

**KENNEDALE CITY COUNCIL AGENDA
REGULAR MEETING | September 18, 2017
CITY HALL COUNCIL CHAMBERS, 405 MUNICIPAL DRIVE**

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

I. CALL TO ORDER

***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.**

II. WORK SESSION

- A. Discussion of Proposed FY2017-18 Budget
- 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 Councilmembers 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 the City Council
- B. Updates from the Mayor
 - Proclamation presentation in recognition of Constitution Week
- C. Updates from the City Manager

IX. MONITORING INFORMATION

- A. Monthly Financials – August 2017

X. INCIDENTAL ITEMS

XI. REQUIRED APPROVAL ITEMS (CONSENT)

All matters listed under required approval 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 11, 2017 special meeting
- B. Consider approval of minutes from August 17, 2017 special meeting
- C. Consider approval of minutes from August 21, 2017 regular meeting
- D. Consider approval of minutes from August 28, 2017 special meeting
- E. Consider approval of contract award to Duro-Last Roofing Inc. for the Flat Roof Replacement Purchase Order 906, and authorize the City Manager to sign the agreement
- F. Consider authorizing the City Manager to enter into an Agreement for Wastewater Service Between the City of Fort Worth, Texas, and the City of Kennedale, Texas (**Postponed August 21, 2017**)

XII. DECISION ITEMS

- A. Discuss and consider Ordinance 635 of the City of Kennedale, Texas, adopting the budget for the fiscal year beginning October 1, 2017, and ending September 30, 2018; amending budget figures for the prior Fiscal Year beginning October 1, 2016, and ending September 30, 2017; 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 and posting of the budget as required by state law; providing a severability clause; and providing an effective date
- B. Discuss and consider ratification of property tax increase reflected in FY17-18 Adopted Budget
- C. Discuss and consider approval of Ordinance 636, fixing and levying municipal ad valorem taxes for the City of Kennedale, Texas, for the fiscal year beginning October 1, 2017, and ending September 30, 2018; directing the assessment and collection thereof; providing a severability clause; and providing an effective date
- D. Consider adoption of Ordinance 637, revising the rates for water and sanitary sewer service
- E. Discuss and consider approval of an amendment to the current contract with Waste Connections, regarding the proposed 2017 rate adjustment for residential and commercial solid waste collection, transport, disposal, and recycling services; and authorize the City Manager to sign the agreement (**Postponed May 15, 2017; June 19, 2017**)
- F. **CASE # PZ 17-08** to hold a public hearing and consider a recommendation concerning approval of Ordinance 625 to incorporate the Parks Master Plan into the Comprehensive Land Use Plan
 - 1. Staff presentation
 - 2. Public hearing
 - 3. Staff response and summary
 - 4. Action by the City Council

XIII. 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 and legal issues regarding litigation, settlement offers, and/or claims regarding the following matters:
 - Altom claim regarding drainage easement at 1033 and 1041 Estates Drive

B. 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:

- New Hope Road Bridge Project

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

XV. 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 disabled parking is 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 September 18, 2017, agenda was posted on the bulletin board next to the main entrance of City Hall, 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 scheduled time of said meeting, in accordance with Chapter 551 of the Texas Government Code.


Leslie Galloway, City Secretary



Staff Report to the Honorable Mayor and City Council

Date: September 18, 2017

Agenda Item No: WORK SESSION - A.

I. Subject:

Discussion of Proposed FY2017-18 Budget

II. Originated by:

George Campbell, City Manager

III. Summary:

At this time, Council will continue their discussion of the Proposed FY2017-18 Budget. The City Manager's Proposed Budget and related documents can be downloaded at www.cityofkennedale.com/budget.

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

VII. Alternative Actions:

VIII. Attachments:



Staff Report to the Honorable Mayor and City Council

Date: September 18, 2017

Agenda Item No: WORK SESSION - B.

I. Subject:

Discussion of items on regular agenda

II. Originated by:

Leslie Galloway, City Secretary & Communications Coordinator

III. Summary:

At this time, Council may choose to discuss any item on the agenda.

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

VII. Alternative Actions:

VIII. Attachments:



Staff Report to the Honorable Mayor and City Council

Date: September 18, 2017

Agenda Item No: REPORTS/ANNOUNCEMENTS - A.

I. Subject:

Updates from the City Council

II. Originated by:

Leslie Galloway, City Secretary & Communications Coordinator

III. Summary:

Updates and information from Council members.

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

VII. Alternative Actions:

VIII. Attachments:

Staff Report to the Honorable Mayor and City Council

Date: September 18, 2017

Agenda Item No: REPORTS/ANNOUNCEMENTS - B.

I. Subject:

Updates from the Mayor

- Proclamation presentation in recognition of Constitution Week

II. Originated by:

Leslie Galloway, City Secretary & Communications Coordinator

III. Summary:

Updates and information from the Mayor

- Proclamation presentation in recognition of Constitution Week

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

VII. Alternative Actions:

VIII. Attachments:

1.	Constitution Week Proclamation	2017_09.18_ConstitutionWeek.pdf
----	--------------------------------	---------------------------------

PROCLAMATION

Constitution Week

SEPTEMBER 17– 23, 2017

WHEREAS, September 17, 2017, marks the 230th anniversary of the drafting of the Constitution of the United States of America by the Constitutional Convention; and

WHEREAS, it is fitting and proper to accord official recognition to this magnificent document and its memorable anniversary; and to the patriotic celebrations which will commemorate the occasion; and

WHEREAS, Public Law 915 guarantees the issuing of a proclamation each year by the President of the United States of America designating September 17th through 23rd as Constitution Week;

THEREFORE, now be it proclaimed by me, Brian Johnson, Mayor of the City of Kennedale, Texas, that the week of September 17th through 23rd, 2017, is hereby declared

CONSTITUTION WEEK

in the City of Kennedale, Texas, and I call upon all citizens to reaffirm the ideals that the framers of the Constitution had in 1787, by vigilantly protecting the freedoms guaranteed to us through this guardian of our liberties, remembering that lost rights may never be regained.

IN TESTIMONY, WHEREOF, I have hereunto set my hand and caused the Seal of the City of Kennedale, Texas, to be affixed this 18th day of September 2017.

MAYOR BRIAN JOHNSON



Staff Report to the Honorable Mayor and City Council

Date: September 18, 2017

Agenda Item No: REPORTS/ANNOUNCEMENTS - C.

I. Subject:

Updates from the City Manager

II. Originated by:

Leslie Galloway, City Secretary & Communications Coordinator

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: September 18, 2017

Agenda Item No: MONITORING INFORMATION - A.

I. Subject:

Monthly Financials – August 2017

II. Originated by:

Brady Olsen, Finance Director

III. Summary:

Overview of the City's revenues and expenditures for all funds compared to budget and previous year.

Of note, the City was incorrectly paid approximately \$85,000 over the past four years by a business that is no longer in the city limits. The city is now required to remit this figure, and staff has decided to have it deducted from a future sales tax payment from the state. This deduction occurred in the August sales tax payment.

All combined funds are expected to come in below budget at fiscal year end, however, we also expect revenues to come in below budget.

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

VII. Alternative Actions:

VIII. Attachments:

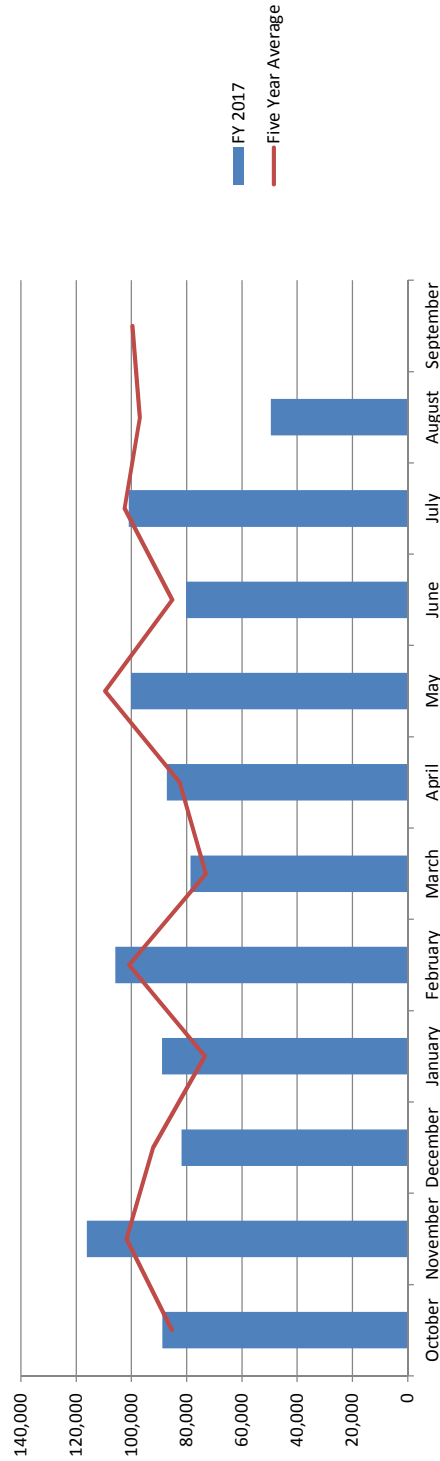
1.	Sales Tax- August	Sales Tax Update- August.pdf
2.	August Financial Summary	2017_08 Monthly Financials.pdf

Sales Tax By Month

Year	October	November	December	January	February	March	April	May	June	July	August	September	Total
FY2017	\$ 88,748	\$ 116,156	\$ 81,855	\$ 88,956	\$ 105,794	\$ 78,644	\$ 87,130	\$ 100,121	\$ 100,943	\$ 80,241	\$ 49,590	\$ -	\$ 978,176
FY2016	\$ 93,137	\$ 119,137	\$ 97,985	\$ 75,878	\$ 116,006	\$ 87,589	\$ 79,516	\$ 114,543	\$ 83,718	\$ 84,586	\$ 87,693	\$ 91,377	\$ 1,131,165
FY2015	\$ 71,955	\$ 94,438	\$ 82,545	\$ 73,782	\$ 107,571	\$ 72,312	\$ 81,193	\$ 119,350	\$ 128,463	\$ 165,756	\$ 146,297	\$ 177,697	\$ 1,321,359
FY2014	\$ 65,971	\$ 89,600	\$ 94,982	\$ 67,373	\$ 97,781	\$ 69,685	\$ 79,236	\$ 93,957	\$ 77,496	\$ 71,927	\$ 86,597	\$ 67,978	\$ 962,584
FY2013	\$ 100,850	\$ 93,890	\$ 70,338	\$ 60,406	\$ 90,009	\$ 62,374	\$ 60,955	\$ 96,061	\$ 67,304	\$ 63,409	\$ 83,919	\$ 78,075	\$ 927,591
FY2012	\$ 94,619	\$ 111,587	\$ 115,048	\$ 89,778	\$ 92,977	\$ 73,453	\$ 111,689	\$ 123,691	\$ 73,106	\$ 122,489	\$ 80,038	\$ 82,836	\$ 1,171,313

*Net payment after correcting an audit error. Payment would have been \$103K

Sales Tax vs Expectation



Industry	Amount	% Change From Prior Year	YTD	FYTD
Retail	\$32,120.26	-1.26%	\$236,015.22	\$324,508.53
General Services	\$40,044.80	2.62%	\$216,534.16	\$311,033.95
Wholesale	\$27,783.95	76.18%	\$174,497.52	\$329,334.26
Professional Services	\$20,262.79	-8.57%	\$184,328.05	\$251,176.44
Food	\$9,889.35	68.39%	\$81,208.62	\$104,312.79
Manufacturing	\$14,454.84	28.26%	(\$21,318.97)	\$2,562.25
Agricultural	\$780.64	13.97%	\$14,063.38	\$15,539.30
Miscellaneous	\$2,064.78	28.26%	\$6,407.65	\$22,392.95
Accommodation	\$0.00	0.00%	\$0.00	\$0.00

**CITY OF KENNEDALE
ANNUAL PROGRAM OF SERVICES
August**

REVENUE SUMMARY BY FUND

REVENUES	FY15-16 YTD	FY15-16 ACTUAL	FY16-17 ADOPTED	CURRENT MONTH	FY16-17 YTD	% OF PY ACTUAL EARNED	% OF CY BUDGET EARNED	BUDGET REMAINING
GENERAL FUND	\$ 5,861,686	\$ 6,360,884	\$ 6,201,455	\$ 212,377	\$ 5,663,913	92.2%	91.3%	\$ 537,542
OTHER GENERAL FUNDS	\$ 1,025,422	\$ 1,572,545	\$ 1,645,165	\$ 84,189	\$ 876,005	65.2%	53.2%	\$ 769,160
GENERAL FUND	\$ 6,887,108	\$ 7,933,428	\$ 7,846,620	\$ 296,566	\$ 6,539,918	86.8%	83.3%	\$ 5,143,493
GENERAL DEBT SERVICE FUND	\$ 1,286,760	\$ 1,360,493	\$ 1,370,311	\$ 3,230	\$ 1,275,972	94.6%	93.1%	\$ 94,339
WATER/SEWER FUND	\$ 4,028,614	\$ 4,609,259	\$ 4,991,835	\$ 439,513	\$ 4,123,205	87.4%	82.6%	\$ 868,630
STORMWATER UTILITY FUND	\$ 224,381	\$ 242,743	\$ 491,826	\$ 21,660	\$ 327,467	92.4%	66.6%	\$ 164,359
WATER IMPACT FUND	\$ 164,915	\$ 186,468	\$ 68,658	\$ 8,978	\$ 133,696	88.4%	194.7%	\$ (65,038)
SEWER IMPACT FUND	\$ 49,404	\$ 58,300	\$ 28,315	\$ 4,654	\$ 35,061	84.7%	123.8%	\$ (6,746)
WATER/SEWER FUND	\$ 4,467,314	\$ 5,096,771	\$ 5,580,634	\$ 474,805	\$ 4,619,429	87.6%	82.8%	\$ 961,205
EDC4B FUND	\$ 546,562	\$ 627,660	\$ 933,227	\$ 27,427	\$ 410,592	87.1%	44.0%	\$ 522,635
CAPITAL FUND	\$ 849,746	\$ 860,623	\$ 124,020	\$ 11,155	\$ 167,201	98.7%	134.8%	\$ (43,181)
SPECIAL REVENUE FUND	\$ 113,409	\$ 300,088	\$ 151,223	\$ 1	\$ 95,393	37.8%	63.1%	\$ 55,830
TOTAL REVENUES	\$ 14,150,899	\$ 16,179,063	\$ 16,006,035	\$ 813,184	\$ 13,108,505	87.5%	81.9%	\$ 6,734,321

EXPENDITURE SUMMARY BY FUND

EXPENDITURES	FY15-16 YTD	FY15-16 ACTUAL	FY16-17 ADOPTED	CURRENT MONTH	FY16-17 YTD	% OF PY BUDGET EXPENSED	% OF CY BUDGET EXPENSED	BUDGET REMAINING
GENERAL FUND	\$ 5,263,188	\$ 5,895,262	\$ 6,489,307	\$ 389,337	\$ 5,138,546	89.3%	79.2%	\$ 1,350,761
OTHER GENERAL FUND	\$ 1,231,824	\$ 1,190,478	\$ 1,521,565	\$ 117,018	\$ 1,218,793	103.5%	80.1%	\$ (1,218,793)
GENERAL FUND	\$ 6,495,012	\$ 7,085,740	\$ 8,010,872	\$ 506,355	\$ 6,357,339	91.7%	79.4%	\$ 4,397,888
GENERAL DEBT SERVICE FUND	\$ 1,358,606	\$ 5,079,006	\$ 1,365,627	\$ 88,043	\$ 1,422,634	26.7%	104.2%	\$ (57,007)
WATER/SEWER FUND	\$ 3,817,220	\$ 4,421,886	\$ 4,829,775	\$ 309,571	\$ 3,341,916	86.3%	69.2%	\$ 1,487,859
STORMWATER UTILITY FUND	\$ 114,576	\$ 130,137	\$ 571,157	\$ 1,000	\$ 250,586	88.0%	43.9%	\$ 320,571
WATER IMPACT FUND	\$ 171,200	\$ 171,200	\$ 154,415	\$ -	\$ -	100.0%	0.0%	\$ 154,415
SEWER IMPACT FUND	\$ -	\$ -	\$ 60,000	\$ -	\$ -	-	0.0%	\$ 60,000
WATER/SEWER FUND	\$ 4,102,996	\$ 4,723,224	\$ 5,615,347	\$ 310,571	\$ 3,592,502	86.9%	64.0%	\$ 2,022,845
EDC4B FUND	\$ 653,145	\$ 718,004	\$ 803,880	\$ 50,532	\$ 579,253	91.0%	72.1%	\$ 224,627
CAPITAL FUND	\$ 570,930	\$ 536,850	\$ 216,239	\$ 1,048	\$ 90,876	106.3%	42.0%	\$ 125,363
SPECIAL REVENUE FUND	\$ 129,302	\$ 254,518	\$ 151,222	\$ -	\$ 99,386	50.8%	65.7%	\$ 51,837
TOTAL EXPENDITURES	\$ 13,309,991	\$ 18,397,341	\$ 16,163,187	\$ 956,549	\$ 12,141,990	72.3%	75.1%	\$ 6,765,553

**CITY OF KENNEDALE
ANNUAL PROGRAM OF SERVICES
August**

EXPENDITURE SUMMARY BY DEPARTMENT

GENERAL FUND	FY15-16 YTD	FY15-16 ACTUAL	FY16-17 ADOPTED	CURRENT MONTH	FY16-17 YTD	% OF PY ACTUAL EXPENSED	% OF CY BUDGET EXPENSED	BUDGET REMAINING
CITY MANAGER	\$ 247,697	\$ 291,243	\$ 283,123	\$ 27,015	\$ 311,996	85.0%	110.2%	\$ (28,873)
MAYOR/CITY COUNCIL	\$ 80,546	\$ 94,108	\$ 140,157	\$ 8,050	\$ 91,780	85.6%	65.5%	\$ 48,377
CITY SECRETARY	\$ 120,418	\$ 136,655	\$ 160,328	\$ 8,884	\$ 120,524	88.1%	75.2%	\$ 39,804
MUNICIPAL COURT	\$ 104,670	\$ 121,408	\$ 121,230	\$ 8,614	\$ 98,369	86.2%	81.1%	\$ 22,861
HUMAN RESOURCES	\$ 104,161	\$ 119,141	\$ 122,616	\$ 8,581	\$ 106,636	87.4%	87.0%	\$ 15,980
FINANCE	\$ 284,705	\$ 312,129	\$ 296,688	\$ 15,362	\$ 259,982	91.2%	87.6%	\$ 36,706
POLICE	\$ 1,868,288	\$ 2,093,230	\$ 2,381,270	\$ 143,057	\$ 1,910,699	89.3%	80.2%	\$ 470,571
FIRE	\$ 1,485,575	\$ 1,692,949	\$ 1,826,031	\$ 116,633	\$ 1,444,103	87.8%	79.1%	\$ 381,928
COMMUNITY DEVELOPMENT	\$ 351,348	\$ 409,154	\$ 332,442	\$ 17,964	\$ 246,433	85.9%	74.1%	\$ 86,009
SENIOR CITIZEN CENTER	\$ 42,069	\$ 48,148	\$ 54,612	\$ 4,275	\$ 42,996	87.4%	78.7%	\$ 11,616
LIBRARY	\$ 218,076	\$ 251,830	\$ 259,591	\$ 17,687	\$ 222,921	86.6%	85.9%	\$ 36,670
NONDEPARTMENTAL	\$ 355,636	\$ 325,268	\$ 511,218	\$ 13,215	\$ 282,107	109.3%	55.2%	\$ 229,111
TOTAL EXPENDITURES	\$ 5,263,189	\$ 5,895,262	\$ 6,489,307	\$ 389,337	\$ 5,138,546	89.3%	79.2%	\$ 1,350,761

WATER/SEWER FUND	FY15-16 YTD	FY15-16 ACTUAL	FY16-17 ADOPTED	CURRENT MONTH	FY16-17 YTD	% OF PY BUDGET EXPENSED	% OF CY BUDGET EXPENSED	BUDGET REMAINING
UTILITY BILLING	\$ 993,706	\$ 1,210,463	\$ 1,704,198	\$ 82,322	\$ 848,406	82.1%	49.8%	\$ 855,792
WATER OPERATIONS	\$ 1,359,146	\$ 1,181,360	\$ 1,477,946	\$ 102,214	\$ 1,075,245	115.0%	72.8%	\$ 402,701
DEBT	\$ 505,472	\$ 170,941	\$ 511,309	\$ 50,274	\$ 511,309	295.7%	100.0%	\$ (0)
W&S CAPITAL	\$ -	\$ -	\$ 301,850	\$ 2,393	\$ 173,035		57.3%	\$ 128,815
NONDEPARTMENTAL	\$ 958,896	\$ 1,859,122	\$ 834,472	\$ 72,368	\$ 733,920	51.6%	88.0%	\$ 100,552
TOTAL EXPENDITURES	\$ 3,817,220	\$ 4,421,886	\$ 4,829,775	\$ 309,571	\$ 3,341,915	86.3%	69.2%	\$ 1,487,860

STREET IMPROVEMENT FUND	FY15-16 YTD	FY15-16 ACTUAL	FY16-17 ADOPTED	CURRENT MONTH	FY16-17 YTD	% OF PY BUDGET EXPENSED	% OF CY BUDGET EXPENSED	BUDGET REMAINING
STREETS	\$ 996,019	\$ 939,911	\$ 712,452	\$ 102,433	\$ 625,345	106.0%	87.8%	\$ 87,107
PARKS MAINTENANCE	\$ 112,438	\$ 124,202	\$ 116,409	\$ 7,944	\$ 71,666	90.5%	61.6%	\$ 44,743
CAPITAL	\$ -	\$ -	\$ 366,032	\$ -	\$ 281,935		77.0%	\$ 84,097
TOTAL EXPENDITURES	\$ 1,108,457	\$ 1,064,114	\$ 1,194,893	\$ 110,377	\$ 978,946	104.2%	81.9%	\$ 215,947

EDC4B FUNDS	FY15-16 YTD	FY15-16 ACTUAL	FY16-17 ADOPTED	CURRENT MONTH	FY16-17 YTD	% OF PY BUDGET EXPENSED	% OF CY BUDGET EXPENSED	BUDGET REMAINING
ADMINISTRATION	\$ 277,570	\$ 335,951	\$ 270,167	\$ 17,366	\$ 176,860	82.6%	65.5%	\$ 93,307
DEBT SERVICE	\$ 314,120	\$ 318,692	\$ 323,419	\$ 4,766	\$ 319,483	98.6%	98.8%	\$ 3,936
TOWN SHOPPING CENTER	\$ 42,716	\$ 44,622	\$ 120,295	\$ 28,400	\$ 72,830	95.7%	60.5%	\$ 47,465
TOWNCENTER REDEVELOPMENT	\$ -	\$ -	\$ 90,000	\$ -	\$ 10,080		11.2%	\$ 79,920
TX LEVERAGE	\$ 18,739	\$ 18,739	\$ -	\$ -	\$ -	100.0%	0.0%	\$ -
TOTAL EXPENDITURES	\$ 653,145	\$ 718,004	\$ 803,880	\$ 50,532	\$ 579,253	91.0%	72.1%	\$ 224,627

Staff Report to the Honorable Mayor and City Council

Date: September 18, 2017

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

I. Subject:

Consider approval of minutes from August 11, 2017 special meeting

II. Originated by:

Leslie Galloway, City Secretary & Communications Coordinator

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.	Minutes_2017_08.11	Minutes_08.11.2017.pdf
----	--------------------	------------------------

KENNEDALE CITY COUNCIL MINUTES
SPECIAL MEETING | August 11, 2017
CITY HALL COUNCIL CHAMBERS, 405 MUNICIPAL DRIVE
REGULAR SESSION - 8:30 AM

I. CALL TO ORDER

Mayor Brian Johnson called the meeting to order at 8:37 a.m.

II. ROLL CALL

Present: Mayor Brian Johnson; Rockie Gilley (Place 1); Sandra Lee (Place 3); Mayor Pro Tem Jan Joplin (Place 5); **Absent:** Kelly Turner (Place 4), Liz Carrington (Place 2)

***Staff:** City Manager George Campbell, City Secretary & Communications Coordinator Leslie Galloway, Finance Director Brady Olsen, HR Director Kelly Cooper, Community Development Director Rachel Roberts, Police Chief Tommy Williams, Fire Chief Mike McMurray, Public Works Director Larry Ledbetter, Library Director Amanda King, EDC Director Jack Thompson*

III. WORK SESSION

A. Presentation and discussion of the City Manager's FY2017-18 budget proposal

City Manager George Campbell advised Council that the FY17-18 Budget must be adopted before October 1, and that there would be additional work sessions and a Public Hearing in the meantime. He added that, while drafting this budget proposal, he and staff considered expressed needs of residents and the policy considerations expressed by Council; that the proposal included a very limited number of new programs, but did provide Council with a prioritized list of items that department heads identified as ways to better serve residents.

Finance Director Brady Olsen provided the following as a working agenda for his presentation:

- Overview of the Budget Process
- Major Assumptions and Highlights
- Funds Overview
- Five-Year Projections
- Review Funds
- New Program Requests
- Next Steps

Director of Finance Brady Olsen stated that the Proposed FY17-18 Budget was based on strategic planning documents, Council direction, and best practices. He added that staff had approached the process with 'fresh eyes', aiming to reduce expenditures whenever possible.

Major Assumptions and Highlights that Shaped this Budget

- Two-Cent Property Tax Increase
- 2% Cost of Living Adjustment for all Employees
- Projected 15% Increase to Health Insurance Cost
- Changing Administrative Charges to a Cost Basis (Rather than Revenue-Based)
- Elimination of Most Cash-Funded Capital Projects
- ~\$4 Million Certificate of Obligation (CO) Issuance

In response to questions about the issuance of a CO, Olsen stated that the overall bond rating is AA-, and this proposed debt would not affect that rating, as it is not paid from the General Fund.

Major Assumptions and Highlights: Water and Sewer Fund

- Reduce Base Sewer Charge from \$45 to \$36
- Less Aggressive Tier System for Water Rates
- Reduced Base Charge on Lines 1" and Greater
- Increase to the Stormwater Fee from \$3.50 to \$4.00
- Lower Franchise Fee to Street Fund from 9% to 5%
- One-time Transfers
- Use Remaining EDC Bond Capital Funds to Pay Debt Service for EDC
- Using Park Dedication Revenues to Cover Portion of Park Maintenance Costs

Olsen stated that the stormwater fee was adopted about a decade ago, with the intention of the cost increasing by \$0.50 annually, but that had not been carried out.

Mayor Pro Tem Jan Joplin stated that she would prefer to find a way to not spend into the reserves for the upcoming fiscal year.

General Fund

- Revenue is projected to increase \$250,000 to \$6.45 million
- Expenses are projected to increase \$177,000 to \$6.67 million
- Property Valuation up over 6% (includes new construction and increased appraisals)
- Proposed \$0.02 tax rate increase: median home (\$225,000 value) = ~\$45/year
- Sales tax expected to increase by 5% over the previous budget
- Fewer grant-funded projects in FY2017-18
- Permits expected to fall from past actuals with subdivisions built out
- General expenditures are up by 3%, with most departments increasing by 1-5%; the City Secretary budget decreased by 6%

Olsen pointed out that personnel costs are almost 70% of the \$6.67 million.

Mayor Pro Tem Jan Joplin stated that there were lots of line decreases and she appreciated that effort by staff. Mayor Johnson added that he knew staff had done this because of direction from Council and he was also appreciative.

Water and Sewer Fund

- Revenues to decline \$512,000 to \$4.48 million
- Expenditures to decline \$570,000 to \$4.25 million
- Lowering sewer base rate, less aggressive tier structure for water rates
- Removed most capital spending (proposing CO bond for needed projects)
- Reduced Street Franchise Fee to from 9% to 5%

Olsen stated that staff understood that Council wanted to lower the base rate – specifically sewer – and that, under this structure, customers would be paying more for what they're using,

rather than so much through the initial base rate. He added that this was the lowest that staff could get the rates while still maintaining the financial integrity of the fund.

Mayor Pro Tem Joplin stated that these presented rates are very close to what she originally wanted. She and Councilmember Gilley thanked Olsen for his work on this contentious issue.

Mayor Brian Johnson pointed out that, clearly, Olsen and City Manager George Campbell had heard Council and worked towards those stated goals.

Olsen pointed out that the majority of costs in the Water Fund are categorized as sundry. During the last fiscal year, staff made the decision to pump more from our wells, to minimize purchase of water from the City of Fort Worth, which does mean increased costs for pump maintenance, electricity, and fees to TRWD for pumping from the aquifer, but overall, this shift resulted in a savings of about \$100,000.

Public Works Director Larry Ledbetter stated that the requested Vactor truck and additional employee would greatly benefit the wastewater infrastructure by allowing routine cleaning of the pipes, increasing flow and reducing backups – leading to overall better quality of service.

Street Fund

- Reduction of Water and Sewer franchise fee from 9% to 5% limits programming, which includes street and park maintenance
- Using Park Dedication fund to cover park maintenance
- \$83,000 deficit, lowering Fund Balance to 19% (still within 18 to 25% policy range)

Olsen noted that bonds can only be used for new construction, not maintenance.

Stormwater Fund

- Proposed fee increase from \$3.50 to \$4.00
- Funding capital projects through debt (proposed CO issuance), rather than cash

Olsen stated that the stormwater fund was in a positive balance.

Mayor Brian Johnson asked about the flooding on 3rd Street, specifically.

Economic Development Corporation (EDC)

- Greatly reduce expenditures throughout (limiting mainly to paying debt and maintaining TownCenter rental spaces)

TIF/TIRZ

- Limiting expenditures in the coming year

Olsen noted that the TIF is receiving some income from the participating entities, that is being used to repay their debt to the other funds (about \$13,000, annually).

Mayor Johnson noted that as more development occurs in the area, money will come in faster. In response to Mayor Pro Tem Jan Joplin's question about the EDC's land holdings, EDC

Executive Director Jack Thompson stated that marketing land held by the EDC is an ongoing program. He added that two leases had recently been signed in TownCenter.

In response to Councilmember Rockie Gilley's question about Red's Roadhouse, Thompson stated that if the EDC sold that property, the money would go to the Bloxom Foundation (as they donated it to the EDC for use), but in the meantime, the EDC receives the rental money. He added that only properties used for a City function were exempt from property tax, and that Red's Roadhouse would not be exempt. He also stated that the tenants paid for all the building improvements and that their move to offering it as an event venue had been quite successful.

In response to Mayor Johnson's question about TownCenter, Thompson stated that a Municipal Management District (MMD) is one way of encouraging development in an area that has been historically ignored. He added that the MMD pays for the improvements like the parking lot, TownCenter Park, and the Chamber building, and an MDD rate is included in tenants' monthly rent payments to pay for those improvements and to provide ongoing maintenance. Thompson noted that it is a standard public-private partnership situation, and that the EDC owns the dirt, the parking lot in front of TownCenter Park, the Chamber building, and the Dollar General Building (Building 1). He noted that Hughes Commercial owns the other buildings, and they have the right to purchase Building 1 – which will be more likely to happen once it's fully leased. Thompson added that there are three sites left in TownCenter to be developed.

In response to Mayor Pro Tem Jan Joplin's question regarding the hotel land near QT, Thompson stated that the contract is currently being processed by the title company.

Capital Replacement

- Using funds from 2016 Note to purchase Ambulance

Finance Director Brady Olsen stated that the majority of the remaining funds from this note (part of the Capital Replacement Fund) would be used for an ambulance. Fire Chief Mike McMurray stated that the current front-line ambulance would be moved to the reserve slot.

Street Improvement Fund

- Projecting \$83,000 deficit, despite reducing expenditures by close to \$300,000
- Reduced transfer fees are affecting this fund

Administrative Charges

- Changing from a revenue basis to a cost basis
- Meant to cover actual time use/costs from General Fund
- Affects Water Fund and EDC
- Without this transfer, General Fund would be subsidizing these activities

Proposed 2018 Certificate of Obligation Issuance *(Funded by Streets, Stormwater and Water & Sewer)*

- **Water & Wastewater:** Northern Arlington Interconnect; 12-inch Waterline along Bolen; VS 1000PRWL Easement Machine; Vactor 2100 Plus Truck; Village Creek Sewer Line; and Alternate Eden Road Connection
- **Stormwater:** Beacon Hill reinforced pipe and end treatments; 3rd Street drainage, Valley

Lane erosion repair and TxDOT match, Pennsylvania Avenue gabion wall

- **Streets, Water, and Sewer Project:** Kennedale Parkway to Mansfield Cardinal

Public Works Director Larry Ledbetter noted that the 16" line in this issue that needs to be looped, which causes water quality issues and requires excess flushing of the line. He added that the wastewater line would be a new addition.

Ledbetter stated that the Bolen Road project is to loop the line in the Oak Crest neighborhood, which would keep that area from losing water if there were a line failure, and that it would also improve service delivery overall. He noted that it is in the Master Plan.

In response to Councilmember Gilley's question about the Village Creek Sewer Line, Ledbetter stated that this extension was part of the development agreement on the southwest part of town.

Ledbetter noted that the Northern Arlington Interconnect would be to tie into Arlington's system near the entrance sign on Little Road, which would allow the implementation of the potential contract to purchase water from the City of Arlington. Ledbetter added that even if the City were purchasing from both Fort Worth and Arlington, the wells would be maintained, at least for the next decade, as a back-up supply. City Manager George Campbell stated that there could be a time when it would no longer be economical to operate the wells.

New Program Requests (Included in the Proposed Budget)

- Engineering of Rehabilitation of the Water Tower (Engineering Costs Only): \$100,000
- Fire Personal Day (moving from 12- to a full 24-hour shift off): \$6,725 (annually)
- iPads and data plans for Mayor and Councilmembers: \$900 + \$4,800 (annually)
- AV Equipment to record and upload (not live-stream) Council meetings: \$10,7000
- Vactor Truck Operator (addition of staff to clean sewer lines): \$60,000 (annually)
- Splash Pad Gun Replacement: \$9,118

Public Works Director Larry Ledbetter stated that the full cost of rehabilitating the elevated water tower by resurfacing the interior would likely costs around \$680,000, including the currently budgeted \$100,000 for engineering.

Finance Director Brady Olsen noted that there were three additional levels of prioritized requests that were not funded in this proposed budget, the first of which appears below.

New Program Requests Submitted, but not included (first level of priority only)

- Active Shooter Equipment (Police): \$17,250
- Records Management Service (City Secretary): \$9,100
- Concrete Crack Sealing Program for preventative maintenance (Streets): \$25,000
- Patrol Officer (Police): \$64,928 (annually)
- Adult Collection Update (Library): \$17,400
- My Sidewalk Information Mapping (Planning/Dev): \$6,000
- Automation of Circulation Services (self-checkout kiosk) (Library): (\$29,161)
- Reclassify Fire EMS Lieutenant to Captain; Currently no Captain: \$10,869 (annually)
- Arts Funding Grant (Mayor/Council): \$3,000

Upcoming Meetings

- **August 17** Work Session at 6:30 p.m.
- **August 21** Regular meeting at 7:00 p.m. with Work Session at 5:30 p.m.
- **September 7** Special Session: Public Hearings on Budget & Tax Rate at 5:30 p.m.
- **September 14** Special Session: Public Hearing on Tax Rate at 5:30 p.m.
- **September 18** Adopt Budget at Regular Meeting at 7:00 p.m. with Work Session at 5:30 p.m.

B. Review Effective & Rollback Tax Rate Summary

IV. REGULAR SESSION

V. DECISION ITEMS

A. Discuss and consider approval of Resolution 513 of the City Council of the City of Kennedale, Texas, approving the placement of a proposal on the September 18, 2017 City Council Public Meeting agenda to adopt a 2017 tax rate that may exceed the lower of the rollback rate or the effective tax rate; calling public hearings on September 7, 2017 and September 14, 2017 (if necessary)

Finance Director Brady Olsen noted that even if the rate remains steady, there will have to be two public hearings because of new construction adding tax revenue. By adopting this resolution, Council has the leeway to adopt a rate change at the September 18 meeting, but does not obligate them to do so.

Motion To Approve Resolution 513, approving the placement of a proposal on the September 18, 2017 City Council Public Meeting agenda to adopt a 2017 tax rate that may exceed the rollback rate; calling public hearings on September 7, 2017 and September 14, 2017.

Action Approve, **Moved By** Jan Joplin, **Seconded By** Sandra Lee.

Motion passed Unanimously.

VI. ADJOURNMENT

Motion To adjourn. **Action** Adjourn, **Moved By** Jan Joplin, **Seconded By** Sandra Lee.
Motion passed Unanimously.

Mayor Brian Johnson adjourned the meeting at 12:37 p.m.

APPROVED:

ATTEST:

BRIAN JOHNSON, MAYOR

LESLIE GALLOWAY, CITY SECRETARY

Staff Report to the Honorable Mayor and City Council

Date: September 18, 2017

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

I. Subject:

Consider approval of minutes from August 17, 2017 special meeting

II. Originated by:

Leslie Galloway, City Secretary & Communications Coordinator

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.	Minutes_2017_08.17	Minutes_08.17.2017.pdf
----	--------------------	------------------------

KENNEDALE CITY COUNCIL MINUTES
SPECIAL MEETING | August 17, 2017
CITY HALL COUNCIL CHAMBERS, 405 MUNICIPAL DRIVE
WORK SESSION - 6:30 PM

I. CALL TO ORDER

Mayor Brian Johnson called the meeting to order at 6:45 p.m.

II. ROLL CALL

Present: Mayor Brian Johnson; Rockie Gilley (Place 1); Sandra Lee (Place 3); Mayor Pro Tem Jan Joplin (Place 5); **Absent:** Kelly Turner (Place 4), Liz Carrington (Place 2)

Staff: City Manager George Campbell, City Secretary & Communications Coordinator Leslie Galloway, Finance Director Brady Olsen, HR Director Kelly Cooper, Community Development Director Rachel Roberts, Police Chief Tommy Williams, Fire Chief Mike McMurray, Public Works Director Larry Ledbetter, Library Director Amanda King, Accounting Technician Debby Scott, EDC Director Jack Thompson

III. WORK SESSION

A. Continued discussion of the City Manager's FY2017-18 budget proposal

City Manager George Campbell stated that, since the last meeting, Council was provided with an informal staff report answering raised questions. He added that the purpose of today's meeting was to continue to answer specific questions about the budget, but there would be no formal staff presentation. Finance Director Brady Olsen noted that the presentation from the Friday, August 11, 2017 meeting was available at www.cityofkennedale.com/budget; and that there had since been one change: the insurance renewal is a 20% increase, rather than 15%.

In response to Mayor Pro Tem Jan Joplin's question about reimbursement to the Water Fund, Finance Director Brady Olsen stated that the fund is projected to end strong this year, and with the budgeted deficit in the General Fund, staff recommended against that transfer.

In response to Joplin's question about funding for the ambulance, Olsen responded that the note was for originally for purchasing vehicles, but staff had since moved to leasing, which left funds in the Debt Service section of the budget that could now be used for replacing the ambulance.

In response to Councilmember Lee's question about the \$0.50 increase in stormwater fees, Public Works Superintendent Larry Hoover stated that when the fee was originated, there were about thirty projects identified as needed to protect the infrastructure, costing a total of about \$30 million. Since, an additional \$3.5 million has been identified in the Winding Creek area. The goal is to build the fund up until there is enough cash to fund a single project at once.

In response to Lee's questions about alternate distribution of the 2% increase in salary, Campbell noted that it would create compression problems over time. He added that if the funds were divided equally among all employees, that could be done as a single lump sum bonus check, rather than a salary adjustment to avoid issues with compression.

In response to Councilmember Gilley's question about the Streets Department's request for an additional Full-Time Employee, Public Works Superintendent Larry Hoover stated that he would like to restructure his staff into two crews – land landscaping and streets – which would allow more focus on streets. Olsen noted that this request was not included in the proposed budget.

In response to Mayor Johnson's question about staffing levels, City Manager George Campbell stated that the City is understaffed in some areas and community growth will only add to this problem. He added that several staffing requests were made, but not included in this budget.

In response to Councilmember Gilley's question about iPads for Council, Campbell stated that he was trying to move to a paperless option for packets, as well as eliminating the computer screens on the dais, which make visibility a problem for both the Council and the audience.

In response to Councilmember Gilley's question about the Vactor Truck, Public Works Superintendent Larry Hoover stated that the life expectancy was about eight years. Gilley expressed concern with spreading payments across twenty years for a piece of equipment that was only in use for eight. Public Works Director Larry Ledbetter added that the estimate for contracting the cleanout of wastewater lines would be about \$1 million. Campbell agreed that issuing debt that is longer than the life of the item is questionable.

In response to Councilmember Gilley's question about the Strategic Planning Update, Community Development Director Rachel Roberts stated that the current plan was through 2015, and should be updated.

In response to Councilmember Gilley's question about the water and sewer engineering costs, Public Works Director Larry Ledbetter stated that the costs were for Shield Engineering to review and correct submitted plans, which prevents long-term issues and costs.

In response to Councilmember Gilley's question about the City's various memberships and the associated travel, City Manager George Campbell stated that TML advocates for cities at the state level and NLC at the national level, but they wouldn't be nearly as effective without small cities' input. He added that the majority of cities have a population under 25,000, and it's beneficial to exchange information with other cities facing similar issues. Councilmember Lee stated that she feels it would be wise to avoid travel for the next year.

In response to Councilmember Gilley's question about the cost of IT support, Director of Finance Brady Olsen stated that it includes server support and integrating numerous software applications throughout the City. City Manager George Campbell noted that it also includes the expertise necessary to meet the security regulations for police communications.

In response to Councilmember Gilley's question regarding the replacement of a tractor and the cost of maintaining landscaping, Public Works Superintendent Larry Hoover stated that the tractor has been in need of repairs quite frequently and that from February 2016 to February 2017, 44% of his crew's time was spent on landscaping.

City Manager George Campbell stated that if Council had further questions, they could submit them via email.

Councilmember Joplin stated that she was against any tax increase, and wanted to see a budget reflecting the effective tax rate. George Campbell stated that the proposed budget was based on a \$0.78 property tax, but the effective rate is about \$0.72 – which would require more than \$400,000 in cuts.

Councilmember Joplin asked what effect reducing the ¾” meter base rate by an additional \$2.00 would have. Director of Finance Brady Olsen stated that his proposed rate structure lowered each base rate as much as possible, while maintaining the financial integrity of the fund, and that further decreases would result in a perennial deficit. City Manager George Campbell stated that staff could create a list of cuts necessary to reduce property taxes to the effective rate, but warned that it would include cuts to staffing. He added that the majority of costs are personnel, and that the majority of personnel are Police and Fire, but Council stated they do not want to cut staffing or any emergency services costs.

Councilmember Joplin stated that the Council’s budget could be cut by \$50,000, but added that she did not want to see cuts to the Library, Police, or Fire. She asked if EDC-owned property could be sold to bolster the General Fund. Finance Director Brady Olsen stated that, legally, that is not an option. Mayor Johnson asked that Council email specific requested cuts to Olsen.

City Manager George Campbell stated that he understood that Council desired that the budget be based on the effective tax rate without personnel cuts – which is what it would take. He added that EDC revenue is committed to debt service, leaving no excess available to the City.

Councilmember Gilley stated that this budget was based on a 10% tax increase. Director of Finance Brady Olsen responded that some of that revenue growth comes from development; and that an average home (\$225,000) would see an increase of \$45 on their annual tax bill.

VI. ADJOURNMENT

Motion To adjourn. **Action** Adjourn, **Moved By** Rockie Gilley, **Seconded By** Sandra Lee.
Motion passed Unanimously.

Mayor Brian Johnson adjourned the meeting at 8:11 p.m.

APPROVED:

ATTEST:

BRIAN JOHNSON, MAYOR

LESLIE GALLOWAY, CITY SECRETARY

Staff Report to the Honorable Mayor and City Council

Date: September 18, 2017

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

I. Subject:

Consider approval of minutes from August 21, 2017 regular meeting

II. Originated by:

Leslie Galloway, City Secretary & Communications Coordinator

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.	Minutes_2017_08.21	Minutes_08.21.2017.pdf
----	--------------------	------------------------

KENNEDALE CITY COUNCIL MINUTES
REGULAR MEETING | August 21, 2017
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 5:34 p.m.

II. WORK SESSION

A. Discussion of items on regular agenda

City Manager George Campbell asked that Council consider postponing item G on the Consent Agenda, as staff would prefer to have additional information before presenting.

B. Discussion of Proposed FY2017-18 Budget

Director of Finance Brady Olsen spoke about the budget and the water and wastewater rates:

- Changes from Proposed Budget
- Impact of Proposed Changes
- Rate Structure Scenarios *(all include the following assumptions: keeping the current administrative transfer; reducing street transfer to 5% (from 9%); and reducing cash capital expenditures by \$1.5 million)*

Olsen stated that any residual revenue could be used for one-time projects, possibly the purchase of the requested Vactor truck via cash, rather than under the CO Bond.

Mayor Johnson asked if, under these scenarios, staff was assuming that there would be no capital projects or maintenance performed. He added that he feels Council has been fairly criticized for, historically, underfunding maintenance. Councilmember Gilley stated that if the connection agreement with Arlington was in place and proved to be cost-saving, Council would have sufficient time to amend the adopted budget to redirect that money towards maintenance. He added that he still had reservations about purchasing the Vactor truck under the CO. Mayor Johnson agreed. Gilley stated that he would prefer that staff issue an RFP, and aim for having half of the line cleaning completed via contractor this year, and half the next fiscal year. Mayor Johnson reiterated that he feared that Council was, yet again, neglecting maintenance that was known to be needed, and asked if there would be funding in the FY18-19 budget for the rehabilitation of the water tower. City Manager George Campbell replied that it would most likely require an issuance of debt, but reminded Council that projects like these were a primary reason for his recommendation to more aggressively build up the working capital in the Water Fund.

In response to Councilmember Gilley's question about the recurring charge for a virtual server, Olsen stated that it is a reserve fund that is being built up to replace the server when it fails.

In response to Councilmember Sandra Lee's question about using revenue from the sale of

EDC land to pay for the resurfacing of the water tower, Olsen stated that only improvements that directly attract or create jobs could be paid for out of EDC funds. Olsen added that EDC spending would be greatly reduced in FY17-18.

City Manager George Campbell stated that staff would compile answers to Council's questions and send them via email. Council then agreed to have another work session to discuss the Proposed FY17-18 Budget on Monday, May 28, at 7:00 p.m.

Mayor Brian Johnson recessed into Executive Session at 6:13 p.m.

III. REGULAR SESSION

Mayor Johnson opened the Regular Session at 7:10 p.m.

IV. ROLL CALL

Present: Mayor Brian Johnson, Mayor Pro Tem Jan Joplin** (Place 5), Rockie Gilley** (Place 1), Liz Carrington* (Place 2), Sandra Lee** (Place 3), Kelly Turner (Place 4); **Absent:** none

**Councilmember Carrington was present for the Work Session and Executive Session, but left before the Regular Session was called to order. **Councilmembers Gilley and Lee and Mayor Pro Tem Joplin left before the official adjournment of the meeting, breaking the quorum and, thus, adjourning the meeting without an official motion.*

Staff: City Manager George Campbell, City Secretary & Communications Coordinator Leslie Galloway, HR Director Kelly Cooper, Finance Director Brady Olsen, Community Development Director & City Planner Rachel Roberts, Public Works Superintendent Larry Hoover, Library Director Amanda King, Accounting Technician Debby Scott, Fire Chief Mike McMurray, Police Chief Tommy Williams, City Attorney Wayne Olsen, EDC Director Jack Thompson

V. INVOCATION

Pastor Greg Adams of Covenant Life Baptist Church provided the invocation.

VI. UNITED STATES PLEDGE AND TEXAS PLEDGE

VII. VISITOR/CITIZENS FORUM

- **Jeff Nevarez, 338 Spring Branch Lane**, Invited the community to the Concert in the Park on Saturday, September 16, from 4:00 to 8:00 p.m. in TownCenter, hosted by the Parks Board, with support from the Boy Scouts and the FUMC Mission Store.
- **Perry Clementi, 103 Creekside Court**, stated that leadership has a tough job, and that he felt all involved needed to move forward and find ways to compromise.
- **Michael Chandler, 700 E Kennedale Parkway**, reminded everyone of KKB's Bring It! on September 16th, from 9:00 to 11:00 a.m. He added that this year, tires would be accepted at the landfill drop-off site, and that any volunteers would be appreciated.
- **John Hivale, 418 Coker Valley Drive**, stated that he felt Council was improving regarding transparency. He added that the more people who look at a problem, the more likely a solution.
- **John Dill, 830 Woodland Court**, stated that he felt there was a lack of defined responsibility for the contracted waste management company in City code. He added that he has experienced on-going issues with service.

- **Tom Newsom, 303 Pennsylvania Ave**, stated that the most vital financial document was a City's CAFR, and if it had been consulted during the creation of the 2013 budget, the error that resulting in a spending of non-available funds could have been avoided.
- **Paula Kitchen, 480 Andalusia Trail, Arlington**, thanked Council and the City for the use of Sonora Park for the Cub Scout Day Camp again this year.
- **John Clark, 100 Meadowlake Court**, stated that he has a perception that Council currently has policies and priorities that prevent the City Manager and Finance Director from developing a budget. He added that a city that is not growing does not only stagnate, but also declines. He urged Council to act as responsible stewards and to focus on the city as a whole rather than specific areas or groups and to recognize the value of landscaping and parks when developing the budget.
- **Jack Dalrymple, 1008 Oakridge Court**, thanked Council for their service and City Manager Campbell for benefitting the City with his experience and connections.
- **Rob Lecuyer, 1045 Cydnie Street**, stated that, as Chair of the Utility and Infrastructure Board (UIB), he was frustrated by recent social media comments by a member of Council. He added that all board members are volunteers and should be appreciated for their service and pointed out the qualifications unique to his board members.

VIII. REPORTS/ANNOUNCEMENTS

A. Updates from the City Council

- Councilmember Rockie Gilley stated that he met with the Texas League of Citizens, whose purpose is fiscal responsibility in local government.
- Mayor Pro Tem Jan Joplin stated that she attended the Tarrant County Tax Workshop, attended Loretta Hulce's 100th birthday celebration at Pecan Manor, EDC and Parks Board meetings, budget workshops, an Empower Texas meeting, the opening of Bob's Farm Place, her husband's retirement party, and volunteered at the Library.
- Councilmember Kelly Turner stated that he met with the Emergency Planning Council and the REPAC Board, which are dedicated to ensuring that the 19 counties in North Texas are prepped for emergencies. He added that with recent flooding in the eastern part of DFW, the groups had been able to utilize some of those preparations and plans. He concluded by saying that they are now beginning policy discussions about how to train citizens to become part of the response teams.

B. Updates from the Mayor

Mayor Brian Johnson stated that he attended the Mayor's Council and reminded everyone that our area is heading into height of mosquito season.

• Financial Transparency Awards Received

Mayor Johnson stated that, at the direction of Council, staff has focused on earning financial transparency awards, and the City recently earned the Texas Comptroller Transparency Stars and an AAA Rating from the National Transparency Association (NTA).

C. Updates from the City Manager

There were no updates from City Manager George Campbell at this time.

IX. MONITORING INFORMATION

A. Monthly Financials – July 2017

There was no discussion at this time.

X. INCIDENTAL ITEMS

A. Receive comments from the Mayor regarding the Council's commitment to its adopted governance policies and practices

This item was taken out of order; moved after XII. Decision Items.

XI. REQUIRED APPROVAL ITEMS (CONSENT)

Councilmember Rockie Gilley asked that **item A** be removed for discussion.

Councilmember Kelly Turner asked that **Item G** be postponed until the next Regular Meeting.

A. Consider approval of minutes from July 7, 2017 special meeting

B. Consider approval of minutes from July 17, 2017 regular meeting

C. Consider adopting Ordinance 634, amending Parks and Recreation Board rules and regulations

D. Consider adoption of Resolution 514, terminating participation in the Fort Worth–Tarrant County Emergency Plan and joining the Tarrant County Emergency Management Plan

E. Consider awarding a bid to Tejas Commercial Construction, LLC for Bloxom Park Road and Pond Improvements

F. Consider authorizing the City Manager to enter into an interlocal agreement with the City of Arlington for the installation of a signal light in the southwest corner of the intersection of Sublett and Joplin Roads

G. Consider authorizing the City Manager to enter into a Contract Agreement for Wastewater Service Between the City of Fort Worth, Texas, and the City of Kennedale, Texas

H. Consider authorizing the City Manager to extend the Interlocal Agreement for participation in Fort Worth's Environmental Collection Center/Household Hazardous Waste program

I. Consider authorizing the Mayor to sign an Interlocal Agreement with the Fort Worth Transportation Authority (FWTA) for Administrative Cost Funding for Section 5310 Program

Motion To approve all required approval items on consent agenda, except items A and G.

Action Approve, **Moved By** Kelly Turner, Seconded By Sandra Lee.

Motion passed Unanimously

Motion To postpone item G until the September 18, 2017 regular meeting. **Action** Postpone, **Moved By** Kelly Turner, Seconded By Sandra Lee.

Motion passed Unanimously

Councilmember Rockie Gilley stated that there was a divergence from the posted agenda and that he felt that the minutes should reflect that the majority of Council did not necessarily agree with the overall decisions that resulted from the meeting on July 7, 2017. He noted that there was no discussion of the water and sewer rates, the budget, or items related to the Master Plan.

City Manager George Campbell noted that the working agenda, provided by facilitator Karen Walz, was now attached to the minutes; and that, at Mayor Pro Tem Joplin's request, the consultant's fee was included. He recommended approval of these updated minutes.

Councilmember Kelly Turner stated that it was his understanding that the posted agenda was meant to be broad enough that Council was able to speak about what they might wish to bring up, while still allowing the meeting to flow naturally. He added that the cost of the consultant was not discussed during the meeting and, therefore, should not be included because if Council begins adding items that are suppositions, we are giving ourselves permission to rewrite history.

Mayor Pro Tem Jan Joplin stated that she was under the impression that the facilitator would lead the discussion to include those items listed on the posted agenda. She added that she did not personally agree to all of the items in the SWOT categories, but feels that those reading the minutes will believe that she did. City Manager George Campbell replied that he felt the minutes, as presented tonight, might not reflect what each person individual contributed to the meeting, but they did accurately reflect what the Council, as a whole, discussed and agreed upon.

Councilmember Rockie Gilley stated that the meeting was not what he expected, and he did not believe the citizens got a good value for the \$14,000 it cost.

Mayor Johnson stated that everyone might not have personally agreed with each of the items listed under the SWOT categories, but it is the summation of what was discussed. He added that staff asked Council to give them direction and the conversation followed that direction.

Motion To approve the minutes, striking the \$14,000 line. **Action** Approve with Changes,

Moved By Kelly Turner, Seconded By Sandra Lee.

Motion passed 3-1, with Joplin dissenting.

XII. DECISION ITEMS

A. Consider approval of bid award for health insurance and authorize the City Manager to sign the agreement

After a presentation by HR Director Kelly Cooper, the following action was taken.

Motion To approve bid award for insurance as recommended, and authorize the City Manager to sign the agreement. **Action** Approve, **Moved By** Jan Joplin, Seconded By Kelly Turner.

Motion passed unanimously.

At this time, Mayor Johnson returned to item X.A. Receive comments from the Mayor regarding the Council's commitment to its adopted governance policies and practices.

During the Mayor's presentation, Councilmembers Rockie Gilley and Sandra Lee and Mayor Pro Tem Jan Joplin left Council Chambers, breaking the quorum, and the meeting was adjourned (without a motion) at 8:17 p.m. Mayor Johnson finished his statement (with Councilmember Kelly Turner remaining at the dais), but no further action was taken.

XIII. EXECUTIVE SESSION

- Altom claim regarding drainage easement at 1033 and 1041 Estates Drive

This item was taken out of order. Council recessed to Executive Session following the Work Session.

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

XV. ADJOURNMENT

The meeting was considered adjourned when the quorum was broken at 8:17 p.m.

APPROVED:

ATTEST:

BRIAN JOHNSON, MAYOR

LESLIE GALLOWAY, CITY SECRETARY



Staff Report to the Honorable Mayor and City Council

Date: September 18, 2017

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

I. Subject:

Consider approval of minutes from August 28, 2017 special meeting

II. Originated by:

Leslie Galloway, City Secretary & Communications Coordinator

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.	Minutes2017_08.28	Minutes_08.28.2017.pdf
----	-------------------	------------------------

KENNEDALE CITY COUNCIL MINUTES
REGULAR MEETING | August 28, 2017
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 7:15 p.m.

II. ROLL CALL

Present: Mayor Brian Johnson; Rockie Gilley, Place 1; Sandra Lee, Place 3; Kelly Turner, Place 4

Absent: Liz Carrington, Place 2; Mayor Pro Tem Jan Joplin, Place 5

Staff: City Manager George Campbell, Finance Director Brady Olsen, HR Director Kelly Cooper, Community Development Director Rachel Roberts, Police Chief Tommy Williams, Fire Chief Mike McMurray, Public Works Director Larry Ledbetter, Public Works Superintendent Larry Hoover, Library Director Amanda King, EDC Director Jack Thompson

III. WORK SESSION

A. Continued discussion of the City Manager's FY2017--18 budget proposal

City Manager George Campbell stated that staff had provided, via memo, four options within the various parameters requested by Council at previous meetings, including specific tax rates, reductions in spending, and departments that should be excluded from cuts. Director of Finance Brady Olsen provided an overview of each of these scenarios, outlining for each: the tax rate, general cuts, and any drawdown of the General Fund balance.

Council discussed the effective tax rate, the definition of a 'balanced budget', the Senior Center, Keep Kennedale Beautiful (KKB), reductions in staffing, and ambulance service options.

City Manager George Campbell summarized Scenario A, reiterating that it aims to maintain the proposed two-cent tax rate increase, while preventing a drawdown in the General Fund balance. This scenario would include contracting out ambulance service, which would allow delaying the purchase of a replacement ambulance and eliminating costs for paramedic training (as the City would no longer recruit paramedics, which could slow turnover in this department).

Council discussed the potential loss of service quality with a contracted ambulance service and how this might affect quality of life, including longer response times. Councilmembers Kelly Turner and Rockie Gilley both expressed serious concerns about contracting ambulance service to balance the budget, as emergency services affect life-or-death situations.

Council moved on to discuss Scenario D, including specifics about the Economic Development Corporation (EDC) and the Chamber.

Public Works Superintendent Larry Hoover responded to a question about the landscaping contract for the TownCenter area by stating that it includes mowing the park and surrounding

areas, trimming trees, mulching beds, maintaining irrigation, and pest control.

In response to Council questions about the proposed issuance of a \$4 million Certificate of Obligation (CO) Bond, Director of Finance Brady Olsen stated that the projects would be related to water, stormwater, or wastewater; and that this financing shifts more of the cost obligation to future users, rather than relying solely on current residents. He went on to state that the bond proposal does include the purchase of a Vactor truck and the addition of one employee.

Councilmember Kelly Turner suggested that Council needs to establish a philosophy related to what should be funded by bonds versus cash.

In response to Councilmember Rockie Gilley's questions about Village Creek and Bowman Springs land acquisition funds (in the Stormwater Fund), Public Works Superintendent Larry Hoover stated that this was related to a grant program, but the line items had been removed.

In response to questions regarding health insurance, HR Director Kelly Cooper provided the dollar amount originally proposed in the FY17-18 Budget and the actual amount (which Council approved at their August 17, 2017 meeting), which is \$447,903.96

In response to Councilmember Sandra Lee concern about increasing property taxes, staff stated that, assuming no increase in appraisal value, the proposed tax rate increase (of \$0.02) would be approximately \$45.00 per year on an average home, valued by TAD at \$225,000.

City Manager George Campbell stated that the Public Hearings will include highlights of Council discussions, and will be an opportunity for the public to express their desires. Mayor Brian Johnson reminded everyone that the Public Hearings are scheduled for Thursday, September 7, at 5:30 p.m. (Budget and Tax Rate) and Thursday, September 14, 5:30 p.m. (Tax Rate).

IV. ADJOURNMENT

Mayor Johnson adjourned the meeting at 8:26 p.m.

APPROVED:

ATTEST:

BRIAN JOHNSON, MAYOR

LESLIE GALLOWAY, CITY SECRETARY

Staff Report to the Honorable Mayor and City Council

Date: September 18, 2017

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

I. Subject:

Consider approval of contract award to Duro-Last Roofing Inc. for the Flat Roof Replacement Purchase Order 906, and authorize the City Manager to sign the agreement

II. Originated by:

Kelly Cooper, Director of Human Resources

III. Summary:

In 2016, three additional flat roofs received hail damage during the spring storms. This damage was reported to Texas Municipal League Intergovernmental Risk Pool (TML-IRP), the City's insurance provider for these facilities. An adjuster assessed the damage and determined that repairs are needed. Staff has been working closely with TML-IRP consultant, Scott Franklin of 4T Partnership LLC, to prepare bid specifications and documents. 4T Partnership will also manage the project through to completion, as he has done on the steep roof replacements. Mr. Franklin has 20 years' experience in the roofing industry and has a relationship with TML as a trusted advisor for quality work.

Utilizing a cooperative purchasing program called TIPS, the storm damage replacements proposal is being submitted for your approval. **The insurance claim for this project will cover the total cost.** The city has received \$74,417 for the first assessment. An additional \$148,565 will be sent once the contract is awarded and signed.

Staff requests that City Council approve the contract award to Duro-Last Roofing Inc. to complete the work for this project. A pre-construction meeting will be scheduled within the coming weeks, with the completion of repairs within 60-90 days.

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

Approve

VII. Alternative Actions:

VIII. Attachments:

1.	Flat Roof Repair Proposal	Tips Flat Roof Bid.pdf
----	---------------------------	------------------------



4845 US Hwy 271N, Pittsburg, TX 75686
Tel 866)413-6574

August 23, 2017

Kennedale (City of)
Debby Scott
405 Municipal Drive
Kennedale, TX 76060

RE:
Awarded Vendor Contract - Duro-Last Roofing Inc
Contract #170201, Trades, Labor and Materials (JOC)
Awarded March 23, 2017 effective through April 26, 2020

TO WHOM IT MAY CONCERN:

The Interlocal Purchasing System (TIPS) verifies that Duro-Last Roofing Inc is an Awarded Vendor for The Interlocal Purchasing System (TIPS), and is authorized to perform work under Contract #170201.

The RS Means line item estimate from Duro-Last Roofing Inc prepared for Kennedale (City of) in the amount of \$222,982.85 has been reviewed by TIPS and found to be within the parameters of the awarded contract listed above. Purchase Order 906, dated August 23, 2017, has been approved and forwarded to Duro-Last Roofing Inc for processing.

If you have any questions, you may reach me at 866)413-6574 or by email to david.mabe@tips-usa.com.

Sincerely,

David Mabe

David Mabe
TIPS Construction Manager

August 3, 2017

Ms. Kelly Cooper
Human Resources Director
City of Kennedale
City Hall
405 Municipal Drive
Kennedale, TX 76060
Tel: (817) 985-2106
kcooper@cityofkennedale.com

Re: Re-Roofing Project for the City of Kennedale Retail Center

Dear Ms. Cooper:

Duro-Last Roofing has developed the following pricing proposal to re-roof the City of Kennedale Retail Center in Kennedale, Texas. This pricing proposal was developed using Duro-Last's contract number 170201 with The Interlocal Purchasing System (TIPS) and includes the total cost to purchase and install the Duro-Last roofing system.

Duro-Last will provide the Duro-Last roofing system and its installation to the City of Kennedale at RS Means pricing using the Fort Worth City Cost Index.

Installation of the Duro-Last roofing system will be provided by C4 Roofing of Frisco, Texas, a Duro-Last authorized contractor who has achieved Master Contractor status with Duro-Last based on their quantity and quality of commercial installations.

Attached is the Duro-Last specification which defines the work that Duro-Last proposes to complete. When the installation is complete, a Duro-Last Technical Representative will inspect the installation for completeness and conformity to Duro-Last specifications. Following acceptance of the roof, Duro-Last will issue a warranty to the City of Kennedale.

The Duro-Last Roofing 20-year NDL warranty provides for the repair or replacement of the roofing system, and the labor to install it, in the event of a defect in the Duro-Last products. The 20-year NDL warranty does have an additional charge to obtain it, which has been included in the proposal. The warranty also does not provide coverage of consequential damages resulting from leaks caused by any defects covered under the warranty.

Based on this scope of work, the total base price for Duro-Last to complete the City of Kennedale Retail Center re-roofing project is \$213,266.26.

Attached is a detailed pricing summary. The base price is good for delivery for 60 days from the date of this proposal, after which the components of the base price are subject to price adjustment.

Any alterations or deviation from the scope of work involving extra costs including, but not limited to, additional materials and labor will be executed only upon written change-orders submitted to Duro-Last, which will result in an extra charge over this proposal.

The base price does not include any allowances for roof deck replacement or for other hidden damages.

The building owner is responsible for obtaining any necessary permits, engineering fees, or tests needed to meet state and local codes.

The base price includes performance and payment bonds. Any bonds for this project shall only apply for a one-year maintenance period commencing on the date of substantial completion of the project. Bond coverage shall not be extended to the 20-year warranty period subsequent to the one-year maintenance period.

The lead time for manufacturing your Duro-Last roof is five business days following receipt of the order. Transit time is one business day by commercial carrier from the Duro-Last manufacturing facility in Carrollton, Texas.

Duro-Last Roofing and C4 Roofing are not responsible for the following:

- HVAC alteration and related utility work
- Lightning, lightning protection, or electrical alterations or recertification
- Satellite dishes or antenna recalibration
- Removal of material containing asbestos or asbestos testing
- Ponded water due to previous existing substrate conditions

All material is guaranteed to be as specified. All work will be completed in a workmanlike manner according to standard roofing practices and in accordance with Duro-Last published specifications. Duro-Last Roofing shall not be responsible for delays relating to weather, accidents, or other events beyond our control.

If this proposal is accepted, the Duro-Last TIPS price schedule, terms, and conditions will be applied. In addition:

1. The City of Kennedale's TIPS membership will need to be verified.
2. A purchase order and tax exempt certificate will need to be issued to Duro-Last Roofing.
3. The purchase order should be clearly marked "Per TIPS Contract".

4. E-mail the purchase order in PDF format to TIPS at tipspo@tips-usa.com for review and approval.
5. Duro-Last will issue a Notice to Proceed to C4 Roofing after receiving the approved purchase order from TIPS.

If you have any questions regarding this proposal, please contact me at (800) 248-0280, ext. 2223 or csauer@duro-last.com. If this proposal is acceptable, please indicate the approved option(s), sign below, and return with the aforementioned documents.

City of Kennedale Retail Center Re-Roofing Project Base Prices:

Area	Base Price
Main Project	\$213,266.26
Fire Station Repair	\$ 4,309.48
City Hall Repair	\$ 5,407.11

Approved Bid(s): _____

Approved By: _____

Title: _____

Date: _____

Best Regards,



Chenelle D. Sauer
Government Sales Administrator
Duro-Last Roofing, Inc.

cc: Chad Cunningham, C4 Roofing

SCOPE OF WORK

CITY OF KENNEDALE
RETAIL CENTER
KENNEDALE, TEXAS

1. Existing gutter and downspout to remain in place.
2. East Parapet Wall: Remove and properly dispose of existing coping.
3. Prepare roof area for new Duro-Last roofing system per Duro-Last specifications.
4. Install an inverted Duro-Last compatible cap sheet at low or ponding areas to achieve positive drainage.
5. Install white Duro-Fleece 50-mil membrane to prepared surface. Membrane to be fully-adhered with CR20 adhesive.
6. Install Duro-Last prefabricated flashings around all deck penetrations in accordance with Duro-Last Roofing specifications.
7. North and South Parapet Walls: Install new Duro-Last metal coping.
8. East Parapet Wall: Install Duro-Last 24-gauge, Kynar-coated, 2-piece compression metal.
9. Install Duro-Last protective walkway pads.
10. If required, any HVAC, plumbing, electrical, or other miscellaneous work that may need to be moved or disconnected and reconnected (other than normal roofing practice) will need to be done by others at building owner's expense. The cost of these services is not included in this proposal.
11. Building owner is responsible for obtaining any necessary permits, engineering fees, or tests needed to meet state and local codes.
12. C4 Roofing to provide dump and disposal fees. All debris will be disposed of in an approved facility in accordance with all local, state, and federal regulations. Jobsite to be cleaned daily.
13. Work to be performed under OSHA rules and regulations.
14. Provide a 20-year no-dollar-limit warranty which provides for the repair or replacement of the roofing system, and the labor to install it, in the event of a defect in the Duro-Last products. The Duro-Last 20-year NDL warranty does not contain a provision for coverage of consequential damages.
15. Duro-Last and C4 Roofing, are not responsible for existing building conditions such as, but not limited to, leaking walls, windows, gutters, interior drains, pipes, air conditioner equipment, electrical wiring, ducts, vents, fans, parapets, mansards, water lines, masonry walls, adjacent roofs, skylights, trim, existing water damage to the interior of the building (walls, ceilings, floors, etc.), hidden conduit within or below the existing roofing system, or the existence of mold.

16. Any bonds for this project apply only to the one-year maintenance period commencing on the date of substantial completion. Bonds do not extend to the full 20-year warranty period.

Alternate #1 – Fire Station Repair

1. Install roof coating.
2. Remove existing sealant.
3. Replace sealant on all existing surface mount counterflashing.
4. Install new gutter as identified in drawings
5. Reseal all existing coping joints.
6. Install new gutter.
7. Material and labor for this repair are considered Open Market Items. They are not covered under the Duro-Last warranty.

Alternate #2 – City Hall Repair

1. Area A:
 - a. Install 1,000 square feet of roof coating.
 - b. Remove existing sealant.
 - c. Replace sealant on all existing surface mount counterflashing.
2. Area B:
 - a. Install new gutter as identified in drawings
 - b. Reseal all existing coping joints.
3. Area C:
 - a. Install new gutter.
4. Material and labor for this repair are considered Open Market Items. They are not covered under the Duro-Last warranty.

Duro-Last/TIPS Project Bid Sheet**Date:** 8/3/2017**Building Owner:** City of Kennedale**Project Name:** Retail Center**Warranty:** 20-yr NDL**Mil:** 50-mil DF**DL Material SF:** 50,000**Contractor Name:** C4 Roofing**Base Bid**

Duro-Last Gross Material \$ 70,788.99
TIPS Discount \$ (4,955.23)
Duro-Last Net Material \$ 65,833.76

Ancillary Services

Demolition \$ 7,950.00
Supply Non Duro-Last Materials \$ 18,100.00
Installation Labor - Misc. \$ 3,575.00
Installation Labor - Duro-Last \$ 69,300.00
Installation Labor - Insulation \$ -
Installation Labor - Metal \$ 10,000.00
Additional Labor \$ 9,900.00
Project Commencement \$ 2,800.00
Equipment Rental \$ 3,250.00
Total Ancillary Services \$ 124,875.00

Open Market Items \$ -
Contingency \$ 1,500.00
Other \$ -
Bonds \$ 1,919.40
Warranty Fees \$ 5,000.00
Duro-Last Administration Fees \$ 14,138.10
Bid Total \$ 213,266.26

Fire Station Repair, Add: \$ 4,309.48

City Hall Repair, Add: \$ 5,407.11

Staff Report to the Honorable Mayor and City Council

Date: September 18, 2017

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

I. Subject:

Consider authorizing the City Manager to enter into an Agreement for Wastewater Service Between the City of Fort Worth, Texas, and the City of Kennedale, Texas (**Postponed on August 21, 2017**)

II. Originated by:

Larry Ledbetter, Director of Public Works

III. Summary:

The City of Kennedale's current wastewater contract with the City of Fort Worth expires at the end of September 2017. The City of Fort Worth wishes to continue providing wastewater services and has provided a new contract for consideration. The new contract would be effective October 1, 2017, and expire September 30, 2037.

The contract with Fort Worth provides wastewater service for the area West of Village Creek (in the Oakcrest Addition) and also includes businesses including QT, Popeye's, McDonald's, and Fort Worth Tower (FWT). This area produces approximately 5% of Kennedale's total wastewater flow, with the remaining 95% contracted through the City of Arlington.

Staff recommends authorizing the City Manager to enter into a contract Agreement for Wastewater Service between the City of Fort Worth, Texas and the City of Kennedale, Texas.

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

Approve

VII. Alternative Actions:

VIII. Attachments:

1.	CurrentConsideration_FW Wastewater Contract_2017	CurrentConsideration_FW Wastewater Contract_2017.pdf
2.	Historical_FW Wastewater Contract_1994	Historical_FW Wastewater Contract_1994.pdf

AGREEMENT FOR WASTEWATER SERVICE BETWEEN
THE CITY OF FORT WORTH, TEXAS, AND
CITY OF KENNEDALE, TEXAS

Table of Contents

RECITALS	1
ARTICLE 1. Definitions	2
1.1 Act or "the Act"	2
1.2 Biochemical Oxygen Demand (BOD)	2
1.3 Calibration	2
1.4 Capital Improvements	2
1.5 Chapter 395	2
1.6 Customer Connection	2
1.7 Customer System	2
1.8 Customer's Service Area (or "Service Area")	2
1.9 Delivery Facilities	2
1.10 Director	2
1.11 Domestic Accounts	2
1.12 Facility Expansion	2
1.13 Fiscal Year	3
1.14 Fort Worth System	3
1.15 Impact Fee	3
1.16 Industrial User	3
1.17 Industrial Wastes	3
1.18 Infiltration	3
1.19 Inflow	3
1.20 Liquid Waste	3
1.21 Metering and sampling facility	3
1.22 Non-Domestic Accounts	3
1.23 Unmetered Area(s)	3
1.24 Parties	3
1.25 Per Connection	4
1.26 PILOT	4
1.27 Point of Entry	4
1.28 POTW	4
1.29 Pretreatment	4
1.30 Pretreatment Requirements	4
1.31 Sanitary Sewer Evaluation Survey	4
1.32 Significant Industrial User or "SIU"	4
1.33 Standard Methods	4
1.34 Street Rental	5
1.35 System Cost	5
1.36 TCEQ	5
1.37 Total Suspended Solids (TSS)	5
1.38 TRA Contract	5
1.39 Wastewater	5
1.40 Wastewater Permits	5
1.41 Wastewater Strength	5

ARTICLE 2.	Customer Connection to the Fort Worth System.....	5
2.1	Consent to Connect.....	5
2.2	Delivery and Payment.....	6
2.3	Connection Points.....	6
2.4	Customer Delivery Facilities.....	6
2.5	Wastewater from Adjacent Areas.....	6
ARTICLE 3.	Operation and Maintenance.....	7
3.1	Customer System.....	7
3.2	Fort Worth System.....	7
3.3	Metering and Sampling Facilities.....	7
ARTICLE 4.	Metering and Sampling Facilities and System Infrastructure Improvements.....	7
4.1	Customer Connections and Metering and Sampling Facilities.....	7
4.2	Capacity Improvements.....	9
4.3	Cost of New, Enlarged or Additional Connections.....	9
4.4	Peak Flow and Remediation.....	9
4.5	Construction Standards.....	10
4.6	Transfer to Customer upon Termination.....	10
ARTICLE 5.	Rights-of-Way.....	10
5.1	Rights-of-Way Granted by Customer.....	10
5.2	Rights-of-Way Granted by Fort Worth.....	10
5.3	Construction Standards.....	11
5.4	Conflicts.....	11
ARTICLE 6.	Metering and Sampling.....	11
6.1	Meter Reading.....	11
6.2	Flows to be Metered.....	11
6.3	Unmetered Areas.....	11
6.4	Calibration.....	11
6.5	Customer Access.....	11
6.6	Records.....	12
6.7	Accuracy and Corrections.....	12
6.8	Meter Out of Service.....	12
6.9	Wastewater Strength Sampling.....	12
6.10	Compliance Monitoring.....	12
6.11	System Cost.....	13
ARTICLE 7.	Rates and Charges.....	13
7.1	Method of Rate Determination.....	13
7.2	Initial Rates.....	14
7.3	Billing and Payment.....	14
7.4	Billing Dispute.....	14
7.5	Services are Essential and Necessary.....	15
7.6	Customer to Collect Sufficient Revenues.....	15
7.7	Customer to Adopt User Charge.....	15
7.8	Rate Adjustments.....	15
7.9	Wholesale Services Purchased by Fort Worth.....	15
ARTICLE 8.	Industrial Connection and Monitoring.....	16
8.1	Additional Connections.....	16

8.2	Quality.....	16
8.3	Sampling and Industrial User Disconnections.....	16
8.4	Questionable or Prohibited Discharges.....	16
ARTICLE 9.	Wastewater Quality.....	16
9.1	Industrial Wastes.....	16
9.2	Customer Wastewater Quality Ordinance	16
9.3	Customer Wastewater Quality	17
9.4	Customer SIU Permits	17
ARTICLE 10.	Resale of Wastewater Services and Large Volume Retail Customers	18
10.1	No Service Outside the Customer's Service Area.....	18
10.2	Large Volume Users	18
10.3	Wholesale Customer Compliance.....	18
ARTICLE 11.	Infiltration and Inflow.....	18
11.1	Prevention.....	18
11.2	Standards for Customer's Retail Connections.....	19
11.3	Customer Overflows	19
ARTICLE 12.	Sludge Disposal	19
ARTICLE 13.	Wastehaulers.....	19
ARTICLE 14.	Reports and Records	19
14.1	Data and Information	19
ARTICLE 15.	Notices	20
15.1	Required Notice	20
15.2	Delivery and Receipt.....	20
15.3	Change of Address Notices.....	20
ARTICLE 16.	Inspection and Audit.....	20
ARTICLE 17.	Ownership and Liability	21
17.1	Ownership	21
17.2	Liability.....	21
17.3	Independent Contractors	21
ARTICLE 18.	Compliance with Permit Conditions.....	21
ARTICLE 19.	Term.....	22
ARTICLE 20.	Force Majeure.....	22
20.1	Notice and Suspension.....	22
20.2	Definition	22
ARTICLE 21.	Breach, Termination and Other Remedies.....	22
21.1	Termination by Mutual Consent.....	22
21.2	Termination for Material Breach	22
21.3	Termination for Repeated Breach.....	23
21.4	Material Breach.....	23
21.5	Notice and Cure	23
21.6	Notice and Cure for Nonpayment of Impact Fees	24
21.7	Notice and Cure for Breach of SIU Obligations.....	24
21.8	Effect of Termination.....	24
21.9	No Waiver by Fort Worth.....	24
21.10	No Waiver by Customer	24
ARTICLE 22.	Impact Fees	25

22.1	Calculation of Impact Fees	25
22.2	Payment of Impact Fees	25
22.3	Use of Impact Fees.....	25
22.4	Impact Fee Report.....	26
22.5	No Waiver	26
22.6	Customer Impact Fee Committee ("CIFC")	26
22.7	Capital Improvements Plan.....	26
22.8	Dissemination of Documents	26
22.9	Current Impact Fees	27
22.10	Changes to Chapter 395	27
ARTICLE 23.	Wholesale Wastewater Advisory Committee	27
ARTICLE 24.	Miscellaneous	27
24.1	Favored Nations	27
24.2	Subject to Laws and Permits.....	27
24.3	Entry on Customer's Premises.....	27
24.4	Alternative Dispute Resolution.....	28
24.5	Inspection and Audit	28
24.6	Use and Sale of Treated Effluent.....	28
24.7	Diversion of Untreated Effluent.....	28
24.8	Assignment	29
24.9	No Waiver	29
24.10	Venue	29
24.11	Construction.....	29
24.12	Effect of Agreement.....	29
24.13	Severability	29
24.14	System Regulatory Actions.....	30
24.15	Additional Contract Terms	30
24.16	Exhibits	30
ARTICLE 25.	Effective Date	30
EXHIBIT A – MAP - Boundaries of the Customer's Service Area and Mutually Agreed Point(s) of Connection		
EXHIBIT B – Example of Monthly Wastewater Bill Calculation		
EXHIBIT C – Calculation of PILOT and Cost-of-Service Revenue Requirement to Recover the Cost of PILOT		
EXHIBIT D –Additional Terms		

AGREEMENT FOR WASTEWATER SERVICE BETWEEN
THE CITY OF FORT WORTH, TEXAS, AND
CITY OF KENNEDALE, TEXAS

STATE OF TEXAS §
COUNTY OF TARRANT §

This Contract and Agreement ("Agreement") is made and entered into this ___ day of _____, 20__, by and between the City of Fort Worth, a municipal corporation located in Tarrant County, Texas, acting by and through Jesus J. Chapa, its duly authorized Assistant City Manager, hereinafter called "Fort Worth," and the City of Kennedale, located in Tarrant County, Texas, acting by and through Brian Johnson, its duly authorized Mayor, hereinafter called "Customer," and hereinafter collectively referred to as the "Parties".

R E C I T A L S

- A. WHEREAS the public health, welfare and safety of the residents of Fort Worth and Customer require the development of adequate systems of sewage collection and disposal, the elimination of water pollution and the preservation of the water resources of the area; and
- B. WHEREAS Fort Worth and Customer are required to comply with standards and treatment methods for wastewater as set forth in federal, state and local laws and regulations and permits; and
- C. WHEREAS Fort Worth and Customer have an interest in maintaining and restoring the chemical, physical and biological integrity of waters and water resources and preventing pollution in said waters and water resources, and planning the use, development, restoration, preservation and enhancement of said waters and water resources; and;
- D. WHEREAS, Fort Worth and Customer have previously entered into a contract, being known as Fort Worth City Secretary Contract No. 20141, dated February 8, 1994 together with any and all amendments thereto dated March 25, 1997 and May 6, 2008, said contract[s] and amendments, if any, providing for wholesale wastewater services; and;
- E. WHEREAS, Customer desires to continue to contract for wholesale wastewater service and Fort Worth desires to continue to provide wholesale wastewater service under contract to Customer; and
- F. WHEREAS, Chapter 552 of the Texas Local Government Code and Chapter 791 of the Texas Government Code, authorize Fort Worth and Customer to enter into this Agreement;

NOW, THEREFORE, KNOW ALL BY THESE PRESENTS that for and in consideration of the mutual covenants, promises and agreements contained herein, Fort Worth and Customer do hereby covenant and agree as follows:

ARTICLE 1. Definitions

The following definitions apply throughout this Agreement:

1.1 Act or "the Act". The Federal Water Pollution Control Act, also known as the Clean Water Act ("CWA"), as amended (33 U.S.C. 1251, et seq.).

1.2 Biochemical Oxygen Demand (BOD). The quantity of oxygen utilized in the biochemical oxidation of organic matter specified by procedure in Method 5210B in the Standard Methods for the Examination of Water and Wastewater, and results expressed in terms of weight and concentration (milligrams per liter (mg/L))

1.3 Calibration. Verification of primary measuring device and secondary instrumentation accuracy utilizing standard primary device procedures and calibration signals and/or a separate flow measurement instrument.

1.4 Capital Improvements. Any of the following facilities which provide utility services and that have a life expectancy of three (3) or more years, whether such capital improvements are located within the extraterritorial jurisdiction or corporate limits of Fort Worth or Customer: wastewater treatment facilities, metering and sampling facilities, control systems and appurtenances, storage or retention facilities, and all major collectors and interceptors that are eighteen inches (18") and greater in diameter and lift stations, if any, associated therewith.

1.5 Chapter 395. Chapter 395 of the Texas Local Government Code, as it may be amended or re-codified from time to time.

1.6 Customer Connection. See Point of Entry.

1.7 Customer System. The facilities of Customer used for pretreatment, collection and transportation of wastewater to the Point of Entry.

1.8 Customer's Service Area (or "Service Area"). Unless otherwise shown on **Exhibit A**, the Customer's Service Area is the area within the Customer's city limits (its corporate boundaries), and does not include the Customer's extra-territorial jurisdiction.

1.9 Delivery Facilities. All facilities used for the transmission of wastewater to the Fort Worth System that are on the Customer's side of the Point of Entry and directly connected to the Fort Worth System, including all upstream pipelines of the same or larger diameter.

1.10 Director. The Director of the Fort Worth Water Department or his designee.

1.11 Domestic Accounts. Single-family and residential duplex dwellings served by one meter. This definition is used only in the context of determining billing Per Connection.

1.12 Facility Expansion. The expansion of the capacity of an existing facility that serves the same function as an otherwise necessary new capital improvement, in order that the existing facility may serve new development. The term does not include the repair, maintenance, modernization, or an expansion of an existing facility to better serve existing development.

1.13 Fiscal Year. The fiscal year of Fort Worth, which is from October 1st through September 30th.

1.14 Fort Worth System. Fort Worth's wastewater system, including all facilities for wastewater collection, storage and retention, treatment, treated wastewater disposal, sludge handling and disposal, and producing finished wastewater for beneficial reuse. As used in this Agreement, the term "Fort Worth System" does not include any beneficial reuse pipelines and its related distribution facilities.

1.15 Impact Fee. A capital contribution funding or recouping the cost of Capital Improvements necessitated by and attributable to new development or new connections to the Fort Worth System, subject to and as provided in **Article 22** of this Agreement.

1.16 Industrial User. A person (as defined in the Act) that introduces pollutants into the Fort Worth System from any nondomestic source regulated under Section 307(b), (c), or (d) of the Act.

1.17 Industrial Wastes. Any waterborne liquid or solid substance that results from any process of industry, manufacturing, mining, production, trade or business.

1.18 Infiltration. Water that has migrated from the ground into the wastewater system.

1.19 Inflow. Water other than wastewater that enters a sewerage system (including sewer service connections) from sources such as, but not limited to, roof leaders, cellar drains, yard drains, area drains, drains from springs and swampy areas, manhole covers, cross connections between storm sewers and sanitary catch basins, cooling towers, storm waters, surface runoff, street wash waters or drainage. Inflow does not include, and is distinguished from, Infiltration water.

1.20 Liquid Waste. The water-borne solids, liquids, and gaseous substances derived from certain sources including, but not limited to, grease trap, septic tank, chemical toilet waste and sand trap waste.

1.21 Metering and sampling facility. The meter, meter vault, and all metering and telemetry equipment required to measure and/or sample Customer wastewater flows that enter the Fort Worth System.

1.22 Non-Domestic Accounts. Commercial, industrial, multi-family or other accounts that are not considered Domestic Accounts. This definition is used only in the context of determining billing Per Connection.

1.23 Unmetered Area(s). Areas within the Customer's corporate or certificated boundaries that generate wastewater that do not drain into a part of the Customer System for which wastewater flow is measured by an approved metering and sampling facility.

1.24 Parties. Fort Worth and the Customer, or each individually.

1.25 Per Connection. Billing or charging "Per Connection" means charging for Unmetered Area connections as provided in § 6.3.

1.26 PILOT. Payment in Lieu of Taxes, as described in **Exhibit C**.

1.27 Point of Entry. The Point of Entry (or "Customer's Connection") is the upstream entry point to each metering and sampling facility from which the Customer's wastewater flows into the Fort Worth System, as shown on **Exhibit A** and described in § 2.3.

1.28 POTW. Publicly owned treatment works.

1.29 Pretreatment. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a Publicly Owned Treatment Works. The reduction or alteration can be obtained by physical, chemical or biological processes, or process changes by other means, except as prohibited by 40 CFR Section 403.6(d).

1.30 Pretreatment Requirements. Pollutant concentration discharge limitation and reporting requirements stipulated in Fort Worth City Code Article VI: Industrial Wastewater, and any amendments thereto, and the Customer's Code, as hereinafter amended, and Federal Pretreatment Standards promulgated by the U.S. Environmental Protection Agency.

1.31 Sanitary Sewer Evaluation Survey. A Sanitary Sewer Evaluation Survey or "SSES" is a survey as described in § 4.4

1.32 Significant Industrial User or "SIU".

- (a) All Industrial Users subject to Categorical Pretreatment Standards under 40 CFR § 403.6 and 40 CFR Chapter I, Subchapter N, as amended from time to time;
- (b) Any other Industrial User that discharges an average of twenty-five thousand (25,000) gallons per day or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blow-down wastewater); contributes a process wastestream which makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or is designated as such by the Director on the basis that the Industrial User has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement (in accordance with 40 CFR § 403.8(f)(6)); or
- (c) Any other person or entity that falls within the definition of Significant Industrial User in the Fort Worth City Code, as it may be amended from time to time.

1.33 Standard Methods. Those testing or analysis procedures as prescribed in the then current edition of "Standard Methods for Examination of Water and Wastewater," published by the American Public Health Association and/or the U.S. Environmental Protection Agency Manual of Methodologies for the Examination of Water and Wastewaters, or as will otherwise comply with procedures specified in state and federal discharge permits held by Fort Worth.

1.34 Street Rental. The Street Rental charged to the wholesale customers of the Fort Worth System is intended to be compensation for use of public rights-of-way. The Street Rental is established at five percent (5%) of the revenue requirements, excluding Payment in Lieu of Taxes (PILOT). The Street Rental cannot be decreased without the consent of Fort Worth in its sole discretion and, in the event of an increase, can only be increased in one percent (1%) increments once every five (5) years starting on the anniversary date of this Agreement, and shall never exceed the rate being collected from the natural gas franchised utility serving the City of Fort Worth or the rate collected from the retail wastewater customers of Fort Worth, whichever is less.

1.35 System Cost. System Cost, as provided in § 7.1.2.

1.36 TCEQ. The Texas Commission on Environmental Quality or its successor agency.

1.37 Total Suspended Solids (TSS). Solids, measured in mg/L, that either float on the surface of, or are in suspension in, water, wastewater or other liquids, and which are largely removable by a laboratory filtration device. Also referred to as Total Non-Filterable Residue.

1.38 TRA Contract. Fort Worth City Secretary Contract No. 16054 "Trinity River Authority of Texas – Denton Creek Regional Wastewater Treatment System Contract," and Fort Worth City Secretary Contract No. 8632 between the Trinity River Authority of Texas and the City of Fort Worth entered into as of the 20th day of February, 1976, and any amendments to those agreements.

1.39 Wastewater. All liquid or water-carried waste products from whatever source derived, together with such Inflow and Infiltration as may be present, whether treated or untreated, which is discharged into or permitted to enter into the Fort Worth System. The words "wastewater" and "sewage" are interchangeable.

1.40 Wastewater Permits. The TCEQ Texas Pollutant Discharge Elimination System permit issued to Fort Worth for the Village Creek Water Reclamation Facility, as it may be renewed or amended from time to time or any another POTW, wastewater treatment plant or water reclamation facility that is owned or operated (directly or through contract) by Fort Worth.

1.41 Wastewater Strength. The concentrations of BOD and TSS and, where relevant or applicable under TCEQ or EPA regulations, concentrations of other wastewater pollutants or contaminants.

ARTICLE 2. Customer Connection to the Fort Worth System

2.1 Consent to Connect. All subject to the Customer's compliance with the terms and conditions of this Agreement, Fort Worth agrees that the Customer may connect its System to the Fort Worth System at the agreed Point(s) of Entry and that Fort Worth will accept for collection, transportation, treatment and disposal the wastewater that the Customer delivers to the Fort Worth System through the agreed Point(s) of Entry.

2.2 Delivery and Payment. Customer agrees to deliver wastewater into the Fort Worth System and to pay for Fort Worth's wastewater services all in accordance with the terms and conditions of this Agreement.

2.3 Connection Points. Customer shall connect its System to the Fort Worth System only at the Point(s) of Entry designated on Exhibit "A" and at such additional points of entry as may later be mutually agreed upon in writing signed by both Parties. Where no metering facility is used (Unmetered Area connections), the Point of Entry is where the Customer's System connects to the Fort Worth System, unless otherwise mutually agreed upon in writing.

2.4 Customer Delivery Facilities. Unless otherwise agreed by the Parties in writing, Customer is responsible for the design, contracting, construction and financing of its Delivery Facilities and the acquisition of any necessary rights-of-way and easements for, to and from such facilities. All designs, materials and specifications shall conform to or be at least as stringent as Fort Worth's requirements for such facilities. The Customer shall submit to the Director for written approval all plans and specifications for any Delivery Facilities. Such approval shall not be unreasonably withheld; however, no construction of such Delivery Facilities will begin until such approval has been given. Upon completion, Customer shall provide record drawings in a format reasonably acceptable to Fort Worth. Customer agrees that Fort Worth has the right to make periodic inspections during construction of the Delivery Facilities. Final completion and connection of such Delivery Facilities to the Point of Entry is subject to the continuing inspection and written approval of the Director.

2.5 Wastewater from Adjacent Areas. At the request of the Director, Customer agrees to allow wastewater from areas and premises adjacent to the Customer's boundaries and within the boundaries of Fort Worth's or another Fort Worth wholesale customer's service area, to flow through Customer's System, subject to the Texas Water Code and TCEQ regulations regarding service areas. The metered quantity of wastewater from this area transported into the Fort Worth System each month shall be measured Per Connection or, at the option of Customer or Fort Worth, and where the wastewater flows are of sufficient volume that metering is practicable, metering and sampling facilities may be installed at the expense of Fort Worth to meter and sample all wastewater from this adjacent area. The quantity of wastewater from this adjacent area shall be deducted from the quantity of the Customer's wastewater passing through the Customer's connection to the Fort Worth System before volume charges for wastewater service to Customer are computed and, if the meter serving those customers has been equipped to measure it, the Customer's billing shall also be adjusted for differences in the Wastewater Strength of the adjacent area. When additional pipeline capacity is required to transport the flows, Customer agrees that it shall be responsible for its proportional cost of the additional capacity needed to serve Customer's current or projected future flows as agreed upon by the Customer and Fort Worth. The cost of additional infrastructure shall be borne by the Customer and Fort Worth, in proportion to the projected flow volumes of each. Customer shall not be responsible for the cost of additional capacity needed solely to serve adjacent areas not under Customer's jurisdiction.

ARTICLE 3. Operation and Maintenance

3.1 Customer System. Customer agrees to maintain its System in good condition and to make repairs in a timely manner. Fort Worth shall not have any responsibility or liability now or ever for the operation or maintenance of the Customer System, except as the Parties may otherwise agree in writing.

3.2 Fort Worth System. Fort Worth agrees to maintain its System in good condition and to make repairs in a timely manner. Customer shall not have any responsibility or liability now or ever for the operation or maintenance of the Fort Worth System, except as otherwise provided in this Agreement.

3.3 Metering and Sampling Facilities. After transfer to Fort Worth as provided in **Article 4**, Fort Worth shall become solely responsible for the operation and maintenance of metering and sampling facilities connected to its System.

ARTICLE 4. Metering and Sampling Facilities and System Infrastructure Improvements

4.1 Customer Connections and Metering and Sampling Facilities. Either Customer or Fort Worth, with written consent of the Director and execution of the necessary agreements, may construct the Customer Connection, Metering and Sampling Facilities.

4.1.1 Cost of Customer Connection. Customer shall pay the cost of each new, enlarged or additional Customer connection to the Fort Worth System and related metering and sampling facilities, including new or modified wholesale meters as necessary to accommodate increased Customer flows. Such Customer costs include costs of: design, engineering; site acquisition and preparation; construction and inspection; the facility equipment, the final connection, and all necessary easements and rights-of-way, including those for access to the meter site.

4.1.2 Facilities Transfer to Fort Worth. Customer shall transfer (or arrange for transfer) to Fort Worth all metering and sampling facilities connecting the Customer's System to the Fort Worth System, together with the sole authority to operate and maintain the facilities. All transfers shall be within 60 days of the Effective Date or the completion of the facilities, whichever is later, and shall be accomplished with documents in a form satisfactory to Fort Worth. Thereafter, Fort Worth shall be solely responsible for the operation, and maintenance of the metering and sampling facilities, and such costs shall be a System Cost.

4.1.3 Site Transfer to Fort Worth. Unless otherwise prohibited by law or contract, Customer shall transfer to Fort Worth all of Customer's fee simple or other property rights in the land that is the site for the metering and sampling facilities. To the extent that the property is larger than necessary, or Customer needs to retain a portion of the property for other purposes, Fort Worth or Customer may choose to exclude that portion of the property that is not reasonably necessary for the operation, maintenance, sampling and testing, repair or replacement of the facilities. All transfers shall be within 60 days of the Effective Date or the

completion of the facilities, whichever is later, and shall be accomplished with documents in a form satisfactory to Fort Worth.

- 4.1.4 Access. Customer will secure and transfer to Fort Worth continuous rights of access, ingress and egress to the Customer metering and sampling facilities and, subject to any necessary consents, transfer or assign to Fort Worth any permits, access agreements, licenses, easements or rights-of-way that Fort Worth agrees are needed for the continuous operation and maintenance of, and access to, all metering and sampling facilities for as long as this Agreement is in effect.
- 4.1.5 Credit for Transfers. The Customer's transfers to Fort Worth under §§ 4.1.2 - 4.1.4 above shall be treated as a Customer contribution for rate purposes, but the transfers shall not be any indicia of equity ownership in the metering and sampling facilities or in the Fort Worth System.
- 4.1.6 Fort Worth Optional Construction. As determined by the Director for the efficient operation of the Fort Worth System or service to its customers, and unless otherwise agreed in writing by both Parties, Fort Worth shall have the option, but not the obligation, to design and construct, to acquire site property, and to obtain necessary permits, ingress, egress and access agreements, licenses, easements or rights-of-way for:
- (a) Additional Customer metering and sampling facilities not in existence on the Effective Date (for example, for Unmetered Areas), including any modifications to the Customer's Delivery Facilities necessary to accommodate a complete initial installation satisfactory to Fort Worth; and
 - (b) Improvement, expansion, upgrading or replacement of existing or future Customer metering and sampling facilities.

Customer has the right to review Fort Worth's proposed construction, expansion, and replacement plans for such construction before it begins. All costs of such optional construction undertaken by Fort Worth shall be a System Cost.

- 4.1.7 Operation and Maintenance Expenses. Expenses incurred by Fort Worth for the operation and maintenance of Customer metering and sampling facilities shall be System Costs and shall include the following:
- (a) Electricity at the facility;
 - (b) Initial telemetry connection to the facility and the control center, and any routine periodic charges for telephone, data or other communication services;
 - (c) Meter calibration;

- (d) Parts, materials and supplies for calibration, repair and maintenance of the facilities;
- (e) Labor cost plus fringe benefits and indirect costs for calibration, repair and maintenance of the facilities; and
- (f) Maintenance of ingress, egress and meter facility site.

4.2 Capacity Improvements Customer and Fort Worth agree to cooperate in determining the need for additional downstream Capital Improvements, and related construction schedules and cost-participation and will seek to manage downstream flows and/or peak flows consistent with Fort Worth's and the Customer's master planning or capital improvement planning. Customer agrees to notify Fort Worth before it begins constructing significant expansions or additions to its System.

4.3 Cost of New, Enlarged or Additional Connections. Except for the System Cost authorized in § 4.1.6 above, Customer shall pay the cost of each new, enlarged or additional Customer connection to the Fort Worth System, including the cost of the Delivery Facilities, the Metering and Sampling Facilities, and the Customer's proportionate share of any improvements required for that connection or related service to be provided after the Point of Entry. The Customer's cost shall be calculated in the same manner as the "developer's cost" for special facilities, including pipelines, under Fort Worth's then-existing Water and Wastewater Installation Policy, as determined by the Director. Customer will pay that amount to Fort Worth before making the new, enlarged or additional connection to the Fort Worth System, and the amount shall not be a System Cost.

4.4 Peak Flow and Remediation. In any 12-month period, if the volume of the Customer's wholesale wastewater flow into the Fort Worth System for any one day exceeds 4 times the average of the Customer's actual daily flow, averaged over the prior 3 fiscal years, then a Sanitary Sewer Evaluation Survey (SSES) is required in response to the exceedance, as follows.

- 4.4.1 Within a reasonable time after such an exceedance, Fort Worth will send a Notice to Customer stating the specific date(s) and volumes of the flows that resulted in the exceedance, and describing the schedule and procedures for submitting the results and implementing the required SSES.
- 4.4.2 The SSES is a survey of the affected portion of the Customer System sufficient to identify the cause or source of the wastewater flows that have resulted in the exceedance. The SSES may include activities such as additional flow measurements, smoke tests or inspections and the final report shall list specific remedial actions. The costs of the SSES and performance of the remedial actions recommended in the SSES must be borne by Customer, to the extent necessary to eliminate or accommodate the Customer's increased flows.
- 4.4.3 If Customer fails to perform the SSES and pay the costs of the remedial action as required by this § 4.4 and the exceedance is repeated then, in addition to any remedies available under **Article 21**, Fort Worth has the right to recover from the Customer all of Fort Worth's incremental costs of handling the increased flows,

such as infrastructure improvements and any regulatory agency fines that may be levied, or corrective action required by TCEQ, as a result of the Customer's repeated exceedance(s). Fort Worth shall provide documentation that the Customer's exceedances resulted in such incremental costs and any costs recovered from Customer shall not also be included as a System Costs.

- 4.4.4 The Director may waive the requirement for the Customer to perform the SSES or to implement recommended remedial action if, in his sole opinion, the SSES or the recommended remediation is not necessary to protect the interests of Fort Worth.

4.5 Construction Standards. Any design, construction, installation or replacement of wholesale meters, sampling facilities, Delivery Facilities, or other Capital Improvements for providing service under this Agreement shall comply with 30 Texas Administrative Code Ch. 217 and Fort Worth's standards and specifications, as they are in effect at the time of the construction. After initial construction, the "time of the construction" is the date of any subsequent upgrade or replacement.

4.6 Transfer to Customer upon Termination. Upon expiration or termination of this Agreement under its terms by either Party, Fort Worth shall transfer back to Customer any metering and sampling facilities, rights of access, ingress and egress, and any permits, access agreements, licenses or easements and rights-of-way that Customer previously conveyed, transferred or assigned to Fort Worth under the terms of this **Article 4**.

ARTICLE 5. Rights-of-Way

5.1 Rights-of-Way Granted by Customer. Customer shall grant, without charge to Fort Worth, such easements and rights-of-way along public highways or other property owned by Customer, as requested by Fort Worth, in order to construct and maintain wastewater mains or facilities within the Customer's Service Area to provide wastewater service to Customer and to other areas. If two or more locations are mutually acceptable to Fort Worth and Customer, then Customer may select the final location from among them. Upon notice from Customer and at Fort Worth's expense, Fort Worth will move its wastewater lines or other facilities located in such street rights-of-way or on other property owned by Customer when reasonably necessary to the performance of essential governmental duties by Customer. Fort Worth's relocation costs under this § 5.1 shall be a System Cost to the extent that the lines are related to service to Fort Worth's wholesale wastewater customers.

5.2 Rights-of-Way Granted by Fort Worth. Fort Worth shall grant, without charge to Customer, such easements and rights-of-way along public highways or other property owned by Fort Worth, as requested by Customer, in order to construct and maintain wastewater mains or facilities within Fort Worth to provide wastewater service to Customer under this Agreement. If two or more locations are mutually acceptable to Fort Worth and Customer, then Fort Worth may select the final location from among them. Upon notice from Fort Worth and at the Customer's expense, Customer will move such wastewater mains or facilities when located in such street rights-of-way or other property owned by Fort Worth when reasonably necessary to performance of essential governmental duties by Fort Worth.

5.3 Construction Standards. All work done by or on behalf of Fort Worth under this paragraph will be performed in accordance with specifications equal to those applying to work of a similar nature performed within Fort Worth, and the applicable Party will use its best efforts to restore the others' property to as near original condition as feasible unless otherwise mutually agreed in writing.

5.4 Conflicts. Fort Worth and Customer agree to coordinate the location of the mains and/or facilities in the other's easements and rights-of-way in order to prevent further conflicts insofar as is reasonably practicable.

ARTICLE 6. Metering and Sampling

6.1 Meter Reading. Fort Worth will read all Customer Point of Entry meters at monthly intervals, and the Parties shall have free access to read these respective meters daily, if either Party so desires. Each Party has the duty to give immediate notice to the other of any meter that it finds is not functioning properly, and Fort Worth shall promptly investigate and make any necessary repairs.

6.2 Flows to be Metered. All flow discharged into the Fort Worth System by Customer shall be metered, unless specifically agreed otherwise by both Parties in writing. Fort Worth agrees to allow those Customers served on a per connection basis, with prior approval from Fort Worth to remain on per connection until conditions allow for the flow to be metered.

6.3 Unmetered Areas. If, in the judgment of the Director, the sewage generated within one or more areas of the Customer cannot be accurately measured by an approved type of metering station, then the charge for sanitary sewer service within that drainage area will be calculated Per Connection as follows: For monthly billing purposes, the total gallons of sewage for the Unmetered Areas will be calculated as the sum of: (i) the total gallons of metered water of all Non-Domestic Accounts within the area plus (ii) the number of Domestic Accounts within the area times 10,500 gallons. The Parties agree that the 10,500 gallons for Domestic Accounts already accounts for Inflow and Infiltration, and therefore needs no further adjustment for it. The total volume so derived each month will be used as the basis for calculating the total wastewater charges due each month for that Unmetered Area and such charges will be added to any other charges for metered connections. For all such Unmetered Areas, Customer will be responsible for providing data each month on the number of Domestic Accounts and the metered water volume of all Non-Domestic Accounts. This data will be provided by Customer to Fort Worth no later than the 5th of each calendar month.

6.4 Calibration. Fort Worth shall calibrate and routinely service the meters no less than once during each six (6) month period. Copies of the results of such calibration and all related information shall be provided to Customer. Fort Worth shall notify the Customer at least seventy-two (72) hours in advance of the date and time for any calibration and Customer may observe, if so desired.

6.5 Customer Access. Customer shall have access to the metering and sampling facilities at all reasonable times; provided, however that any reading, calibration or adjustment to such

metering equipment shall be done only by employees or agents of Fort Worth, or other mutually approved third party calibration agent in the presence of representatives of Customer and Fort Worth, if so requested by Customer. Notice of any proposed third-party calibration shall be provided to all Parties at least seventy-two (72) hours in advance.

6.6 Records. All readings of meters will be entered into the records maintained by Fort Worth. Customer shall have access to such records during reasonable business hours and shall be furnished with monthly totalizer readings for each Customer Point of Entry metering and sampling facility.

6.7 Accuracy and Corrections. Upon any calibration, if it is determined that the accuracy envelope of such meter is found to be lower than ninety-five percent (95%) or higher than one hundred five percent (105%) expressed as a percentage of the full scale of the meter, the registration of the flow as determined by such defective meter shall be corrected for a period extending back to the time such inaccuracy began, if such time is ascertainable; or, if such time is not ascertainable, then for a period extending back one-half (1/2) of the time elapsed since the date of the last calibration, but in no event further back than a period of six (6) months

6.8 Meter Out of Service. If any meter used to determine volume from Customer is out of service or out of repair so that the amount of wastewater metered cannot be ascertained or computed from the reading thereof, the wastewater delivered through the period such meter is out of service or out of repair shall be estimated and agreed upon by the Parties on the basis of the best data available. The basis for estimating such flow includes, but is not limited to, extrapolation of past patterns of flow for said metering station under similar conditions. If Parties cannot reach agreement on the extrapolated estimate of wastewater volume delivered, then agreement on the flow volume will be determined by § 24.4 dispute resolution.

6.9 Wastewater Strength Sampling. Fort Worth shall periodically sample and test the wastewater at the metering and sampling facilities or other agreed upon sampling points for the purposes of billing for the Wastewater Strength. Unless otherwise agreed in writing, sampling and testing of wastewater shall occur three times per year. To determine the Wastewater Strength, Fort Worth shall collect twenty-four (24) hour flow-weighted composite samples for a period of not less than five (5) consecutive twenty-four (24) hour periods. Fort Worth will provide Customer with a minimum of seven (7) day advance notice of intent to sample, or such notice as is sufficient to allow Customer to arrange the services of a qualified laboratory. If, at the request of Customer or at the request of the Director, more extensive sampling and testing is desired, it shall be paid for by the Party making the request and shall be done in compliance with this **Article 6**. If Customer requests such additional sampling and testing, then Fort Worth shall invoice Customer and payment shall be made within ten (10) days after receipt of invoice. The notice required in this section shall include the planned dates, times, and location(s) of sampling. Fort Worth shall analyze the samples collected in accordance with standard methods. Customer may be present during the initial setup of sampling equipment and at the time of pickup for each twenty-four (24) hour composite sample. Fort Worth agrees, if requested, to split the wastewater samples with Customer.

6.10 Compliance Monitoring. If in the opinion of the Director, compliance monitoring is required, the Director may order that additional monitoring be performed with or without prior

notice to Customer. Such compliance monitoring is to be in addition to the periodic sampling and testing set forth in § 6.9. All information obtained as a result of such compliance monitoring shall be provided to the Customer upon request. Fort Worth will provide notice of such compliance monitoring to Customer within a reasonable time thereafter.

6.11 System Cost. Costs incurred by Fort Worth under this **Article 6** will be a System Cost.

ARTICLE 7. Rates and Charges

7.1 Method of Rate Determination.

7.1.1 Wholesale wastewater rates will be based upon an annual cost-of-service rate study, with a rate study conducted every three years by an independent utility rate consultant as provided for in § 7.1.4. The independent utility rate consultant shall be selected by the Director from a list of qualified firms submitted to the Director by the Wholesale Wastewater Advisory Committee. All firms to be considered must identify all employees previously employed by the City of Fort Worth within 5 years of the submittal date. All cost-of-service studies shall be conducted utilizing the utility cost basis of determining revenue requirements applicable to the wholesale customer class and shall be a System Cost.

7.1.2 The System Cost (i.e., the cost-of-service for the wholesale customer class) shall include allocated reasonable and necessary operation and maintenance expense; depreciation expense; a fair and reasonable return on allocated capital facilities as provided in § 7.1.3; general and administrative costs; commodity charges; the cost of treating wastewater, including Inflow and Infiltration; TRA Contract charges; Street Rental (calculated as provided in § 1.34); and Payment In Lieu of Taxes ("PILOT" calculated as provided in **Exhibit C**). To determine the allocation and distribution of costs to the wholesale customer class, the independent utility rate consultant shall consider at least the following factors: total volume, rate of flow, Wastewater Strength, metering, and customer related costs such as accounting, billing, monitoring, and pretreatment and SIU permitting. Capital related costs will consist of depreciation expense and return on original cost rate base. The "rate base" shall consist of all allocated capital facilities, net of depreciation and contributions, and shall include construction work in progress, a reasonable allowance for working capital, and a reasonable inventory of materials and supplies necessary for the efficient operation of the Fort Worth System. The methodology shall be that used in the most recent wholesale wastewater rate study completed and approved by the Fort Worth City Council before the Effective Date, which Customer acknowledges having received prior to executing this Agreement. Records of the original cost and the accumulated depreciation of all capital facilities shall be maintained in the Fort Worth computerized asset tracking system. These records shall be available for inspection at the Fort Worth Water Department during reasonable business hours upon request by Customer.

- 7.1.3 Fort Worth shall be allowed to earn and recover in rates a rate-of-return on the rate base as described in § 7.1.2. That rate of return shall be equal to the weighted average imbedded cost of outstanding debt plus one and one-half percent (1-1/2%). The Parties agree that this rate of return is reasonable.
- 7.1.4 Every three years, beginning with Fiscal Year 2020, a detailed wholesale wastewater rate study will be performed by an independent utility rate consultant selected by the Director in conformance with § 7.1.1. The same methodology used in the immediate previous rate study will be utilized by the rate consultant so selected. In the interim Fiscal Years between detailed rate studies, Fort Worth will adjust wholesale wastewater rates annually, using the same methodology as the last detailed rate study, and will utilize the actual operating data for the twelve (12) month period ending September 30th of the prior year, adjusted for all known and measurable changes in cost data that may have occurred since the last audited financial statement. Such adjustments should allow for year-end trending and the spreading of non-recurring expenses over an appropriate benefit period.
- 7.1.5 Changes in the wholesale wastewater rate methodology will be allowed if recommended by a majority vote of the Wholesale Wastewater Advisory Committee and approved by the Fort Worth City Council. For purposes of this § 7.1.5, a majority is defined as any combination of Fort Worth wholesale customers that generated more than fifty percent (50%) of the wholesale wastewater flows into the Fort Worth System during the immediate past Fiscal Year.

7.2 Initial Rates. The rates and charges as of the Effective Date shall be those calculated by the most recent wholesale wastewater cost of service study and adopted by the Fort Worth City Council to take effect during the current Fiscal Year, and include the Volume Charges, Wastewater Strength Charges (per pound of BOD and TSS) and Monthly Customer Charges.

7.3 Billing and Payment. Bills for wastewater service under this Agreement shall be rendered to Customer monthly by Fort Worth, and shall be due and payable by Customer not more than thirty (30) days from the billing date. The bills will show current charges, as well as past-due charges, if any. Current charges are the amount due for wastewater services provided since the prior billing period. Past-due charges shall be the total amount unpaid from all prior billings as of the current billing date. Payments received by Fort Worth shall first be applied to the past-due charges, if any, and thereafter to the current charges.

7.4 Billing Dispute. If Customer disputes a bill and is unable to resolve the difference informally, Customer shall notify the Director in writing. If the Director and Customer are unable to resolve the disputed bill, agreement on the bill will be determined by § 24.4 dispute resolution procedures. Dispute of a bill is not grounds for non-payment. If a bill or other payment is not paid as specified in this Agreement, a finance charge of ten percent (10%) per annum will be calculated from the date which the payment was required to be made. If a billing adjustment is agreed upon or otherwise established by dispute resolution, then the amount found to be overcharged will be credited to Customer's account together with an interest charge of ten

percent (10%) per annum calculated from the date Fort Worth received payment of the disputed bill.

7.5 Services are Essential and Necessary. The Parties agree that services obtained pursuant to this Agreement are essential and necessary to the operation of Customer's System and that all payments made by Customer hereunder shall constitute reasonable and necessary operating expenses of Customer's System within the meaning of § 1502.056 of the Texas Government Code and the provisions of any and all ordinances of Customer authorizing the issuance of any revenue bonds of Customer which are payable from its waterworks and wastewater systems.

7.6 Customer to Collect Sufficient Revenues. Customer agrees, throughout the term of this Agreement, to fix and collect such rates and charges for wastewater service to be supplied as will produce revenues in an amount equal to at least (i) all of operation and maintenance expenses of such system, including specifically its payments under this Agreement; and (ii) all other amounts as required by law and the provisions of the ordinances or resolutions authorizing its revenue bonds or other obligations now or hereafter outstanding, including the amounts required to pay all principal of and interest on such bonds and other obligations.

7.7 Customer to Adopt User Charge. Customer specifically agrees to adopt and maintain in effect for the life of this Agreement an ordinance providing for a user charge system in full accord with relevant EPA and TCEQ regulations

7.8 Rate Adjustments. Customer understands that Fort Worth City Council has the right to annually revise the rates charged to cover all reasonable, actual, and expected costs. Revision of rates shall be pursuant to the provisions set forth in this Agreement. Fort Worth shall give Customer a minimum of six (6) months notice of intent to revise rates. Fort Worth will furnish members of the Wholesale Wastewater Advisory Committee a draft copy of the cost-of-service study of the proposed rates sixty (60) days prior to Fort Worth submitting a rate increase request to its City Council. Within thirty (30) days of receiving the draft study, the Wholesale Wastewater Advisory Committee will submit its written comments on the draft study to Fort Worth, and Fort Worth will respond to these comments as soon thereafter as possible. If the Wholesale Wastewater Advisory Committee has not provided its written comments within said period, the Wholesale Wastewater Advisory Committee is deemed to have accepted the proposed rates contained in the draft study, and Customer agrees that it will be bound by the rates as approved by the Fort Worth City Council. The rates approved by the Fort Worth City Council shall be the rates to be used in this Agreement for the succeeding Fiscal Year.

7.9 Wholesale Services Purchased by Fort Worth. Fort Worth purchases wholesale wastewater services under the terms of the TRA Contracts. Any future wholesale contracts between Fort Worth and a regional wastewater utility service provider that may be needed for Fort Worth to properly operate its System or meet the needs of its retail and wholesale wastewater customers will be included in calculating the System Cost as provided in § 7.1.2 in a similar manner as the TRA Contract charges.

ARTICLE 8. Industrial Connection and Monitoring

8.1 Additional Connections. Customer agrees that it will not permit any Significant Industrial User within its jurisdiction to connect directly or indirectly either to the Customer System or to the Fort Worth System without at least ninety (90) days' prior written notice to the Director of such intent to connect. Customer shall provide the Director with such information pertaining to volume and composition of flow as may be requested by the Director.

8.2 Quality. Customer agrees to conduct any and all monitoring, sampling and inspection of Customer System and Industrial Users as necessary to insure that Industrial Waste introduced into the Customer System meets the quality standards set out in § 9.3. Upon request to Customer, a representative of Fort Worth will be permitted to observe Customer's collection of samples from Industrial Users, and Customer agrees to furnish Fort Worth separate duplicate samples for independent testing, and, upon request, to provide the Director sample analysis results and pretreatment records.

8.3 Sampling and Industrial User Disconnections. Customer agrees that Fort Worth shall have the right to sample wastewater at all Points of Entry and such other locations as may be mutually agreed in writing by both Parties for the purpose of determining the volume and quality of wastewater entering the Fort Worth System. Customer agrees to disconnect from the Customer's System any Industrial User found to be in violation of allowable discharges or who refuses access to its facilities for the purpose of sampling wastewater being discharged into the Customer System; provided, however, that the disconnected Industrial User shall be afforded the same rights, privileges of appeal and deficiency cure periods as are Industrial Users operating within Fort Worth's jurisdiction.

8.4 Questionable or Prohibited Discharges. Following Fort Worth's notice to the Customer, Customer shall grant to Fort Worth the right to enter Customer's jurisdiction if Fort Worth has information or evidence that questionable or prohibited discharges are entering the Fort Worth System from the Customer System. Customer agrees to assist Fort Worth in investigating such discharges and in locating and eliminating any prohibited discharges.

ARTICLE 9. Wastewater Quality

9.1 Industrial Wastes. The potential effects of certain types of Industrial Wastes upon sewers and sewage treatment processes require careful consideration of each industrial connection, and is of concern both to Fort Worth and the Customer. Accordingly, Customer shall regulate the discharge of Industrial Waste as required by this **Article 9**.

9.2 Customer Wastewater Quality Ordinance. Customer agrees that on or before thirty (30) days from date of execution of this Agreement it shall enact and cause to be enforced an ordinance or resolution enabling Customer to enforce within its jurisdiction regulations governing industrial waste that are at least as stringent as the provisions of the current Fort Worth City Code Ch. 12.5, Articles VI (Industrial Wastewater) and VII (Liquid Waste) and any necessary and reasonable amendments thereto, and state and applicable federal regulations relating to 1) discharged substances; 2) prohibited discharges; 3) pretreatment requirements; 4) industrial discharge permitting system; and 5) industrial self-monitoring reports. Customer

agrees to enact and enforce ordinances or any amendments to these Fort Worth Code Articles, or any future Fort Worth ordinances relating to Industrial Waste discharges, prohibited or controlled wastes or pretreatment requirements and such amendments and future ordinances shall become incorporated as additional exhibits to this Agreement; provided, however, Fort Worth shall provide Customer with a copy of such proposed ordinances or amendments at least sixty (60) days prior to the presentation of such ordinances or amendments to the Fort Worth City Council during which time Customer shall have an opportunity to review same. Customer shall adopt and enforce such proposed ordinances or amendments no later than the effective date of the Fort Worth ordinance or amendment.

9.3 Customer Wastewater Quality. Customer agrees that the quality of the wastewater discharged into the Customer System shall be equal to or better than the quality standards established by Fort Worth City Code Ch. 12.5, Articles VI (Industrial Wastewater) and VII (Liquid Waste) or any amendment adopted pursuant to Section § 9.2.

9.4 Customer SIU Permits. Customer shall require all Significant Industrial Users within its jurisdiction that ultimately discharge into the Fort Worth System to apply for and obtain a permit from Customer allowing such discharge. Such permit shall require SIUs to abate prohibited substances from their discharge as a condition to discharging wastewater into the Customer System. The permit application shall contain, as a minimum, the following information required by **Fort Worth City Code § 12.5-632** (or other information as the section may require upon amendment from time to time):

- 9.4.1 All information required by Fort Worth City Code § 12.5-651;
- 9.4.2 Description of activities, structures, equipment and plant processes on the premises, including a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the Customer System;
- 9.4.3 Number and type of employees, hours of operation, and proposed or actual hours of operation;
- 9.4.4 Each product produced by type, amount, process or processes and rate of production;
- 9.4.5 Type and amount of raw materials processed (average and maximum per day);
- 9.4.6 Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains and appurtenances by size, location and elevation, and all points of discharge;
- 9.4.7 Time and duration of discharges; and
- 9.4.8 Any other information as may be deemed necessary by the Director to evaluate the wastewater discharge or the discharge permit application.

Customer shall provide Fort Worth a copy of such application and permit, if issued, within fourteen (14) days after issuance.

ARTICLE 10. Resale of Wastewater Services and Large Volume Retail Customers

10.1 No Service Outside the Customer's Service Area. Customer shall not provide any wastewater service to retail or wholesale customers outside of its Service Area unless it obtains the express written consent of the Director and an amendment to its Service Area for the proposed service, and such consent may also require additional improvements as provided in § 4.3. Customer shall not share its wastewater facilities with any other governmental or corporate entity outside of the Customer's Service Area without the express written consent of Fort Worth. Fort Worth neither recognizes nor approves any existing agreements between Customer and any developer, landowner, governmental entity, industrial customer or other large-volume customer for existing or projected wastewater service outside of the Customer's Service Area, unless authorized by Additional Terms attached as **Exhibit D** and shown on the Service Area map attached as **Exhibit A**.

10.2 Large Volume Users. Unless Customer obtains the prior written consent of the Director, the Customer shall not provide or agree to provide future wastewater service within its Service Area to any developer, landowner, governmental entity, industrial customer or other large-volume customer for existing or projected wastewater flows that would exceed 500,000 gallons per day to be served through the Fort Worth System. The Director agrees that consent for such wastewater service within the Customer's Service Area shall not be unreasonably withheld, but may require improvements as provided in § 4.3. The consent required by this § 10.2 does not replace and is in addition to other requirements of this Agreement, including **Articles 8 & 9** for industrial connections.

10.3 Wholesale Customer Compliance. If Customer has Fort Worth's consent to provide any wholesale wastewater service through the Fort Worth System, Customer shall require its wholesale customers: to comply with **Article 8** (Industrial Connection and Monitoring), **Article 9** (Wastewater Quality) and **Article 22** (Impact Fees) of this Agreement, and any other provisions of the Agreement required by the Director, and to enact and enforce any and all ordinances necessary to comply with these requirements.

ARTICLE 11. Infiltration and Inflow

11.1 Prevention. The Customer covenants and agrees that it has an obligation to prevent Infiltration and Inflow into its System and then into the Fort Worth System. Customer further covenants and agrees to maintain strict supervision and maintenance of its System to prevent connections through which surface drainage can enter ultimately into the Fort Worth System, and to employ best management practices to reduce Inflow and Infiltration to the extent practicable. Customer shall not make, nor shall it permit to be made, any connection which will contribute storm water run-off from rainwater spouts, rainwater areas, streets, gutter drains or other source into its System.

11.2 Standards for Customer's Retail Connections. Customer covenants and agrees that all sewer connections within its jurisdiction that ultimately enter into the Fort Worth System shall be constructed in accordance with applicable specifications and standards that are equal to or more protective than those of the Fort Worth Water Department.

11.3 Customer Overflows. If Customer reports any sewer overflow to TCEQ containing any reference in the report to Fort Worth's System or Fort Worth's Wastewater Permits, then Customer shall send a Notice to Fort Worth with an attached copy of the report at the same time that it sends the report to TCEQ.

ARTICLE 12. Sludge Disposal

Customer recognizes the importance of utilizing sludge in a timely and proper manner. Customer will cooperate with Fort Worth in any environmentally sound sludge utilization program meeting federal and state standards within the Customer's Service Area.

ARTICLE 13. Wastehaulers

Customer agrees to adopt the North Central Texas Council of Government's model ordinance, or one similar to it, regulating liquid wastehaulers within Customer's Service Area. At a minimum such ordinance shall require liquid wastehaulers to be permitted and provide for a manifest system. Further, the Customer's ordinance shall prohibit the introduction of liquid waste, including waste from septic tanks and chemical toilets, into the Customer System, directly or indirectly.

ARTICLE 14. Reports and Records

14.1 Data and Information. If requested by the Director, and/or Customer, the other Party shall provide quarterly the following:

14.1.1 Actual number of customer accounts discharging directly or indirectly into the Fort Worth System and/or Customer System within the Customer's Service Area;

14.1.2 Classification of Domestic Accounts and Non-Domestic Accounts within its Service Area by number and percentage of accounts discharging directly or indirectly into the Fort Worth System and/or Customer System within the Customer's Service Area.

14.1.3 Customer's contracts for wastewater services from all providers other than the Fort Worth System, including collection and treatment contracts with other entities;

14.1.4 Customer's Water and Wastewater Master Plans, Capital Improvements Plans and Land Use Plans; and

- 14.1.5 Additional data which may assist Fort Worth and/or Customer in developing methodology for cost of service studies and Impact Fees; provided, however, that Fort Worth shall not request data that will require Customer to incur unreasonable expenses in providing such data.

ARTICLE 15. Notices

15.1 Required Notice. Except in the case of an Emergency, any notice or other communication that is required, given or provided for under this Agreement shall be in writing, and addressed as follows:

To Fort Worth: Water Director
 City of Fort Worth
 200 Texas Street
 Fort Worth, TX 76102

To Customer: City Manager
 City of Kennedale
 405 Municipal Drive
 Kennedale, Texas 76060

With an additional copy to be given to a Customer representative, if designated in writing by Customer.

15.2 Delivery and Receipt. Notice shall be either (a) delivered personally, (b) sent by United States certified mail, postage prepaid, return receipt requested, (c) placed in the custody of a nationally recognized overnight carrier for next day delivery, or (d) sent via telecopy or facsimile (fax) transmission. Notice shall be deemed given when received if delivered personally or sent via telecopy or facsimile transmission with written confirmation of receipt; forty-eight (48) hours after deposit if sent by mail; and twenty-four (24) hours after deposit if sent by nationally recognized overnight carrier for next day delivery. If requested by Fort Worth or Customer, notices shall also be sent to specified email addresses.

15.3 Change of Address Notices. Each Party shall provide notice in writing, as provided in § 15.1 of any change in its address.

ARTICLE 16. Inspection and Audit

Complete records and accounts required to be maintained by each Party shall be kept for a period of five (5) years. Each Party shall at all times, upon notice, have the right at reasonable times to examine and inspect said records and accounts during normal business hours; and further, if required by any law, rule or regulation, make said records and accounts available to federal and/or state auditors.

ARTICLE 17. Ownership and Liability

17.1 Ownership. No provision of this Agreement shall be construed to create any type of joint or equity ownership of any property, any partnership or joint venture, nor shall same create any other rights or liabilities and Customer payments (whether past, present, or future) will not be construed as granting Customer partial ownership of, pre-paid capacity in, or equity in the Fort Worth System.

17.2 Liability. Liability for damages arising out of the receipt, transportation, delivery, storage, treatment, handling and/or disposal of all wastewater discharged into the Fort Worth System shall remain with the Customer, together with title to the wastewater, until the wastewater passes through the Point of Entry. Thereafter, Fort Worth shall have liability for damages arising out of the receipt, transportation, delivery, storage, treatment, handling and/or disposal of all wastewater discharged into the Fort Worth System, save and except that title to, and liability for a discharge from the Customer's System that violates this Agreement shall remain with the Customer. Each Party agrees to save, release and hold harmless the other Party from all claims, demands, and causes of action, damages, losses and costs, fines and expenses, including reasonable attorneys' fees, and all response, remediation and corrective action costs (collectively "Liabilities") that may be asserted by anyone, including state and federal administrative agencies, at any time on account of the contents, transportation, delivery, reception, storage, treatment handling and/or disposal of the wastewater while it is in the control of such Party, except that Customer shall save, release and hold harmless Fort Worth from all Liabilities that may be asserted by anyone at any time on account of any discharge originating in the Customer System that does not comply with the terms of this Agreement, even if the liability arises out of Fort Worth's strict liability. To the extent that the liability of Fort Worth is attributable to wholesale customer discharges, but cannot be attributed to a specific wholesale customer, the liability shall be a System Cost. This covenant is not made for the benefit of any third party.

17.3 Independent Contractors. Contracts made and entered into by either Customer or Fort Worth for the construction, reconstruction or repair of any Delivery Facility shall include the requirement that the independent contractor(s) must provide adequate insurance protecting both the Customer and Fort Worth as co-insured. Such contracts must also provide that the independent contractor(s) covenant to indemnify, hold harmless and defend both the Customer and Fort Worth against any and all suits or claims for damages of any nature arising out of the performance of such contracts.

ARTICLE 18. Compliance with Permit Conditions

Customer acknowledges that Fort Worth is the holder of discharge permits issued by the United States and the State of Texas. Customer agrees that it will comply with all permit conditions in any way relating to the collection system and the discharge into the Fort Worth System. Customer agrees, that if a fine is assessed against Fort Worth for any violation of any permit condition, and the violation is attributable to any act of omission or commission by Customer, that it shall indemnify and hold Fort Worth harmless from all Liabilities that result from the omission or commission by the Customer as provided in § 17.2. If the permit violation cannot be attributed to any specific customer or if the Liabilities are not reimbursed by the responsible

customer for any reason then, to the extent that the fines and expenses are attributable to wholesale customers, such fine is a System Cost.

ARTICLE 19. Term

This Agreement expires on September 30, 2037. It may be renewed on terms mutually agreeable to the Parties.

ARTICLE 20. Force Majeure

20.1 Notice and Suspension. If by any reason of force majeure either Party shall be rendered unable, wholly or in part, to carry out its obligations under this Agreement, other than the obligation of the Customer to make payments required under this Agreement, then if such Party shall give notice and full particulars of such force majeure in writing to the other Party within a reasonable time after the occurrence of the event or cause relied on, the obligation of the Party giving such notice, so far as it is affected by such force majeure, shall be suspended during the continuance of the inability then claimed, but for no longer period, and such Party shall endeavor to remove or overcome such inability with all reasonable dispatch.

20.2 Definition. The term "force majeure," as used in this Article, means acts of God, strikes, lockouts or other industrial disturbances, acts of public enemy, orders of any kind of the government of the United States or the State of Texas, or any civil or military authority, insurrection, riots, epidemics, landslides, lightning, earthquake, fires, hurricanes, storms, floods, washouts, droughts, arrests, restraints of government and people, civil disturbances, explosions, breakage or accidents to machinery, pipelines or canals, partial or entire failure of wastewater collection, transportation, storage or treatment facilities, and inability on the part of Fort Worth to provide the wastewater services hereunder or of the Customer to deliver wastewater hereunder on account of any other cause not reasonably in the control of the Party claiming such inability.

ARTICLE 21. Breach, Termination and Other Remedies

21.1 Termination by Mutual Consent. This Agreement may be terminated in whole or in part by the mutual consent of Customer and Fort Worth. Fort Worth's decision on whether to consent to termination remains within its sole discretion; however, before consenting to termination, Fort Worth shall consult with WCAC regarding the circumstances of the proposed termination.

21.2 Termination for Material Breach. Notwithstanding anything in this Agreement to the contrary, any material breach by either Party to perform any of its duties or obligations under this Agreement, or to faithfully keep and perform any of the terms, conditions and provisions of this Agreement, shall be cause for termination of this Agreement by the non-breaching Party in the manner set forth in this § 21.2. Upon such breach, the non-breaching Party may notify the breaching Party of the non-breaching Party's intention to terminate this Agreement if the breaching Party fails to cure such breach within ninety (90) days from the date of the notice. The notice must include a reasonable description of the breach. The non-breaching Party shall notify the breaching Party in writing upon acceptance of the cure of any breach. If by the ninetieth (90th) day the breaching Party fails or refuses to cure such breach pursuant to the terms and

conditions of this Agreement, then the non-breaching Party shall have the right to terminate this Agreement with six months additional notice to the breaching Party.

21.3 Termination for Repeated Breach. Upon a second (or any repeated) breach of a similar nature by a Party and irrespective of any cure of such breach, the non-breaching Party may, after six (6) months notice to the breaching Party, terminate this Agreement. That notice must be provided within a reasonable time after the repeated breach that is the basis for the termination.

21.4 Material Breach. The following breach, default or failure to perform a duty or obligation under this Agreement is a material breach:

- a. Failure to adopt and enforce any ordinance that the Customer is required by this Agreement to adopt and enforce;
- b. Failure to pay any bill, charge, or fee as required by this Agreement, including Impact Fees.
- c. Connecting to or discharging into the Fort Worth System at any point that is not expressly authorized under the terms of this Agreement;
- d. Failure to provide Fort Worth ingress and egress for purposes of sampling or operation and maintenance of any Customer Point of Entry, including the metering and sampling facility;
- e. Failure to permit any sampling of wastewater authorized by this Agreement, whether at the point of connection or within the Customer's System;
- f. Failure to provide to Fort Worth the rights-of-way that Customer is required to provide under the terms of this Agreement;
- g. Failure to investigate discharges or disconnect Industrial Users of Customer pursuant to §§ 8.3 and 8.4;
- h. Failure to comply with **Article 9** (Wastewater Quality), including failure to maintain the required quality of discharge and failure comply with the requirements pertaining to SIU;
- i. Failure to comply with **Article 10** (Resale of Wastewater Services and Large Volume Retail Customers); or
- j. Failure to comply with **Article 18** (Compliance with Permit Conditions).

All other breaches are deemed to be non-material.

21.5 Notice and Cure. In the event of a material or non-material breach, default or failure to perform a duty under this Agreement, the non-breaching Party may send a notice of such default to the breaching Party. The notice must include a reasonable description of the breach. If the breaching Party fails to cure the breach, default or failure within 60 days of that notice, then the non-breaching Party may give the breaching Party a second notice of its failure to cure the breach. Failure to cure the breach within 30 days after the second notice shall constitute a repeated breach, and may result in termination of this Agreement as provided in § 21.3 for repeated breach. Fort Worth may, upon breach by a Customer, surcharge the Customer an amount developed and calculated by Fort Worth intended to reimburse Fort Worth for any damages each month, including 10% interest, until Customer cures that breach. Because failure to perform obligations under this Agreement cannot be adequately compensated in money damages alone, the Parties shall have available to them the equitable remedy of specific performance in addition to any other legal or equitable remedy as may be provided by law.

21.6 Notice and Cure for Nonpayment of Impact Fees. If the breach is based on the non-payment or underpayment of Impact Fees, then the Customer shall pay Fort Worth the amount of the non-payment or under-payment within 60 days of the notice required by §§ 21.2 or 21.5, plus interest at a rate of 10% of the amount owed, accruing from the time at which the payment was due. An additional charge of \$500.00 will be added if no Impact Fee report was filed.

21.7 Notice and Cure for Breach of SIU Obligations. If Customer breaches its obligations to enforce the provisions of §§ 9.2 or 9.4, then the § 21.2 90-day notice provisions do not apply and the Director, in his sole discretion, may send a notice setting the time in which the Customer shall cure the breach, and may surcharge Customer an amount developed and calculated to reimburse Fort Worth for any damages each month, including 10% interest, until Customer cures that breach. If Customer fails or refuses to cure the breach within the stated time then, in addition to other remedies available under this Agreement, Fort Worth shall have the right to declare this Agreement terminated after six (6) months additional notice to Customer.

21.8 Effect of Termination. Upon termination of this Agreement under this **Article 21**, all rights, powers, and privileges of Customer and Fort Worth under this Agreement shall cease and terminate, and neither Party shall make any claim of any kind whatsoever against the other Party, its agents or representatives, by reason of termination or any act incident to termination, if the terminating Party acted reasonably and the termination was not unreasonable, or arbitrary and capricious. If this Agreement is not renewed before it expires, and the Parties are negotiating in good faith regarding the provisions of a new agreement, then the Parties may extend the date for termination, in writing that refers to this § 21.8 and is signed by both Parties. If this Agreement is not renewed, or if the Agreement is terminated by one of the Parties pursuant to this **Article 21**, then this Agreement requires Customer to develop alternative or replacement wastewater services before the expiration or termination of this Agreement; this requirement may be enforced by the equitable remedy of specific performance, sought by court order, in addition to any other legal or equitable remedy as may be provided by law. No continuation of the service obligation exists or will be implied after expiration or termination.

21.9 No Waiver by Fort Worth. Any failure by Fort Worth to terminate this Agreement, or the acceptance by Fort Worth of any benefits under this Agreement, for any period of time after a material breach, default or failure by Customer shall not be determined to be a waiver by Fort Worth of any rights to terminate this Agreement for any subsequent material breach, default or failure.

21.10 No Waiver by Customer. Any failure by Customer to terminate this Agreement, or the acceptance by Customer of any benefits under this Agreement, for any period of time after a material breach, default or failure by Fort Worth shall not be determined to be a waiver by Customer of any rights to terminate this Agreement for any subsequent material breach, default or failure.

ARTICLE 22. Impact Fees

22.1 Calculation of Impact Fees

22.1.1 The amount of the Impact Fee to be paid by Customer shall be based upon the size of water meter and shall be equal to the amount of the Impact Fee adopted by Fort Worth and collected for the same size water meter and type of connection within the jurisdiction of Fort Worth. However, regardless whether the connection would qualify as "new development" for purposes of the Customer's System, the Impact Fee due to Fort Worth shall include an amount equal to the Impact Fee for each connection not only to new construction, but also to existing structures or connections not previously served through the Fort Worth System, for example those taken off septic systems or diverted from other city, developer or homeowner wastewater systems

22.1.2 The dollar amount of the Impact Fee shall be consistent with the Fort Worth ordinance adopting Impact Fees in accordance with all applicable state and federal regulations, including Chapter 395, and its calculation shall include only those costs allowed under § 395.012 (or its amended or successor statute) that are associated with Capital Improvements necessary to provide service to new development.

22.1.3 Nothing in this Agreement shall be deemed to prevent either Fort Worth or Customer from charging their own retail customers an Impact Fees that differs from the Impact Fee amount authorized by this Agreement.

22.2 Payment of Impact Fees.

22.2.1 On a quarterly basis, Customer shall pay to Fort Worth an Impact Fee for each new, enlarged or newly served connection for wastewater service made within Customer's Service Area served by the Fort Worth System.

22.2.2 As part of the Customer's application to Fort Worth for any new Point of Entry, and before construction of the facilities required for the Point of Entry, Customer shall pay to Fort Worth an amount equal to the Impact Fee for each existing sewer connection that will flow through the new or enlarged Point of Entry when it is first completed, and is not currently being served by the Fort Worth System. Upon connection of the new Point of Entry, Customer shall pay all unpaid Impact Fees for connections made since the initial payment with the application, and begin quarterly payments for additional connections to the Point of Entry as required in § 22.2.1.

22.3 Use of Impact Fees. As required by Chapter 395, Fort Worth agrees that all money remitted to it pursuant to this **Article 22** will be placed in an interest bearing account to pay only for the cost of constructing Capital Improvements included in Fort Worth's Chapter 395 capital improvements plan, and will not be used for operation and maintenance expenses. Once expended, such funds and all interest earned thereon will be considered a "contribution" for rate

setting purposes only. To the extent that the cost of any Capital Improvement is recovered through Impact Fees, it shall not be included in the System Cost.

22.4 Impact Fee Report. Customer shall provide to Fort Worth information that relates to the making of new and/or enlarged connections within its jurisdiction as may be requested by the Director, including building permits, with each quarterly payment required in this **Article 22**.

22.5 No Waiver. Neither Fort Worth nor Customer shall waive any Impact Fee due from new or enlarged connections to its respective system within its jurisdiction. However, either Fort Worth or Customer may pay such Impact Fee into the interest bearing Impact Fee account required by § 22.3.

22.6 Customer Impact Fee Committee ("CIFIC"). The Wholesale Wastewater Advisory Committee created pursuant to **Article 23** shall select five (5) of its members to a subcommittee to be known as the Customer Impact Fee Committee ("CIFIC"). As required by Texas Local Government Code § 395.052, at least every five (5) years Fort Worth will update the land use assumptions and capital improvements plan upon which the Fort Worth Impact Fees are based, or make the determination under Chapter 395 that no update is required. Fort Worth shall submit a copy of the annual report of Fort Worth Impact Fee projects and expenditures to the Wholesale Wastewater Advisory Committee Rate Subcommittee. Every five years in conjunction with Fort Worth's updates, the CIFIC shall submit a list of qualified engineers or planning consultants to the Director, and the Director shall select a consultant from such list to assist Fort Worth in developing land use assumptions, identifying capital improvements, and formulating capital improvement plans and Impact Fees. The consultant shall be responsible to Fort Worth and its citizen's advisory committee, but shall also report to the CIFIC. The cost of the consultant shall be deemed a System Cost, to the extent that its work pertains to the wholesale customer class, and except to the extent that such cost is recovered through Impact Fees. If the CIFIC fails to submit a list of consultants to Fort Worth, Fort Worth shall select the consultant.

22.7 Capital Improvements Plan. Fort Worth agrees that only the Capital Improvements as defined in § 1.4 shall be included in the capital improvements plan for the purpose of determining Impact Fees; provided however, Fort Worth may include other capital improvements for the purpose of determining Impact Fees to its own retail customers. Fort Worth shall not be required to include all of its capital improvements in its Chapter 395 capital improvements plan. The CIFIC shall be responsible for working with Fort Worth and its consultants to determine the Capital Improvements to be included in the calculation of any Impact Fees. The CIFIC shall recommend to the Wholesale Wastewater Advisory Committee which Capital Improvements should be included in the calculation of any Impact Fees. The CIFIC shall also meet with Fort Worth's citizen advisory committee as such citizen's advisory committee reviews and considers land use assumptions, the capital improvements plan and Impact Fees.

22.8 Dissemination of Documents. Prior to the adoption of any land use assumptions, capital improvements plan, or Impact Fees assessed by Fort Worth, the CIFIC shall be furnished a copy of the proposed land use assumptions, capital improvement plans or Impact Fees at least thirty (30) days prior to any scheduled hearing thereon. Any revised Impact Fee adopted pursuant to

such updated capital improvements plan shall not take effect for a period of at least ninety (90) days after adoption by Fort Worth.

22.9 Current Impact Fees. Customer agrees to pay Impact Fees in the amounts determined pursuant to this **Article 22**. On the Effective Date, those impact fees are the Impact Fees most recently adopted by the Fort Worth City Council before the Effective Date. Thereafter the Impact Fees are those in effect by Fort Worth ordinance at the time the new or enlarged connection is made, or additional retail customers are added to Customer System flows that enter the Fort Worth System.

22.10 Changes to Chapter 395. Fort Worth and Customer agree that the methodology for the calculation of Impact Fees required by this Agreement shall be consistent with the methodology prescribed by Chapter 395. If that statutory methodology is amended or replaced by a new statute, the Wholesale Wastewater Advisory Committee may engage legal counsel to work with Fort Worth to propose amendments to this Agreement to conform it to such amendment or new statute. The reasonable cost of such legal counsel shall be a System Cost.

ARTICLE 23. Wholesale Wastewater Advisory Committee

Customer's governing body shall annually appoint a representative to be a voting member of the Wholesale Wastewater Advisory Committee which Committee is hereby created and established and whose purpose shall be to consult with and advise Fort Worth, through the Director, on matters pertaining to planning, improvements, grants, rate studies, budgets, administration, and additional wholesale customers, whether same be wholesale customers of Customer or Fort Worth. The Committee, at its first meeting, shall elect a Chairman, Vice Chairman and Secretary. The Committee may establish bylaws governing the election of officers, meeting dates and other matters pertinent to its functioning.

ARTICLE 24. Miscellaneous

24.1 Favored Nations. Fort Worth and Customer agree that if Fort Worth should enter into any future Agreement for supplying wholesale wastewater service to any municipality under more favorable terms or conditions than set forth herein, this Agreement shall be amended to provide the same terms and conditions with respect to the wastewater service to be provided to Customer under this Agreement.

24.2 Subject to Laws and Permits. This Agreement is subject to all applicable federal and state laws and any applicable permits, amendments, orders, or regulations of any state or federal governmental authority having or asserting jurisdiction, but nothing contained in this Agreement shall be construed as a waiver of any right to question or contest any such law, order, rule or regulation in any forum having jurisdiction. Customer agrees to abide by any changes in this Agreement made necessary by any new, amended, or revised state or federal regulation; however the Parties may not enact rules or laws that conflict with this Agreement.

24.3 Entry on Customer's Premises. Upon prior notice by the Director, Customer shall allow any duly authorized employee of Fort Worth who presents proper credentials to access any

premises located within Customer's Service Area or served by Customer as may be necessary for the purpose of inspections and observation, measurements, sampling and testing and/or auditing, in accordance with the provisions of this Agreement. Customer may elect to accompany the Fort Worth representative. To the extent permitted by law, Fort Worth agrees to be responsible to Customer for any damage or injury to person or property caused by the negligence of such duly authorized employee while such employee is in the course and scope of their employment.

24.4 Alternative Dispute Resolution.

24.4.1 The Parties shall endeavor, but only to the extent permitted by applicable law and at no additional cost to Customer, to settle all disputes arising out of or relating to this Agreement by amicable negotiations.

24.4.2 Any and all disputes arising out of or relating to this Agreement that cannot be resolved informally will be submitted to mediation. The place of mediation shall be in Tarrant County, Texas. A mediator shall be jointly agreed to by both Parties, and the mediator selected shall have expertise in the purchase of wastewater treatment services. Either Party may apply for injunctive relief until the mediation decision is rendered or the controversy is otherwise resolved. Either Party may, without waiving any remedy under this Agreement, seek from any court having jurisdiction any interim or provisional relief that is necessary to protect the rights or property of that Party, pending the Parties' mediated resolution of the controversy. Each Party shall initially bear its own costs and expenses; however, unless otherwise agreed in mediation, Fort Worth's costs in mediation, including expenses, reasonable attorneys' fees and other costs, shall be a System Cost. Nothing occurring during mediation shall be considered evidence in court.

24.4.3 If mediation is not successful, either Party may commence litigation to resolve the dispute. Fort Worth's litigation costs shall be a System Cost.

24.5 Inspection and Audit. Complete records and accounts required to be maintained by each Party shall be kept for a period of five (5) years. Each Party shall at all times, upon notice, have the right at reasonable times to examine and inspect said records and accounts during normal business hours; and further, if required by any law, rule or regulation, make said records and accounts available to federal and/or state auditors. The responding Party shall make the records available promptly upon request.

24.6 Use and Sale of Treated Effluent. Customer agrees that Fort Worth has the right to own and to use or sell any effluent produced from the Customer's wastewater as a result of the services rendered under this Agreement. Customer agrees that it is not entitled to credit of any type, either in the exchange of water, money, or other consideration, for any effluent delivered to Fort Worth's Village Creek Water Reclamation Facility, another wastewater treatment plant or water reclamation facility that is owned and operated by Fort Worth, or another POTW. Diversion of Untreated Effluent.

24.7 Diversion of Untreated Effluent. Because cost recovery, as well as management of capacity and operation of the Fort Worth System, require continuous and predictable wastewater flows, Customer shall not divert any wastewater flows or wastewater connections (except as necessary to cease prohibited discharges) once they have begun discharging into the Customer System for treatment under this Agreement.

24.8 Assignment. Customer may not assign this Agreement without the prior written consent of Fort Worth. Fort Worth may not assign this Agreement without the prior written consent of Customer, except that if Fort Worth's wastewater utility is designated as a regional wastewater or sewer utility agency by a duly authorized regulatory body, or if Fort Worth elects to contract with or assign this Agreement to a regional wastewater or sewer authority or utility to provide all or part of the services covered by this Agreement, the Customer hereby agrees and grants Fort Worth the right to assign this Agreement under the following conditions. The regional authority or utility shall assume and receive the same obligations, responsibilities and benefits as Fort Worth, and Fort Worth or the regional authority or utility will notify the Customer of such assignment at least ninety (90) days prior to its effective date.

24.9 No Waiver. No waiver by either Party of any term or condition of this Agreement, or failure to give notice of any breach, shall be deemed or construed to be a waiver of any other term or condition or subsequent waiver of the same term or condition.

24.10 Venue. The Parties agree that this Agreement is performable in Tarrant County, Texas and that the courts of Tarrant County are a proper forum for the determination of any dispute arising under this Agreement.

24.11 Construction. As used in this Agreement, the term "including" means "including without limitation," the words "shall" and "will" are mandatory and the word "may" is permissive, and the term "days" means calendar days, not business days. Wherever required by the context, the singular shall include the plural, and the plural shall include the singular.

24.12 Effect of Agreement. This Agreement is for the collection and treatment of Customer's wastewater and for related infrastructure and capital contributions as set forth herein. Unless expressly stated in this Agreement, any other Agreements that may be in effect between the Parties for the construction of infrastructure or other subject matters shall remain in full force and effect.

24.13 Severability. If any term or provision in this Agreement is held to be invalid or unenforceable by any legislative act or court of competent jurisdiction, and the extent of such invalidity or unenforceability does not cause substantial deviation from the underlying intent of the Parties as expressed in this Agreement, then such invalid or unenforceable provision shall be deemed severed from this Agreement without invalidating the remainder of this Agreement, and a new provision shall be deemed substituted in lieu of the provision severed, which new provision shall, to the extent possible, accomplish the intent of the Parties as evidenced by the provision severed, and without affecting any other term or provision in this Agreement.

24.14 System Regulatory Actions. Customer agrees, upon Fort Worth's request, to give reasonable consideration to supporting Fort Worth, and shall not oppose Fort Worth, on any permit applications or governmental approvals related to the Fort Worth System.

24.15 Additional Contract Terms. Additional contract terms that apply to the Customer, but not Fort Worth's other wholesale customers, are contained in **Exhibit D** "Additional Terms."

24.16 Exhibits. All exhibits attached to this Agreement are incorporated into this Agreement by reference, for all intents and purposes of this Agreement, as follows:

- Exhibit A Map showing the boundaries of the Customer's Service Area and mutually agreed point(s) of connection.
- Exhibit B Example of Monthly Wholesale Wastewater Bill Calculation
- Exhibit C Calculation of PILOT and Cost-of-Service Revenue Requirement to Recover the Cost of PILOT
- Exhibit D Additional Terms [if any]

ARTICLE 25. Effective Date

The effective date and time of this Agreement for all purposes is October 1, 2017 at 12:01 a.m. Upon the Effective date, the Wholesale Wastewater Contract then in effect between Fort Worth and the Customer is terminated and superseded by this Agreement.

IN TESTIMONY WHEREOF, after proper action by the respective governing bodies of the Parties, this Agreement has been executed in quadruplicate copies, each of which is considered to be an original.

ATTEST:

CITY OF FORT WORTH

Mary Kayser
City Secretary, City of Fort Worth

Jesus J. Chapa
Assistant City Manager, City of Fort Worth

Date: _____

APPROVED AS TO FORM AND LEGALITY:

Christa R. Lopez-Reynolds
Sr. Assistant City Attorney, City of Fort Worth

APPROVAL RECOMMENDED:

John Carman, Director
City of Fort Worth Water Department

By signing I acknowledge that I am the person responsible for the monitoring and administration of this contract, including ensuring all performance and reporting requirements.

Name of Employee

Title

ATTEST:

CITY OF KENNEDALE

City Secretary

By: _____
Mayor

APPROVED AS TO FORM AND LEGALITY:

City Attorney
Date: _____

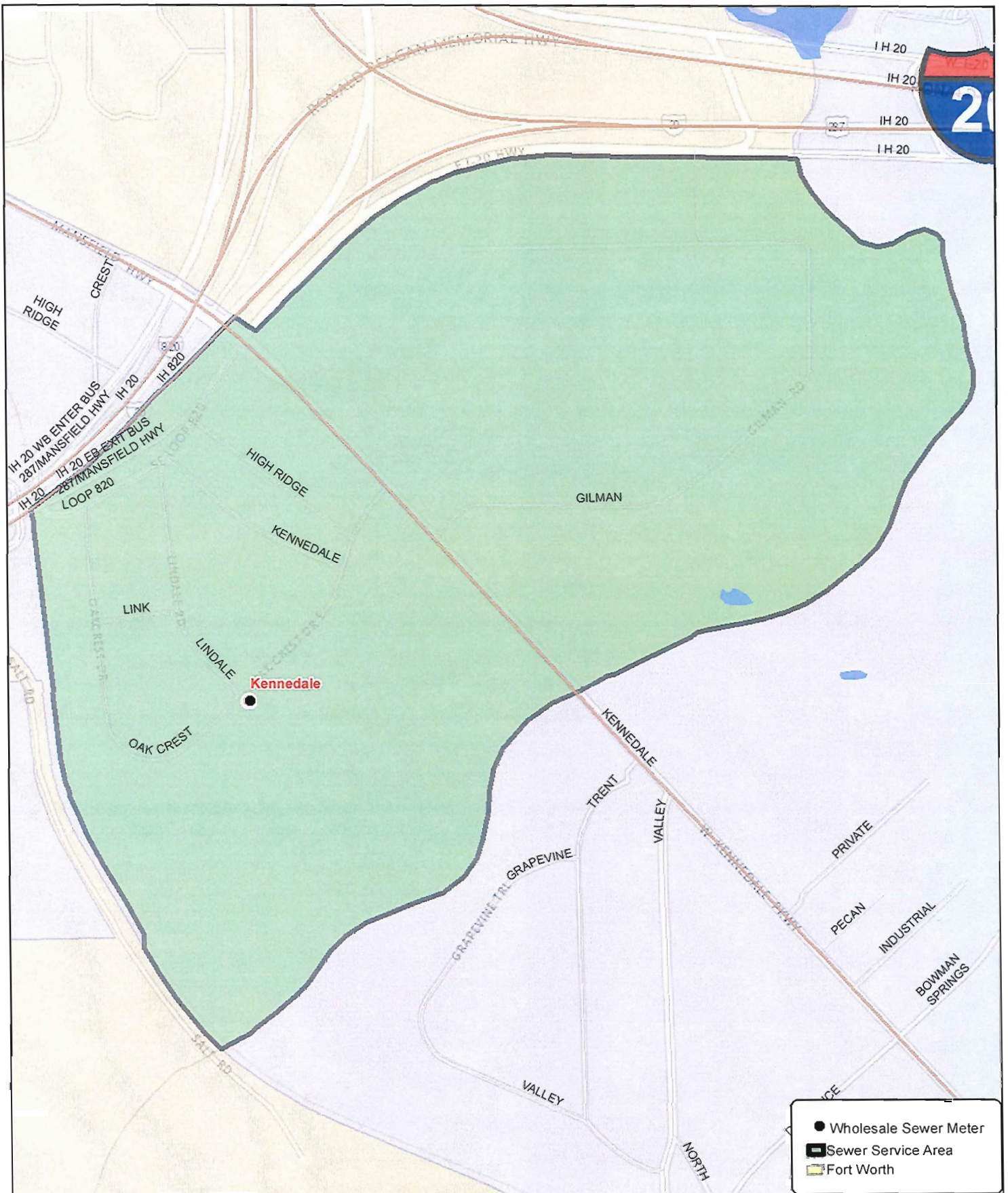
APPROVAL RECOMMENDED:

Print Name: _____
Title: _____

EXHIBIT A

MAP

Boundaries of the Customer's Service Area and
Mutually Agreed Point(s) of Entry



COPYRIGHT 2017 CITY OF FORT WORTH
 UNAUTHORIZED REPRODUCTION IS A VIOLATION OF APPLICABLE LAWS
 THIS DATA IS TO BE USED FOR INFORMATIONAL REPRESENTATION ONLY
 THE ACCURACY OF THE DATA IS NOT GUARANTEED FOR ANY PURPOSES
 SURVEYOR: THE CITY OF FORT WORTH ASSUMES NO RESPONSIBILITY
 FOR THE ACCURACY OF SAID DATA

Kennedale: Wastewater Service Area



0 0.0475 0.095 0.19 Miles

EXHIBIT B

EXAMPLE OF MONTHLY WHOLESALE WASTEWATER BILL CALCULATION

**Sample Wholesale
Wastewater Bill.**

Billing for Oct 1 to Oct
31, 2015

FY14 Rates	Volume <u>\$1.2784</u>	BOD <u>\$0.3532</u>	TSS <u>\$0.2514</u>
	Service <u>\$75.00</u>		

Meter Readings:

Current	443,683,000
Previous	409,666,000
Gallons	34,017,000

Billing Calculations:

Volume:

Gallons * Rate/1,000	\$43,487.33
----------------------	-------------

BOD:

Strength * 8.34 *	
Gallons/1,000,000	
Strength:	220 \$22,044.76

TSS:

Strength * 8.34 *	
Gallons/1,000,000	
Strength:	213 \$15,191.72

Service:		<u>\$75.00</u>
Total Due		\$80,798.82

EXHIBIT C

CALCULATION

of PILOT and Cost-of-Service Revenue Requirement to Recover the Cost of PILOT

NARUC	Description	Original Cost	Accumulated Depreciation	CWIP	Net Asset Base
310.00	Land & Land Rights	\$714,375			\$714,375
325.00	Electric Equipment - Treatment	\$160,720	\$36,562		\$124,158
332.00	Water Treatment Equipment	\$87,010	\$11,601		\$75,409
334.00	Computer Equipment	\$5,845	\$2,776		\$3,069
350.00	Land & Land Rights - Collection Structures & Improvements -	\$2,253,986	\$1,750	\$95,000	\$2,347,236
351.00	Collection	\$8,602,142	\$2,633,660		\$5,968,482
354.00	Metering Equipment & Structures	\$886,955	\$886,955		\$0
355.00	Meter Stations	\$3,185,037	\$2,831,134	\$6,999,264	\$7,353,166
360.00	Land & Land Rights - Pumping	\$675,016			\$675,016
361.00	Structures & Improvements	\$11,214,763	\$2,620,965		\$8,593,798
363.00	Electric Pumping Equipment	\$5,185,660	\$2,773,039		\$2,412,621
370.00	Land & Land Rights - Plant Structures & Improvements -	\$8,417,155			\$8,417,155
371.00	Pumping	\$122,803,279	\$81,871,598	\$144,829	\$41,076,510
372.00	Treatment & Disposal Equipment	\$182,373,057	\$118,349,068	\$4,834,395	\$68,858,385
373.00	Odor Conrol System	\$9,750,516	\$3,375,404		\$6,375,112
374.00	Outfall Sewer Lines	\$1,359,125	\$693,135		\$665,990
375.00	Other Treatment & Disposal	\$84,867,001	\$12,465,183		\$72,401,817
389.00	Land & Land Rights	\$365,360			\$365,360
390.00	Other Structures & Improvements	\$1,942,178	\$679,575	\$14,215	\$1,276,818
391.00	Office Furniture and Equipment	\$4,367,875	\$4,151,297		\$216,578
392.00	Transportation Equipment	\$15,447,320	\$12,983,736		\$2,463,584
393.00	Stores Equipment Tools, Shop and Garage	\$90,520	\$86,444		\$4,076
394.00	Equipment	\$1,201,618	\$818,843		\$382,776
395.00	Laboratory Equipment	\$1,456,642	\$936,524		\$520,117
396.00	Power Operated Equipment	\$460,353	\$381,031		\$79,322
397.00	Communications Equipment	\$260,308	\$255,170		\$5,138
398.00	Miscellaneous Equipment	\$16,443	\$8,222		\$8,222
Total		\$468,150,258	\$248,853,671	\$12,087,703	\$231,384,290

Tax Rate/\$100	\$0.8550
PILOT	\$1,978,336
Wholesale Share	25.29%
Wholesale PILOT	\$500,338

All Data from City of Fort Worth Financial System

EXHIBIT D
ADDITIONAL TERMS

WHOLESALE WASTEWATER CONTRACT

STATE OF TEXAS §

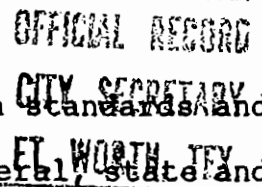
COUNTY OF TARRANT §

This contract made and entered into this, the 8th day of February, 1994, by and between the City of Fort Worth, Texas, a municipal corporation, acting herein by and through its Assistant City Manager, Mike Groomer, who is duly authorized so to act, hereinafter referred to as "Fort Worth," and the City of Kennedale, Texas, a municipal corporation, acting herein by and through its City Administrator, Ted Rowe, who is duly authorized so to act, hereinafter referred to as "Customer."

WHEREAS, the public health, welfare and safety of the residents of Fort Worth and Customer require the development of adequate systems of sewage collection and disposal, the elimination of water pollution and the preservation of the water resources of the area; and

WHEREAS, Fort Worth is required to comply with standards and treatment methods for wastewater as set forth in federal, state and local laws and regulations and permits; and

WHEREAS, Fort Worth and Customer have an interest in maintaining and restoring the chemical, physical and biological integrity of waters and water resources and insuring the reduction of pollution in said waters and water resources, and planning the use, development, restoration, preservation and enhancement of said waters and water resources; and



WHEREAS, Customer desires to contract for wastewater treatment service for a particular area located within Customer's service area, and Fort Worth is agreeable to provide wastewater treatment service to that particular area of Customer's service area; and

WHEREAS, Sections 402.001 and 402.075 of the Texas Local Government Code and Chapter 791 of the Texas Government Code authorize Fort Worth and Customer to enter into this agreement;

NOW, THEREFORE, Fort Worth and Customer, in consideration of the terms, covenants and conditions herein contained, hereby agree as follows:

1. Definitions

When used in this contract, these terms shall be defined as follows:

1.1 Act or "the Act" - The Federal Water Pollution Control Act, also known as the Clean Water Act ("CWA"), as amended (33 U.S.C. 1251, et seq.).

1.2 Biochemical Oxygen Demand (BOD) - The quantity of oxygen utilized in the biochemical oxidation of organic matter specified by procedure in Standard Methods, and results expressed in terms of weight and concentration (milligrams per liter (mg/l)).

1.3 Calibration - Verification of primary measuring device and secondary instrumentation accuracy utilizing standard primary device procedures and calibration signals and/or a separate flow measurement instrument.

1.4 Customer System - That portion of Customer's facilities within the particular service area described in Exhibit

"A" attached hereto and incorporated herein. Used for pretreatment, collection and transportation of wastewater to the point of entry.

1.5 Delivery facilities - That portion of Customer's facilities necessary for the transmission of wastewater to the Fort Worth System that are on the Customer's side of the point of entry that are constructed specifically to allow Fort Worth to serve Customer, solely limited to that particular service area described in Exhibit "A".

1.6 Director - The Fort Worth Water Department Director or his designee.

1.7 Domestic accounts - Single-family and residential duplex dwellings served by one meter. This definition is used only in the context of determining billing on a per-connection basis.

1.8 Fort Worth Expense - Expenses incurred by Fort Worth related to the wastewater utility, such expenses to be allocated as a System Cost if so determined in future cost-of-service studies.

1.9 Fort Worth System - Fort Worth's wastewater collection and treatment system.

1.10 General Benefit Capital Facilities - Wastewater facilities that provide utility services and benefits common to all customers; this includes wastewater treatment facilities, metering and sampling facilities, control systems and appurtenances, and all major collectors and interceptors that are eighteen inches (18") and greater in diameter.

1.11 Indirect Discharge - The discharge or the introduction of industrial wastes from any source regulated under Section 307(b)

or (c) of the Act, (33 U.S.C. 1317), into the Fort Worth System (including holding tank waste discharged into the system).

1.12 Industrial User - A source of indirect discharge which does not constitute a "discharge of pollutants" under regulations issued pursuant to Section 402, of the Act, (33 U.S.C. 1342).

1.13 Industrial wastes - All water-borne solids, liquids or gaseous substances resulting from industrial, manufacturing or food processing operations, or from the development of a natural resource, or any mixture of these with water or domestic sewage.

1.14 Infiltration - Water that has migrated from the ground into the wastewater system.

1.15 Inflow - Water other than wastewater that enters a sewerage system (including sewer service connections) from sources such as, but not limited to, roof leaders, cellar drains, yard drains, area drains, drains from springs and swampy areas, manhole covers, cross connections between storm sewers and sanitary catch basins, cooling towers, storm waters, surface runoff, street wash waters or drainage. Inflow does not include, and is distinguished from, infiltration water.

1.16 Liquid Waste - The water-borne solids, liquids, and gaseous substances derived from certain sources including, but not limited to, grease trap, septic tank, chemical toilet waste and sand trap waste.

1.17 Metering and sampling facility - The meter, meter vault, and all metering and telemetry equipment required to measure

and/or sample wastewater flows of the Customer at point of entry or other such locations, as may be mutually agreed upon in writing.

1.18 Non-domestic account - Commercial, industrial, multi-family or other accounts that are not considered domestic accounts. This definition is used only in the context of determining billing on a per-connection basis.

1.19 Non-metered area - Areas within the Customer's corporate or certificated boundaries that generate wastewater that do not drain into a part of the Customer System for which wastewater flow is measured by an approved metering and sampling facility.

1.20 Point of entry - The metering facility or, where no metering facility is utilized, the point of connection to the Fort Worth System, unless otherwise mutually agreed upon in writing.

1.21 Pretreatment - The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a Publicly Owned Treatment Works. The reduction or alteration can be obtained by physical, chemical or biological processes, or process changes by other means, except as prohibited by 40 CFR Section 403.6(d).

1.22 Pretreatment requirements - Pollutant concentration discharge limitation and reporting requirements stipulated in Fort Worth Ordinance No. 10880 and any amendments thereto, and the

Customer's Code, as hereinafter amended, and Federal Pretreatment Standards promulgated by the U.S. Environmental Protection Agency.

1.23 Significant industrial user - Any industry which discharges industrial wastes directly or indirectly into the Fort Worth System or Customer System that:

- discharges 25,000 gallons per day or more of industrial wastes;
- is subject to the National Pretreatment Standards: Categorical Standards of the U.S. Environmental Protection Agency; or,
- has a reasonable potential, in the opinion of the Director, to adversely affect the Fort Worth System due to discharge of wastewater with abnormally high strength or limited and/or prohibited substances.

1.24 Standard methods - Those testing or analysis procedures as prescribed in the then current edition of "Standard Methods for Examination of Water and Wastewater," published by the American Public Health Association and/or the U.S. Environmental Protection Agency Manual of Methodologies for the Examination of Water and Wastewaters, or as will otherwise comply with procedures specified in state and federal discharge permits held by Fort Worth.

1.25 System cost - Operating expenses and capital related costs incurred by Fort Worth pursuant to the provision of wastewater collection and treatment service to the wholesale class of sewer customers. Such costs are to be collected by Fort Worth

as a component of the annual cost of providing wholesale wastewater service.

1.26 Wholesale System Access Fee - A capital contribution funding or recouping the costs of General Benefit Facilities Capital Improvements, or Facility Expansions necessitated by and attributable to new development.

1.27 Total Suspended Solids (TSS) - Solids, measured in mg/l, that either float on the surface of, or are in suspension in, water, wastewater or other liquids, and which are largely removable by a laboratory filtration device. Also referred to as Total Non-Filterable Residue.

1.28 Wastewater - All liquid or water-carried waste products from whatever source derived, together with such ground water infiltration and surface water inflow as may be present, whether treated or untreated, which is discharged into or permitted to enter into the Fort Worth System. The words "wastewater" and "sewage" are interchangeable.

1.29 Capital Improvements - means any of the following facilities which provide utility services and benefits common to all customers and that have a life expectancy of three or more years, whether such capital improvements are located within the jurisdictional limits of Fort Worth or Customer: wastewater treatment facilities, metering and sampling facilities, control systems and appurtenances, and all major collectors and interceptors that are eighteen inches (18") and greater in diameter and lift stations, if any, associated therewith.

1.30 Facility Expansion - The expansion of the capacity of an existing facility that serves the same function as an otherwise necessary new capital improvement, in order that the existing facility may serve new development. The term does not include the repair, maintenance, modernization, or an expansion of an existing facility to better serve existing development.

2. Connection to the Fort Worth System

2.1 The parties hereto covenant and agree that this contract solely provides for wastewater service to that portion of Customer's service area described in Exhibit "A" attached hereto and incorporated herein. Nothing contained herein shall be construed so as to affect the existing contract between the parties hereto, same being City of Fort Worth City Secretary Contract No. 7182, as amended by City of Fort Worth City Secretary Contract Nos. 7927, 9047 and 13391, it being the intent of the parties that this agreement is strictly limited to that portion of Customer's service area described in Exhibit "A. No addition to the area being served hereunder shall be permitted except by written amendment to this contract. Any and all references to service area, customer system, impact fees, metering and sampling facilities and the like contained herein are also limited to that area described in Exhibit "A".

2.2 Fort Worth agrees to accept all wastewater generated from Customer's service area described in Exhibit "A" at the point of connection as shown on Exhibit "B", attached hereto and

incorporated herein, and at such additional points as may later be mutually agreed upon in writing signed by both parties hereto.

2.3 The cost of all delivery facilities necessary to convey wastewater to the designated points of entry, whether shown on Exhibit "B" or mutually agreed upon at a later date, together with the cost of connection of the Customer System to the Fort Worth System, with the exception of metering and sampling facilities, shall be borne by Customer.

2.4 Unless mutually agreed to in writing by Fort Worth and Customer, Customer shall be responsible for the design, contracting, construction and financing of delivery facilities and acquisition of any necessary rights-of-way and easements to and from such facilities. All designs, materials and specifications shall conform to Fort Worth's requirements as a minimum. Plans and specifications for any delivery facility which actually connects to the Fort Worth System shall be submitted to the Director for written approval. Such approval shall not be unreasonably withheld. No construction shall begin until such approval has been given. Customer agrees that Fort Worth has the right to make periodic inspections during the construction phase of the delivery facilities. Final acceptance of such facility from the point of connection up to and including the metering and sampling facility is subject to the inspection and written approval of the Director.

2.5 After the date of this contract, Customer agrees not to provide retail service to any new customer whose need for wastewater service would exceed 500,000 gallons per day without

written notice to and the written approval of the Director.

3. Maintenance of Customer System

Customer agrees to maintain its system in good condition and to make repairs in a timely manner. Fort Worth shall not have any responsibility or liability now or ever for the operation of the Customer System, except as agreed to in writing by the parties hereto.

4. Maintenance of Fort Worth System

Fort Worth agrees to maintain its system in good condition and to make repairs in a timely manner. Customer shall not have any responsibility or liability now or ever for the operation of the Fort Worth System, except as otherwise provided herein.

5. Metering and Sampling Facilities

5.1 Beginning on the effective date of this contract, Fort Worth shall have the exclusive right to use, operate, and maintain Customer metering and sampling facilities and Fort Worth shall become solely responsible for the operational and maintenance responsibilities associated with such facilities. Customer will continuously provide a route of ingress and egress to said metering and sampling facilities for Fort Worth. Fort Worth shall have the discretion to construct improvements, expansions, and replacements to said facilities as a system cost and at the timing of Fort Worth's needs subject to the review by Customer of all proposed construction, expansion, and replacement plans. Customer will also grant and provide to Fort Worth such permits or easements as are necessary for the continuous operation and maintenance of all

metering and sampling facilities. All such costs incurred by Fort Worth for operation, maintenance, construction, expansion, and replacement of Customer metering and sampling facilities shall be considered system costs.

5.2 Fort Worth shall have the right to use the flume described in paragraph 7.1 hereof for purposes of metering and sampling. Fort Worth, at its sole discretion, may install such additional facilities as may be necessary, including, but not limited to the installation of electricity and other equipment, to place in operation a metering station located at or near the flume. Any costs incurred by Fort Worth under this section shall be a system cost. If Customer constructs the additional facilities, Customer may either transfer ownership of such newly constructed facilities, together with all necessary access easements and rights-of-way to Fort Worth in a form satisfactory to Fort Worth or may grant to Fort Worth the right of ingress and egress to such facilities, together with the authority to operate and maintain the facilities as specified in Section 5.1, within sixty (60) days of such completion. Thereafter, Fort Worth shall operate and maintain the facilities as a system cost and treat any ownership transfer as a contribution for rate purposes, but same shall not be an indicia of equity ownership.

5.3 Expenses incurred by Fort Worth for the operation and maintenance of Customer metering and sampling facilities shall be system costs and shall include, but not necessarily be limited to, the following:

- A. Cost of electricity at the facility;
- B. Cost of the initial installation of the telemetry service at the facility and to the control center and cost of monthly lease charge for the telephone line;
- C. Cost of calibration;
- D. Cost of parts, materials and supplies required for repairs, calibrations and upgrading of the facilities;
- E. Labor cost plus fringe benefits and indirect costs for repairs, calibrations and upgrading of the facilities;
- F. Maintenance of ingress and egress and meter facility site.

5.4 Replacement of facilities described in this section or equipment therein occasioned as a result of obsolescence due to age, excessive maintenance, growth or other reasons as determined by the Director shall be a system cost. Any replacement facility or equipment therein shall comply with Fort Worth's standards and specifications.

5.5. Upon expiration or termination of this agreement by either party, Fort Worth shall transfer to Customer ownership of any property easements, metering and sampling facilities and rights-of-way conveyed to Fort Worth pursuant to the terms of this Section 5.

6. Rights-of-Way

6.1 Customer shall grant, without charge to Fort Worth, such easements and rights-of-way along public highways or other property owned by Customer, as requested by Fort Worth, in order for Fort

Worth to construct or maintain mains or facilities within the corporate limits of Customer to provide wastewater collection to Customer and to other areas. Upon notice from Customer and at Fort Worth expense, Fort Worth will move such wastewater mains or facilities located in such street right-of-way, or other property owned by Customer when reasonably necessary to the performance of essential governmental duties by Customer.

6.2 Fort Worth shall grant, without charge to Customer, such easements and rights-of-way along with public highways or other property owned by Fort Worth, as requested by Customer, in order for Customer to construct and maintain wastewater mains or facilities within Fort Worth to provide wastewater collection to Customer. Upon notice from Fort Worth and at Customer's expense, Customer will move such wastewater mains or facilities when located in such street rights-of-way or other property owned by Fort Worth when reasonably necessary to the performance of essential governmental duties by Fort Worth.

6.3 All work done by or on behalf of Fort Worth under this Section 6 will be performed in accordance with specifications equal to those applying to work of a similar nature performed within Fort Worth, but neither party hereto will be required to restore the other's property to a condition exceeding its original condition, unless otherwise mutually agreed in writing. Fort Worth and Customer agree to coordinate the location of the mains and/or facilities in the other's easements and rights-of-way in order to prevent further conflicts insofar as reasonably practicable.

7. Metering and Sampling

7.1 Customer agrees to have its engineer consult with Fort Worth on the installation of a flume at or near the point of connection to the Fort Worth System and within the delivery facility. Customer is responsible for the cost of the design of the flume and the design must be approved in writing by the Director prior to installation and connection to the Fort Worth System. The cost of the installation of the flume shall be borne by Customer.

7.2 The parties agree that as of the date of this contract, the wastewater to be introduced into the Fort Worth system by Customer will not be recorded by a meter. The volume of wastewater for billing purposes will be determined by using the total water sold by Customer to consumers located within the service area described in Exhibit "A" plus 1% for infiltration and inflow, provided, however, that any water sold by Kennedale within the service area that is measured by an irrigation or yard meter and which is not connected to the sanitary sewer system shall not be included in calculating the total water sold. Customer will be responsible for providing to Fort Worth data each month of all metered water. This data will be provided by Customer to Fort Worth no later than the 5th of each calendar month. Upon activation of the meter, billing will be based upon the readings from the meter registering the volume of wastewater flowing through the meter.

7.3 At such time as the Director may determine in his/her sole discretion, a meter may be installed. The cost of same shall be that as provided for in Section 5.2 hereof.

7.4 Customer shall have access to the metering and sampling facilities at all reasonable times; provided, however, that any reading, calibration or adjustment to such metering equipment shall be done by employees or agents of Fort Worth, or other mutually approved third party calibration agent, in the presence of representatives of Customer and Fort Worth, if so requested by Customer. Notification of any proposed tests shall be provided to the Customer at least seventy-two (72) hours prior to such tests being conducted.

7.5 All readings of meters will be entered in ink upon bound journals maintained by Fort Worth. Customer shall have access to such records during reasonable business hours and shall be furnished with monthly totalizer readings for each point of entry metering and sampling facility.

7.6 Fort Worth shall calibrate and routinely service the meters no less than once during each six (6) month period. Copies of the results of such calibration and all related information shall be provided to Customer. Fort Worth shall notify the Customer at least seventy-two (72) hours in advance of the date and time for any calibration and Customer may observe, if so desired.

7.7 Upon any calibration, if it is determined that the accuracy envelope of such meter is found to be lower than ninety-five percent (95%) or higher than one hundred five percent

(105%) expressed as a percentage of the full scale of the meter, the registration of the flow as determined by such defective meter shall be corrected for a period extending back to the time such inaccuracy began, if such time is ascertainable; or, if such time is not ascertainable, then for a period extending back one-half (1/2) of the time elapsed since the date of the last calibration, but in no event further back than a period of six (6) months.

7.8 If any meter used to determine volume from Customer is out of service or out of repair so that the amount of wastewater metered cannot be ascertained or computed from the reading thereof, the wastewater delivered through the period such meter is out of service or out of repair shall be estimated and agreed upon by the parties hereto upon the basis of the best data available. The basis for estimating such flow includes, but is not limited to, extrapolation of past patterns of flow for said metering station under similar conditions. In the event that the parties hereto cannot agree on the extrapolated estimate of wastewater volume delivered, agreement on the flow volume will be determined by third party arbitration.

7.9 Fort Worth shall periodically determine the quality of the wastewater at the metering and sampling facilities or other agreed upon sampling points for the purposes of billing for the strength of the wastewater. The sampling and testing shall be done in accordance with the wholesale wastewater customer monitoring handbook, dated October, 1990, prepared by Gutierrez, Smouse, Wilmut and Associates, Inc., as it may be amended from time to

time. Fort Worth will provide Customer with a minimum of seven (7) day advance notification of intent to sample, or such notification as is sufficient to allow Customer to arrange the services of a qualified laboratory. If, at the request of Customer or at the request of the Director, more extensive monitoring is desired, such additional monitoring shall be paid for by the party making the request and shall be done in compliance with Section 7. If Customer requests such additional monitoring, Fort Worth shall invoice Customer and payment shall be made within ten (10) days after receipt of invoice.

The notification required in this section shall include the planned dates, times, and location(s) of sampling. Fort Worth shall analyze the samples collected in accordance with standard methods. Customer may be present during the initial setup of sampling equipment and at the time of pickup for each twenty-four (24) hour composite sample. Fort Worth agrees, if requested, to split said wastewater samples with Customer.

7.10 If in the opinion of the Director, compliance monitoring is required, the Director may order that additional monitoring be performed with or without prior notice to Customer. Said compliance monitoring is to be in addition to the periodic sampling set forth in Section 7.8. All information obtained as a result of such compliance monitoring shall be provided to the Customer upon request. Fort Worth will provide notice of such compliance monitoring to Customer within a reasonable time thereafter.

7.11 If Customer disputes Fort Worth results of analyses and the parties hereto cannot settle such dispute, such dispute will be determined by third party arbitration.

7.12 All costs incurred by Fort Worth under this section will be considered to be a system cost.

8. Rates and Charges

8.1 Wholesale wastewater rates will be based upon cost-of-service rate studies performed by independent utility rate consultants, as provided for in Section 8.4 hereof. The independent utility rate consultant shall be selected by the Director from a list of five highly qualified firms submitted by the Wastewater System Advisory Committee. The cost of such studies will be a system cost. All cost-of-service studies shall be conducted utilizing the utility cost basis of determining revenue requirements applicable to the wholesale customer class.

8.2 The cost-of-service for the wholesale customer class shall include allocated reasonable and necessary operation and maintenance expenses, depreciation expense and a fair and reasonable return on allocated capital facilities. To determine the allocation and distribution of costs to the wholesale customer class, the independent utility rate consultant shall consider at least the following factors: total volume, rate of flow, wastewater quality, metering, and customer-related costs such as accounting, billing, and monitoring. Capital-related costs will consist of depreciation expense and return on original cost rate base. On a periodic basis as determined by the Director the depreciation

rates on all general benefit capital facilities shall be studied, and new salvage values, useful lives, and annual rates of depreciation shall be developed from such studies. The rate base shall consist of all allocated capital facilities, net of depreciation and appropriate contributions, and shall include construction work in progress, a reasonable allowance for working capital, and a reasonable inventory of materials and supplies necessary for the efficient operation of the Fort Worth System. On a periodic basis as determined by the Director, a cash "lead-lag" study shall be conducted to determine the appropriate level of working capital at the same time as the above depreciation rate study is done. Records of the original cost and the accumulated depreciation of all capital facilities shall be maintained in the Fort Worth Fixed Asset Tracking System. These records shall be available for inspection at the Fort Worth Water Department during reasonable business hours upon request by Customer.

8.3 Fort Worth shall be allowed an adequate opportunity to earn a reasonable rate of return. The return shall be sufficient to assure confidence in the financial soundness of the utility, shall be adequate to maintain and support its credit, shall enable it to raise the money necessary for the proper discharge of its public duties, and shall be equal to the weighted average imbedded cost of outstanding debt plus one-and-one-half percent (1-1/2%).

8.4 For the fiscal years beginning October 1, 1995, 1998, 2001, 2004, 2007, 2010, 2013, and 2016, a complete detailed rate study will be performed by an independent utility rate consultant

selected by the Director in conformance with Section 8.1 hereof. The same methodology as used in the immediate previous rate study will be utilized by the utility rate consultant so selected. In the interim period between complete detailed rate studies, wholesale wastewater rates shall be adjusted by Fort Worth using the same methodology adopted at the time of the last complete detailed rate study utilizing the actual operating data for the most current twelve month period ending September 30th, adjusted for known and measurable changes in cost data which may have occurred since the last audited statement.

8.5 Changes in the wholesale wastewater rate methodology will be allowed if recommended by a majority of the Wastewater System Advisory Committee and approved by the Fort Worth City Council. For purposes of the section, a majority is defined as any combination of Wholesale Customers contributing a total of more than fifty percent (50%) of the wholesale sewage flow in the immediate past fiscal year.

8.6 The charges for the initial period of this contract shall be from the date of its execution through September 30, 1993, and are as follows:

Volume Charge	\$0.3542 per 1000 gallons
BOD Strength	
Charges	\$0.1723 per pound of BOD
TSS Strength	
Charges	\$0.1389 per pound of TSS
Monthly Billing Charges	\$75.00

8.7 Bills for wastewater treatment and disposal service shall be rendered to Customer monthly by Fort Worth. All such bills shall be due and payable by Customer not more than thirty (30) days from the billing date. The bills will show current charges, as well as past-due charges, if any. Current charges shall be the amount due for wastewater collection, treatment and disposal service provided since the prior billing period. Past-due charges shall be the total amount unpaid from all prior billings as of the current billing date. Payments received by Fort Worth shall first be applied to the past-due charges, if any, and thereafter to the current charges.

8.8 If Customer disputes a bill and is unable to resolve the difference informally, Customer shall notify the Director in writing. If the Director and Customer are unable to resolve the disputed bill, agreement on the bill will be determined by third party arbitration. Dispute of a bill is not grounds for non-payment. In the event a payment is not paid as specified in this agreement, a finance charge of ten percent (10%) per annum will be calculated from the date which the payment was required to be made. In the event the bill established by arbitration is less than the disputed bill, then the amount found to be incorrect will be credited to the Customer's account together with an interest charge of ten percent (10%) per annum calculated from the date payment of the disputed bill was received.

8.9 The parties hereto agree that services obtained pursuant to this contract are essential and necessary to the operation of Customer's waterworks and wastewater facilities and that all payments made by each Customer hereunder shall constitute reasonable and necessary operating expenses of Customer's waterworks and wastewater systems within the meaning of Article 1113, Vernon's Annotated Texas Statutes, and the provisions of any and all ordinances of Customer authorizing the issuance of any revenue bond issues of Customer which are payable from its waterworks and wastewater systems.

8.10 Customer agrees, throughout the term of this agreement, to fix and collect such rates and charges for wastewater service to be supplied as will produce revenues in an amount equal to at least (i) all of operation and maintenance expenses of such system, including specifically its payments under this agreement; and (ii) all other amounts as required by law and the provisions of the ordinances or resolutions authorizing its revenue bonds or other obligations now or hereafter outstanding, including the amounts required to pay all principal of and interest on such bonds and other obligations.

8.11 Customer specifically agrees to adopt and maintain in effect for the life of this contract an ordinance providing for a user charge system in full accord with relevant EPA regulations.

8.12 If a court, the Texas Water Commission, or any federal or state regulatory authority finds that Fort Worth's rates, policies, or methodologies for calculating rates for the collection

and/or treatment of wastewater delivered by Customer to Fort Worth under this agreement are unreasonable or otherwise unenforceable, Fort Worth has the option to terminate this agreement without liability to Customer. By signing this agreement, Customer stipulates and agrees that Fort Worth and its other customers will be prejudiced if Customer avoids the obligation to pay the rates for the wastewater services specified in this agreement while accepting the benefits of obtaining such services from Fort Worth. Nothing in this agreement shall be construed as an undertaking by Fort Worth to furnish wastewater services to Customer except pursuant to this agreement. If Customer initiates or participates in any proceeding regarding Fort Worth's rates, policies, or methodologies for calculating rates under this agreement and advocates a position that is adverse to Fort Worth and Fort Worth prevails, Customer shall pay Fort Worth for its expenses including attorney's fees in the proceeding within fifteen (15) days after Fort Worth's demand for payment. Customer stipulates and agrees that the rates, policies and methodologies for calculating rates are just, reasonable and without discrimination.

9. Industrial Connection and Monitoring

9.1 Customer agrees that it will not permit any significant industrial user within its jurisdiction to connect directly or indirectly either to its system or to the Fort Worth System without at least thirty (30) days' prior written notification to the Director of such intent to connect. Customer shall provide the

Director with such information pertaining to volume and composition of flow as may be requested by the Director.

9.2 Customer agrees to conduct any and all monitoring, sampling and inspection of Customer System and industrial users as necessary to insure that industrial waste introduced into the Customer System meets the quality standards set out in Section 10.2 hereof. Upon request to Customer, a representative of Fort Worth will be permitted to observe Customer's collection of samples from industrial users, and Customer agrees to furnish Fort Worth separate duplicate samples for independent testing, and, upon request, to provide the Director sample analysis results and pretreatment records.

9.3 Customer agrees that Fort Worth shall have the right to sample wastewater at all points of entry and such other locations as may be mutually agreed to in writing by both parties for the purpose of determining the volume and quality of wastewater entering the Fort Worth System. Customer agrees to disconnect from its system any industrial user found to be in violation of allowable discharges or who refuses access to its facilities for the purpose of sampling wastewater being discharged into the Customer System; provided, however, that said disconnected industrial user shall be afforded the same rights, privileges of appeal and deficiency cure periods as are industrial users operating within Fort Worth's jurisdiction.

9.4 Following notice to Customer by Fort Worth, Customer grants to Fort Worth the right to enter Customer's jurisdiction if

Fort Worth determines that questionable discharges or prohibited discharges are entering the Fort Worth System emanating from the Customer System. Customer agrees to assist Fort Worth in locating and eliminating such prohibited discharges.

10. Wastewater Quality

10.1 Customer agrees that on or before thirty (30) days from date of execution of this contract it shall enact and cause to be enforced an ordinance enabling Customer to enforce within its jurisdiction regulations governing industrial waste that are at least as stringent as the provisions of the current Fort Worth Ordinance No. 10880 and any necessary and reasonable amendments thereto, (attached hereto and marked as Exhibit "C" and made a part hereof for all intents and purposes) and state and applicable federal regulations relating to 1) discharged substances; 2) prohibited discharges; 3) pretreatment requirements; 4) industrial discharge permitting system; and 5) industrial self-monitoring reports. Customer agrees to enact and enforce ordinances or any amendments to Ordinance No. 10880, or any future ordinances relating to industrial discharges, prohibited or controlled wastes or pretreatment requirements and such amendments and future ordinances shall become incorporated as additional exhibits to this contract; provided, however, Fort Worth shall provide Customer with a copy of such proposed ordinances or amendments at least sixty (60) days prior to the presentation of such ordinances or amendments to the Fort Worth City Council during which time Customer shall have an opportunity to review same. Customer shall

adopt and enforce such proposed ordinances or amendments no later than the effective date of the Fort Worth ordinance or amendment.

10.2 Customer agrees that the quality of the wastewater discharged into the Customer System shall be equal to or better than the quality standards established by Fort Worth Ordinance No. 10880, or any amendment adopted pursuant to Section 10.1.

10.3 Customer shall require all significant industrial users within its jurisdiction that ultimately discharge into the Fort Worth System to apply for and obtain a permit from Customer allowing such discharge. Such permit shall require industrial users to abate prohibited substances from their discharge as a condition to discharging wastewater into the Customer System. The permit application shall contain, as a minimum, the following:

1. Name and address of discharger;
2. Agent for discharger;
3. Type of industry;
4. Products produced or services rendered; and
5. Chemicals being stored and/or used.

Customer shall provide Fort Worth a copy of such application and permit, if issued, within fourteen (14) days after issuance.

11. Resale of Wholesale Wastewater Services

11.1 Customer is prohibited from providing wholesale wastewater services without the prior recommendation of the Wastewater System Advisory Committee and without the prior written consent of the City Council of Fort Worth. Customer shall provide

the Director a copy of the proposed contract with its wholesale customer.

11.2 If the consent as required in Section 11.1 is given, Customer shall require its wholesale customer to comply with Sections 9, 10 and 28 of this contract and to enact and enforce any and all necessary ordinances.

12. Infiltration and Inflow

Customer agrees that it has an obligation to prevent infiltration and inflow into its System and then into the Fort Worth System. Customer further agrees that all sewer connections within its jurisdiction which ultimately enter into the Fort Worth System will be constructed in accordance with applicable specifications and standards at least equal to those of the Fort Worth Water Department or the Standard Specifications for Public Works Construction issued to the North Central Texas Council of Government. Further, Customer covenants and agrees to maintain strict supervision and maintenance of its System to prevent connections through which surface drainage can enter ultimately into the Fort Worth System. Customer shall not make, nor shall it permit to be made, any connection which will contribute storm water run-off from rainwater spouts, drainage areas, streets, gutter drain or other source into its sanitary sewer system.

13. Sludge Disposal

Customer recognizes the importance of utilizing sludge in a timely and proper manner. Customer will cooperate with Fort Worth

in any environmentally sound sludge utilization program meeting federal and state standards within the area served by Customer.

14. Wastehaulers

Customer agrees to adopt the North Central Texas Council of Government's model ordinance, or one similar to it, regulating liquid wastehaulers within Customer's service area. At a minimum such ordinance shall require liquid wastehaulers to be permitted and provide for a manifest system. Further, said ordinance shall prohibit the introduction of liquid waste into the Customer System, directly or indirectly.

15. Assistance

15.1 In the event Customer requests assistance with its System, Fort Worth may, at its option, assist Customer. Customer agrees to pay Fort Worth its actual costs incurred, including, but not limited to, labor and material expended. Nothing herein shall be construed to require Fort Worth to assist Customer. Such costs will be invoiced to Customer and payment made within ten (10) days after receipt of invoice.

15.2 In the event Fort Worth requests assistance with its System, Customer may, at its option, assist Fort Worth. Fort Worth agrees to pay Customer its actual costs incurred, including, but not limited to, labor and material expended. Nothing herein shall be construed to require Customer to assist Fort Worth. Such costs will be invoiced to Fort Worth and payment made within ten (10) days after receipt of invoice.

16. Payment and Finance Charge

The parties hereto agree that the failure to make any payments within the times provided for herein results in additional cost to the party to be paid; therefore, the parties agree that any payment required herein not made within thirty (30) days of the billing date shall be subject to a finance charge of ten percent (10%) per annum to be calculated from the date which the payment was required to be made.

17. Reports and Records

If requested by the Director, and/or Customer, the other party shall provide quarterly the following data: Actual number of customer accounts discharging directly or indirectly into the Fort Worth System and/or Customer System within their respective service areas; classification of domestic and nondomestic accounts within its service area by number and percentage of accounts discharging directly or indirectly into the Fort Worth System and/or Customer System within its service area.

Either party may request additional data which may assist them in developing methodology for cost of service studies, planning studies for analyzing federal grants, and wholesale system access fees; provided, however, that neither party shall request data that will require the other party to incur unreasonable expenses in providing such data.

18. Notices

Any notice, communication, request, reply or advice herein provided or permitted to be given, made or accepted by either party to the other party must be in writing to:

City of Fort Worth: Water Director
City of Fort Worth
1000 Throckmorton Street
Fort Worth, Texas 76102
Customer: City Administrator
City of Kennedale
209 North Hope Rd
Kennedale, Texas 76060

The parties hereto shall indicate in writing any change that may occur in such respective addresses from time to time.

19. Inspection and Audit

Complete records and accounts required to be maintained by each party hereto shall be kept for a period of five (5) years. Each party shall at all times, upon notice, have the right at reasonable times to examine and inspect said records and accounts during normal business hours; and further, if required by any law, rule or regulation, make said records and accounts available to federal and/or state auditors.

20. Consent

20.1 Whenever, under the terms of this agreement, Fort Worth is permitted to give its written consent or approval, Fort Worth, in its discretion, may give or may refuse such written consent or approval and, if given, may restrict, limit or condition such

consent or approval in any manner it shall deem advisable; however, consent will not be unreasonably withheld.

21. Waiver, Remedy, Severability

21.1 No waiver by either party hereto of any term or condition of this agreement shall be deemed or construed to be a waiver of any other term or condition or subsequent waiver of the same term or condition.

21.2 In addition to any other remedy as may be provided by law, this agreement shall be specifically enforceable by the parties hereto. Venue for any action shall be in Tarrant County, Texas.

21.3 It is agreed that, in the event any term or provision herein contained is held to be invalid by any court of competent jurisdiction, the invalidity of such term or provision shall in no way affect any other term or provision contained herein; further, this agreement shall then continue as if such invalid term or provision had not been contained herein.

22. Ownership and Liability

22.1 No provision of this agreement shall be construed to create any type of joint or equity ownership of any property, any partnership or joint venture, nor shall same create any other rights or liabilities and Customer payments (whether past, present, or future) will not be construed as granting Customer partial ownership of, pre-paid capacity in, or equity in the Fort Worth System.

22.2 Liability for damages arising out of the transportation, delivery, reception, treatment, and/or disposal of all wastewater discharged into the Fort Worth System shall remain in Customer, together with title thereto, until such wastewater passes through the point of connection to the Fort Worth System, at which time liability for such damage shall pass to Fort Worth, save and except that title to any prohibited discharge and any liability therefor shall not pass to Fort Worth unless such prohibited discharge originated in the Fort Worth System. Further, the parties hereto agree to indemnify, save and hold the other party harmless from any and all claims, demands, causes of action, damages, losses, costs, fines and expenses, including reasonable attorney's fees, that may be asserted by anyone at any time on account of the transportation, delivery, reception, treatment and/or disposal while title to the wastewater is in such party. If such liability for damages is not attributable to a specific customer or Fort Worth, such liability becomes a Fort Worth expense.

22.3 Contracts made and entered into by either Customer or Fort Worth for the construction, reconstruction or repair of any delivery facility shall include the requirements that the independent contractor(s) must provide adequate insurance protecting both the Customer and Fort Worth as insured. Such contract must also provide that the independent contractor(s) covenant to indemnify, hold harmless and defend both the Customer

and Fort Worth against any and all suits or claims for damages of any nature arising out of the performance of such contract.

23. Compliance with Permit Conditions

Customer acknowledges that Fort Worth is the holder of discharge permits issued by the United States and the State of Texas. Customer agrees that it will comply with all permit conditions in any way relating to its collection system and the discharge into the Fort Worth System. Customer agrees, that in the event a fine is assessed against Fort Worth for any violation of any permit condition, and the violation is attributable to any act of omission or commission by Customer, to indemnify Fort Worth and pay to Fort Worth the amount of such fine. If such fine is not attributable to a specific customer, such fine becomes a Fort Worth expense.

24. Life of Contract

This contract shall expire on September 30, 2017 and thereafter shall be subject to renegotiation between the parties hereto.

25. Force Majeure

No party hereto shall be considered to be in default in the performance of any of the obligations hereunder (other than obligations of either party to pay costs and expenses) if such failure of performance shall be due to an uncontrollable force beyond the control of the parties, including but not limited to, the failure of facilities, flood, earthquake, tornado, storm, fire,

lightning, epidemic, war, riot, civil disturbance or disobedience, labor dispute and action or non-action by a failure to obtain the necessary authorizations and approvals from any governmental agency or authority or the electorate, labor or material shortage, sabotage, or restraint by a court order or public authority, which by the exercise of due diligence and foresight such party could not have reasonably been expected to avoid and which by exercise of due diligence it shall be unable to overcome. Either party rendered unable to fulfill any obligation by reason of an uncontrollable force shall exercise due diligence to remove such inability with all reasonable dispatch.

In the event the proper operation of the Fort Worth System, as a result of the above, requires Fort Worth to temporarily interrupt all or part of the services to Customer, no claims for damage shall be made by Customer against Fort Worth. Fort Worth will exercise its best efforts to insure that such interruptions will not adversely affect the health and welfare of Customer's residents.

26. Termination

This agreement may be terminated in whole or in part by the mutual consent of Customer and Fort Worth. Notwithstanding anything contained herein to the contrary, any material breach by either party hereto to perform any of the duties or the obligations assumed by such party hereunder or to faithfully keep and perform any of the terms, conditions and provisions hereof shall be cause for termination of this agreement by Fort Worth in the manner set forth in this paragraph. Fort Worth shall deliver to Customer

ninety (90) days prior written notice of its intention to so terminate this agreement if Customer fails to cure or adjust such material breach, including in such notice a reasonable description of the breach. If within said ninety (90) days Customer shall fail or refuse to cure such default to the satisfaction of Fort Worth, then and in such event, Fort Worth shall have the right with six months advance written additional notice to Customer and without any liability whatsoever on the part of Fort Worth to declare this agreement terminated. In the event of termination of this agreement, all rights, powers, and privileges of Customer hereunder shall cease and terminate and Customer shall make no claim of any kind whatsoever against Fort Worth, its agents or representatives, by reason of such termination or any act incident thereto, provided Fort Worth acted reasonably and such termination was not unreasonable, arbitrary and capricious. Fort Worth shall advise Customer in writing immediately upon acceptance of the cure of any default. The following breach, default or failure to perform a duty or obligation shall be considered to be a material breach:

- a. Failure to adopt and enforce any ordinance required to be adopted and enforced herein;
- b. Failure to make any payment of any bill, charge or fee as provided for in this agreement;
- c. Making any connection to the Fort Worth system at any point except as provided in Section 2.2 hereof;
- d. Failure to provide Fort Worth ingress and egress for

purposes of sampling and operation and maintenance of any metering or any sampling facility;

- e. Failure to provide Fort Worth rights-of-way as required herein;
- f. Failure to permit any sampling of wastewater as provided for herein;
- g. Failure to disconnect industrial users of Customer pursuant to Section 9.3;
- h. Failure to maintain the quality of discharge as required in Sections 10.2 and 10.3;
- i. Failure of Customer to comply with Section 11.2 hereof;
- j. Failure of Customer to comply with Section 23 hereof.
- k. The provision of wholesale wastewater service without the prior written consent of the City Council of the City of Fort Worth.

In the event of any other nonmaterial breach, default or failure to perform duties under this agreement, Fort Worth shall deliver to Customer sixty (60) days advance written notice of such default. If Customer fails to cure such breach, default or failure, then Fort Worth shall give Customer written notice of such failure to cure and may surcharge Customer Five Thousand Dollars (\$5,000) per month until such time as Customer cures such nonmaterial default.

Any failure by Fort Worth to so terminate this agreement or the acceptance by Fort Worth of any benefits under this agreement for any period of time after such material breach, default or failure by Customer shall not be determined to be a waiver by Fort Worth of any rights to terminate this agreement for any subsequent material breach, default or failure.

Any failure by Customer to so terminate this agreement or the acceptance by Customer of any benefits under this agreement for any period of time after such breach, default or failure by Fort Worth shall not be determined to be a waiver by Customer of any rights to terminate this agreement for any subsequent material breach, default or failure.

27. Regional Wastewater Authority

In the event Fort Worth is designated as a regional wastewater authority or agency by a duly authorized regulatory body, or if Fort Worth should elect to contract with or assign this contract to a regional wastewater authority to provide all or part of the services covered by this agreement, the parties hereto agree that any such regional wastewater authority may, by way of assignment of this agreement, assume the same obligations and receive the same benefits as Fort Worth. Customer hereby grants to Fort Worth the specific right to assign this agreement subject to the provisions of this section.

28. Wholesale System Access Fees

28.1 On a quarterly basis, Customer agrees to pay Fort Worth a Wholesale System Access Fee for each new or enlarged connection

for wastewater service made within Customer's service area served by the General Benefit Capital Facilities of the Fort Worth system. The Wholesale System Access Fee to Customer for each such connection shall be based upon the size of water meter and shall be equal to the Wholesale System Access Fee collected for the same size water meter made within the jurisdiction of Fort Worth. The calculation of said Wholesale System Access Fee shall be consistent with all applicable state and federal regulations, including Chapter 395, Texas Local Government Code, or any amendment or successor statute thereto, and shall include only those costs associated with General Benefit capital expansions and capital improvements necessary to provide service to new development. Nothing within this contract shall be deemed to prevent either Fort Worth or Customer from charging their own retail customers impact fees in excess of the Wholesale System Access Fee charge provided for herein.

28.2 Fort Worth agrees that all monies remitted to it pursuant to this Section will be placed in a separate interest bearing account to pay only for the cost of constructing capital improvements or facility expansions as permitted by Chapter 395, Texas Local Government Code, or any amendment thereto, or by any successor statute thereto, and will not be used for operation and maintenance expenses. Once expended, such funds and all interest earned thereon will be considered a "contribution" for rate setting purposes only.

28.3 Customer shall provide to Fort Worth such information that relates to the making of new and/or enlarged connections within its jurisdiction as may be requested by the Director, including but not limited to building permits, with each quarterly payment required in this section.

28.4 Neither Fort Worth nor Customer shall waive any impact fee due from a retail customer for a new or enlarged connection to its respective system within its jurisdiction. However, either Fort Worth or Customer may pay such impact fee into the fund required for paying for the capital improvements.

28.5 The Wastewater System Advisory Committee created pursuant to Section 29 hereof shall select five (5) of its members to a subcommittee to be known as the Customer Impact Fee Committee (CIFC). Every three years, beginning June, 1993, Fort Worth will update the land use assumptions and capital improvements plan upon which the Wholesale System Access Fees are based. In June 1993 and every three years thereafter, the CIFC shall submit a list of five qualified engineers or planning consultants to the Director. The Director shall select a consultant from such list to assist Fort Worth in developing land use assumptions, identifying capital improvements, and formulating capital improvement plans and access fees. The consultant shall be responsible to Fort Worth and its citizen's advisory committee, but shall also report to the CIFC. The cost of the consultant shall be deemed a System Cost. In the event the CIFC fails to submit a list of five consultants to Fort

Worth, Fort Worth shall select a consultant to perform in the manner described herein.

28.6 Fort Worth agrees that only those capital improvements as defined in section 1.29 hereof shall be included in the capital improvements plan for the purpose of determining Wholesale System Access Fees; provided, however, Fort Worth may include other capital improvements for the purpose of determining impact fees to its own retail customers. Fort Worth shall not be required to include all capital improvements in any capital improvements plan. The CIFIC shall be responsible for working with Fort Worth and its consultant to determine the capital improvements to be included in the calculation of any Wholesale System Access Fees. The CIFIC shall recommend to the Wastewater System Advisory Committee which capital improvements should be included in the calculation of any Wholesale System Access Fees. The CIFIC shall also meet with Fort Worth's citizen advisory committee as such citizen's advisory committee reviews and considers land use assumptions, the capital improvements plan and impact fees.

28.7 Prior to the adoption of any land use assumptions, capital improvements, or access fees, the CIFIC shall be furnished a copy of the proposed land use assumptions, capital improvement plan or access fees at least 30 days prior to any scheduled hearing thereon.

28.8 Each year Fort Worth shall provide to the Wholesale Wastewater Advisory Committee an audited financial statement of the Fort Worth Water Department's records.

28.9 Fort Worth and Customer agree that the methodology for the calculation of Wholesale System Access Fees required herein is consistent with the methodology prescribed by Chapter 395, Texas Local Government Code. In the event that such statutory methodology is amended or replaced by a new statute, the Wholesale Wastewater Advisory Committee may engage legal counsel to work with Fort Worth to propose amendments to this contract to conform it to such amendment or new statute. The reasonable cost of such legal counsel shall be a system cost.

29. Wastewater System Advisory Committee

Customer's governing body shall annually appoint a representative to be a voting member of the Wastewater Advisory Committee, whose purpose shall be to consult with and advise Fort Worth, through the Director, on matters pertaining to planning, improvements, grants, rate studies, budgets, administration, and additional wholesale customers, whether same be wholesale customers of Customer or Fort Worth. The Committee may establish bylaws governing the election of officers, meeting dates and other matters pertinent to its functioning.

30. Effective Date

This contract, together with all terms and conditions and covenants, shall be effective as of the date of connection of the Customer system to the Fort Worth System.

31. Miscellaneous

31.1 This agreement is subject to all applicable federal and state laws and any applicable permits, ordinances, or amendments

adopted pursuant to Section 10.1 rules, orders and regulations of any state or federal governmental authority having or asserting jurisdiction, but nothing contained herein shall be construed as a waiver of any right to question or contest any such law, ordinance, order, rule or regulation in any forum having jurisdiction.

31.2 The Customer agrees to abide by any changes in this agreement made necessary by any amendment or revision to state or federal regulations.

31.3 Upon prior notice by Fort Worth, any duly authorized employee of Fort Worth bearing proper credentials and identification shall notify Customer of need for access to any premises located within Customer's city limits or served by Customer as may be necessary for the purpose of inspections and observation, measurement, sampling and testing and/or auditing, in accordance with the provisions of this contract. Customer may elect to accompany the Fort Worth representative. To the extent permitted by law, Fort Worth agrees to indemnify Customer for any damage or injury to person or property caused by the negligence of such duly authorized employee while such employee is in the course and scope of his employment.

31.4 In each instance herein where reference is made to a federal or state regulation, it is the intention of the parties that, at any given time, the current federal or state regulation shall apply. If a publication or reference work referred to herein is discontinued or ceases to be the generally accepted work in its field, or if conditions change, or new methods or processes are

implemented by Fort Worth, new standards shall be adopted which are in compliance with state and federal laws and any valid rules and regulations pursuant thereto.

31.5 Fort Worth must comply with all federal, state and local government requirements to obtain grants and assistance for system design, system construction and studies. Customer agrees to assist Fort Worth in compliance by setting adequate rates, establishing proper user charges and complying with governmental requirements.

31.6 Section headings in this agreement are for convenience only and do not purport to accurately or completely describe the contents of any section. Such headings are not to be construed as a part of this agreement or any way defining, limiting or amplifying the provisions hereof.

31.7 Whenever any disputed matter herein is to be specifically determined by the use of an arbitrator, the following procedure is to be followed. The party requesting that the dispute be settled by arbitration shall serve on the other party a request in writing that such matter be handled by arbitration. Customer and Director shall mutually agree in writing on the selection of an impartial arbitrator. Such agreement shall be made within ten (10) days from the date that the request for arbitration is received. If an agreement is not reached on the selection of the impartial arbitrator on or before the tenth (10th) day after the date that notice is received, the Director shall immediately request a list of seven qualified neutral arbitrators from the American Arbitration Association of the Federal Mediation and Conciliation

Service, or their successor in function. The Customer and Director may mutually agree on one of the seven arbitrators on the list. If they do not agree within five (5) working days after the receipt of the list, Customer and Director shall alternate striking a name from the list and the name remaining shall be the impartial arbitrator. Customer and Director shall mutually agree on a date for the arbitration hearing. The decision of the arbitrator shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

31.8 Customer agrees to notify Fort Worth in writing within five (5) business days in the event that Customer issues any type of permit authorizing the drilling of a water well or becomes aware that a water well has been drilled within the service area described in Exhibit "A".

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed by their respective officers thereunto duly authorized.

ATTEST:

Alice Church
City Secretary

CITY OF FORT WORTH

By: *Mike Dugan*

City Manager

APPROVED AS TO FORM AND LEGALITY:

[Signature]
City Attorney

Date: *2/7/94*

C-14159
Contract Authorization

1-25-94
Date

ATTEST:

CITY OF KENNEDALE

Kathy Turner
City Secretary

By: [Signature]
City Administrator

APPROVED AS TO FORM AND LEGALITY:

[Signature]
City Attorney

Date: 9-15-93

Staff Report to the Honorable Mayor and City Council

Date: September 18, 2017

Agenda Item No: DECISION ITEMS - A.

I. Subject:

Discuss and consider Ordinance 635 of the City of Kennedale, Texas, adopting the Budget for the Fiscal Year beginning October 1, 2017, and ending September 30, 2018; amending Budget figures for the prior Fiscal Year beginning October 1, 2016, and ending September 30, 2017; 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 and posting of the Budget as required by State Law; providing a severability clause; and providing an Effective Date

II. Originated by:

Finance Director

III. Summary:

At this time, Council will consider adoption of Ordinance 635, adopting the FY17-18 Budget (Program of Services) for the City of Kennedale.

Additional Information:

Exhibit A represents a brief summary of the budget as it stands now, after having been proposed by the City Manager on Friday, August 11, 2017; and discussed by City Council at the August 17, 21, and 28 work sessions. A PDF of the original City Manager's Proposed FY17-18 Budget is available at www.cityofkennedale.com/budget. A PDF of the FY-17-18 Budget, as adopted by City Council will be posted at www.cityofkennedale.com/budget no later than October 1, 2017.

According to Chapter 102, Municipal Budget, of the Local Government Code (LGC), a municipal budget shall be prepared to cover the proposed expenditures of the municipal government for the succeeding year. The proposed budget must be filed with the municipal clerk for public inspection, and a public hearing conducted on the budget with special notice published in relation to the budget hearing. At the conclusion of the public hearing, the governing body of the municipality shall take action on the proposed budget (or table it for adoption at a later meeting), and it may make any changes in the budget that it considers warranted by the law or by the best interest of the municipal taxpayers. A vote to adopt the budget under this Chapter is in addition to and separate from the vote to set the tax rate required by Chapter 26, Tax Code, or other law. The following timetable represents key dates during which notices were published and meetings were conducted:

DATE	ACTION
08/11/17	Staff Provides Effective Tax Rate And Schedules To Council
	Council FY17-18 Budget Meeting (presentation of the City Manager's Proposed Budget)
	Council Votes To Place Proposal For Tax Increase On Future Agenda and set Public Hearing Dates
08/24/17	Publish Notice of Public Hearing On Budget in the Newspaper of Record (<i>Star-Telegram</i>)
	Publish Notice of Proposed Property Tax Rate in the Newspaper of Record (<i>Star-Telegram</i>)
09/07/17	Hold Public Hearing On Budget AND First Public Hearing on Tax Rate
09/14/17	Hold Second Public Hearing on Tax Rate
09/18/17	Adopt FY17-18 Budget and Tax Rate
	Ratify Tax Revenue Rate that supports FY17-18 Budget

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

Approve

VII. Alternative Actions:

MUST BE A RECORD VOTE.

VIII. Attachments:

1.	Tax Rate O635 TOASE BUDGET	Tax Rate O635 TOASE BUDGET.pdf
2.	Exhibit A- FY 17-18 Adopted Budget Summary	Exhibit A- FY 17-18 Adopted Budget Summary_LG.pdf
3.	Exhibit B- 16-17 Budget Amendment	Exhibit B- 16-17 Budget Amendment_LG.pdf

ORDINANCE NO. 635

AN ORDINANCE OF THE CITY OF KENNEDALE, TEXAS ADOPTING THE BUDGET FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2017, AND ENDING SEPTEMBER 30, 2018; AMENDING BUDGET FIGURES FOR THE PRIOR FISCAL YEAR BEGINNING OCTOBER 1, 2016, AND ENDING SEPTEMBER 30, 2017; 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 AND POSTING OF THE BUDGET AS REQUIRED BY STATE LAW; 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, the City of Kennedale, Texas Fiscal Year 2016-2017 Budget was adopted within the time and in the manner required by State Law; and

WHEREAS, the City Council of the City of Kennedale, Texas hereby finds and determines that it is prudent to amend specific line items due to unforeseen situations that have occurred in the City and impacted those line items; and

WHEREAS, the City Council of the City of Kennedale, Texas further finds that the amendments, as set forth in Exhibit "B," will serve in the public interest and are necessary to support City operations; and

WHEREAS, the City Council of the City of Kennedale, Texas finds and determines that the change in the Budget for the stated municipal purpose serves best interests of the taxpayers, is necessary and warrants action at this time;

WHEREAS, the City Manager of the City has filed with the City Secretary a budget outlining all proposed expenditures of the Government of the City for the fiscal year beginning October 1, 2017, and ending September 30, 2018, (hereinafter referred as the "Budget"); and

WHEREAS, the Budget, a copy of which is attached hereto as Exhibit "A" and incorporated herein for all purposes, specifically sets forth each of the various projects for which appropriations are delineated, and the estimated amount of money carried in the Budget for each of such projects; and

WHEREAS, the Budget has been filed with the City Secretary for at least thirty (30) days before the date the City Council makes its tax levy for the fiscal year and such Budget has been available for inspection by any taxpayer; and

WHEREAS, notice of a public hearing on the proposed Budget, stating the date, time, place and subject matter of said public hearing, was given as required by the laws of the State of Texas; and

WHEREAS, such public hearing was held on September 7, 2017, prior approval of such date being hereby ratified and confirmed by the City Council, and those wishing to speak on the Budget were heard; and

WHEREAS, the City Council has studied the Budget and listened to the comments of the taxpayers at the public hearing held thereon and has determined that the Budget attached hereto is in the best interest of the City and that same should be approved and adopted.

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

SECTION 1. All of the above premises are found to be true and correct and are incorporated into the body of this Ordinance as if copied in their entirety.

SECTION 2. The Budget as set forth in Exhibit "A," of the revenue of the City and the expenses of conducting the affairs thereof for the ensuing fiscal year beginning October 1, 2017, and ending September 30, 2018, is hereby adopted and approved, and there is hereby appropriated from the funds indicated therein such sums for the projects, operations, activities, purchases, accounts and other expenditures proposed in the Budget.

SECTION 3. No expenditure of the funds of the City of Kennedale shall hereafter be made except in compliance with the Budget and applicable state law; provided, however, that in case of grave public necessity to meet unusual and unforeseen conditions, which could not by reasonable, diligent thought and attention have been included in the original Budget, may from time to time be authorized by the City Council as amendments to the original Budget.

SECTION 4. A copy of the approved Budget, including the cover page, shall be posted on the City's website, along with the record vote of each member of the City Council, as required by law. In addition, the City Manager shall file or cause to be filed a true and correct copy of this ordinance, along with the approved Budget attached hereto, with the City Secretary. The City Manager shall file or cause to be filed a true and correct copy of this ordinance, along with the approved Budget attached hereto, and any amendments thereto, in the office of the County Clerk of Tarrant County, Texas, as required by State law.

SECTION 5. The City of Kennedale, Texas, Fiscal Year 2016-2017 Budget is hereby amended to fund the line items as stated in Exhibit "B." This Amendment No.1 (Exhibit "B") to the Original Budget of the City of Kennedale, Texas, for the Fiscal Year 2016-2017 shall be attached to and made part of the Original Budget by the City Secretary and shall be filed in accordance with State Law. This Ordinance is hereby adopted and shall constitute the first budget amendment that has occurred since the October 1, 2016 effective date of the City's Fiscal Year 2016-2017 Budget.

SECTION 6. 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 7. That 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 18th day of September, 2017.

ATTEST:

APPROVED:

CITY SECRETARY, LESLIE GALLOWAY

MAYOR, BRIAN JOHNSON

[CITY SEAL]

APPROVED AS TO FORM AND LEGALITY:

CITY ATTORNEY, WAYNE OLSON

ALL FUNDS BUDGET SUMMARY

CATEGORY	COMBINED GENERAL FUNDS	DEBT SERVICE FUNDS	CAPITAL PROJECTS FUNDS	SPECIAL REVENUE FUNDS	COMBINED W&S FUNDS	COMBINED EDC FUNDS	TOTAL FUNDS
BEGINNING FUND BALANCE	\$ 1,672,272	\$ 47,484	\$ 420,167	\$ 209	\$ 1,360,611	\$ 134,784	\$ 3,635,527
AD VALOREM TAXES	3,882,785	1,309,946	-	-	-	35,000	5,227,731
SALES/BEVERAGE TAXES	1,217,375	-	-	-	-	373,835	1,591,210
FRANCHISE FEES	721,244	-	-	-	-	-	721,244
GRANTS	135,123	-	-	1,767	-	-	136,890
LICENSES/PERMITS	172,865	-	-	-	-	-	172,865
FINES/FEES	238,152	-	80,000	-	404,489	-	722,641
CHARGES FOR SERVICES	203,950	-	-	-	4,256,376	-	4,460,326
INVESTMENT EARNINGS	7,181	400	1,135	-	2,250	365	11,331
MISCELLANEOUS INCOME	58,270	-	79,400	-	7,500	45,120	190,290
INTERGOVERNMENTAL	573,771	-	2,000	13,300	-	-	589,071
SURPLUS/RENTALS	4,850	-	-	-	1,000	121,858	127,708
TRANSFERS	339,513	355,588	-	10,000	213,573	29,719	948,392
TOTAL REVENUES	\$ 7,555,080	\$ 1,665,933	\$ 162,535	\$ 25,067	\$ 4,885,188	\$ 605,897	\$ 14,899,700
PERSONNEL	5,032,191	-	-	-	803,753	-	5,835,944
SUPPLIES	252,967	-	-	-	67,475	2,100	322,542
MAINTENANCE	547,927	-	2,000	-	447,083	25,112	1,022,122
SUNDRY	1,450,290	-	170	1,767	2,326,011	214,287	3,992,524
DEBT	-	1,663,884	-	-	677,361	169,777	2,511,022
TRANSFERS	244,496	-	173,000	11,217	353,573	182,307	964,592
CAPITAL	455,046	-	-	10,000	69,796	-	534,842
GRANTS	92,500	-	-	-	-	-	92,500
TOTAL EXPENDITURES	\$ 8,075,417	\$ 1,663,884	\$ 175,170	\$ 22,984	\$ 4,745,051	\$ 593,583	\$ 15,276,087
REVENUES OVER EXPENDITURES	\$ (520,337)	\$ 2,050	\$ (12,635)	\$ 2,083	\$ 140,137	\$ 12,315	\$ (376,388)
ENDING FUND BALANCE	\$ 1,151,935	\$ 49,533	\$ 407,532	\$ 2,292	\$ 1,500,748	\$ 147,099	\$ 3,259,139

APPENDIX B

FY16-17 AMEND #2

CITY OF KENNEDALE
(09/18/2017)

	LINE ITEM	DEPARTMENT	ORIGINAL BUDGET	AMENDED BUDGET	DIFFERENCE	EXPLANATION
WATER/SEWER FUND						
10-4010-00-00	WATER SERVICE	REVENUE	\$ 2,630,000.00	\$ 2,500,000.00	\$ (130,000.00)	Water rates lowered in January
	<i>Total</i>		\$ 2,630,000.00	\$ 2,500,000.00	\$ (130,000.00)	
CAPITAL REPLACEMENT FUND						
05-4902-00-00	CAPITAL LEASE PROCEEDS	REVENUE	\$ 408,000.00	\$ -	\$ (408,000.00)	Lease issued in prior Fiscal Year
	<i>Total</i>		\$ 408,000.00	\$ -	\$ (408,000.00)	

Staff Report to the Honorable Mayor and City Council

Date: September 18, 2017

Agenda Item No: DECISION ITEMS - B.

I. Subject:

Discuss and consider ratification of property tax increase reflected in FY2017-2018 Adopted Budget

II. Originated by:

Finance Director

III. Summary:

At this time, Council will consider ratifying the FY17-18 Property Tax Increase reflected in the adopted FY17-18 Budget for the City of Kennedale.

According to Chapter 102, Municipal Budget, of the Local Government Code (LGC), a municipal budget shall be prepared to cover the proposed expenditures of the municipal government for the succeeding year. In addition to the adoption of a budget, should that budget require raising more revenue from property taxes than in the previous year, the governing body must conduct a separate vote to ratify the property tax increase reflected in the budget. Should the FY17-18 budget adopted by Council require raising more revenue from property taxes than in the previous year, the governing body must conduct a separate vote to ratify the property tax increase reflected in the budget. A vote under this subsection is in addition to and separate from the vote to adopt the budget or a vote to set the tax rate required by Chapter 26, Tax Code, or other law.

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

Approve

Alternative Actions (see below)

VII. Alternative Actions:

This should be approved by a separate motion, immediately after approval of the budget. Required wording for a motion by a governing body to ratify a property tax increase in an approved budget:

I MOVE TO RATIFY THE PROPERTY TAX INCREASE REFLECTED IN THE BUDGET.

VIII. Attachments:

Staff Report to the Honorable Mayor and City Council

Date: September 18, 2017

Agenda Item No: DECISION ITEMS - C.

I. Subject:

Discuss and consider approval of Ordinance 636, fixing and levying municipal Ad Valorem Taxes for the City of Kennedale, Texas, for the Fiscal Year beginning October 1, 2017, and ending September 30, 2018; directing the assessment and collection thereof; providing a severability clause; and providing an effective date

II. Originated by:

Brady Olsen, Finance Director

III. Summary:

At this time, Council will consider adoption of Ordinance 636, fixing and levying FY17-18 ad valorem (property) taxes for the City of Kennedale.

There are five versions of Ordinance 636 attached: 1. Blank, with no Tax Rate Entered; 2. The Current Tax Rate; 3. The Effective Tax Rate; 4. The Current Tax Rate, Plus One Cent; 5. The Current Tax Rate, Plus Two Cents (Reflected in the City Manager's Proposed FY17-18 Budget). The highlight indicates the portion of each Ordinance that differs, depending on the rate. The remainder of the text is unchanged.

According to the Texas Constitution and Property Tax Code, which both embody the concept of truth-in-taxation, a municipality is required to comply with certain steps in adopting their tax rate in an effort to make taxpayers aware of tax rate proposals and allow taxpayers, in certain cases, roll back or limit a tax increase. A vote to set the tax rate required by Chapter 26, Tax Code, is in addition to and separate from the vote to adopt the budget. The following timetable represents key dates during which notices were published and meetings were conducted:

DATE	ACTION
08/11/17	Staff Provides Effective Tax Rate And Schedules To Council
	Council FY17-18 Budget Meeting (presentation of the City Manager's Proposed Budget)
	Council Votes To Place Proposal For Tax Increase On Future Agenda and set Public Hearing Dates
08/24/17	Publish Notice of Public Hearing On Budget in the Newspaper of Record (<i>Star-Telegram</i>)
	Publish Notice of Proposed Property Tax Rate in the Newspaper of Record (<i>Star-Telegram</i>)
09/07/17	Hold Public Hearing On Budget AND First Public Hearing on Tax Rate
09/14/17	Hold Second Public Hearing on Tax Rate
09/18/17	Adopt FY17-18 Budget and Tax Rate
	Ratify Tax Revenue Rate that supports FY17-18 Budget

ADDITIONAL INFORMATION:

According to Section 5.05 of the Texas Tax Code, the taxing unit must vote to place a proposal to adopt the proposed tax rate as an action item on the agenda of a future meeting when a proposed rate exceeds the rollback rate or the effective rate, whichever is lower, and hold two public hearings prior to. At its budget workshop (special session) Friday, August 11, 2017, Council approved the placement of an item to adopt a proposed tax rate not to exceed \$0.802718 on the agenda for the Monday, September 18,

2017 (regular session) meeting. Furthermore, it scheduled two public hearings on the proposal to occur on Thursday, September 7, at 5:30 p.m. (special session) and September 14 (special session) at 5:30 p.m. Publication of these dates was accomplished in the Fort Worth Star-Telegram (the City of Kennedale's newspaper of record) on Thursday, August 24, 2017.

The City Manager's FY17-18 Budget Proposal (presented at the August 11, 2017 (special meeting) was based on a FY17-18 Tax Rate of \$0.787500 (a two-cent increase from FY16-17). However, Council can consider and adopt any FY17-18 Tax Rate, up to and including \$0.802718.

Taxpayers were given an opportunity to express their views on the proposed FY 2017-18 property tax rate at the Public Hearings on September 7 and 14, 2017. Action can now be taken by Council at tonight's meeting (Monday, September 18, 2017) on the FY2017-2018 Budget and Tax Rate. Should the FY17-18 budget adopted by Council require raising more revenue from property taxes than in the previous year, the governing body must conduct a separate vote to ratify the property tax increase reflected in the budget.

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

Approve

Alternative Actions (see below)

VII. Alternative Actions:

THE VOTE ON TAX RATE MUST BE A **RECORD VOTE. THERE IS SPECIFIC REQUIRED WORDING FOR A MOTION BY A GOVERNING BODY TO SET THE TAX RATE. CHOOSE THE APPROPRIATE MOTION:**

CURRENT/NO CHANGE TO TAX RATE:

I MOVE THAT THE PROPERTY TAX RATE REMAIN THE SAME BY THE ADOPTION OF A TAX RATE OF **\$0.767500**, WHICH IS EFFECTIVELY A **5.58** PERCENT INCREASE IN THE TAX RATE.

EFFECTIVE TAX RATE:

I MOVE THAT THE PROPERTY TAX RATE BE DECREASED BY THE ADOPTION OF A TAX RATE OF **\$0.726967**, WHICH IS EFFECTIVELY A **0.0** PERCENT INCREASE IN THE TAX RATE.

\$0.01 INCREASE:

I MOVE THAT THE PROPERTY TAX RATE BE INCREASED BY THE ADOPTION OF A TAX RATE OF **\$0.777500**, WHICH IS EFFECTIVELY A **6.50** PERCENT INCREASE IN THE TAX RATE.

\$0.02 INCREASE (Reflected in the City Manager's Proposed Budget):

I MOVE THAT THE PROPERTY TAX RATE BE INCREASED BY THE ADOPTION OF A TAX RATE OF **\$0.787500**, WHICH IS EFFECTIVELY A **7.69** PERCENT INCREASE IN THE TAX RATE.

OTHER:

I MOVE THAT THE PROPERTY TAX RATE (INCREASE/DECREASE) BY THE ADOPTION OF A TAX RATE OF **\$0._____**, WHICH IS EFFECTIVELY A **_____** PERCENT (INCREASE/DECREASE) IN THE TAX RATE.

VIII. Attachments:

1.	Tax Rate O636 TAX Current	Tax Rate O636 TOASE TAX Current.pdf
2.	Tax Rate O636 TAX Effective	Tax Rate O636 TOASE TAX Effective.pdf
3.	Tax Rate O636 TAX PlusOneCent	Tax Rate O636 TOASE TAX PlusOneCent.pdf
4.	Tax Rate O636 TAX PlusTwoCents	Tax Rate O636 TOASE TAX PlusTwoCents.pdf
5.	Tax Rate O636 TAX Blank	Tax Rate O636 TOASE TAX blank.pdf

ORDINANCE NO. 636

AN ORDINANCE FIXING AND LEVYING MUNICIPAL AD VALOREM TAXES FOR THE CITY OF KENNEDALE, TEXAS, FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2017, AND ENDING SEPTEMBER 30, 2018; DIRECTING THE ASSESSMENT AND COLLECTION THEREOF; PROVIDING FOR THE APPROVAL OF THE TAX ROLL; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE CLAUSE.

WHEREAS, the City Council has approved on the 18th day of September 2017, the budget for the fiscal year beginning October 1, 2017, and ending September 30, 2018; and

WHEREAS, the City Council of the City of Kennedale, Texas hereby finds that the tax for the fiscal year beginning October 1, 2017, and ending September 30, 2018, hereinafter levied for current expenses and the general improvements of the City and its property, must be levied to provide the revenue requirements of the budget for the ensuing year; and

WHEREAS, the City Council desires to approve the official tax roll of the City which is calculated based upon the adopted tax rate; and

WHEREAS, all statutory and constitutional requirements concerning the levying and assessing of ad valorem taxes have been completed in due and correct time, including providing notice of and conducting public hearings regarding the ad valorem tax levied hereby.

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

SECTION 1. For the current expense of the City of Kennedale and for the general improvements of the City and its property, there is hereby levied and ordered to be assessed and collected for the fiscal year beginning October 1, 2017, and ending September 30, 2018, and for each fiscal year thereafter until it be otherwise provided and ordained, on all property situated within the corporate limits of the City limits of the City of Kennedale, and not exempt from taxation by valid laws, an ad valorem tax rate of 0.767500 cents on each One Hundred Dollars (\$100.00) of valuation of such property, to be assessed as follows:

\$0.568750	For the purpose of maintenance and operation
\$0.198750	For the purpose of interest and sinking
\$0.767500	Total Tax Rate

THIS TAX RATE WILL RAISE MORE TAXES FROM MAINTENANCE AND OPERATIONS THAN LAST YEAR'S TAX RATE. THE TAX RATE WILL EFFECTIVELY BE RAISED BY 5.58 PERCENT AND WILL RAISE TAXES FOR MAINTENANCE AND OPERATIONS ON A \$100,000 HOME BY APPROXIMATELY \$0.00.

SECTION 2. The taxes herein are levied according to law and shall be due and payable on October 1, 2017, and the same shall become delinquent on February 1, 2018. Should any taxpayer fail to make payment before the date of delinquency, a penalty and interest as provided by law shall be assessed until the unpaid taxes and penalty have been satisfied.

SECTION 3. Pursuant to the authority granted by Section 33.07 of the Texas Tax Code, in the event that the taxes become delinquent on or after February 1, 2018, but not later than May 1, 2018, and that remain delinquent on July 1, 2018, and in the event such delinquent taxes are referred to an attorney for collection, an additional amount of twenty percent (20%) of the total amount of tax, penalty and interest then due shall be added as collection costs to be paid by the taxpayer.

SECTION 4. Pursuant to the authority granted by Section 33.08 of the Texas Tax Code, the City further provides that all taxes that become delinquent on or after June 1, 2018, shall, in order to defray the costs of collection, incur an additional penalty in the amount of 20% of the delinquent tax, penalty and interest.

SECTION 5. The tax roll for tax year 2017 for the City of Kennedale is hereby approved.

SECTION 6. In the event any section, sub-section, clause, sentence, or phrase of this ordinance shall be declared or adjudged invalid or unconstitutional, such adjudication shall in no means affect any other section, sub-section, clause sentence, or phrase of this ordinance, but all the rest thereof shall be in full force and effect just as though the section, sub-section, sentence, clause or phrase so declared or adjudged invalid or unconstitutional was not originally a part thereof.

SECTION 7. This ordinance shall be in full force and effect from and after its passage.

PASSED, ADOPTED AND APPROVED by the City Council of the City of Kennedale, Texas, this the 18th day of September, 2017.

ATTEST:

APPROVED:

CITY SECRETARY, LESLIE GALLOWAY

MAYOR, BRIAN JOHNSON

[CITY SEAL]

APPROVED AS TO FORM AND LEGALITY:

CITY ATTORNEY, WAYNE OLSON

ORDINANCE NO. 636

AN ORDINANCE FIXING AND LEVYING MUNICIPAL AD VALOREM TAXES FOR THE CITY OF KENNEDALE, TEXAS, FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2017, AND ENDING SEPTEMBER 30, 2018; DIRECTING THE ASSESSMENT AND COLLECTION THEREOF; PROVIDING FOR THE APPROVAL OF THE TAX ROLL; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE CLAUSE.

WHEREAS, the City Council has approved on the 18th day of September 2017, the budget for the fiscal year beginning October 1, 2017, and ending September 30, 2018; and

WHEREAS, the City Council of the City of Kennedale, Texas hereby finds that the tax for the fiscal year beginning October 1, 2017, and ending September 30, 2018, hereinafter levied for current expenses and the general improvements of the City and its property, must be levied to provide the revenue requirements of the budget for the ensuing year; and

WHEREAS, the City Council desires to approve the official tax roll of the City which is calculated based upon the adopted tax rate; and

WHEREAS, all statutory and constitutional requirements concerning the levying and assessing of ad valorem taxes have been completed in due and correct time, including providing notice of and conducting public hearings regarding the ad valorem tax levied hereby.

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

SECTION 1. For the current expense of the City of Kennedale and for the general improvements of the City and its property, there is hereby levied and ordered to be assessed and collected for the fiscal year beginning October 1, 2017, and ending September 30, 2018, and for each fiscal year thereafter until it be otherwise provided and ordained, on all property situated within the corporate limits of the City limits of the City of Kennedale, and not exempt from taxation by valid laws, an ad valorem tax rate of 0.726967 cents on each One Hundred Dollars (\$100.00) of valuation of such property, to be assessed as follows:

\$0.528217	For the purpose of maintenance and operation
\$0.198750	For the purpose of interest and sinking
\$0.726967	Total Tax Rate

SECTION 2. The taxes herein are levied according to law and shall be due and payable on October 1, 2017, and the same shall become delinquent on February 1, 2018. Should any taxpayer fail to make payment before the date of delinquency, a penalty and interest as provided by law shall be assessed until the unpaid taxes and penalty have been satisfied.

SECTION 3. Pursuant to the authority granted by Section 33.07 of the Texas Tax Code, in the event that the taxes become delinquent on or after February 1, 2018, but not later than

May 1, 2018, and that remain delinquent on July 1, 2018, and in the event such delinquent taxes are referred to an attorney for collection, an additional amount of twenty percent (20%) of the total amount of tax, penalty and interest then due shall be added as collection costs to be paid by the taxpayer.

SECTION 4. Pursuant to the authority granted by Section 33.08 of the Texas Tax Code, the City further provides that all taxes that become delinquent on or after June 1, 2018, shall, in order to defray the costs of collection, incur an additional penalty in the amount of 20% of the delinquent tax, penalty and interest.

SECTION 5. The tax roll for tax year 2017 for the City of Kennedale is hereby approved.

SECTION 6. In the event any section, sub-section, clause, sentence, or phrase of this ordinance shall be declared or adjudged invalid or unconstitutional, such adjudication shall in no means affect any other section, sub-section, clause sentence, or phrase of this ordinance, but all the rest thereof shall be in full force and effect just as though the section, sub-section, sentence, clause or phrase so declared or adjudged invalid or unconstitutional was not originally a part thereof.

SECTION 7. This ordinance shall be in full force and effect from and after its passage.

PASSED, ADOPTED AND APPROVED by the City Council of the City of Kennedale, Texas, this the 18th day of September, 2017.

ATTEST:

APPROVED:

CITY SECRETARY, LESLIE GALLOWAY

MAYOR, BRIAN JOHNSON

[CITY SEAL]

APPROVED AS TO FORM AND LEGALITY:

CITY ATTORNEY, WAYNE OLSON

ORDINANCE NO. 636

AN ORDINANCE FIXING AND LEVYING MUNICIPAL AD VALOREM TAXES FOR THE CITY OF KENNEDALE, TEXAS, FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2017, AND ENDING SEPTEMBER 30, 2018; DIRECTING THE ASSESSMENT AND COLLECTION THEREOF; PROVIDING FOR THE APPROVAL OF THE TAX ROLL; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE CLAUSE.

WHEREAS, the City Council has approved on the 18th day of September 2017, the budget for the fiscal year beginning October 1, 2017, and ending September 30, 2018; and

WHEREAS, the City Council of the City of Kennedale, Texas hereby finds that the tax for the fiscal year beginning October 1, 2017, and ending September 30, 2018, hereinafter levied for current expenses and the general improvements of the City and its property, must be levied to provide the revenue requirements of the budget for the ensuing year; and

WHEREAS, the City Council desires to approve the official tax roll of the City which is calculated based upon the adopted tax rate; and

WHEREAS, all statutory and constitutional requirements concerning the levying and assessing of ad valorem taxes have been completed in due and correct time, including providing notice of and conducting public hearings regarding the ad valorem tax levied hereby.

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

SECTION 1. For the current expense of the City of Kennedale and for the general improvements of the City and its property, there is hereby levied and ordered to be assessed and collected for the fiscal year beginning October 1, 2017, and ending September 30, 2018, and for each fiscal year thereafter until it be otherwise provided and ordained, on all property situated within the corporate limits of the City limits of the City of Kennedale, and not exempt from taxation by valid laws, an ad valorem tax rate of 0.777500 cents on each One Hundred Dollars (\$100.00) of valuation of such property, to be assessed as follows:

\$0.578750	For the purpose of maintenance and operation
\$0.198750	For the purpose of interest and sinking
\$0.777500	Total Tax Rate

THIS TAX RATE WILL RAISE MORE TAXES FROM MAINTENANCE AND OPERATIONS THAN LAST YEAR'S TAX RATE. THE TAX RATE WILL EFFECTIVELY BE RAISED BY 6.50 PERCENT AND WILL RAISE TAXES FOR MAINTENANCE AND OPERATIONS ON A \$100,000 HOME BY APPROXIMATELY \$0.00.

SECTION 2. The taxes herein are levied according to law and shall be due and payable on October 1, 2017, and the same shall become delinquent on February 1, 2018. Should any taxpayer fail to make payment before the date of delinquency, a penalty and interest as provided by law shall be assessed until the unpaid taxes and penalty have been satisfied.

SECTION 3. Pursuant to the authority granted by Section 33.07 of the Texas Tax Code, in the event that the taxes become delinquent on or after February 1, 2018, but not later than May 1, 2018, and that remain delinquent on July 1, 2018, and in the event such delinquent taxes are referred to an attorney for collection, an additional amount of twenty percent (20%) of the total amount of tax, penalty and interest then due shall be added as collection costs to be paid by the taxpayer.

SECTION 4. Pursuant to the authority granted by Section 33.08 of the Texas Tax Code, the City further provides that all taxes that become delinquent on or after June 1, 2018, shall, in order to defray the costs of collection, incur an additional penalty in the amount of 20% of the delinquent tax, penalty and interest.

SECTION 5. The tax roll for tax year 2017 for the City of Kennedale is hereby approved.

SECTION 6. In the event any section, sub-section, clause, sentence, or phrase of this ordinance shall be declared or adjudged invalid or unconstitutional, such adjudication shall in no means affect any other section, sub-section, clause sentence, or phrase of this ordinance, but all the rest thereof shall be in full force and effect just as though the section, sub-section, sentence, clause or phrase so declared or adjudged invalid or unconstitutional was not originally a part thereof.

SECTION 7. This ordinance shall be in full force and effect from and after its passage.

PASSED, ADOPTED AND APPROVED by the City Council of the City of Kennedale, Texas, this the 18th day of September, 2017.

ATTEST:

APPROVED:

CITY SECRETARY, LESLIE GALLOWAY

MAYOR, BRIAN JOHNSON

[CITY SEAL]

APPROVED AS TO FORM AND LEGALITY:

CITY ATTORNEY, WAYNE OLSON

ORDINANCE NO. 636

AN ORDINANCE FIXING AND LEVYING MUNICIPAL AD VALOREM TAXES FOR THE CITY OF KENNEDALE, TEXAS, FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2017 AND ENDING SEPTEMBER 30, 2018; DIRECTING THE ASSESSMENT AND COLLECTION THEREOF; PROVIDING FOR THE APPROVAL OF THE TAX ROLL; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE CLAUSE.

WHEREAS, the City Council has approved on the 18th day of September 2017, the budget for the fiscal year beginning October 1, 2017, and ending September 30, 2018; and

WHEREAS, the City Council of the City of Kennedale, Texas hereby finds that the tax for the fiscal year beginning October 1, 2017, and ending September 30, 2018, hereinafter levied for current expenses and the general improvements of the City and its property, must be levied to provide the revenue requirements of the budget for the ensuing year; and

WHEREAS, the City Council desires to approve the official tax roll of the City which is calculated based upon the adopted tax rate; and

WHEREAS, all statutory and constitutional requirements concerning the levying and assessing of ad valorem taxes have been completed in due and correct time, including providing notice of and conducting public hearings regarding the ad valorem tax levied hereby.

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

SECTION 1. For the current expense of the City of Kennedale and for the general improvements of the City and its property, there is hereby levied and ordered to be assessed and collected for the fiscal year beginning October 1, 2017, and ending September 30, 2018, and for each fiscal year thereafter until it be otherwise provided and ordained, on all property situated within the corporate limits of the City limits of the City of Kennedale, and not exempt from taxation by valid laws, an ad valorem tax rate of 0.787500 cents on each One Hundred Dollars (\$100.00) of valuation of such property, to be assessed as follows:

\$0.588750	For the purpose of maintenance and operation
\$0.198750	For the purpose of interest and sinking
\$0.787500	Total Tax Rate

THIS TAX RATE WILL RAISE MORE TAXES FROM MAINTENANCE AND OPERATIONS THAN LAST YEAR'S TAX RATE. THE TAX RATE WILL EFFECTIVELY BE RAISED BY 7.69 PERCENT AND WILL RAISE TAXES FOR MAINTENANCE AND OPERATIONS ON A \$100,000 HOME BY APPROXIMATELY \$7.04.

SECTION 2. The taxes herein are levied according to law and shall be due and payable on October 1, 2017, and the same shall become delinquent on February 1, 2018. Should any taxpayer fail to make payment before the date of delinquency, a penalty and interest as provided by law shall be assessed until the unpaid taxes and penalty have been satisfied.

SECTION 3. Pursuant to the authority granted by Section 33.07 of the Texas Tax Code, in the event that the taxes become delinquent on or after February 1, 2018, but not later than May 1, 2018, and that remain delinquent on July 1, 2018, and in the event such delinquent taxes are referred to an attorney for collection, an additional amount of twenty percent (20%) of the total amount of tax, penalty and interest then due shall be added as collection costs to be paid by the taxpayer.

SECTION 4. Pursuant to the authority granted by Section 33.08 of the Texas Tax Code, the City further provides that all taxes that become delinquent on or after June 1, 2018, shall, in order to defray the costs of collection, incur an additional penalty in the amount of 20% of the delinquent tax, penalty and interest.

SECTION 5. The tax roll for tax year 2017 for the City of Kennedale is hereby approved.

SECTION 6. In the event any section, sub-section, clause, sentence, or phrase of this ordinance shall be declared or adjudged invalid or unconstitutional, such adjudication shall in no means affect any other section, sub-section, clause sentence, or phrase of this ordinance, but all the rest thereof shall be in full force and effect just as though the section, sub-section, sentence, clause or phrase so declared or adjudged invalid or unconstitutional was not originally a part thereof.

SECTION 7. This ordinance shall be in full force and effect from and after its passage.

PASSED, ADOPTED AND APPROVED by the City Council of the City of Kennedale, Texas, this the 18th day of September, 2017.

ATTEST:

APPROVED:

CITY SECRETARY, LESLIE GALLOWAY

MAYOR, BRIAN JOHNSON

[CITY SEAL]

APPROVED AS TO FORM AND LEGALITY:

CITY ATTORNEY, WAYNE OLSON

ORDINANCE NO. 636

AN ORDINANCE FIXING AND LEVYING MUNICIPAL AD VALOREM TAXES FOR THE CITY OF KENNEDALE, TEXAS, FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2017, AND ENDING SEPTEMBER 30, 2018; DIRECTING THE ASSESSMENT AND COLLECTION THEREOF; PROVIDING FOR THE APPROVAL OF THE TAX ROLL; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE CLAUSE.

WHEREAS, the City Council has approved on the 18th day of September 2017, the budget for the fiscal year beginning October 1, 2017, and ending September 30, 2018; and

WHEREAS, the City Council of the City of Kennedale, Texas hereby finds that the tax for the fiscal year beginning October 1, 2017, and ending September 30, 2018, hereinafter levied for current expenses and the general improvements of the City and its property, must be levied to provide the revenue requirements of the budget for the ensuing year; and

WHEREAS, the City Council desires to approve the official tax roll of the City which is calculated based upon the adopted tax rate; and

WHEREAS, all statutory and constitutional requirements concerning the levying and assessing of ad valorem taxes have been completed in due and correct time, including providing notice of and conducting public hearings regarding the ad valorem tax levied hereby.

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

SECTION 1. For the current expense of the City of Kennedale and for the general improvements of the City and its property, there is hereby levied and ordered to be assessed and collected for the fiscal year beginning October 1, 2017, and ending September 30, 2018, and for each fiscal year thereafter until it be otherwise provided and ordained, on all property situated within the corporate limits of the City limits of the City of Kennedale, and not exempt from taxation by valid laws, an ad valorem tax rate of _____ cents on each One Hundred Dollars (\$100.00) of valuation of such property, to be assessed as follows:

\$ _____	For the purpose of maintenance and operation
\$ _____	For the purpose of interest and sinking
\$ _____	Total Tax Rate

**THIS TAX RATE WILL RAISE MORE TAXES FROM
MAINTENANCE AND OPERATIONS THAN LAST YEAR'S TAX RATE.
THE TAX RATE WILL EFFECTIVELY BE RAISED BY _____ PERCENT
AND WILL RAISE TAXES FOR MAINTENANCE AND OPERATIONS ON A
\$100,000 HOME BY APPROXIMATELY _____.**

SECTION 2. The taxes herein are levied according to law and shall be due and payable on October 1, 2017, and the same shall become delinquent on February 1, 2018. Should any taxpayer fail to make payment before the date of delinquency, a penalty and interest as provided by law shall be assessed until the unpaid taxes and penalty have been satisfied.

SECTION 3. Pursuant to the authority granted by Section 33.07 of the Texas Tax Code, in the event that the taxes become delinquent on or after February 1, 2018, but not later than May 1, 2018, and that remain delinquent on July 1, 2018, and in the event such delinquent taxes are referred to an attorney for collection, an additional amount of twenty percent (20%) of the total amount of tax, penalty and interest then due shall be added as collection costs to be paid by the taxpayer.

SECTION 4. Pursuant to the authority granted by Section 33.08 of the Texas Tax Code, the City further provides that all taxes that become delinquent on or after June 1, 2018, shall, in order to defray the costs of collection, incur an additional penalty in the amount of 20% of the delinquent tax, penalty and interest.

SECTION 5. The tax roll for tax year 2017 for the City of Kennedale is hereby approved.

SECTION 6. In the event any section, sub-section, clause, sentence, or phrase of this ordinance shall be declared or adjudged invalid or unconstitutional, such adjudication shall in no means affect any other section, sub-section, clause sentence, or phrase of this ordinance, but all the rest thereof shall be in full force and effect just as though the section, sub-section, sentence, clause or phrase so declared or adjudged invalid or unconstitutional was not originally a part thereof.

SECTION 7. This ordinance shall be in full force and effect from and after its passage.

PASSED, ADOPTED AND APPROVED by the City Council of the City of Kennedale, Texas, this the 18th day of September, 2017.

ATTEST:

APPROVED:

CITY SECRETARY, LESLIE GALLOWAY

MAYOR, BRIAN JOHNSON

[CITY SEAL]

APPROVED AS TO FORM AND LEGALITY:

CITY ATTORNEY, WAYNE OLSON

Staff Report to the Honorable Mayor and City Council

Date: September 18, 2017

Agenda Item No: DECISION ITEMS - D.

I. Subject:

Consider adoption of Ordinance 637, revising the rates for water service and sanitary sewer service

II. Originated by:

III. Summary:

This item includes the water and sewer rates from the City Manager's Proposed FY-17-18 Budget. In the proposed budget, the residential sewer base rate is reduced from \$45.00 to \$36.00 and the commercial base charge is lowered by ~\$5.00. In addition, we proposed the base charge on meters 1" and greater be reduced. Finally, we corrected an oversight, setting the residential rate for water usage between 0-5,000 gallons at the same rate as commercial and industrial — \$2.85/\$1,000 gallons.

IV. Fiscal Impact Summary:

A reduction in water and sewer rates will significantly reduce revenue for the water and sewer fund. We anticipate it could lower revenue by ~\$400,000.

V. Legal Impact:

VI. Recommendation:

Approve
None

VII. Alternative Actions:

VIII. Attachments:

1.	O637_WaterRates	O637_Water_Sewer Rates_09_2017.pdf
----	-----------------	------------------------------------

ORDINANCE NO. 637

AN ORDINANCE OF THE CITY OF KENNEDALE, TEXAS, REVISING THE RATES FOR WATER SERVICE AND SANITARY SEWER SERVICE; PROVIDING AN EFFECTIVE DATE FOR THE RATES CONTAINED HEREIN; PROVIDING A PENALTY FOR PROVIDING FALSE INFORMATION TO OBTAIN A DISCOUNT ON WATER OR SEWER RATES; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Kennedale, Texas, 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, the City Council has adopted ordinances establishing rates for water service and sanitary sewer service within and outside the city limits of Kennedale in compliance with Sections 23-52 and 23-79 of the Code of Ordinances of the City of Kennedale; and

WHEREAS, in accordance with the provisions of Sections 23-52 and 23-79 of the Code of Ordinances of the City of Kennedale, the City Council has determined that it is in the best interests of the City of Kennedale to appropriate money to meet the funding requirements necessary to operate the water and sewer system by adopting a revised rate schedule for water and sewer rates within the city limits, as provided herein.

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

SECTION 1. WATER RATES

In accordance with the provisions of Section 23-52 of the Code of Ordinances, the City Council hereby adopts water rates to fund the expenditures necessary to operate and maintain the water system and for payment of debt related to the provision of such service. The following rate schedule is hereby adopted for monthly residential and commercial/industrial water usage within the city limits of Kennedale. The total monthly charge shall include a base rate plus a volume charge for water usage.

For service within the city limits:

1. Base Rate:

METER SIZE	BASE RATE RESIDENTIAL	BASE RATE COMMERCIAL/ INDUSTRIAL	BASE RATE SENIOR/ DISABLED	MULTIPLE RESIDENTIAL UNITS ON SINGLE METER
¾"	\$26.00	\$26.00	\$26.00	\$26.00 / Per Unit
1"	\$43.34	\$43.34	\$43.34	\$26.00 / Per Unit
1.5"	\$86.58	\$86.58	\$86.58	\$26.00 / Per Unit
2"	\$138.58	\$138.58	\$138.58	\$26.00 / Per Unit
3"	\$260.00	\$260.00	\$260.00	\$26.00 / Per Unit
4"	\$433.42	\$433.42	\$433.42	\$26.00 / Per Unit

*For senior/disabled rate, a credit of \$7.50 per month/billing cycle will apply towards the applicable meter size for water service.

2. Volