecipient:

1. Has the legal authority to apply for Federal assistance and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management and completion of the project described in this Grant.
2. Will give the Department of Homeland Security, the Department of Public Safety, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to this Grant and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest or personal gain.
4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686 and 44 C.F.R. Part 19), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290dd-3 and 290ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which agreement for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.
7. Will comply or has already complied with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
8. Will comply, as applicable, with provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333), regarding labor standards for federally-assisted construction sub-agreements.
10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190 as amended by 42 U.S.C. 4311 et seq. and Executive Order (EO) 11514) which establishes national policy goals and procedures to protect and enhance the environment, including protection against natural disasters. To comply with NEPA for DHS grant-supported activities, DHS-FEMA requires the environmental aspects to be reviewed and evaluated before final action on the application; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) comply with the Clean Air Act of 1977, (42 U.S.C. §§7401 et seq. and Executive Order 11738) providing for the protection of and enhancement of the quality of the nation's air resources to promote public health and welfare and for restoring and maintaining the chemical, physical, and biological integrity of the nation's waters; (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and, (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93- 205).
12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).
14. Will comply with P.L. 93-348, 45 C.F.R. 46, and DHS Management Directive 026-044 (Directive) regarding the protection of human subjects involved in research, development, and related activities supported by this Grant. "Research" means a systematic investigation, including research, development, testing, and evaluation designed to develop or contribute to general knowledge. See Directive for additional provisions for including humans in the womb, pregnant women, and neonates (Subpart B); prisoners (Subpart C); and children (Subpart D). See also state and local law for research using autopsy materials.
15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. §§2131 et seq.) which requires the minimum standards of care and treatment for vertebrate animals bred for commercial sale, used in research, transported commercially, or exhibited to the public according to the Guide for Care and Use of Laboratory Animals and Public Health Service Policy and Government Principals Regarding the Care and Use of Animals.
16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.
17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133 (now OMB 2 C.F.R. 200.500), "Audits of States, Local Governments, and Non-Profit Organizations."
18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, grant guidance, and policies governing this Grant.

EXHIBIT B

ASSURANCES - CONSTRUCTION PROGRAMS See Standard Form 424D

As the duly authorized representative of Subrecipient, I certify that Subrecipient:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of project described in this Grant.
2. Will give the Department of Homeland Security, the Department of Public Safety, the Comptroller General of the United States and, if appropriate, the State, the right to examine all records, books, papers, or documents related to this Grant and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will not dispose of, modify the use of, or change the terms of the real property title or other interest in the site and facilities without permission and instructions from the awarding agency. Will record the Federal awarding agency directives and will include a covenant in the title of real property acquired in whole or in part with Federal assistance funds to assure nondiscrimination during the useful life of this Grant.
4. Will comply with the requirements of the assistance awarding agency with regard to the drafting, review and approval of construction plans and specifications.
5. Will provide and maintain competent and adequate engineering supervision at the construction site to ensure that the complete work conforms with the approved plans and specifications and will furnish progressive reports and such other information as may be required by the awarding agency or State.
6. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
7. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest or personal gain.
8. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards of merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
9. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.
10. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681 1683, and 1685-1686 and 44 C.F.R. Part 19), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290dd-3 and 290ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which agreement for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the agreement.
11. Will comply or has already complied with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal and federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
12. Will comply with the provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
13. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a-276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333) regarding labor standards for federally-assisted construction sub-agreements.
14. Will comply with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
15. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) as amended by 42 U.S.C. 4311 et seq. and Executive Order (EO) 11514 which establishes national policy goals and procedures to protect and enhance the environment, including protection against natural disasters; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) comply with the Clean Air Act of 1977, (42 U.S.C. §§7401 et seq. and Executive Order 11738) providing for the protection of and enhancement of the quality of the nation's air resources to promote public health and welfare and for restoring and maintaining the chemical, physical, and biological integrity of the nation's waters; (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and, (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).
16. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
17. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).
18. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133 (now OMB 2 C.F.R. 200.500), "Audits of States, Local Governments, and Non-Profit Organizations."
19. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, grant guidance and policies governing this Grant.

Exhibit C

Certifications for Grant Agreements

The undersigned, as the authorized official, certifies the following to the best of his/her knowledge and belief.

- A. No Federal appropriated funds have been paid or will be paid by or on behalf of the undersigned to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee or a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- B. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee or a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL Disclosure of Lobbying Activities, in accordance with its instructions.
- C. The undersigned shall require that the language of this certification prohibiting lobbying be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
- D. As required by Executive Order 12549, Debarment and Suspension, and implemented at 28 C.F.R. Part 67, for prospective participants in primary covered transactions, as defined at 28 C.F.R. Part 67, Section 67.510. (Federal Certification), the Subrecipient certifies that it and its principals and vendors:
 1. Are not debarred, suspended, proposed for debarment, declared ineligible, sentenced to a denial of Federal benefits by a State or Federal court, or voluntarily excluded from covered transactions by any Federal department or agency. Subrecipient can access debarment information by going to www.sam.gov and the State Debarred Vendor List at: www.window.state.tx.us/procurement/prog/vendor_performance/debarred.
 2. Have not within a three-year period preceding this Grant been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction, violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (D)(2) of this certification;
 4. Have not within a three-year period preceding this Grant had one or more public transactions (Federal, State, or local) terminated for cause or default; or
 5. Where Subrecipient is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this Grant. (Federal Certification).
- E. Federal funds will be used to supplement existing funds, and will not replace (supplant) funds that have been appropriated for the same purpose. Subrecipient may be required to supply documentation certifying that a reduction in non-federal resources occurred for reasons other than the receipt or expected receipt of federal funds.
- F. Subrecipient will comply with 2 C.F.R. Part 180, Subpart C as a condition of receiving grant funds and Subrecipient will require such compliance in any subgrants or contract at the next tier.
- G. Subrecipient will comply with the Drug-free Workplace Act, as amended, 412 U.S.C. §701 et seq., which requires Subrecipient to publish a statement about its drug-free workplace program and give a copy of the statement to each employee (including consultants and temporary personnel) who will be involved in award-supported activities at any site where these activities will be carried out. Also, places where work is being performed under the award (i.e., street address, city, state, and zip code) must be maintained on file. Subrecipient will notify the Grants Officer of any employee convicted of a violation of a criminal drug statute that occurs in the workplace. For additional information, see 44 C.F.R. Part 17. Subrecipient shall comply with the requirements of the Drug-Free Workplace Act of 1988, which requires that all organizations receiving grants from any Federal agency agree to maintain a drug-free workplace.
- H. Subrecipient is not delinquent on any Federal debt. Examples of relevant debt include delinquent payroll and other taxes, audit disallowances, and benefit overpayments. See OMB Circular A-129 and form SF-424, item number 17 for additional information and guidance.
- I. Subrecipient will comply with all applicable requirements of all other federal laws, executive orders, regulations, program and administrative requirements, policies and any other requirements governing this Grant.
- J. Subrecipient understands that failure to comply with any of the above assurances may result in suspension, termination or reduction of funds in this Grant.

EXHIBIT D

State of Texas Assurances

As the duly authorized representative of Subrecipient, I certify that Subrecipient:

1. Shall comply with Texas Government Code, Chapter 573, by ensuring that no officer, employee, or member of the Subrecipient's governing body or of the Subrecipient's contractor shall vote or confirm the employment of any person related within the second degree of affinity or the third degree of consanguinity to any member of the governing body or to any other officer or employee authorized to employ or supervise such person. This prohibition shall not prohibit the employment of a person who shall have been continuously employed for a period of two years, or such other period stipulated by local law, prior to the election or appointment of the officer, employee, or governing body member related to such person in the prohibited degree.
2. Shall insure that all information collected, assembled, or maintained by the Subrecipient relative to a project will be available to the public during normal business hours in compliance with Texas Government Code, Chapter 552, unless otherwise expressly prohibited by law.
3. Shall comply with Texas Government Code, Chapter 551, which requires all regular, special, or called meetings of governmental bodies to be open to the public, except as otherwise provided by law or specifically permitted in the Texas Constitution.
4. Shall comply with Section 231.006, Texas Family Code, which prohibits payments to a person who is in arrears on child support payments.
5. Shall not contract with or issue a license, certificate, or permit to the owner, operator, or administrator of a facility if the Subrecipient is a health, human services, public safety, or law enforcement agency and the license, permit, or certificate has been revoked by another health and human services agency or public safety or law enforcement agency.
6. Shall comply with all rules adopted by the Texas Commission on Law Enforcement pursuant to Chapter 1701, Texas Occupations Code, or shall provide the grantor agency with a certification from the Texas Commission on Law Enforcement that the agency is in the process of achieving compliance with such rules if the Subrecipient is a law enforcement agency regulated by Texas Occupations Code, Chapter 1701.
7. Shall follow all assurances. When incorporated into a grant award or contract, standard assurances contained in the application package become terms or conditions for receipt of grant funds. Administering state agencies and subrecipients shall maintain an appropriate contract administration system to insure that all terms, conditions, and specifications are met. (See UGMS Section __.36 for additional guidance on contract provisions).
8. Shall comply with the Texas Family Code, Section 261.101, which requires reporting of all suspected cases of child abuse to local law enforcement authorities and to the Texas Department of Child Protective and Regulatory Services. Subrecipient shall also ensure that all program personnel are properly trained and aware of this requirement.
9. Shall comply with all federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352), which prohibits discrimination on the basis of race, color, or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps and the Americans with Disabilities Act of 1990 including Titles I, II, and III of the Americans with Disability Act which prohibits recipients from discriminating on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities, 44 U.S.C. §§ 12101-12213; (d) the Age Discrimination Act of 1974, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to the nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290dd-3 and 290ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental, or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to this Grant.
10. Shall comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333), regarding labor standards for federally assisted construction subagreements.
11. Shall comply with requirements of the provisions of the Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (P.L. 91-646), which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
12. Shall comply with the provisions of the Hatch Political Activity Act (5 U.S.C. §§7321-29), which limit the political activity of employees whose principal employment activities are funded in whole or in part with Federal funds.
13. Shall comply with the minimum wage and maximum hours provisions of the Federal Fair Labor Standards Act and the Intergovernmental Personnel Act of 1970, as applicable.
14. Shall insure that the facilities under its ownership, lease, or supervision which shall be utilized in the accomplishment of the project are not listed on the Environmental Protection Agency's (EPA) list of Violating Facilities and that it will notify the Federal grantor agency of the receipt of any communication from the Director of the EPA Office of Federal Activities indicating that a facility to be used in the project is under consideration for listing by the EPA (EO 11738).

15. Shall comply with the flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973, Public Law 93-234. Section 102(a) requires the purchase of flood insurance in communities where such insurance is available as a condition for the receipt of any Federal financial assistance for construction or acquisition proposed for use in any area that has been identified by the Secretary of the Department of Housing and Urban Development as an area having special flood hazards.
16. Shall comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved state management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).
17. Shall comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
18. Shall assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).
19. Shall comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. §§2131 et seq.) which requires the minimum standards of care and treatment for vertebrate animals bred for commercial sale, used in research, transported commercially, or exhibited to the public according to the Guide for Care and Use of Laboratory Animals and Public Health Service Policy and Government Principals Regarding the Care and Use of Animals.
20. Shall comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residential structures.
21. Shall comply with the Pro-Children Act of 1994 (Public Law 103-277), which prohibits smoking within any portion of any indoor facility used for the provision of services for children.
22. Shall comply with all federal tax laws and are solely responsible for filing all required state and federal tax forms.
23. Shall comply with all applicable requirements of all other federal and state laws, executive orders, regulations, and policies governing this program.
24. And its principals are eligible to participate and have not been subjected to suspension, debarment, or similar ineligibility determined by any federal, state, or local governmental entity and it is not listed on a state or federal government's terrorism watch list as described in Executive Order 13224. Entities ineligible for federal procurement have Exclusions listed at <https://www.sam.gov/portal/public/SAM/>.
25. Shall adopt and implement applicable provisions of the model HIV/AIDS work place guidelines of the Texas Department of Health as required by the Texas Health and Safety Code, Ann., Sec. 85.001, et seq.

EXHIBIT E

Environmental Review

As the duly authorized representative of Subrecipient, I certify that Subrecipient:

1. shall assess its federally funded projects for potential impact to environmental resources and historic properties.
2. shall submit any required screening form(s) as soon as possible and shall comply with deadlines established by DPS/TDEM. Timelines for the Environmental Planning and Historic Preservation (EHP) review process will vary based upon the complexity of the project and the potential for environmental or historical impact.
3. shall include sufficient review time within its project management plan to comply with EHP requirements. Initiation of any activity prior to completion of FEMA's EHP review will result in a non-compliance finding and DPS/TDEM will not authorize or release Grant funds for non-compliant projects.
4. as soon as possible upon receiving this Grant, shall provide information to DPS/TDEM to assist with the legally-required EHP review and to ensure compliance with applicable EHP laws and Executive Orders (EO) currently using the FEMA EHP Screening Form OMB Number 1660-0115/FEMA Form 024-0-01 and submitting it, with all supporting documentation, to DPS/TDEM for review. These EHP requirements include but are not limited to the National Environmental Policy Act, the National Historic Preservation Act, the Endangered Species Act, EO 11988 – Floodplain Management, EO 11990 – Protection of Wetlands, and EO 12898 – Environmental Justice. Subrecipient shall comply with all Federal, State, and local EHP requirements and shall obtain applicable permits and clearances.
5. shall not undertake any activity from the project that would result in ground disturbance, facility modification, or purchase and use of sonar equipment without the prior approval of FEMA. These include but are not limited to communications towers, physical security enhancements involving ground disturbance, new construction, and modifications to buildings.
6. shall comply with all mitigation or treatment measures required for the project as the result of FEMA's EHP review. Any changes to an approved project description will require re-evaluation for compliance with EHP requirements before the project can proceed.
7. if ground disturbing activities occur during project implementation, Subrecipient shall ensure monitoring of ground disturbance and if any potential archeological resources are discovered, Subrecipient shall immediately cease construction in that area and notify FEMA and the appropriate State Historical Preservation Office.

EXHIBIT F

Additional Grant Conditions

1. FEMA has performed an environmental review resulting in the findings and conditions identified in the Environmental Considerations enclosure and consisting of:
 - a. CATEX (Categorical Exclusion) or FONSI (Finding of No Significant Impact)
 - b. Record of Environmental Consideration (REC) with Environmental Review Project Conditions
2. All work must be done prior to the approved project completion deadline assigned to each Project. Should additional time be required, a time extension request must be submitted which: a.) Identifies the projects requiring an extension. b.) Explains the reason for an extension. c.) Indicates the percentage of work that has been completed. d.) Provides an anticipated completion date. The reason for an extension must be based on extenuating circumstances or unusual project requirements that are beyond the control of your jurisdiction/organization. **Failure to submit a time extension request may result in reduction or withdrawal of federal funds for approved work.**
3. Any significant change to a project's approved Scope of Work must be reported and approved through TDEM and FEMA before starting the project. Failure to do so will jeopardize grant funding.
4. The Project Completion and Certification Report must be returned to TDEM once all the approved work has been completed for each project. If any project requires the purchase of insurance as a condition of receiving federal funds, a copy of the current policy must be attached to this report.
5. The Period of Performance (POP) represents the period during which eligible reimbursable cost for this project can be incurred. If, due to extenuating circumstances, a project cannot be completed within the approved POP, an extension must be requested in writing and submitted to the State 90 days prior to the expiration of the currently approved POP.
6. Appeals may be filed on any determination made by FEMA or TDEM. All appeals must be submitted to TDEM within 60 days from receiving written notice of the action you wish to appeal. Should you wish to appeal a determination contained in the project application, the 60 days will start the day the application is signed.
7. You may request a payment of funds on projects by completing a request for reimbursement and including your supporting documentation. In the event that an audit results in a reduction of the awarded amount of a project, the subrecipient is responsible for returning the identified overage within 30 days of notification of the overpayment.
8. Projects that have not received final payment will be reviewed quarterly by TDEM representatives upon receipt of the Quarterly Review form from the subrecipient. Quarterly reports will be due on the following dates: **April 15th, July 15th, October 15th & January 15th**. Public Assistance program small projects are exempted.
9. Subrecipient with must submit a project cost summary to TDEM following the completion of each project, except Public Assistance program small projects. The project cost summary must list all labor, equipment, materials and contract costs associated with making needed repairs.
10. Subrecipients expending \$750,000 or more in total Federal financial assistance in a fiscal year will be required to provide an audit made in accordance with OMB Uniform Guidance; Cost Principles, Audit, and Administrative Requirements for Federal Awards, Subpart F. A copy of the Single Audit must be submitted to your cognizant State agency or TDEM within nine months of the end of the subrecipient's fiscal year.

Consult with your financial officer regarding this requirement. If not required to submit a single audit, a letter must be sent to TDEM certifying to this.

11. Completed record and cost documents for all approved work must be kept for a minimum of three (3) years from the later of the completion of this project's public objective, submission of the final expenditure report, any litigation, dispute, or audit. Records shall be retained for three (3) years after any real estate or equipment final disposition. The DHS or DPS/TDEM may direct Subrecipient to retain documents or to transfer certain records to DHS custody when DHS determines that the records possess long term retention value. During this time, all approved projects are subject to State and Federal audit/review.
12. Subrecipients will not make any award to any party which is debarred or suspended, or is otherwise excluded from participation in the Federal assistance programs (EO 12549, Debarment and Suspension). Subrecipient must maintain documentation validating review of debarment list of eligible contractors.
13. Subrecipients must keep record of equipment acquired by federal funds for the life cycle of the equipment. A life cycle for most equipment will be three years, but could be longer. If the fair market value of a piece of equipment is valued over \$5,000, FEMA will have the right to a portion of proceeds if equipment is sold. If the fair market value of a piece of equipment is less than \$5,000, the property can either be retained, sold or designated as surplus with no further obligation to FEMA.
14. Eligible cost reimbursement requests may be submitted as needed, but not less than once a quarter without project officer concurrence. The minimum request for reimbursement will be \$2,500 , unless it is the final reimbursement request. All submitted invoices must be:
 - a. Identified by a unique number
 - b. Related to an identified Scope of Work (SOW) line item
 - c. Accompanied by proof of payment (ex: copies of the cancelled checks showing payments for the invoices)
 - d. Signed by your Chief Financial Officer or designated authorized representative

Reimbursement amounts are based on the total request for eligible documented expenditures of the eligible federal share and local match.

EXHIBIT G

Additional Grant Certifications

Match Certification

Applicant certifies that they have the ability to meet or exceed the cost share required of this project.

Duplication of Program Statement

Applicant certifies there has not been, nor will there be, a duplication of benefits for this project.

For Hazard Mitigation Projects Only:

Maintenance Agreement

Applicant certifies that if there is a Maintenance Agreement needed for this facility copy of that agreement will be provided to TDEM.

Environmental Justice Statement

Federal Executive Order 12898 compliance requirements – If there are any concentrations of low income or minority populations in or near the HMGP project:

1. Applicant certifies that the HMGP project result will not result in a disproportionately high or adverse effect on low income or minority populations.
OR
2. Applicant certifies that action will be taken to ensure achievement of environmental justice for low income and minority populations related to this HMGP project.



Staff Report to the Honorable Mayor and City Council

Date: October 17, 2016

Agenda Item No: REQUIRED APPROVAL ITEMS (CONSENT) - O.

I. Subject:

Approval to cancel collection services with Valley Collections for utility billing

II. Originated by:

III. Summary:

Kennedale has been using valley collections for 2 years to collection on unpaid utility bills. It is \$250/month and paid by the City through Fathom. We are requesting to cancel this service and choose MVBA to collect on our unpaid utility bills.

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

Approve

VII. Alternative Actions:

VIII. Attachments:



Staff Report to the Honorable Mayor and City Council

Date: October 17, 2016

Agenda Item No: REQUIRED APPROVAL ITEMS (CONSENT) - P.

I. Subject:

Discuss and consider approval of a contract with McCreary, Veselka, Bragg & Allen, P.C. collections services for utility billing

II. Originated by:

III. Summary:

Staff request to switch to MVBA to collect on outstanding utility billing accounts. We currently use them to collect on court accounts outstanding past 60 days. The 30% collection fee is passed on to the customer if the account is collected on. This is how MVBA collects for their services.

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

VII. Alternative Actions:

VIII. Attachments:

1.	MVBA Contract	MVBA UB Billing City of Kennedale Contract 2016.pdf
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**CONTRACT FOR THE COLLECTION
OF
DELINQUENT ACCOUNTS RECEIVABLE**

STATE OF TEXAS

§

§

COUNTY OF TARRANT

§

THIS CONTRACT is made and entered into by and between the **CITY OF KENNEDALE, TEXAS**, acting herein by and through its governing body, hereinafter styled, "**City**", and **MVBA, LLC dba McCREARY, VESELKA, BRAGG AND ALLEN, LLC**, hereinafter styled "**MVBA**".

I.

The City agrees to retain and does hereby retain MVBA to provide services related to the collection of delinquent accounts receivable, including but not limited to delinquent utility bills ("Delinquent Accounts Receivable") pursuant to the terms and conditions described herein. Legal services shall include but not be limited to recommendations and legal advice to the City to take legal enforcement action; representing the City in any dispute or legal challenge to authority to collect such delinquent accounts receivable; defending the City in litigation or challenges of its collection authority; and representing the City in collection interests in bankruptcy matters as determined by MVBA or the City. The City further authorizes MVBA to execute all legal documents that are reasonably necessary to pursue collection of the City's claims in connection with the collection of delinquent accounts receivable that are subject to this contract. This contract supersedes all prior oral and written contracts between the parties regarding delinquent accounts receivable, and can only be amended if done so in writing and signed by all parties. Furthermore, this contract cannot be transferred or assigned by either party without the written consent of all parties.

II.

For purposes of this contract Delinquent Accounts Receivable shall be considered delinquent and referred to MVBA when not timely paid in accordance with any applicable contract, ordinance or statute providing for the payment of the underlying debt.

At least once each month on a date or dates agreed upon by the parties, the City will provide MVBA with copies of, or access to, the information and documentation necessary to collect the Delinquent Accounts Receivable that are subject to this contract. The City shall furnish the information to MVBA by electronic transmission, magnetic medium or copies of physical records.

III.

MVBA shall forward to the City copies of any correspondence regarding a disputed debt received from a debtor and the request for verification of the debt. The City will provide to MVBA within ten (10) days of the receipt for the request for verification of the debt, copies of all records which will verify the debt which in turn will be forwarded to the debtor by MVBA. All collection activity will be suspended on any disputed debt until the appropriate verification of the debt is delivered to the debtor.

IV.

Upon consultation and agreement by both parties hereto, MVBA may institute civil legal proceedings, including seeking writs of execution to collect Delinquent Accounts Receivable. The City shall pay in advance of the initiation of any writ of execution or collection lawsuit any filing fees charged by the Court or Clerk of the Court in which the writ of execution is to be issued or the collection lawsuit is to be filed including the costs for service of citation. MVBA may also, after consultation and agreement by both parties, file proofs of claims in the United States Bankruptcy Court on behalf of the City.

V.

MVBA shall forward all cashier checks or money order payments made payable to the City and any correspondence from debtor directly to the City. Cashier checks or money order payments made payable to MVBA will be deposited daily into the MVBA Trust Account. MVBA may also collect the amount due from the debtor by credit card or electronic draft which is deposited directly into the MVBA Trust Account. MVBA may set up payment arrangements and accept partial payments on any delinquent accounts receivable. MVBA shall remit to the City all payments in full received into the MVBA Trust Account weekly, along with an invoice detailing the account number, name of debtor, amount paid to MVBA or City, MVBA fee percentage and fees earned for each account.

VI.

MVBA shall indemnify and hold the City harmless from and against all liabilities, losses and/or costs arising from claims for damages, or suits for losses or damages, including reasonable costs and attorney's fees, which may arise as a result of MVBA's performance of the services described in this Contract. The indemnity provision of this Contract shall have no application to any claim or demand which results from the sole negligence or fault of the City, its officers, agents, employees or contractors. And furthermore, in the event of joint and/or shared negligence or fault of the City and MVBA, responsibility and indemnity, if any, shall be apportioned in accordance with Texas law and without waiving any defenses of either party. The provisions of this paragraph are intended for the sole benefit of the parties hereto and are not intended to create or grant any right, contractual or otherwise, to any other persons or entities.

VII.

For the collection of Delinquent Accounts Receivable in which the data files are transmitted to MVBA by electronic media, the City agrees to pay to MVBA as compensation for services provided, pursuant to this contract, a fee of twenty percent (20%) of the amount of the Delinquent Accounts Receivable collected.

All compensation shall become the property of MVBA at the time of payment. The City shall pay to MVBA said compensation on a monthly basis by check.

VIII.

The City recognizes and acknowledges that MVBA owns all right, title and interest in certain proprietary software that MVBA may utilize in conjunction with performing the services provided in the contract. The City agrees and hereby grants to MVBA the right to use and incorporate any information provided by the City ("account or debtor information") to update the databases in this proprietary software, and, notwithstanding that the case or defendant information has been or shall be used to update the databases in this proprietary software, further stipulates and agrees that the City shall have no rights or ownership whatsoever in and to the software or the data contained therein, except that the City shall be entitled to obtain a copy of such data that directly relates to the City's accounts at any time.

MVBA agrees that it will not share or disclose any specific confidential account or debtor information with any other company, individual, organization or agency, without the prior written consent of the City, except as may be required by law or where such information is otherwise publicly available. It is agreed that MVBA shall have the right to use account or debtor information for internal analysis, improving the proprietary software and database, and generating aggregate data and statistics that may inherently contain account or debtor information. These aggregate statistics are owned solely by MVBA and will generally be used internally, but may be shared with MVBA's affiliates, partners or other third parties for purposes of improving MVBA's software and services.

MVBA reserves the right to return to the City all accounts not collected within one (1) year of referral by the City, or identified as being in bankruptcy. Upon return of these accounts, neither party will have any obligation to the other party to this contract.

IX.

The initial term of this contract is **three years, beginning on the first day of the month following the execution of this contract by both parties**, and shall automatically renew on the anniversary date and continue in full force and effect thereafter from year to year for additional twelve month periods on the same terms and conditions unless either party delivers written "Notice of Termination of Contract" to the other party of its intent to terminate this contract at least sixty (60) days prior to each anniversary date of this contract.

In the event that the City terminates this contract, MVBA shall be entitled to continue its collection activity on all accounts previously referred to MVBA for six (6) months from the date of receipt of the "Notice of Termination of Contract" and to payment of its fee, pursuant to Paragraph VII of this contract for all amounts collected on accounts referred to MVBA. The City may, at its discretion, refer additional accounts to MVBA after notice of termination has been received by MVBA. At the end of the six (6) month period, all accounts shall be returned to the City by MVBA.

X.

For purposes of sending notice under the term of this contract, all notices from the City shall be sent to MVBA by certified United States mail to the following address:

McCreary, Veselka, Bragg & Allen, LLC.
Attention: Harvey M. Allen
P.O. Box 1310
Round Rock, Texas 78680-1310

or delivered by hand or by courier, and addressed to: 700 Jeffrey Way, Suite 100, Round Rock, Texas 78664-2425. All notices to the City shall be sent by certified United States mail or delivered by hand or courier to the following address:

City of Kennedale, Texas
Attention: City Manager
405 Municipal Dr.
Kennedale, Texas 76060

XI.

This contract is made and is to be interpreted under the laws of the State of Texas. Exclusive venue for any action, lawsuit, claim, dispute or another legal proceeding concerning or arising out of this contract shall be in Tarrant County, Texas.

In the event that any provision(s) of this contract shall for any reason be held invalid or unenforceable, the invalidity or unenforceability of that provision(s) shall not affect any other provision(s) of this contract, and it shall further be construed as if the invalid or unenforceable provision(s) had never been a part of this contract.

XII.

In consideration of the terms and compensation herein stated, MVBA hereby agrees to undertake performance of said contract as set forth above.

The City has authorized by order heretofore passed and duly recorded in its minutes the chief executive officer to execute this contract.

This contract may be executed in any number of counterparts, and each counterpart shall be deemed an original for all purposes. Signed facsimiles shall be binding and enforceable.

WITNESS the signatures of all parties hereto this, the ____ day of _____, A.D. 2016.

CITY OF KENNEDALE, TEXAS

_____,
City Manager

MVBA, LLC dba McCREARY, VESELKA, BRAGG & ALLEN, LLC

Harvey M. Allen
Manager

STAFF REPORT TO THE MAYOR AND CITY COUNCIL

Date: October 17, 2016

Agenda Item No: DECISION ITEMS (A)

I. SUBJECT

CASE # PZ 16-01 Public hearing and consideration of Ordinance approval regarding a request by Adam Blow for a zoning change from "C-1" General Commercial to "R-1" Single Family Residential located on 0.5 acre at 600 Little School Rd. legal description of J M Lilly Survey, A 980 Tr 6A.

II. SUMMARY

Applicant	Adam Blow
Location	Little School Rd at Kennedale Sublett (north), across from Life Fellowship Church and south of Harrison Dr
Surrounding land uses	single-family residential; agricultural (across the street) and commercial (church across the street; small commercial buildings located nearby)
Surrounding zoning	C-1 restricted commercial (same as site for this case); AG agricultural; R-3 residential
Staff recommendation	deny
Planning & Zoning Commission recommendation	deny

BACKGROUND / OVERVIEW

The property is located just off the roundabout at the north intersection of Little School Rd and Kennedale Sublett roads (see attached map). The properties on either side of this one are also zoned C-1 restricted commercial. Nearby, but to the back, is a residential neighborhood zoned R-3 single family. Across the street is a large property with one house and a gas well pad site, zoned AG (see map). The property once had a single-family house, but the house was demolished several years ago after it burned.

This Future Land Use Plan shows this property as part of a Neighborhood Village character district. The Neighborhood Village character district is described as follows.

Uses should include a dense mix of residences and businesses. Neighborhood Villages should be very easily accessible by foot from the surrounding neighborhoods. Intensity of each Neighborhood Village will vary based on the surrounding context.

Sample development types include (but are not limited to) townhomes, neighborhood-serving retail and services, restaurants, and cafes.

The applicant has requested to rezone the property to R-1 single family residential. The R-1 single family residential zoning district is not consistent with the Neighborhood Village character district.

The Planning & Zoning Commission heard this case in March. Adam Blow, the applicant, did not attend the meeting, and the Commission voted to postpone action on the case to allow Mr. Blow additional time to submit information supporting his request. Mr. Blow has not been in contact with staff, and based on conversations with the property owner, staff believes he is no longer interested in purchasing the property. Staff therefore maintains the recommendation to deny the rezoning request. The Planning & Zoning Commission heard this case again in August, and the applicant again was not present.

Because the request is not in compliance with the comprehensive land use plan, and the applicant has not presented any information supporting a decision to deviate from the comprehensive land use plan, staff recommends denial.

ACTION BY THE PLANNING & ZONING COMMISSION

The Commission voted to recommend denying the rezoning request.

ACTION BY THE CITY COUNCIL

The Council may grant the requested zoning change, may change the zoning designation on a portion of the property requested for rezoning, or may initiate a request to consider changing all or a portion of the property to a district other than the one requested.

MOTIONS

The motions provided below are provided as examples.

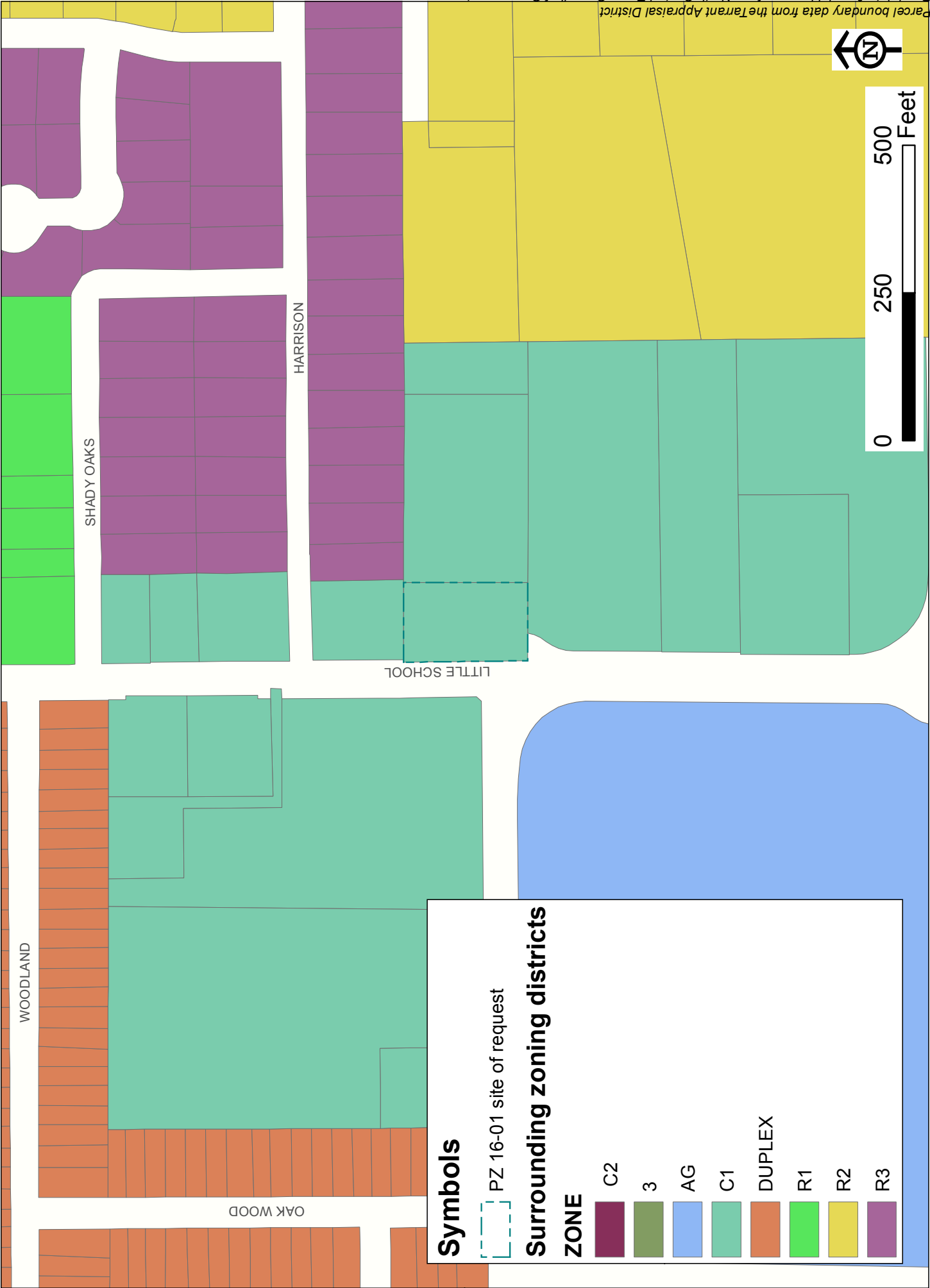
Approval: I find that the proposed rezoning is in compliance with the comprehensive land use plan and meets city requirements for rezoning and make a motion to approve Ordinance 592 (Case PZ 16-01).

Deny: I find that the proposed rezoning is not in compliance with the comprehensive land use plan [or does not meet requirements for rezoning] and make a motion to deny Ordinance 592 (Case PZ 16-01).

PZ 16-01 site of requested rezoning



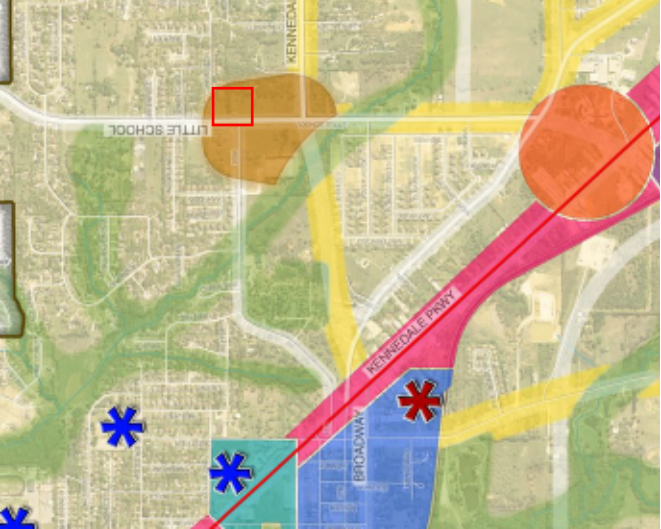
Zoning districts around site of request PZ 16-01





CATEGORIES

- Town Center
- Downtown Village
- Urban Village
- Urban Corridor
- Neighborhood Village
- Neighborhood Corridor
- Neighborhoods
- Employment Center
- Light Industrial District
- Park & Open Space
- Conservation Overlay
- Potential Commuter Train or
Park & Ride Station
- Schools



Aerial view of site, PZ 16-01



ORDINANCE 592

AN ORDINANCE AMENDING ORDINANCE NO. 40, AS AMENDED; REZONING CERTAIN PROPERTY WITHIN THE CITY LIMITS OF THE CITY OF KENNEDALE FROM "C-1" RESTRICTED COMMERCIAL DISTRICT TO "R-1" SINGLE FAMILY RESIDENTIAL DISTRICT; PROVIDING FOR THE AMENDMENT OF THE OFFICIAL ZONING MAP TO REFLECT SUCH CHANGES; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING FOR A PENALTY FOR VIOLATIONS HEREOF; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the City of Kennedale Texas is a Home Rule municipality acting under its charter adopted by the electorate pursuant to Article XI, of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, pursuant to Chapter 211 of the Local Government Code, the City has adopted a comprehensive zoning ordinance and map regulating the location and use of buildings, other structures and land for business, industrial, residential, or other purposes, for the purpose of promoting the public health, safety, morals and general welfare, all in accordance with a comprehensive plan; and

WHEREAS, Adam Blow has filed an application to rezone the property described below and on Exhibit "A" (attached) from its present classification of "C-1" Restricted Commercial District to "R-1" Single Family Residential District; and

WHEREAS, the City Council has determined that the requested rezoning is consistent with the comprehensive land use; and

WHEREAS, a public hearing was duly held by the Planning and Zoning Commission of the City of Kennedale on the 17th day of March 2016 and by the City Council of the City of Kennedale on the 21st day of March 2016 with respect to the zoning changes described herein; and

WHEREAS, all requirements of law dealing with notice to other property owners, publication and all procedural requirements have been complied with in accordance with Chapter 211 of the Local Government Code; and

WHEREAS, the City Council does hereby deem it advisable and in the public interest to amend the City's Zoning Ordinance as described herein.

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

SECTION 1:

The Comprehensive Zoning Ordinance is hereby amended so that the zoning classification and the uses in the hereinafter described area shall be changed and or restricted as shown and described below:

An approximately 0.5 acre portion of Tract 6 in the J M Lilly Survey A-980, Tarrant County, Texas ("the Property"), as more particularly described on Exhibit "A" attached hereto and incorporated herein and as shown on Exhibit "B" attached hereto, from "C-1" Restricted Commercial District to "R-1" Single Family Residential District.

SECTION 2.

The zoning districts and boundaries as herein established have been made in accordance with the comprehensive plan for the purpose of promoting the health, safety, morals and general welfare of the community. They have been designed to lessen congestion in the streets, to secure safety from fire, panic, flood and other dangers, to provide adequate light and air, to prevent overcrowding of land, to avoid undue concentration of population, to facilitate the adequate provisions of transportation, water, sewerage, parks and other public requirements. They have been made after a full and complete hearing with reasonable consideration among other things of the character of the district and its peculiar suitability for the particular uses and with a view of conserving the value of the buildings and encouraging the most appropriate use of land throughout the community.

SECTION 4.

The City Secretary is hereby directed to amend the official zoning map to reflect the changes in classifications approved herein.

SECTION 5.

The use of the properties hereinabove described shall be subject to all the applicable regulations contained in the Comprehensive Zoning Ordinance and all other applicable and pertinent ordinances of the City of Kennedale, Texas.

SECTION 6.

This Ordinance shall be cumulative of all provisions of ordinances and of the Code of Ordinances of the City of Kennedale, Texas (1991), as amended, including but not limited to all Ordinances of the City of Kennedale affecting zoning and land use, and shall not repeal any of the provisions of such ordinances except in those instances where provisions of such ordinances are in direct conflict with the provisions of this ordinance.

SECTION 7.

Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists enforcement of any of the provisions of this ordinance shall be fined not more than Two Thousand Dollars (\$2,000.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

SECTION 8.

All rights or remedies of the City of Kennedale Texas are expressly saved as to any and all violations of any ordinances governing zoning or of any amendments thereto that have accrued at the time of the effective date of this Ordinance and as to such accrued violations and all pending litigation both civil and criminal same shall not be affected by this Ordinance but may be prosecuted until final disposition by the Courts.

SECTION 9.

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

SECTION 10.

The City Secretary of the City of Kennedale is hereby directed to publish the caption, Section 1, the penalty clause, the publication clause, and the effective date clause of this ordinance in every issue of the official newspaper of the City of Kennedale for two days or one issue of the newspaper if the official newspaper is a weekly newspaper as authorized by Section 3.10 of the City of Kennedale Charter.

SECTION 11.

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

PASSED AND APPROVED ON THIS 17th DAY OF OCTOBER 2016.

APPROVED:

Mayor Brian Johnson

ATTEST:

City Secretary, Leslie Galloway

EFFECTIVE: _____

APPROVED AS TO FORM AND LEGALITY:

City Attorney, Wayne K. Olson

Exhibit A
Description of Property

An approximately 0.5 acre portion of Tract 6 in the J M Lilly Survey A-980, Tarrant County, Texas, as more particularly described as a portion of that property described in a warranty deed to Clyde Bedford, filed in the Tarrant County Clerk's Office records as instrument number D205383312.

Exhibit B
Map showing location of the property

PETITION FOR CHANGE OF ZONING CLASSIFICATION

ZONING CASE # 16-01
(assigned by city staff)

DATE: 2.12.16

City Council
City of Kennedale
Kennedale, Texas 76060

HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL:

You are hereby respectfully requested to approve the following request for a change of zoning classification. I, the applicant, request to change the zoning classification of the property described on Exhibit "A" attached, from its current zoning classification of

"_____ "(Commercial) to that of

"_____ " (Residential R-1) in its entirety as shown on Exhibit "B"

attached. The property totals some 0.5 acres.

A statement of why the zoning change should be approved is attached to this application. I understand that I must satisfy the Council that either the general welfare of all the city affected by the area to be changed will be enhanced, or that the property is unusable for the purposes allowed under existing zoning.

Legal Description is Killy, 1st Survey Abstract 980 Tract 6A

Present use of the property is Vacant

Address of the property is WOODLITTLE School Rd.

Property Owner's Name: Cecil Bradford

Address: 12429 Oak Grove S.

Burleson, TX. 76028

Telephone Number: _____

Applicant's Name:

Adam Blow

Address:

4112 Heritage Dr
Crawley, TX. 76036

Telephone Number:

If applicant is not the owner, an owner's affidavit must be submitted with this application.

☒ I, the applicant, understand that city staff, the Planning & Zoning Commission, or the City Council may request from me a site plan or other supporting documents concerning the nature, extent, and impact of my request for rezoning, in addition to what I supply with my application for a change in zoning.

☐ I further certify that Cecil Bealford is the sole owner(s) of the property described in the legal description and shown in the map attached to this application, as of the date of this application.

Adam Blow

Applicant Signature

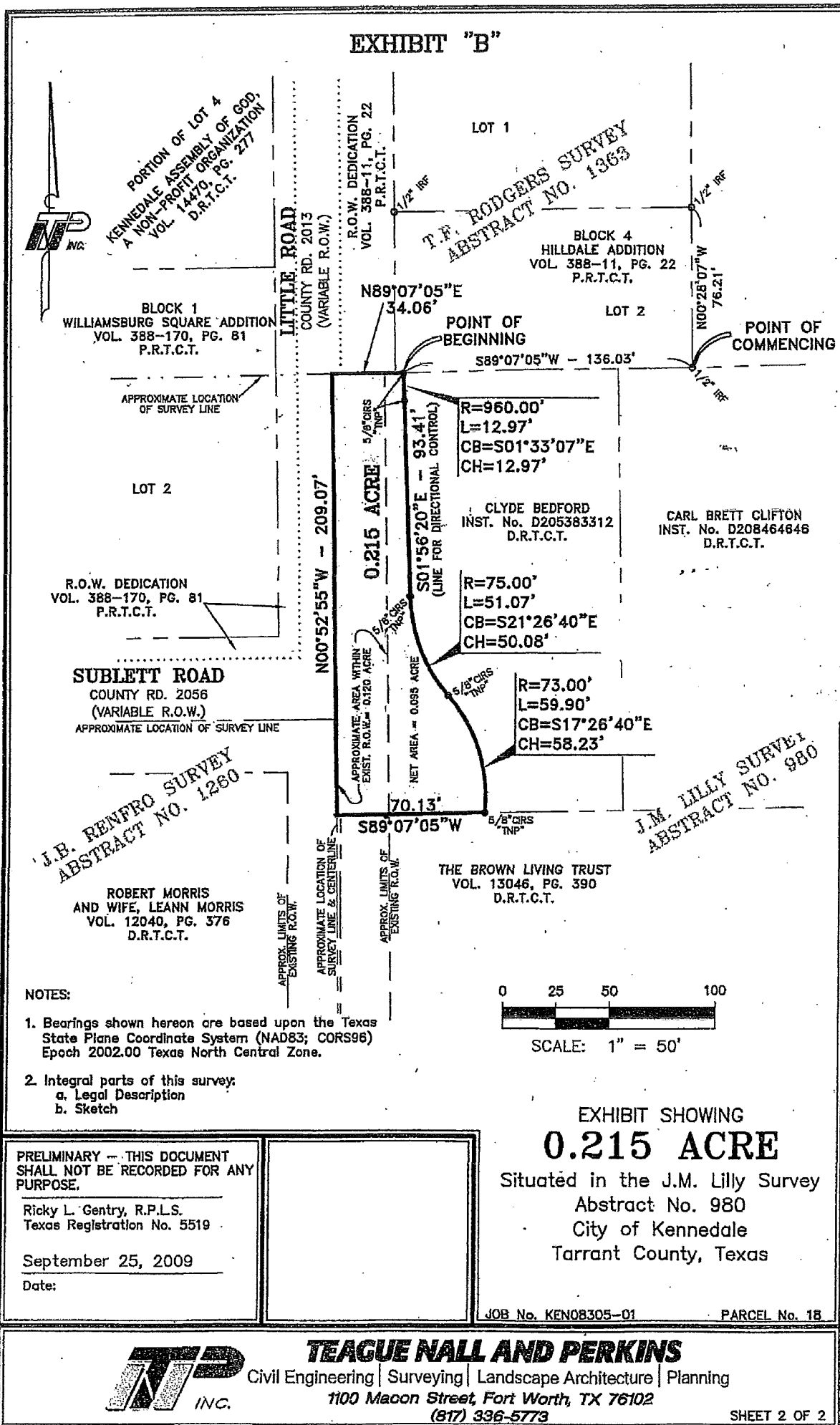
12 Feb 2016

Date

Items to be submitted with this application:

- ☐ Owner affidavit (if applicant is not the property owner)
- ☐ Application fee
- ☒ Statement of why the zone change should be approved
- ☒ Map showing the property requested to be rezoned
- ☒ Legal description (metes and bounds) for the property to be rezoned.
 - If you do not have a current survey with a metes and bounds description, you may submit the most recent deed for the property if it includes a metes and bounds description.

EXHIBIT "B"





CITY OF KENNEDALE PLANNING & ZONING COMMISSION

OWNER AFFIDAVIT

Case #PZ _____

Property Address: 600 Little School Rd

Kennedale, TX. 76060-5408

Legal Description: Kelly JM Survey A980 TR 16A

Applicant:

Type of P&Z request: ☒ Rezoning ☐ Conditional Use Permit ☐ Final Plat ☐ Replat

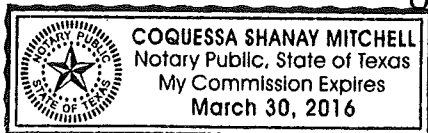
I, Cecil Bedford, current owner of above mentioned property, authorize the applicant or his authorized representative to make application for the Kennedale Planning & Zoning Commission to consider granting the above reference request on my behalf and to appear before the Commission.

Owner Signature: [Signature]

Date: 2-10-16

SWORN TO and Subscribed before me by Cecil Bedford

ON THIS 10th DAY OF February, 2016



Coquessa Shanay Mitchell
Notary Public, Tarrant County, Texas

My name is Adam Blow; I am a veteran of the US ARMY, and currently run track for US ARMY Athletic Program. I'm writing this letter due to the fact that the land located at 600 N. Little School Road is currently zoned as commercial and I am requesting it to be rezoned to residential.

Growing up, my family moved around a lot with my father's job and I have always loved the Kennedale area I knew that once I became of age, this was the area I would like to settle in myself. Now that I am retired, the property 600 N. Little School Road and would like to call that home for myself and two children.

While deployed, my realtor informed me of this property and upon return, fell in love with the area.

Staff Report to the Honorable Mayor and City Council

Date: October 17, 2016

Agenda Item No: DECISION ITEMS - B.

I. Subject:

Consider Resolution 494 adopting an amended City of Kennedale Financial Management Policy

II. Originated by:

Finance Director, Director of Finance & IT

III. Summary:

A Financial Management Policy provides guidelines to enable the City staff to achieve a long-term, stable financial condition, while conducting daily operations and providing services that are consistent with the Council-Manager form of government established in the City Charter.

It is the recommendation of our independent auditors that our main policies be reviewed by the Director of Finance for updates in relation to our internal control practices and submitted to Council at least annually. In order to demonstrate our review, it is custom practice for the governing board of a municipality to adopt a resolution to make the review an official public record.

Only minor changes were made including
a change from having a budget to council by August 1st to within 2 weeks of receiving the July Certified Roll based on the changes made during charter election
changes to the fund balance policy % that will be discussed and approved tonight
changing PILOT term to Franchise Fees for fee paid from Water/Sewer Fund to Street Fund since it is not a PILOT
and changing that cash (this is for circumstances like library that cash cannot always be deposited next day)

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

Approve

VII. Alternative Actions:

VIII. Attachments:

1.	Resolution 494	Resolution 494.pdf
2.	Exhibit A - Financial Management Policy	20161017 Financial Management Policy.pdf

RESOLUTION NO. 494

**A RESOLUTION ADOPTING AN AMENDED CITY OF KENNEDALE
FINANCIAL MANAGEMENT POLICY**

WHEREAS, on June 10, 2004, City Council adopted the document entitled, “Financial Management Policy,” a framework for fiscal decision-making to ensure that financial resources are available to meet the present and future needs of the citizens of Kennedale; and

WHEREAS, the benefits of financial management policies are to improve and streamline the decision-making process, enhance credibility, provide a sense of continuity, and provide a means for dealing with fiscal emergencies; and

WHEREAS, the City Council has reviewed the City’s Financial Management Policy.

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

The City Council of the City of Kennedale, Texas hereby approves the amended Financial Management Policy dated October 17, 2016, attached hereto as “Exhibit A.”

PASSED, ADOPTED AND APPROVED by the City Council of the City of Kennedale, Texas, this the 17th day of October, 2016.

APPROVED:

Mayor, Brian Johnson

ATTEST:

City Secretary, Leslie Galloway

CITY OF KENNEDALE



FINANCIAL MANAGMENT POLICY

ORIGINALLY ADOPTED BY CITY COUNCIL: JUNE 10, 2004

PREFACE

A Financial Management Policy provides guidelines to enable the City staff to achieve a long-term, stable financial condition, while conducting daily operations and providing services that are consistent with the Council-Manager form of government established in the City Charter.

It is our intent to bring forth this policy to Council for review at least annually. In order to demonstrate that review, it will be custom practice for the governing board of a municipality to adopt a resolution to make the review an official public record.

SUBSEQUENT REVIEW & ADOPTION

DECEMBER 11, 2008
NOVEMBER 5, 2009
OCTOBER 14, 2010
NOVEMBER 17, 2011
OCTOBER 3, 2012
OCTOBER 1, 2013
OCTOBER 13, 2014
OCTOBER 19, 2015
OCTOBER 17, 2016

I. PURPOSE

The City of Kennedale's financial policies set forth the basic framework for the fiscal management of the City. These policies were developed within the parameters established by applicable provisions of the Texas Local Government Code and the City of Kennedale Charter. The policies are intended to assist the City Council and City staff in evaluating current activities and proposals for future programs. The policies are to be reviewed on an annual basis and modified to accommodate changing circumstances or conditions.

II. ANNUAL BUDGET (CHARTER REQUIREMENTS)

- A. Fiscal Year – The fiscal year shall begin on the first day of October (1st) and end on the last day of the following September (30th). The fiscal year will also be established as both the accounting and budget year.
- B. Submission – The City Manager, within two weeks of receiving July Certified Roll (around August (7th) of each year), shall prepare and submit to the City Council an annual proposed budget (generally during an workshop or retreat) for the ensuing fiscal year designed to meet the goals and objectives of the City Council. It must contain the following:
 - 1) Budget Message shall explain the budget both in fiscal terms and in terms of work programs for the ensuing fiscal year. It shall outline the proposed financial policies of the City and shall include a forecast of a five-year estimate of revenues and expenditures, as well as an effect on taxation;
 - 2) Comparative figures for the estimated income and expenditures for the ensuing fiscal year compared to the combination of: actual income and expenditures through, the latest complete accounting period that information is available for at the commencement of budget preparation, and the estimated income and expenditures for the incomplete portion of the current fiscal year. FOR EXAMPLE: for upcoming FY16/17 budget, comparative should display FY14/15 actual, FY15/16 through May (assuming budget is prepared at this time), FY15/16 year-end estimate, and FY16/17 proposed budget;
 - 3) Proposed Expenditures of each office, department or function;
 - 4) Schedule of debt service requirements due on all outstanding indebtedness and on any proposed debt;
 - 5) Source or basis of the estimates;
 - 6) Balanced budget in which the total of the proposed expenditures shall not exceed the total estimated income and the balance of available funds; and

- 7) Other information as may be required by the Council or deemed desirable by the City Manager.
- C. Public Hearing – Shall be conducted by the Council, allowing interested citizens to express their opinions concerning items of expenditures and/or revenues. The notice of hearing shall be published in the official newspaper of the City of Kennedale not less than ten (10) or more than 30 days before the hearing.
- D. Adoption – Following the public hearing, the Council shall further analyze the proposed budget, making any additions or deletions which it feels appropriate, and shall by ordinance, with or without amendment; adopt the budget before the first (Oct 1st) day of the ensuing fiscal year by a majority vote. On final adoption, the budget shall be in effect for the budget year and shall constitute the official appropriations for the current year and the basis of the official levy of the property tax. Should the Council take no final action before the first (1st) day of the ensuing fiscal year, the amounts appropriated for the current fiscal year shall be deemed adopted on a month to month basis.

III. BASIS OF ACCOUNTING & BUDGETING

- A. Accounting – The City of Kennedale finances shall be accounted for in accordance with generally accepted accounting principles as established by industry practice and applicable governing Accounting Standards Boards.
 - 1) The financial transactions of the City of Kennedale are accounted for and recorded in individual funds. These funds account for revenues and expenditures according to their intended purpose and are used to aid management in demonstrating compliance with finance-related legal and contractual provisions. The minimum number of funds is maintained consistent with legal and managerial requirements. Governmental funds are used to account for the City's general government activities and include the General, Special Revenue, Internal, Debt Service and Capital Project funds.
 - 2) Governmental fund types use the flow of current financial resources measurement focus and the modified accrual basis of accounting. Under the modified accrual basis of accounting, revenues are recognized when susceptible to accrual (i.e., when they are "measurable and available"). "Measurable" means the amount of the transaction can be determined and "available" means collectable within the current period or soon enough thereafter to pay liabilities of the current period. Substantially all material revenues are considered to be susceptible to accrual. A thirty-day availability period is used for revenue recognition for all governmental fund type revenues, to include fines and forfeitures. Expenditures are recognized when the related fund liability is incurred, if measurable, except for un-matured

principal and interest on general long-term debt, which are recorded when due. Compensated absences, claims, and judgments are recorded when the obligations are expected to be paid with current available financial resources.

- 3) The City of Kennedale does not utilize encumbrance accounting for operating use at year-end.
 - 4) The Proprietary fund types are accounted for on a flow of economic resources measurement focus and use the accrual basis of accounting. Under this method, revenues are recorded when earned and expenses are recorded at the time liabilities are incurred.
- B. The budgets shall be prepared and adopted on a cash basis for all governmental funds and modified accrual basis for proprietary funds. The capital projects funds adopt project-length budgets at the time of their presentation. Annual appropriations lapse at fiscal year-end for operating and debt service funds.

IV. BUDGET ADMINISTRATION

- A. All expenditures of the City of Kennedale shall be made in accordance with the annual budget. Budgetary control is maintained at the individual expenditure account level by each department head through the review of all requisitions.
- B. The following represents the City of Kennedale budget amendment policy delineating responsibility and authority for the amendment process. Transfers between expenditure accounts in one department may occur with the approval of the Department Head and Director of Finance. Transfers between operating departments may occur with the approval of the City Manager's Office. Transfers between funds must be accomplished by budget amendment approved by the City Council. Budget amendments calling for new fund appropriations must also be approved by the City Council. Should the City Council decide a budget amendment is necessary, the amendment is adopted in ordinance format, and the necessary budgetary changes are then made.
- C. As a matter of course, continuous budget monitoring requires that deviations from expected amounts of revenue and/or expenditures be noted and estimates revised, if necessary, to avoid financial distress. Budget amendments are thus considered prudent financial management techniques and are deemed to fulfill the requirements of City Charter.

V. FINANCIAL REPORTING

- A. Following the conclusion of the fiscal year, the Director of Finance shall cause to be prepared a Comprehensive Annual Financial Report (CAFR) in accordance with generally

accepted accounting and financial reporting principles established by industry practice and statements issued by the Governmental Accounting Standards Board (GASB). The document shall also satisfy all criteria of the Government Finance Officers Association's (GFOA) Certificate of Achievement for Excellence in Financial Reporting Program.

- B. The CAFR shall show the status of the city's finances on the basis of generally accepted accounting principles (GAAP). The CAFR shall show fund revenues and expenditures on both a GAAP basis and budget basis for comparison purposes. In most cases, this reporting conforms to the way the city prepares its budget. Differences in format are acknowledged through reconciliations. Liabilities for post-employment benefits and compensated absences (accrued but unused sick and vacation leave) are not reflected in the budget, but are accounted for in the CAFR's government-wide financial statements. The government-wide financial statements modify the presentation of the governmental funds by presenting their results in the same manner as proprietary funds.
- C. Included as part of the CAFR shall be the results of the annual audit prepared by independent certified public accountants designated by the City Council.
- D. Each fiscal year, the Director of Finance will analyze accounts receivable balances and, if necessary, write off uncollectible accounts in accordance with applicable statutes after review by the City Manager or his designee.
- E. The City Manager shall present a monthly financial report and such additional information as may be required by the City Council. All income and expenses for the preceding month and for the year to date shall be shown and compared to the fiscal budget. These reports will be prepared by the Finance Department and distributed to and reviewed by each department head. Information obtained from financial reports and other operating reports is to be used by department heads to monitor and control the budget as authorized by the City Manager.
- F. The auditor's report on City's financial statements shall be completed and submitted to the City Council within one hundred twenty (120) days after the City's fiscal year end.

VI. REVENUES

- A. To protect the City of Kennedale's financial integrity, the City will maintain a diversified and stable revenue system to shelter it from fluctuations in any particular revenue source.
 - 1) The City will strive to keep the revenue system simple, which will result in a decrease of compliance costs for the taxpayer or service recipient and a corresponding decrease in avoidance to pay.

- 2) The City will strive to understand its revenue sources and predict the reliability of revenue streams. City will enact consistent collection policies so that management may reasonably rely upon the certainty that revenues will materialize according to budgets, plans, and programs.
- B. For every annual budget, the City of Kennedale shall levy two property tax rates: operation/maintenance and debt service. The debt service levy shall be sufficient for meeting all principal and interest payments associated with the City's outstanding debt for that budget year. The debt service levy and related debt service expenditures shall be accounted for in the General Debt Service fund. The operation and maintenance levy shall be accounted for in the General Fund.
- 1) The City of Kennedale will maintain a policy of levying the lowest tax rate on the broadest tax base. Mandated exemptions will be provided to home owners, senior citizens and disabled citizens. On an annual basis during the budget process, City Council will review the exemption for senior citizens and disabled persons with a goal to maintain a tax benefit of approximately 30% of the average home value.
 - 2) Property shall be assessed at 100% of the fair market value as appraised by Tarrant Central Appraisal District. Reappraisal and reassessment will be done regularly as required by State law. A 99% collection rate on current assessments and a 1% collection rate on delinquent assessments and penalties will serve as "the goal" for tax collections.
- C. The City of Kennedale will establish user charges and fees at a level that attempts to recover the full cost of providing the service.
- 1) User fees, particularly utility rates, should identify the relative costs of serving different classes of customers.
 - 2) The City will make every reasonable attempt to ensure accurate measurement of variables impacting taxes and fees (e.g. verification of business sales tax payments, verification of appraisal district property values, accuracy of water meters, etc.)
 - 3) The City will strive to maintain equity in the revenue system structure. That is, the City will seek to minimize or eliminate all forms of subsidization among entities, funds, services, utilities, and customers.
- D. The City of Kennedale will attempt to maximize the application of its financial resources by obtaining supplementary funding through agreements with other public and private agencies for the provision of public services or the construction of capital improvements. The City of Kennedale will consider market rates and charges levied by

other public and private organizations for similar services in establishing tax rates, fees and charges.

- E. When developing the annual budget, the City Manager shall project revenues from every source based on actual collections from the preceding year and estimated collections of the current fiscal year, while considering known circumstances, which will impact revenues for the new fiscal year. The revenue projections for each fund should be made conservatively so that total actual fund revenues exceed budgeted projections.

VII. OPERATING EXPENDITURES

- A. Operating expenditures shall be accounted, reported, and budgeted for in the following major categories:
 - 1) Personnel
 - 2) Supplies
 - 3) Maintenance
 - 4) Sundry
 - 5) Debt
 - 6) Transfers
 - 7) Capital
 - 8) Grants
- B. The annual budget shall appropriate sufficient funds for operating, recurring expenditures necessary to maintain established quality and scope of city services.
- C. The City of Kennedale will constantly examine the methods for providing public services in order to reduce operating, recurring expenditures and/or enhance quality and scope of public services with no increase to cost.
- D. Personnel expenditures will reflect the minimum staffing needed to provide established quality and scope of city services. To attract and retain employees necessary for providing high-quality service, the City shall maintain a compensation and benefit package competitive with the public and, when quantifiable, private service industries.
- E. Supplies expenditures shall be sufficient for ensuring the optimal productivity of City employees.
- F. Maintenance expenditures shall be sufficient for addressing the deterioration of the City's capital assets to ensure the optimal productivity of the capital assets. Maintenance should be conducted to ensure a relatively stable level of maintenance expenditures for every budget year.

- G. Sundry expenditures include fees for attorneys, auditors, consultants and other services that require specialized expertise.
- H. The City of Kennedale will utilize contracted labor for the provision of city services whenever private contractors can perform the established level of service at less expense to the City. The City will regularly evaluate its agreements with private contractors to ensure the established levels of service are performed at the lowest possible cost.
- I. Existing capital equipment shall be replaced when needed to ensure the optimal productivity of City of Kennedale employees. New capital purchases shall be made only to enhance employee productivity, improve quality of service, or expand scope of service.
- J. To assist in controlling the growth of operating expenditures, operating departments will submit their annual budgets to the City Manager within fiscal parameters provided by the City Manager's Office.
- K. All purchases shall be in accordance with City's Purchasing Policy and in accordance with State law.
- L. All invoices will be paid within thirty (30) days of receipt in accordance with State law. Procedures will be used to take advantage of all purchase discounts where considered cost effective. Payments will be processed in order to maximize the city's investable cash.
- M. The City will pursue every opportunity to provide for the public's and City employees' safety. Health insurance coverage and property and casualty insurance coverage will be reviewed annually as to amount of coverage provided and cost effectiveness.
- N. The City will maintain property, liability and workman's compensation coverage through participation in the Texas Municipal League's (TML) Intergovernmental Risk Pool. The Pool maintains reinsurance coverage to protect the Pool in the event of excessive losses.

XIII. DEBT EXPENDITURES

- A. The City of Kennedale will issue debt only to fund capital projects, which cannot be supported by current, annual revenues.
- B. The City will strive to maintain a bond coverage ratio of 1.50 times in the Water/Sewer Fund.
- C. To minimize interest payments on issued debt, the City will maintain a rapid debt retirement policy by issuing debt with maximum maturities not exceeding 20 years (i.e.,

the life of the bonds will not exceed the useful life of the projects financed). Retirement of debt principal will be structured to ensure constant annual debt payments.

- D. The City of Kennedale will attempt to maintain unenhanced, underlying base bond ratings (prior to insurance) of A+ (Standard & Poor's) on its general obligation debt. The City shall continue to seek to enhance its credit quality by frequent contact and visits with the rating agencies and monitoring the current trends and guidance from the agencies.
- E. When needed to minimize annual debt payments, the City of Kennedale will obtain insurance for new debt issues.
- F. In order to minimize the impact of debt issuance on the property tax rate and to assist the City in meeting its arbitrage requirements, the City will consider the sequential sale of bonds for the purpose of financing capital projects.
- G. The City will maintain procedures that comply with arbitrage rebate and other federal requirements. City will attempt, within legal bounds, to adopt strategies, which will minimize the arbitrage rebate of interest earnings on unspent bond proceeds it must pay to the federal government.

IX. CAPITAL EXPENDITURES

- A. The City of Kennedale will develop a multi-year plan for capital projects, which identifies all projects likely to be constructed within a five year horizon. The multi-year plan will reflect for each project the likely source of funding and attempt to quantify the project's impact to future operating expenditures.
- B. Capital projects will be constructed to:
 - a. Protect or improve the community's quality of life;
 - b. Protect or enhance the community's economic vitality;
 - c. Support new development; and/or
 - d. Provide significant rehabilitation of City infrastructure for sustained service.
- C. Capital project expenditures will not be authorized by the City Council without identification and commitment of revenue sources sufficient to fund the improvement. Potential funding sources include, but are not limited to, reserve funds, debt issuances, matching fund revenues, user fees, grants, or reallocation of existing capital funds with the recognition that construction of previously authorized capital projects may be delayed or postponed.

- D. Capital Improvement Planning and Programming shall include the following categories for the determination of funding for individual projects: design costs, right-of-way costs, utility construction/adjustment costs, construction costs, appropriate contingency funds, furnishings and equipment, and direct project administration services provided by City employees or outside forces.
- E. Cost incurred for advanced planning of capital projects may be funded from reimbursement of appropriate debt or operating funds.
- F. The City will intend to maintain adequate funding levels in the developer participation fund to ensure that no City obligation for participation goes unfunded for a period of more than one (1) year.
- G. The City will utilize \$5,000 as its threshold for capital purchases.
- H. To minimize the issuance of debt, the City of Kennedale will attempt to support capital projects with appropriations from operating revenues or excess fund balances (i.e. "pay-as-you-go").

X. UTILITY CAPITAL EXPENDITURES

- A. The City of Kennedale uses three funding sources for Utility Capital expenditures.
 - 1) Utility rates are designed to provide for a depreciation reserve, which accumulates resources to replace or rehabilitate aging infrastructure.
 - 2) The multi-year financial plan provides debt strategies to finance needed capital items.
 - 3) Annual transfers may be made from utility operations to maintain adequate funding for capital items.

XI. FUND TRANSFERS

- A. Fund transfers may occur when surplus fund balances are used to support non-recurring capital expenses or when needed to satisfy debt service obligations.
- B. Fund transfers are used to pay for the following types of costs:
 - 1) Administrative - Transfer from Water/Sewer Fund (Proprietary Fund) and Economic Development Corporation Fund (Component Unit) to reimburse the General Fund for recurring support costs, such as personnel, materials, etc.

- 2) Franchise Fees – Transfer from Water/Sewer Fund (Proprietary Fund) to the Street Improvement Fund (General Fund) to pay franchise fees. These are otherwise known as right-of-way fees.

XII. FUND BALANCE

- A. The annual budget shall be presented to Council, with each fund reflecting minimum ending fund balances as follows:
 - 1) General Fund 18% of Expenditures
 - 2) General Debt Service Fund 7% of Expenditures
 - 3) Water/Sewer Fund (Working Capital) 18% of Expenditures
 - 4) Water/Sewer Debt Service Fund Compliance With Bond Covenants
 - 5) Economic Development Corporation Fund 18% of Expenditures
- B. Fund balances, which exceed the minimum level established for each fund, may be appropriated for non-recurring capital projects or programs.
- C. The City of Kennedale will exercise diligence in avoiding the appropriation of fund balance for recurring operating expenditures. In the event that fund balance is appropriated for recurring operating expenditures to meet the needs of the community, the budget document shall include an explanation of the circumstances requiring the appropriation, and the methods to be used to arrest the future use of fund balance for operating expenditures.
- D. For financial statement purposes, all governmental fund balances will be classified as follows:
 - 1) Non-spendable - Amounts that cannot be spent; legally or contractually required to be maintained.
 - 2) Restricted - Amounts that have external enforceable legal restrictions.
 - 3) Committed - Amounts that can only be used for specific purposes as directed through formal action of the City Council. Amounts can only be changed or revoked through similar formal action of the Council.
 - 4) Assigned - Amounts intended to be used for specific purposes as designated by management.
 - 5) Unassigned - Remaining amounts that have not met the criteria for non-spendable, restricted, committed or assigned.

- E. When both restricted and unrestricted resources are available for use, it is the City's policy to use restricted resources first, and then unrestricted resources as they are needed.

XIII. LONG-TERM FINANCIAL PLAN

The City of Kennedale will adopt the annual budget in the context of a long-term financial plan, or other multi-year budget analysis. The long-term financial plans will establish assumptions for revenues, expenditures and changes to fund balances over a five year horizon. The assumptions will be evaluated periodically as part of the budget development process.

XIV. CASH MANAGEMENT & INTERNAL CONTROLS

- A. Written Procedures - The Director of Finance is responsible for developing written guidelines on accounting, cash handling, segregation of duties, and other financial matters, which will be approved by the City Manager. The Finance Department will assist department heads as needed in tailoring such guidelines to fit each department's requirements, as well as periodically review staffing and training to ensure adequacy.
- B. Department Heads' Responsibility - Each department head is responsible to the City Manager to ensure that proper internal controls are followed throughout his or her department to safeguard City funds, that all guidelines on accounting and internal controls are implemented, and that all independent auditor control recommendations are addressed.
- C. Cash – City cash shall be deposited on a daily basis unless approved by Finance.
- D. Investments - The City's investment portfolio shall be managed in accordance with the Public Funds Investment Act and the City's Investment Policy. The timing and amount of cash needs and availability shall be systematically projected in order to maximize interest earnings from investments. As per state law, the Director of Finance will issue quarterly reports on investment activity to the City Council. Each report will be issued within thirty (30) days from the end of the quarter.
- E. Capital Assets and Inventory - Such assets will be reasonably safeguarded and properly accounted for and prudently insured. The capital asset inventory will be updated regularly.

XV. ANNUAL REVIEW

The Director of Finance shall, at a minimum, submit proposed amendments of this policy to the City Council annually.

Staff Report to the Honorable Mayor and City Council

Date: October 17, 2016

Agenda Item No: DECISION ITEMS - C.

I. Subject:

Consider Resolution 502 adopting an amended City of Kennedale Internal Controls & Cash Handling Policy

II. Originated by:

Finance Director, Director of Finance & IT

III. Summary:

The goal of the City of Kennedale's Internal Controls & Cash Handling Policy is to ensure adequate measures by effectively safeguarding, depositing and accounting for cash on behalf of the City and to maintain public trust. Additionally, this policy will provide guidance to departments on improving cash handling skills, and thus, limit not only the City's losses, but also the City's involvement in investigation of losses of funds.

It is the recommendation of our independent auditors that our main policies be reviewed by the Director of Finance for updates in relation to our internal control practices and submitted to Council at least annually. In order to demonstrate our review, it is custom practice for the governing board of a municipality to adopt a resolution to make the review an official public record.

The recommended changes are:

- The Finance Department can have cashiers/custodians repay a "shortage."
- Repeated issues with losses and shortages will result in disciplinary action based on the city's progressive disciplinary policy.
- And all losses and thefts must be reported to finance within 24 hours of discovery.

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

Approve

VII. Alternative Actions:

VIII. Attachments:

1.	Resolution 502	Resolution 502.pdf
2.	Exhibit A - Internal Controls & Cash Handling Policy	20161017 Internal Controls & Cash Handling Policy.pdf

RESOLUTION NO. 502

A RESOLUTION ADOPTING AN AMENDED CITY OF KENNEDALE INTERNAL CONTROLS & CASH HANDLING POLICY

WHEREAS, on November 17, 2011, City Council adopted the document entitled, “Internal Controls & Cash Handling Policy” a framework setting forth procedures that govern the handling, deposit and safekeeping of City Cash; and

WHEREAS, the term “City Cash” applies to currency, coin, checks, money orders, credit, charge and debit card payments, other electronic payment media and other negotiable instruments payable in money to the City; and

WHEREAS, this policy establishes best practices and standards that can be applied across all City department that have the potential to handle cash; and

WHEREAS, employees that have been authorized to receive City Cash share the stewardship of financial assets for the City across departmental divisions; and

WHEREAS, the policy ensures that City Cash is accounted for and available for investment or an authorized expenditure; and

WHEREAS, the City Council has reviewed the City’s Internal Controls & Cash Handling Policy.

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

The City Council of the City of Kennedale, Texas hereby approves the Internal Controls & Cash Handling Policy dated October 17, 2016, attached hereto as “Exhibit A.”

PASSED, ADOPTED AND APPROVED by the City Council of the City of Kennedale, Texas, this the 17th day of October, 2016.

ATTEST:

APPROVED:

City Secretary, Leslie Galloway

Mayor, Brian Johnson

CITY OF KENNEDALE



INTERNAL CONTROLS & CASH HANDLING POLICY

ORIGINALLY ADOPTED BY CITY COUNCIL: NOVEMBER 17, 2011

PREFACE

The intent of the City of Kennedale's Internal Controls & Cash Handling Policy is to provide management with reasonable, but not absolute, assurance that resources are being utilized and accounted for accurately, appropriately, consistently and completely. The reliability with which the city can place upon its financial records is further dependent upon the effectiveness of procedures and controls that must also ensure that transaction processes, in terms of cash, are not exposed to unauthorized access and use.

It is our intent to bring forth this policy to Council for review at least annually. In order to demonstrate that review, it will be custom practice for the governing board of a municipality to adopt a resolution to make the review an official public record.

SUBSEQUENT REVIEW & ADOPTION

OCTOBER 3, 2012

OCTOBER 1, 2013

OCTOBER 13, 2014

OCTOBER 19, 2015

OCTOBER 17, 2016

I. PURPOSE

The goal of this Internal Controls & Cash Handling Policy is to ensure adequate internal controls by effectively safeguarding, depositing, and accounting for Cash on behalf of the City of Kennedale and to maintain public trust. Additionally, this policy will provide guidance to departments on improving cash handler (hereby referred to as “cashier/custodian”) skill and accountability, therefore limiting not only the City’s losses, but also the City’s involvement in investigations of losses of funds. The term “Cash” applies to currency, coin, check, money order, credit card, electronic funds, and other negotiable instruments payable in money to the City.

II. ADMINISTRATIVE PROCEDURES

Enforcement of the cash management program is included but limited to the following:

- A. A random drawer audit conducted under the direction of the Director of Finance.
- B. Any deficiencies in regard to the set procedures will be reported to the Director of Finance and the City Manager in the form of a memorandum outlining the deficiencies.
- C. The Director of Finance will notify the Department Head involved and explain these deficiencies, and the Department Head will be responsible for taking appropriate action to correct deficiencies.
- D. If in a subsequent audit these deficiencies still exist, the Director of Finance will advise the Department Head that the deficiencies still exist.
- E. The Director of Finance and the Department Head will notify the City Manager of the existing situation.
- F. The City Manager will review the existing situation and may take appropriate action to resolve deficiencies and ensure that the procedures as outlined are administered properly.

III. DELEGATION OF AUTHORITY

- A. The Director of Finance is authorized to promulgate rules for establishing procedures for the receipt, handling and deposit by City officers and employees of City Cash into the City Treasury for: the method of documentation on all such transactions; regular reporting to the Director of Finance; certifying and rescinding certification by the Director of Finance of all City officers and employees who are authorized to receive or handle City monies in the regular course of their employment or departmental activities; inspection of departmental cash records, including overages or shortages; inspection of departmental practices and procedures in handling City Cash; and

contracting with agents to collect City Cash and their collection procedures. The Director of Finance may enforce these rules through on-site inspections; by rescinding certification of any officer or employee who fails to comply with the Director of Finance's procedures and, in the event of noncompliance by a department or office, requiring that payments to personnel be authorized by the Director of Finance, or deposited at his/her office.

- B. The Director of Finance, as the City's banker, is required by law to receive, retain, and disburse all City revenue and keep detailed records of these transactions. The Director of Finance is charged with the responsibility of overseeing the proper receipting and to safeguard all City funds.
- C. **The Director of Finance is responsible for the administration of the cash management program; however, he/she may delegate applicable responsibilities as appropriate. For the purposes of this policy, the term "Finance Department" refers to the Account Payable Clerk. In the Account Payable Clerk's absence, Finance Department duties will be delegated to the Director of Finance and/or Accounting Technician.**
- D. Through certification, the responsibility and accountability of the daily collection of funds is delegated to the cashier/custodians.

IV. DUTIES OF CITY DEPARTMENT HEADS

The Director of any City department who anticipates receiving City Cash on a regular basis in the course of its activities shall:

- A. Assign the receiving of City Cash only to those persons who are certified by the Director of Finance for performing these functions;
- B. Collaborate with the Director of Finance to establish and maintain a system of procedures, documentation and reporting on receipts handling and deposit of City money;
- C. Notify the Director of Finance and Police Department of any theft of City Cash **no later than twenty-four hours after discovery.**
- D. Allow the Director of Finance or designee to make on-site inspections and observe the processing of City Cash, and to make inspections of departmental collection records.

V. DUTIES OF CITY PERSONNEL

Any City officer or employee, who receives City Cash in the normal scope and course of his/her duties, shall:

- A. Departments with tills and/or cash boxes will count their money and store in a secure place (preferably a safe) and money will be given to the Finance Department by 9:00 a.m. the following day. Departments not utilizing tills and/or cash boxes will turn in the cash on the same day to the Utility Billing Administrator no later than 5:00 p.m. **Note:** Several departments, such as the Police, Animal Control and Library Department collect cash through their individual department, and then submit it through Utility Billing's Cash Receipts to be later deposited to the Finance Department.
- B. Comply with rules promulgated by the Director of Finance for handling and processing of City Cash and for documentation and dissemination of records, and with departmental internal procedures, established in conformity with the Director of Finance procedures;
- C. Notify the employee's Department Head and Director of Finance of any loss or theft of City money **no later than twenty-four hours after discovery;**
- D. Be subject to disciplinary action, up to and including termination for failure to comply with each department's operating policies, Director of Finance's procedures and/or duties described in this policy.

VI. LIABILITY FOR LOSS

- A. As between a department and its officers and the Director of Finance, the department has primary responsibility for care and liability for loss of City Cash in its custody until deposited in the City Treasury or entrusted to a custodian certified by the Director of Finance.
- B. Compliance with the procedures approved by the Director of Finance establishes a presumption that a City department or office exercised due care in its custody and care of City Cash.

VII. CERTIFICATION OF CASHIERS & CUSTODIANS

- A. Only persons who are approved by the Director of Finance shall receive and handle City Cash on a regular basis in the scope and course of their employment. **A signed Certificate of Responsibility must be obtained from the cashier/custodian and supervisor verifying receipt of this policy.**

- B. In addition, the Director of Finance **may** require that the cashier/custodian complete a certification or training and/or pass an examination on: the secure processing of moneys, cash procedures and applicable departmental rules, and thereafter take refresher instruction or training at periodic intervals or when the need arises.

VIII. ESTABLISHMENT/INCREASE OF CASH FUNDS

All requests for the establishment of cash funds must be made to the Director of Finance. The Director of Finance will maintain a complete listing of all cash funds. The department location, cashier/custodian and the amount of the cash fund are to be maintained upon this written listing.

- A. An initial request for establishment or request for increase should be submitted to the Director of Finance for the amount of the funds requested.
- B. No funds are to be established out of cash receipts by any department.
- C. Upon establishment of a cash fund, a cashier/custodian should be appointed by the Director of Finance. Cash funds must have one cashier/custodian responsible for the disbursement of cash. In the absence of the cashier/custodian, a designated individual should make all disbursements from the cash fund. Should it become necessary to change cashier/custodians, the Department Head should notify the Director of Finance and request an audit of the cash fund to be performed prior to transferring the cash fund to the new cashier/custodian.

IX. TERMINATION OF CASH FUNDS

- A. The Department Head should notify the Director of Finance that the cash fund is to be closed and request that an audit be performed prior to closing the cash fund.
- B. The Director of Finance will perform an audit of the cash fund. Any shortages or variances are to be investigated and resolved by the Department Head and the Director of Finance. **If the shortages or variances cannot be resolved, the Department Head is to provide a written explanation to the effect that a shortage or variance occurred, which he or she could not resolve, to the Director of Finance.**
- C. Upon completion of the cash audit, the cashier/custodian should deposit any cash on hand with the Finance Department and provide a copy of the deposit slip to the Director of Finance with any outstanding vouchers.
- D. The Director of Finance will provide the Finance Department with details of the expense accounts to be debited for preparation of a journal entry to close the cash fund. A copy of the details should also be attached to the journal entry as supporting documentation.

X. SECURITY OF CASH FUNDS

- A. Cash funds are to be kept in locked boxes or drawers. The locked box is to be kept in a secure area, where only the designated cashier/custodian and the Department Head have keys and access to the funds.
- B. Provisions should be made in departments where more than one cash fund exists to secure all funds which are not being utilized. Only the Department Head or his/her designated cashier/custodian should have access to an employee's cash fund in the event of their absence.
- C. Only the person responsible for the cash fund and the Department Head should maintain keys and have access to the funds.
- D. Bank bags must be locked and kept out of sight when transporting city funds for deposit to the Finance Department or Utility Billing Customer Service.
- E. All funds must be reviewed randomly.
- F. The use of surveillance cameras may be used to monitor city funds.

XI. REGULATION OF PETTY CASH FUNDS

Petty cash funds are available for making emergency or immediate purchases of items that are not easily obtained through normal purchasing channel. Petty cash funds are to be maintained only for this purpose, and no department shall possess a petty cash fund without establishing such a fund as outlined Section VIII: Establishment/Increase of Cash Funds.

- A. Maintenance of Petty Cash Funds
 - 1) Cash funds must have one custodian responsible for the disbursement of cash. In the absence of the custodian, only the Department Head or his/her designated custodian should make all disbursements from the petty cash fund.
 - 2) Each cash fund should have a set amount of funds to be accounted for. The Finance Department will not process payment authorizations to reimburse petty cash if the request exceeds the established amount of the petty cash fund.
 - 3) **The petty cash fund is to be reconciled on a daily basis by the fund custodian.**

- 4) **The cash custodian should process a payment authorization to reimburse their petty cash fund as necessary.** The payment authorization requesting reimbursement of petty cash is to be processed with enough lead-time to prevent the remaining petty cash funds from being depleted prior to the issuance of the reimbursement check. All check payments to reimburse the petty cash fund are to be made payable to the City of Kennedale.
- 5) A petty cash voucher must be completed to support all disbursements of cash from the petty cash fund. The petty cash voucher must be completed in its entirety and approved by the Department Head prior to the disbursement of any cash from the custodian.
- 6) Each petty cash voucher must be accompanied by a receipt ticket upon reimbursement or return of unused funds.
- 7) Three (3) signatures are required on all petty cash vouchers. All petty cash vouchers must be signed by the employee receiving the cash and by the Department Head approving the transaction. The petty cash custodian will then sign the voucher as cash is actually disbursed from the fund.
- 8) **Employees are not to be reimbursed for sales tax.** It is the responsibility of the Department Head to ensure that employees are aware of the City's exempt status.
- 9) Petty cash in advance is not to be held by any employee longer than a twenty-four period. Receipts and used funds must be returned and be reconciled to vouchers within the twenty-four hour period.
- 10) Expenditures for purchases made from the petty cash fund are not to exceed \$100.00. Purchases that exceed \$100.00 should be purchased through normal purchasing process.

B. Prohibited expenses include the following:

- 1) Loans to employees;
- 2) IOUs for employee personal use;
- 3) Cashing personal, payroll and expense checks for the Department Head, petty cash custodian, or any other employees or City official; and
- 4) Traveling or training expenses, such as use of personal vehicle, parking and entertainment (these expenditures should be reimbursed by submitting the proper expense report form to Finance Department).

C. Documents Which Serve as Support for Disbursement of Petty Cash

- 1) A cash register receipt, provided that the date is current enough to support said purchase;
- 2) Cash receipt tickets from the place of purchase provided that the date is current, items purchased are listed and the ticket is signed by the employee as receiving said merchandise;
- 3) Proof of purchase in the form of a valid receipt provided the date is current and the type of the purchase or expenditure can be easily determined;
- 4) No refunds for purchases will be made without proof of purchase;
- 5) A petty cash voucher properly completed with authorizations for a cash advance.

XII. REGULATION OF CHANGE FUNDS

Changes funds, or cash drawers, are to be maintained for the purpose of making change. Change funds are not to be co-mingled with other cash funds. Change funds are to be maintained only for this purpose and no department shall possess a change fund without establishing such a fund with the Director of Finance.

A. Maintenance of a Change Fund

- 1) Each change fund should have one person responsible for that fund or drawer at any one given time. In the areas where more than one change fund is used, each employee should work out of his/her own change fund. Employees are not to work out of another employee's change fund.
- 2) Each change fund should be established for a set amount as outlined in this section, and this same amount should be maintained at all times. If an increase in a cash fund is needed, a request should be sent to the Director of Finance outlining the need and amount of funds requested is required.
- 3) **Change funds are not to be used as petty cash funds.** They are to be used only for making change.
- 4) Cash receipts are not to build up in a change fund. These receipts are to be removed and deposited as outlined in Section XIII: Regulation of Deposits.
- 5) Receipts for all cash should be utilized so that an audit may be done at any time and the amount of the change fund can be verified.

B. Cashing of Personal Checks from a Change Fund

- 1) Cashing of personal, payroll, and expense checks is strictly prohibited.

XIII. REGULATION OF DEPOSITS

The City of Kennedale collects cash through various departments in a decentralized manner; however, all cash is then turned in to the Finance Department for deposit to the bank no later than 5:00 p.m. on a daily basis. At no time shall cash be held. Furthermore, all deposits must be verified by the Finance Department. **Note:** Several departments, such as the Police, Animal Control and Library Department collect cash through their individual department, and then submit it through Utility Billing's Cash Receipts to be later deposited to the Finance Department.

A. Losses/Shortages/Overages

The Director of Finance makes a clear distinction between a "loss" and "shortage" of City money. This is determined by the cash handler's ability to obtain physical custody of the money and how that person safeguards the money. **Cashiers/custodians must report all losses to the Finance Department no later than twenty-four hours after discovery.**

- 1) A shortage is an unintentional collection error such as a change making error. An overage occurs when a cash handler has collected too much money and cannot immediately return the excess to a specific customer.
- 2) On the other hand, a loss of City money is when a cash handler has obtained physical custody of money and then due to reasons like negligence, an act of God or an unlawful action, cannot deposit that money with the City.
- 3) An example of negligence is leaving City money unattended and not properly safeguarding that money from loss.
- 4) The Finance Department can have cashiers/custodians repay a "shortage."
- 5) Repeated issues with losses and shortages will result in disciplinary action based on the city's progressive disciplinary policy.

XIV. REGULATION OF RETURN CHECKS

- A. All return checks will be charged a return check fee as determined by the City Council. The fee is applicable when a customer, taxpayer or employee check for payment of fees, fines, court costs, taxes, utilities or other charges has been dishonored by the maker's bank and

returned to the City of Kennedale. The fee, plus the base amount of check, will be payable to the City by means of cash, money order or cashier's check.

- B. If a customer, taxpayer or employee fails to honor the returned check within thirty days, the check will be turned over for collection or criminal sanctions, depending on which option is applicable.

XV. ACTION TAKEN IN EVENT OF THEFT

The danger of security and loss is a constant threat when handling money. Fund custodians are expected to safeguard City funds against loss. Custodians should be familiar with what to do in times of emergency. In these circumstances, **protecting human life should be the first concern.** Thefts are to be reported and handled in compliance with the City of Kennedale's Fraud Policy. Following the complete investigation performed in accordance with the Fraud Policy, the Director of Finance will conduct a review of the cash handling procedures and related internal controls and issue a report of his/her conclusions on improvements to cash handling procedures. The report will be discussed for implementation with the related department head in an effort to prevent future thefts from occurring.

XVI. ANNUAL REVIEW

The Director of Finance shall, at a minimum, submit proposed amendments of this policy to the City Council annually.



CITY OF KENNEDALE
CASH HANDLING CERTIFICATE OF RESPONSIBILITY
(Appendix A)

I have read and understand the City of Kennedale Internal Controls & Cash Handling Policy. A copy of the Internal Controls & Cash Handling Policy has been provided to me. I agree to be held responsible and accountable for the handling of City funds according to the City of Kennedale's Internal Controls & Cash Handling Policy for the following purpose(s):

Please Initial

_____ Cash Drawer/Change Fund
_____ Petty Cash Fund
_____ Other

I have also been informed and understand that surveillance camera equipment and other devices may be used to monitor City funds.

By signing below, I acknowledge that I have read and agree to the terms and conditions of this document, as well as the City of Kennedale's Internal Controls & Cash Handling Policy.

Training/Exam Date (If Applicable): _____

Employee Name: _____
Employee Signature: _____
Date: _____

Department Head Name: _____
Department Head Signature: _____
Date: _____

Director of Finance Name: _____
Director of Finance Signature: _____
Date: _____



Staff Report to the Honorable Mayor and City Council

Date: October 17, 2016

Agenda Item No: DECISION ITEMS - D.

I. Subject:

Consider Ordinance 616 adopting City of Kennedale Credit Card Consumer Usage Fee Policy

II. Originated by:

III. Summary:

The City is creating a formal policy for the collection of credit card fees for % charged by Fathom to the city for credit cards. This fee is 2.8% and we want to pass it on to the customer. We also currently pass on a 3% fee for development and permit fees and are including this in the policy. This will create a \$54,000 savings for the city by passing on Fathom credit card fees for utility billing.

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

VII. Alternative Actions:

VIII. Attachments:

1.	Ordinance 616	Ordinance 616.pdf
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ORDINANCE NO. 616

AN ORDINANCE OF THE CITY OF KENNEDALE, TEXAS, AUTHORIZING THE ACCEPTANCE OF CREDIT CARDS FOR PAYMENT OF UTILITY BILLING FEES, DEVELOPMENT FEES AND PERMIT FEES;; PROVIDING FOR A PROCESSING FEE FOR PAYMENT BY CREDIT CARD; PROVIDING FOR A SERVICE CHARGE IF A PAYMENT BY CREDIT CARD IS NOT HONORED; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE

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

WHEREAS, Chapter 132 of the Texas Local Government Code authorizes the governing body of a municipality to authorize an official who collects fees to accept payment by credit card and further authorizes the collection of a processing fee for use of a credit card and the collection of a service charge if a credit card is not honored by the credit card company; and

WHEREAS, the City Council of the City of Kennedale, Texas, finds and determines that allowing the use of credit cards for the payment of utility billing fees, development fees and permit fees will increase administrative efficiency and the public convenience and should be authorized; and

WHEREAS, the City Council of the City of Kennedale, Texas, further finds and determines that a processing fee equal to 3 percent of the development and permit fees paid by credit card and a processing fee equal to 2.8 percent of the utility billing fees paid by credit card are reasonably related to the expense incurred for accepting payments by credit card.

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

SECTION 1. Recitals

That the foregoing recitals are incorporated into this ordinance by reference as findings of fact as if expressly set forth herein.

SECTION 2. Credit Card Use Authorized

- (a) Each municipal official employed by the City who, as part of that employment, collects utility billing fees, development fees or permit fees payable to the City, is hereby

authorized to accept payment by credit card and is further authorized to collect a fee for processing the payment by credit card.

- (b) The processing fee for payment by credit card shall be in an amount equal to 2.8 percent of the utility billing fee charges being paid and 3 percent of the development and permit fee charges being paid.
- (c) If a payment by credit card is not honored for any reason by the credit card company on which the funds are drawn, a service charge from the person who owes the utility billing fee, development fee or permit fee charge will be imposed. The service charge is in addition to the original utility billing fee, development fee or permit fee and any processing fee charge therefor, and is for the collection of that original amount. The amount of the service charge shall be the same amount as the fee charged for the collection of a check drawn on an account with insufficient funds.

SECTION 3.

This ordinance shall be cumulative of all other ordinances of the City of Kennedale, Texas, and shall not repeal any of the provisions of such ordinance except in those instances when provisions of such ordinances are in direct conflict with the provisions of this ordinance, in which event the conflicting provisions of such ordinances are hereby repealed.

SECTION 4.

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

SECTION 5.

This ordinance be in full force and effect from and after its adoption.

PASSED, ADOPTED AND APPROVED by the City Council of the City of Kennedale, Texas, this the 17th day of October 2016.

APPROVED:

MAYOR, BRIAN JOHNSON

ATTEST:

LESLIE GALLOWAY, CITY SECRETARY

APPROVED AS TO FORM AND LEGALITY:

City Attorney, Wayne K. Olson

Staff Report to the Honorable Mayor and City Council

Date: October 17, 2016

Agenda Item No: DECISION ITEMS - E.

I. Subject:

Consider approval of an Ordinance 615 amending the city's schedule of administrative fees

II. Originated by:

Finance Director, Director of Finance & IT

III. Summary:

The purpose of this ordinance is to set forth those fees and charges authorized to be charged by the City of Kennedale pursuant to specific authorization by the City Council. Fees and charges help offset both direct and indirect costs associated with the administration, investigation and implementation of ordinances and regulations applicable to development, as well as numerous other City activities and operations.

The City Council last approved revisions to this "schedule" of fees and charges on October 19, 2015 (Administrative Fees: Pavilion Rentals, Library, Water Deposits). For the purposes of this update, City staff would like to incorporate several changes.. In terms of staff's reasoning for the denoted items:

New Records Request Fees, New Storm Water Deposit, Change the Court Credit Card Fee to 6% based on new agreement with Traffic Payment, Adjust the Finger Print Fees to correct amount, and zoning verification letter and plan review fees that were left off previous schedule.

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

Approve

VII. Alternative Actions:

VIII. Attachments:

1.	Ordinance 615	Ordinance 615.pdf
2.	Schedule of Fees	Schedule of Fees (Proposed) October 2016.pdf

ORDINANCE NO. 615

AN ORDINANCE AMENDING SECTION 2-3 OF THE KENNEDALE CITY CODE (1991), AS AMENDED, BY AMENDING, REPEALING, OR PROVIDING FOR FEES FOR CERTAIN CITY SERVICES; PROVIDING FOR THE ADOPTION OF ADDITIONAL FEES BY ORDINANCE; PROVIDING FOR THE REPEAL OF FEES INCONSISTENT WITH THE FEES ESTABLISHED HEREIN; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY FOR VIOLATIONS HEREOF; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

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

WHEREAS, in order to offset costs associated with the administration, investigation and implementation of ordinances and regulations applicable to development and other activities, the City Council has previously established a schedule of fees; and

WHEREAS, the City Council now desires to update its schedule of fees by amending or repealing certain fees and adopting new fees; and

WHEREAS, the City Council desires to repeal all previously adopted fees, which are inconsistent with fees established by this ordinance.

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

SECTION 1.

Section 2-3 of the Kennedale City Code (1992), as amended, is hereby amended to read as follows:

“Sec. 2-3. Fees for Licenses, Inspections, Permits, etc.

- (a) All persons, firms or corporations applying for licenses, inspections, permits or other city services, activities or uses that, by their nature, require the applicant to pay a fee incident to such application, shall be required to pay the following fees as established in Exhibit “A.”

- (b) The City Council shall periodically review the need for and the amount of fees for city services, uses and activities and shall adopt or revise it from time to time.
- (c) In addition to the fees established in paragraph (a) above, the City Council may adopt other ordinances from time to time establishing various fees for city services, activities and uses.
- (d) It shall be a violation of this Section to conduct any activity or commence any use for which the payment of a fee is required unless such fee has been paid.”

SECTION 2.

The fees set forth in Exhibit A attached to this ordinance are hereby adopted.

SECTION 3.

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

SECTION 4.

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

SECTION 5.

Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance shall be fined not more than Five Hundred Dollars (\$500.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

SECTION 6.

All rights and remedies of the City of Kennedale are expressly saved as to any and all violations of the provisions of Section 2-3 of the Kennedale City Code (1991), as amended, or any other ordinance or code provision affecting fees which have accrued at the time of the effective date of this ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

SECTION 7.

The City Secretary of the City of Kennedale is hereby directed to publish the caption, penalty clause, publication clause and effective date of this ordinance in every issue of the official newspaper of the City of Kennedale for two days, or one issue of the newspaper if the official newspaper is a weekly newspaper, as authorized by Section 52.011 of the Local Government Code.

SECTION 8.

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

PASSED, ADOPTED AND APPROVED by the City Council of the City of Kennedale, Texas, this the 17th day of October, 2016.

ATTEST:

APPROVED:

City Secretary, Leslie Galloway

Mayor, Brian Johnson

APPROVED AS TO FORM AND LEGALITY:

City Attorney, Wayne K. Olson

EXHIBIT B: SCHEDULE OF FEES

(10.17.2016)

SERVICE	COST	NOTES
ADMINISTRATIVE		
CHECK AND CREDIT CARD TRANSACTIONS		
Credit Card Payments		
Permitting	3%	When payment of any fee, fine, court cost or other charge related to Kennedale Permitting is made by credit card via phone, online or in-person, a fee equaling three (3) percent per fee, fine or other charge paid by credit card will be added to the fee, fine, or other charge paid.
Utility Billing	2.8%	When payment of any utility billing charge related to Kennedale Utility Billing is made by credit card via phone, mail, online or in-person to City of Kennedale or Fathom Global, a fee equaling 2.8 percent per fee, fine or other charge paid by credit card will be added to the charge paid.
Other Departments Not Listed	No Charge	When payment of any fee or other charge related to any other miscellaneous activity not listed department is made by credit card online, by phone (817-985-2120), or in-person, no fee will be required.
Returned Check/Declined Credit Transaction Fee (All Departments)	\$30.00	
CODE ENFORCEMENT		
Lien Assessment Fee	Actual Cost	Plus \$100.00 administrative fee
Mowing, Cleaning, and/or Boarding Property (By Contractor)	Actual Cost	Plus \$100.00 administrative fee
FACILITY RENTALS/RESERVATIONS		
<i>Ballfields (Village Street off of Averett Rd.; Subfacility of Sonora Park)</i>		
General Reservations (Residents and Non-Residents)	\$25.00	Per two (2) hour block
Kennedale Youth Association (KYA) Annual Lease Agreement		
<i>Community Center (316 W Third St.; in the Kennedale Public Library Building)</i>		
Deposit (applies to all Community Center rentals)	\$150.00	May be returned, dependent upon satisfactory inspection by staff
Non-Residents	\$40.00	Per hour, during library's normal hours; Minimum of \$100 charge per rental
	\$50.00	Per hour, during library's closed hours; Minimum of \$100 charge per rental
Residents	\$30.00	Per hour, during library's normal hours; Minimum of \$100 charge per rental
	\$40.00	Per hour, during library's closed hours; Minimum of \$100 charge per rental
<i>Pavilions (TownCenter Park at 405 Municipal Drive; Sonora Park at 263 S. New Hope Rd.)</i>		
Deposit (applies to all pavilion rentals)	\$50.00	May be returned, dependent upon satisfactory inspection by staff
Non-Residents	\$120.00	For 2 Hours, \$180 For 4 Hours, \$230 For 6 Hours, \$280 For 8 Hours
Residents	\$60.00	For 2 Hours, \$90 For 4 Hours, \$115 For 6 Hours, \$140 For 8 Hours
<i>Senior Center Banquet Room (420 Corry A. Edwards Dr.)</i>		
Deposit (Members)	\$75.00	May be returned, dependent upon satisfactory inspection by staff
Members	\$75.00	Per day

EXHIBIT B: SCHEDULE OF FEES

(10.17.2016)

Deposit (Non-Members)	\$150.00	May be returned, dependent upon satisfactory inspection by staff
Non-Members	\$125.00	Per day
LIBRARY		
Overdue Book	\$0.25	Per day
Photocopies From Copier (Only Black and White Available)	\$0.10	Per page
Printouts From Computer	\$0.25	Per page
Materials Lost or Damaged Beyond Repair	\$5.00	Processing fee + listed retail price
Repair of Inventory Material	Actual Cost	
Replace Lost or Damaged Audiobook Binder	\$5.00	
Replace Lost or Damaged CD Case	\$1.00	
Replace Lost or Damaged DVD Case	\$2.00	
Interlibrary Loan	No Charge	
Library Card Replacement	\$2.00	
Repair of CD/DVD	\$1.00	
Transmittal Fax Only (Local)	\$1.00	First page, \$0.25 each additional page
Transmittal Fax Only (Long Distance)	\$2.00	First page, \$0.50 each additional page
POLICE DEPARTMENT		
Fingerprinting of Residents for Background Checks	\$7.50	Per Card
Vehicle Accident Report	\$6.00	Per copy
Offense or Arrest Report	\$1.50	Per report, plus \$0.10 per page for additional copies

EXHIBIT B: SCHEDULE OF FEES
(10.17.2016)

SERVICE	COST	NOTES
PERMITS AND INSPECTIONS		
NOTE: Minimum Fee For Any Single Permit or Inspection, Listed or Unlisted, Regardless of Department	\$55.00	Excluding signs
Construction Table Based on Total Valuation of Project (Used for Building Code Pricing Below)		
\$1.00 to \$500.00	\$23.50	
\$501.00 to \$2,000.00	\$23.50	For the first \$500.00, plus \$3.05 for each additional \$100.00, or fraction thereof, up to and including \$2,000.00
\$2,001.00 to \$25,000.00	\$69.25	For the first \$2,000.00, plus \$14.00 for each additional \$1,000.00, or fraction thereof, up to and including \$25,000.00
\$25,001.00 to 50,000.00	\$391.25	For the first \$25,000.00, plus \$10.10 for each additional \$1,000.00, or fraction thereof, up to and including \$50,000.00
\$50,001.00 to \$100,000.00	\$643.75	For the first \$50,000.00, plus \$7.00 for each additional \$1,000.00, or fraction thereof, up to and including \$100,000.00
\$100,001.00 to \$500,000.00	\$993.75	For the first \$100,000.00, plus \$5.60 for each additional \$1,000.00, or fraction thereof, up to and including \$500,000.00
\$500,001.00 to \$1,000,000.00	\$3,233.75	For the first \$500,000.00, plus \$4.75 for each additional \$1,000.00, or fraction thereof, up to and including \$1,000,000.00
\$1,000,001.00+	\$5,608.75	For the first \$1,000,000.00, plus \$3.65 for each additional \$1,000.00, or fraction thereof
BUILDING CODE PERMITS, INSPECTIONS AND PLAN REVIEWS		
Accessory Building (Min. 175 ft ²)	Varies	Consult Construction Table (above)
Alterations and Repairs To Existing Structures	Varies	Consult Construction Table (above)
Building Code Appeal	\$100.00	
Canopy - Larger than 400 ft ²	\$55.00	
Carnival or Temporary Amusement	\$55.00	
Carport	Varies	Consult Construction Table (above)
Contractor Registration, Initial (Article XIII, Chapter 4 Of City Code)	\$100.00	
Contractor Registration, Annual Renewal	\$50.00	If not renewed within 30 days of expiration, renewal fee is \$100.00.
Detached Garage	Varies	Consult Construction Table (above)
Demolition	\$55.00	
Drive Approach	\$55.00	
Fence, Retaining Wall, Screen Wall	Varies	Consult Construction Table (above)
Fireplace	Varies	Consult Construction Table (above)
Moving Building into the City	\$100.00	
Patio Cover	Varies	Consult Construction Table (above)
Portable Building (Min. 175 ft ²)	Varies	Consult Construction Table (above)

EXHIBIT B: SCHEDULE OF FEES

(10.17.2016)

Signs	Varies	Consult Construction Table (above)
Swimming Pool and/or Hot Tub (Above Ground)	Varies	Consult Construction Table (above)
Swimming Pool and/or Hot Tub (In-Ground)	Varies	Consult Construction Table (above)
Tent (Commercial) - Larger Than 200 ft ²	\$55.00	
Tree Mitigation Fee	\$200.00	Per caliper inch
Underground Storage Tanks (Includes Gas Lines To Tank)	Varies	Consult Construction Table (above)
Reinspection Fee	\$55.00	
Plan Review		
New, Addition, Remodel for Commercial, Industrial, and Multi-Family	20%	of building permit fee
New, Addition, Remodel for Single or Two Family	\$55.00	
All Other Permits Requiring Plan Review	\$25.00	
Re-Review Fee	\$25.00	
ELECTRICAL CODE PERMITS AND INSPECTIONS		
Apartments, Condominiums, Triplex, Etc.	\$0.05	Per ft ² ; Minimum calculation of \$55.00
Commercial/Industrial New Construction	\$0.06	Per ft ² ; Minimum calculation of \$55.00
Single Family, Duplex, Townhouse, Etc.	\$0.06	Per ft ² ; Minimum calculation of \$55.00
Contractor Registration, Initial (Article XIII, Chapter 4 Of City Code)	\$100.00	
Contractor Registration, Annual Renewal	\$50.00	If not renewed within 30 days of expiration, renewal fee is \$100.00.
Electric Generators Used By Carnival, Circuses, Traveling Shows, Exhibits	\$55.00	
Electrical Code Appeal	\$100.00	
Fixed Residential Appliances, Receptacle Outlets, Etc.	\$55.00	(As Defined by city code)
Minimum For Any Single Permit	\$55.00	(Except Temporary Construction Pole Reconnects)
Swimming Pool, In-Ground, Residential	\$110.00	
Receptacles, Switch, Lighting or Other Outlet Holding Devices	\$55.00	
Reinspection Fee	\$55.00	
Services of 600 Volts or Less		
Less than 200 Amps	\$55.00	
600+ Volts or 1,000+ Amps	\$55.00	
Each Power Apparatus (As Defined By City Code)	\$2.00	
Rating in Horsepower, Etc.		
Up To And Including 1, Each	\$55.00	
Over 1, Up To And Including 10, Each	\$55.00	
Over 10, Up To And Including 50, Each	\$55.00	
Over 50, Up To And Including 100, Each	\$55.00	
Over 100, Each	\$55.00	
Signs, Outline Lighting, or Marquees		
One Branch Circuit, Each	\$55.00	

EXHIBIT B: SCHEDULE OF FEES

(10.17.2016)

Additional Branch Outlets	\$55.00	
Temporary Power To Any Structure (Maximum Of Ninety (90) Days)	\$55.00	
MECHANICAL CODE PERMITS AND INSPECTIONS		
Contractor Registration, Initial (Article XIII, Chapter 4 Of City Code)	\$100.00	
Contractor Registration, Annual Renewal	\$50.00	If not renewed within 30 days of expiration, renewal fee is \$100.00.
HVAC (Heating/Cooling Systems)	\$110.00	\$55 Per air handling unit (e.g. inside unit + outside unit = \$110.00)
Replacement of Furnaces, Condensing Unit or Cooling/Heating System	\$55.00	
Vent-A-Hood (Commercial)	\$55.00	
Re-Inspection Fee	\$55.00	
Mechanical Code Appeal	\$100.00	
PLUMBING CODE PERMITS AND INSPECTIONS		
Apartments, Condominiums, Triplex, Etc.	\$0.05	Per ft ² ; Minimum fee of \$55.00
Commercial/Industrial New Construction	\$0.06	Per ft ² ; Minimum fee of \$55.00
Single Family, Duplex, Townhouse, Etc.	\$0.06	Per ft ² ; Minimum fee of \$55.00
Contractor Registration, Initial (Article XIII, Chapter 4 Of City Code)	-	Not required for plumbers.
Unit Fee Schedule		
Building Water Line	\$55.00	Each
Building Sewer Line	\$55.00	Each
Fireplace Piping and Valve	\$55.00	
Gas Fired Applicable W/Special Vent Pipe	\$55.00	
Gas Piping System (1-4 Outlets)	\$55.00	Each
Gas Piping System (5+ Outlets)	\$55.00	Each
Industrial Waste Pre-Treatment Interceptor	\$55.00	
Installation/Repair of Water Piping and/or Water Treatment Equipment	\$55.00	
Lawn Sprinkler System On Any One Meter, Including Backflow Protection	\$55.00	Each
Private Sewage Disposal System	\$55.00	
Repair of Existing Piping	\$55.00	
Repair or Alteration of Drainage or Vent Piping	\$55.00	
Gas Line Pressure Check	\$55.00	
Plumbing Fixture, Trap or Set Fixture, Etc.	\$55.00	Each
Yard Line Pressure Check	\$55.00	
Plumbing Code Appeal	\$100.00	
Reinspection Fee	\$55.00	
REGISTRATION AND MISCELLANEOUS PERMITS		
Business License	\$25.00	
Home Business License	\$25.00	

EXHIBIT B: SCHEDULE OF FEES

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Certificate of Occupancy (CO)	\$55.00	
Contractor Registration, Initial (Article XIII, Chapter 4 Of City Code)	\$100.00	
Contractor Registration, Annual Renewal	\$50.00	If not renewed within 30 days of expiration, renewal fee is \$100.00.
Garage Sale Permit	\$10.00	No more than three (3) garage sales per address per year.
Gathering Station Inspection	\$1,000.00	
Itinerant Vendor License	\$100.00	Contact the Police Department Records Dept. at 817-985-2160, ext. 2219
Sub-Division Construction Inspection Fee	4%	Of construction cost
Tree Removal Permit	\$150.00	Per acre; \$150 minimum charge
OIL AND GAS WELLS		
Annual Air Sampling And Reporting Fee Per Low-To-Moderate Impact Pad Sites (As Determined By City Official(s))	\$12,000.00	
Annual Air Sampling And Reporting Fee Per High Impact Pad Site (As Determined By City Official(s))	\$45,000.00	May be paid in quarterly installments
Annual Air Sampling And Reporting Fee As Needed	\$12,000.00	Per instance of additional monitoring
Annual Inspection Per Well	\$2,000.00	\$300 per additional well on same pad site
Well Requested On Application for Pad Site	\$5,000.00	Per well
PLANNING AND DEVELOPMENT		
Annexation, Request for	\$200.00	
Commercial Site Plan Review	\$500.00	Engineering review fee; In additional to applicable permitting fees
Conditional Use Permit	\$500.00	
Easement or Right-Of-Way Abandonment, Request for	\$300.00	
Zoning		
Zoning Verification Letter	\$30.00	
Zoning Change or Amendment for Less Than 10 Acres, Request for	\$500.00	
Zoning Change or Amendment for 10+ Acres, Request for	\$1,500.00	
Rezone Less Than 10 Acres to Planned Development District (PD)	\$750.00	
Rezone 10+ Acres to Planned Development District (PD)	\$1,500.00	
Plats		
Minor Plat, Vacated Plat, Amended Plat	\$300.00	Plus \$10.00 per lot
Minor Plat Engineering Review Fee	\$200.00	
Preliminary Plat	\$300.00	Plus \$10.00 per lot
Preliminary Plat Engineering Review Fee	\$1,000.00	
Replat (0-10 Acres)	\$500.00	
Replat (10+ Acres)	\$1,500.00	
Final Plat	\$300.00	Plus \$10.00 per lot
Final Plat, Replat Engineering Review Fee	\$2,500.00	Placed in escrow; unused funds can be requested for return
Plats		

EXHIBIT B: SCHEDULE OF FEES

(10.17.2016)

Renotification	\$125.00	Cost to republish legally required notifications after a request for date change
Special Exception, Request for	\$250.00	
Variance, Request for	\$250.00	
Printouts/Copies From Plotter	\$1.00	Per Square Foot (ft ²)
UTILITY BILLING PUBLIC WORKS WATER AND WASTEWATER		
Deposits		
Residential Water (Owner Occupied)	\$60.00	If an account is finaled out for nonpayment, re-establishment of service requires a deposit of 2X the normal fee. Accounts are associated with the name of the responsible party (or parties); not the address.
Residential Sewer (Owner Occupied)	\$30.00	
Residential Water (Tenant Occupied)	\$90.00	
Residential Sewer (Tenant Occupied)	\$60.00	
Commercial/Industrial w/High Consumption	Varies	1/6 of annual consumption
Commercial Water	\$90.00	
Commercial Sewer	\$60.00	
Storm Water Only	\$90.00	
Water for Cleanup (15 Day Temp Service)	\$30.00	Per day
Use of Bulk Water Meter (Fire Hydrant)	\$600.00	Plus \$50 service fee
Use of Bulk Water Meter (Gas Drilling)	\$1,000.00	Plus \$50 service fee
Use of Bulk Unmetered Water	Varies	(rate) X (estimated gallons)
Disconnect Service At The Main	Actual Cost	
Liquid Waste Permit	\$50.00	The Building Inspection and Public Works departments regulate the installation, maintenance, and the transportation of liquid wastes. Questions? Call 817-985-2170.
Liquid Waste Trip Ticket Book	\$20.00	
Move City Utilities	Actual Cost	
Private Water Well Permit And Inspection	\$75.00	
Water Administrative Fee	\$20.00	Assessed when an account appears on the cut-off list; In addition to the late fee.
Water Transfer Fee	\$15.00	
Wrecker License/Permit	\$20.00	
Utility Equipment	Actual Cost	Meter, meter base, MTU, register, bullhead, and any other associated equipment installed for water/sewer metering
WATER AND WASTEWATER FEES		
Fire Hydrant Fee (Construction Meter)	\$79.50	Monthly base charge
Meter Calibration Fee (When Executed By City Staff)	\$45.00	Charges not incurred if meter is found to be inaccurate.
Meter Calibration Fee (When Executed By Independent Contractor)	\$125.00	
Meter Set Reinspection Fee	\$100.00	
Meter Tampering, Tampering With Lock, Or Cutting Lock On Meter	\$200.00	Per offense, plus actual cost of repair or replacement
Water Tap Fee (No Street Cut)		
¾" (.75")	\$475.00	Plus \$300 meter set fee; plus cost of meter
1"	\$525.00	Plus \$350 meter set fee; plus cost of meter

EXHIBIT B: SCHEDULE OF FEES

(10.17.2016)

1½" (1.5")	\$950.00	Plus \$550 meter set fee; plus cost of meter
2"	\$1,075.00	Plus \$700 meter set fee; plus cost of meter
3" or Larger	Actual Cost	Plus actual cost of meter set fee; plus cost of meter
Water Tap Fee (With Street Cut or Bore)		
¾" (.75")	\$925.00	Plus \$300 meter set fee; plus cost of meter
1"	\$975.00	Plus \$350 meter set fee; plus cost of meter
1½" (1.5")	\$1,400.00	Plus \$550 meter set fee; plus cost of meter
2"	\$1,525.00	Plus \$700 meter set fee; plus cost of meter
3" or Larger	Varies	Plus actual cost of meter set fee; plus cost of meter
Sewer Tap Fee (No Street Cut)		
4"	\$425.00	
6"	\$600.00	
8" or Larger	Actual Cost	
Sewer Tap Fee (With Street Cut or Bore)		
4"	\$875.00	
6"	\$1,050.00	
8" or Larger	Actual Cost	
FIRE DEPARTMENT		
Ambulance Fees	Actual Cost	Established according to reasonable and customary reimbursement allowances of applicable insurance carriers; reviewed and approved quarterly by the City Manager.
Building/Fire Plan Review	\$55.00	
EMS Report	\$15.00	
False Alarm (3 rd +)	\$55.00	Beginning with the 3 rd , the fee doubles for each subsequent false alarm
Fire Code Appeal	\$100.00	
Fire Inspections		
Annual, Bi-Annual of Certificate of Occupancy (CO)	No Charge	
Re-Inspection	No Charge	
2 nd Re-Inspection	\$55.00	
3 rd + Re-Inspection	Varies	Beginning with the 3 rd , the fee doubles for each subsequent re-inspection
Fire Suppression Systems	\$55.00	
Fire Report	\$15.00	
Site Plan Review	\$55.00	
Standby		
Brush Truck	\$75.00	Hourly
Engine	\$150.00	Hourly
Fire Marshall	\$40.00	Hourly

EXHIBIT B: SCHEDULE OF FEES

(10.17.2016)

HazMat Squad	\$300.00	Hourly
Paramedic	\$30.00	Hourly
NOTE: Minimum Fee For Any Single Permit or Inspection, Listed or Unlisted, Regardless of Department	\$55.00	Excluding signs

REQUEST FOR PUBLIC INFORMATION/OPEN RECORDS REQUEST FEE SCHEDULE FOR THE CITY OF KENNEDALE

The City Secretary's Office encourages communication and transparency between the City of Kennedale and its residents by serving as the primary office responding to Public Information Requests. In an effort to save requestors time and money, frequently requested documents are available online, including:

- Laserfiche: Ordinances, Resolutions, Agendas, Packets, Minutes, and Press Releases
- MuniCode: Code of Ordinances and Copies of Individual Ordinances
- Monthly Reports: Building Permits, Fires, and Substandard Buildings

If what you need is not available online, you can make a public information request. Requests are processed in the order they are received, and should be for existing documents or information. Staff may not ask why you want the information, but may ask for clarification if needed. Please be aware that some records are exempt from disclosure or require redaction.

Requests may incur a fee, and the City of Kennedale may require prepayment. Charges vary depending on the number of responsive documents and personnel time required. Vaguely-worded or broad requests return more results. The more specific your request, the quicker it can be fulfilled.

Generally, the city will charge \$0.10 per page and \$15.00 an hour for labor. Requests for standard-sized documents that will be delivered via email usually do not incur charges, unless the request:

- is for more than fifty (50) pages,
- requires more than thirty (30) minutes of personnel time to locate, compile, manipulate data, and reproduce the information, or
- includes documents that are stored off-site.

If the estimated charges exceed \$40.00, the requestor must approve an itemized estimate before work begins. When estimated costs exceed \$100.00, the requestor is required to make a deposit (typically 100% of the estimate) before work begins. If a requestor (or their organization) has a balance exceeding \$100.00 for past requests, the City of Kennedale will not process additional requests until the account is paid in full. **You must approve any estimate of charges within ten (10) business days of the date the estimate is sent or the request will be considered withdrawn.**

CHARGES ASSOCIATED WITH A PUBLIC INFORMATION REQUEST VARY DEPENDING ON THE AMOUNT OF RESPONSIVE DOCUMENTS AND PERSONNEL TIME REQUIRED. GENERAL CHARGES ARE OUTLINED BELOW.

Single Sided, Black & White, 8.5x11" Paper	\$0.10	Per Paper Copy
11x17" or Other Oversized Paper, Not Including Maps & Photographs	\$0.50	Per Paper Copy
Plat Page	\$3.00	Per Plate Page
Compact Disc (CD)	\$1.00	Per CD
Digital Video Disc (DVD)	\$3.00	Per DVD
Personnel Time for Locating, Compiling and Reproducing Records	\$15.00	Per Hour (Charged in 30 Minute Increments) (if less than 50 pages of paper copies are requested, no personnel costs are charged, unless the documents are in two or more separate buildings or are stored remotely)

EXHIBIT B: SCHEDULE OF FEES

(10.17.2016)

Mailing Expenses, Speciality Papers (including but not limited to mylar, blueprints, maps, and photos), Off-Site Storage Retrieval	Actual Cost	Off-site storage costs (currently \$16.00 truck charge + \$2.00/box) Per retrieval and return
Charges not outlined here will be calculated according to the regulations and recommendations of the Texas State Library and Archives Commission, the Texas Attorney General, and the Texas Administrative Code.		

Staff Report to the Honorable Mayor and City Council

Date: October 17, 2016

Agenda Item No: DECISION ITEMS - F.

I. Subject:

Consider Resolution 503 adopting an amended Kennedale Fund Balance Policy

II. Originated by:

Finance Director, Director of Finance & IT

III. Summary:

The objective of the Governmental Accounting Standards Board Statement Number 54 (GASB 54) is “to enhance the usefulness of fund balance information by providing clearer fund balance classifications that can be more consistently applied and by clarifying the existing governmental fund type definitions.”

Prior to the recent guidelines provided by GASB 54, the fund balance for governmental funds was divided into 3 classifications: *reserved*, *designated* and *unreserved*. *Reserved* fund balance was simply to isolate the portion of fund balance that was **not** available for the following period's budget, so that *unreserved* fund balance could serve as a measure of current available financial resources. *Unreserved* fund balance, in turn, was further subdivided into *designated* and *undesignated* portions. *Designated* fund balance represented management's intended use of resources and reflected actual plans approved by government's senior management (i.e., our self-imposed limitations on the use of otherwise available current financial resources). *Undesignated* fund balance was that which was available for appropriation or spending and not subject to legal limitation.

Given the new GASB 54 guideline, and in order to be consistent with recommended practices, GASB54 not only advises us to update current policies and procedures, but it also eliminates the aforementioned three fund balance classifications and requires governments to incorporate five new categories in their place: *Nonspendable*, *restricted*, *committed*, *assigned* and *unassigned*.

Previous Categories

Reserved

Unreserved - Designated

Unreserved - Undesignated

New Categories

Nonspendable, Restricted, Committed

Assigned

Unassigned

Nonspendable Fund Balance typically takes one of two forms. It might be in a form that is not expected to be converted to cash, such as inventory or prepaid expenses. Alternatively, there might be legal or contractual reasons that require it to be maintained intact, such as the corpus of a permanent fund, where the principal can never be spent.

Restricted Fund Balance is for those funds that must be spent for specific purposes due to restrictions by external parties. External parties include creditors, grantors, contributors, or laws or regulations of other governments.

Committed Fund Balance occurs when the City Council sets aside funds to be used solely for a specific purpose. This constraint on use can only be imposed by the highest level of decision making authority and the constraint can only be removed or changed by that same authority.

Assigned Fund Balance is for amounts intended to be used for specific purposes, but the intent does not have to be determined by the highest level of decision making authority. In this case, the funds might be constrained by a body (such as a budget or finance committee) or an official to whom the City Council has delegated the authority to assign amounts (such as the City Manager or CFO).

Unassigned Fund Balance is the amount of the General Fund's fund balance that has not been restricted, committed or assigned. It is available for any purpose.

It is the recommendation of our independent auditors that our main policies be reviewed by the Director of Finance for updates in relation to our internal control practices and submitted to Council at least annually. In order to demonstrate our review, it is custom practice for the governing board of a municipality to adopt a resolution to make the review an official public record.

Items Changed:

General Fund balance maintain 18% with a goal of 25%
Debt Service Fund balance maintain 7% with a goal of 10%
Non-Governmental Fund Balance maintain 18% with a goal of 25%

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

Approve

VII. Alternative Actions:

VIII. Attachments:

1.	Resolution 503	Resolution 503.pdf
2.	Exhibit A - Fund Balance Policy	20161017 Fund Balance Policy.pdf

RESOLUTION NO. 503

**A RESOLUTION ADOPTING AN AMENDED CITY OF KENNEDALE FUND
BALANCE POLICY**

WHEREAS, on September 22, 2011, City Council adopted the document entitled, “Fund Balance Policy,” a framework for fiscal decision-making to ensure that financial resources are available to meet the present and future needs of the citizens of Kennedale; and

WHEREAS, the Governmental Accounting Standards Board ("GASB") has adopted Statement 54 ("GASB 54"), a new standard for governmental fund balance reporting and governmental fund type definitions that became effective in governmental fiscal years starting after June 15, 2010, and

WHEREAS, the City of Kennedale, Texas (“City”) elects to implement GASB 54 requirements, and to apply such requirements to its financial statements beginning with the current October 1, 2010 – September 30, 2011 fiscal year.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE
CITY OF KENNEDALE, TEXAS:**

The City Council of the City of Kennedale, Texas hereby approves the amended Fund Balance Policy dated October 17, 2016, attached hereto as “Exhibit A.”

PASSED, ADOPTED AND APPROVED by the City Council of the City of Kennedale, Texas, this the 17th day of October, 2016.

APPROVED:

Mayor, Brian Johnson

ATTEST:

City Secretary, Leslie Galloway

CITY OF KENNEDALE



FUND BALANCE POLICY

ORIGINALLY ADOPTED BY CITY COUNCIL: SEPTEMBER 22, 2011

PREFACE

The purpose of this policy is to establish guidelines for fund balance levels within each of City of Kennedale's funds. It is essential that the City maintain adequate levels of fund balance to mitigate financial risk that can occur from unforeseen revenue fluctuations, unanticipated expenditures, or adverse circumstances. The fund balance level is also designed to provide an appropriate amount of working capital for the City's general operations. In general, the City of Kennedale should strive to avoid appropriating fund balance for recurring expenses. However, in the event that fund balance is used to support recurring expenses, the budget should clearly identify the uses of fund balance and provide an explanation of the circumstances requiring the use of fund balance. In addition, the budget should also address the future potential uses of fund balance for operating expenditures.

It is our intent to bring forth this policy to Council for review at least annually. In order to demonstrate that review, it will be custom practice for the governing board of a municipality to adopt a resolution to make the review an official public record.

SUBSEQUENT REVIEW & ADOPTION

OCTOBER 3, 2012
OCTOBER 1, 2013
OCTOBER 13, 2014
OCTOBER 19, 2015
OCTOBER 17, 2016

I. BACKGROUND

The Governmental Accounting Standards Board (GASB) has adopted Statement 54 (GASB 54), a new standard for governmental fund balance reporting and governmental fund type definitions that became effective in governmental fiscal years starting after June 15, 2010.

The City of Kennedale elects to implement GASB 54 requirements, and to apply such requirements to its financial statements beginning with the current October 1, 2010 – September 3, 2011 fiscal year.

II. DEFINITIONS & CATEGORIES

Fund Balance is defined as the difference between a fund's assets and liabilities. According to the Governmental Accounting Standards Board (GASB) statement number 54, fund balance must be allocated into one the following five categories:

Non-Spendable Fund Balance - Includes amounts that are not in a spendable form or are legally or contractually required to be maintained intact. Examples include inventory or endowments.

Restricted Fund Balance - Includes amounts that can be spent only for the specific purposes stipulated by external resource providers either constitutionally or through enabling legislation. Examples include grants and hotel occupancy taxes.

Committed Fund Balance - Includes amounts that can be used only for the specific purposes determined by a formal action of the government's highest level of decision-making authority. Commitments may be changed or lifted only by the government taking the same formal action that imposed the constraint originally.

Assigned Fund Balance - Comprises amounts intended to be used by the government for specific purposes. Intent can be expressed by the governing body or by an official or body to which the governing body delegates the authority. In governmental funds other than the general fund, assigned fund balance represents the amount that is not restricted or committed. This indicates that resources in other governmental funds are, at a minimum, intended to be used for the purpose of that fund.

Unassigned Fund Balance - Is the residual classification of the general fund and includes all amounts not contained in the other classifications. Unassigned amounts are technically available for any purpose.

Note: The above fund balance categories only apply to governmental funds.

III. POLICY

Committed Fund Balance

The City Council is the City's highest level of decision-making authority and the formal action that is required to be taken to establish, modify, or rescind a fund balance commitment is an ordinance adopted by the City Council. The ordinance must either adopt or rescind the commitment, as applicable, prior to the last day of the fiscal year for which the commitment is made. The amount subject to the constraint may be determined in the subsequent period.

Assigned Fund Balance

The City Council authorizes the City Manager, Director of Finance or their designee as the official authorized person to assign fund balance to a specific purpose approved by this fund balance policy.

Order of Expenditure of Fund Balance

When multiple categories of fund balance are available for expenditure (for example, a construction project is being funded partly by a grant, funds set aside by the City Council, and unassigned fund balance), the City will start with the most restricted category and spend those funds first before moving down to the next category with available funds. Normally, this would result in the use of restricted, then committed, then assigned, and lastly, unassigned fund balance.

Minimum Unassigned Fund Balance

It is the goal of the City to achieve and maintain an unassigned fund balance in the general fund equal to eighteen percent (18%) with a goal of twenty-five percent (25%) of budgeted expenditures for unanticipated expenditures, unforeseen revenue fluctuations, or other adverse circumstances. The fund balance level, however, may be reduced to the equivalent of twelve percent (12%) of budgeted expenditures in unusual financial circumstances. However, if such a situation occurs, the City will implement necessary corrective action within a five-year plan to restore the unassigned fund balance to eighteen percent (18%) to twenty percent (25%) of budgeted expenditures.

As for the General Fund Debt Service Fund, it is the goal of the City to achieve and maintain an unassigned fund balance equal to seven percent (7%) with a goal of ten percent (10%). Should the fund balance level be reduced to five percent (5%) in unusual financial circumstances, the City will implement necessary corrective action within a five-year plan to restore the unassigned fund balance to seven percent (7%) to ten percent (10%) of budgeted expenditures.

Non-Governmental Fund Balance

The fund balance categories discussed above do not apply to proprietary funds according to GASB 54. While not required by the GASB, the City recognizes the need to apply a minimum balance policy to the proprietary funds maintained by the City. Therefore, the City shall maintain a minimum ending working capital balance (current assets minus current liabilities) of eighteen percent (18%) with a goal of twenty-five percent (25%) of budgeted expenditures for the Water/Sewer Fund. If the working capital level should fall below the desired minimum, the City will implement necessary corrective action within a five-year plan to restore the working capital balance to eighteen percent (18%) to twenty percent (25%) of budgeted expenditures.

IV. ANNUAL REVIEW

The Director of Finance shall, at a minimum, submit proposed amendments of this policy to the City Council annually.

Staff Report to the Honorable Mayor and City Council

Date: October 17, 2016

Agenda Item No: DECISION ITEMS - G.

I. Subject:

Consider Ordinance 614 establishing a Utility and Infrastructure Board

II. Originated by:

Bob Hart

III. Summary:

A recommendation of the water rate committee was the creation of a water board. Staff recommends the council consider creating an advisory board to deal with, not only the water and wastewater utility fund, but also the other fee or revenue based utilities, including stormwater, streets, and solid waste collection. The reason for the recommendation is that the funds are intertwined with the same staff working in each fund and the work plans and policy issues often overlap and complement each other. If the focus is done in isolation, it will cause the system as a whole to be sub-optimized. For example, the erosion in Winding Creek (a stormwater utility fund issue) is threatening to undermine Pennsylvania Avenue (a street issue) and the sewer line (Water and Wastewater fund issue) serving Briar Court. Given the number of Village Creek tributaries located in Kennedale and asset management issues, staff believes a comprehensive examination is the most effective. Moreover, the emerging challenge for Kennedale is the erosion along the various tributaries. Dealing with these issues will require several policy discussions vis-à-vis the protection of public assets and private property, and in particular the rerouting of Valley Lane. Finally, the Board will be involved with capital improvement planning, financing strategies, and service delivery or acquisition analysis.

The Board itself is recommended to be composed of seven members with regular meetings at least every other month, although I would anticipate monthly meetings to begin. Because of the technical nature of the topic, it is suggested the council seek qualified individuals with engineering, redevelopment, floodplain management, and cost accounting backgrounds.

Staff recommends adoption of the proposed ordinance.

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

Approve

VII. Alternative Actions:

VIII. Attachments:

1.	Ordinance 614	Ordinance 614.pdf
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ORDINANCE NO. 614

AN ORDINANCE CREATING A UTILITY AND INFRASTRUCTURE BOARD; PROVIDING FOR CREATION AND PURPOSE, MEMBERSHIP, ORGANIZATION, RULES AND REQUIREMENTS, AND POWERS AND DUTIES OF THE BOARD; PROVIDING THAT THIS ORDINANCE SHALL BE CUMCLATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Kennedale is a home rule city acting under its charter adopted by the electorate pursuant to Article X1, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, the City Council desires to create a Utility and Infrastructure Board to provide policy recommendations for the City's water and wastewater, solid waste collection, storm water utility, and streets/transportation systems.

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

SECTION 1. CREATION AND PURPOSE

There is hereby created and established a Utility and Infrastructure Board. Such board shall be officially designated as the Utility and Infrastructure Board of the City of Kennedale, Texas. The board shall provide recommendations and advice to the City Council on policies, projects, and other matters pertaining to the water and wastewater system, the storm water utility system, the street/transportation system, and the solid waste collection system.

SECTION 2. MEMBERSHIP

- (a) The board shall consist of seven (7) regular members, designated by Places 1 through 7, who shall be appointed by a majority vote of the City Council. The initial appointment of Places 1, 3, 5, and 7 shall be for a term expiring October 1, 2017. The initial appointment of Places 2, 4, and 6 shall be for a term expiring October 1, 2018. Thereafter the terms for each place shall be two (2) years.
- (b) Members must meet the following qualifications:
 - (1) Be a registered voter of the City;

- (2) Shall have resided in the corporate limits of the City for at least one (1) year; and
- (3) Shall continue residency in the City during the term of office.
- (c) The City Council shall appoint a replacement to fill any vacancy for the unexpired term of a member whose place has become vacant.
- (d) The City Council shall have the authority to remove any member at any time, with or without cause.

SECTION 3. ORGANIZATION, RULES, AND REQUIREMENTS

- (a) By November of each year, the membership shall determine, by simple majority vote, a chair and vice chair. The terms of the chair and vice chair shall be one (1) year. It will be the duty of the chair to preside over meetings. If the chair is absent the vice chair shall assume the duties of the office.
- (b) Members of the board shall meet at least six (6) times per year, on a regular day and time selected by its members. The chair may call special meetings as necessary.
- (c) The board shall conduct meetings and govern its proceedings according to the City Council's adopted rules of order, abide by the Texas Open Meetings Law, and shall keep a record of its proceedings, including votes and attendance, and shall submit these records to the City Secretary's Office.
- (d) Members of the board shall not take any action unless a quorum is present. A quorum shall consist of four (4) members. Each member, including the chair, is entitled to one (1) vote, and action of the board shall require a majority of those members present.
- (e) The City Manager shall designate a city employee to serve as staff liaison to the board.
- (f) Members of the board shall receive one dollar (\$1.00) for each regular meeting attended as compensation for the performance of their duties, but no compensation shall be paid for special meetings. In addition, members may receive reimbursement of authorized expenses attendant to the performance of their duties.

SECTION 4. POWERS AND DUTIES

- (a) This board is advisory only and shall not have any decision-making authority.

(b) The board shall have the following duties:

- (1) To make studies and project plans for the City's water and wastewater system; solid waste collection system; streets/transportation system; and storm water utility system, including erosion controls and improvements along Village Creek tributaries and improvements to the main branch of Village Creek;
- (2) To aid and assist the City in the procuring of financial and other aids and assistance for the City from the state and federal governments and their agencies for each and all the purposes herein enumerated;
- (3) To act with and assist all other municipal boards, governmental agencies, regional associations and the City Council in formulating proper plans for utility infrastructure development;
- (4) To plan and recommend capital improvement projects (CIP) related to the water and wastewater utility, storm water utility, streets and transportation, and solid waste utility;
- (5) To recommend general rules and regulations governing use of water and wastewater utilities, storm water utility, streets and transportation, and solid waste collection;
- (6) To accomplish these duties, the board may establish subcommittees as necessary. Any subcommittee shall be chaired by a Utility and Infrastructure Board member, and an unspecified number of community volunteers may be chosen by the commission as working subcommittee members.

SECTION 5. CUMULATIVE CLAUSE

This ordinance shall be cumulative of all other ordinances of the City of Kennedale, Texas, and shall not repeal any of the provisions of such ordinance except in those instances when provisions of such ordinances are in direct conflict with the provisions of this ordinance, in which event the conflicting provisions of such ordinances are hereby repealed.

SECTION 6. SEVERABILITY CLAUSE

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs or sections of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction,

such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance, since the same shall have been enacted by the City Council without the incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

**SECTION 7.
EFFECTIVE DATE**

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

PASSED AND APPROVED ON THIS 17th DAY OF OCTOBER, 2016.

Mayor, Brian Johnson

ATTEST:

City Secretary, Leslie Galloway

APPROVED AS TO FORM AND LEGALITY:

City Attorney, Wayne K. Olson



Staff Report to the Honorable Mayor and City Council

Date: October 17, 2016

Agenda Item No: DECISION ITEMS - H.

I. Subject:

City Council to consider making appointments to the Board of Adjustment/Building Board of Appeals, Keep Kennedale Beautiful Commission, Kennedale Economic Development Corporation, Parks and Recreation Board, Planning and Zoning Commission, Library Advisory Board, Utility and Infrastructure Board, TownCenter Development District, and the Tax Increment Reinvestment Zone

II. Originated by:

City Council, City Council

III. Summary:

Council will consider making Board appointments to the following:

- Board of Adjustment/Building Board of Appeals (BOA/BBA)
- Economic Development Corporation (EDC)
- Planning & Zoning Commission (P&Z)
- Parks & Recreation Board (PRB)
- Library Advisory Board (LAB)
- Keep Kennedale Beautiful Commission (KKB)
- Utility and Infrastructure Board (UIB)
- TownCenter Development District (TDD)
- Tax Increment Reinvestment Zone (TIRZ)

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

Approve

VII. Alternative Actions:

VIII. Attachments:



Staff Report to the Honorable Mayor and City Council

Date: October 17, 2016

Agenda Item No: DECISION ITEMS - I.

I. Subject:

Discuss the fall/winter City Council scheduled meeting dates:

- November 21, 2016
- December 19, 2016
- January 16, 2017 - MLK Day
- February 20, 2017 - President's Day
- April 17, 2017 - Easter Monday

II. Originated by:

III. Summary:

Council to review the fall/winter schedule to accommodate upcoming holidays.

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

VII. Alternative Actions:

VIII. Attachments:



Staff Report to the Honorable Mayor and City Council

Date: October 17, 2016

Agenda Item No: EXECUTIVE SESSION - A.

I. Subject:

The City Council may meet in closed session at any time during the work session or the regular session, pursuant to Section 551.071 of the Texas Government Code for consultation with the City Attorney pertaining to any matter in which the duty of the City Attorney under the Texas Disciplinary Rules of Professional Conduct may conflict with the Open Meetings Act, including discussion on any item posted on the agenda.

The City Council will meet in closed session pursuant to Section 551.072 of the Texas Government Code to deliberate the purchase, exchange, lease, or value of real property for the following:

1. 108 New Hope Road
2. 821 Corry A. Edwards Drive
3. New Hope Road Bridge Right-of-Way

II. Originated by:

III. Summary:

At this time the city council will meet in executive session.

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

VII. Alternative Actions:

VIII. Attachments: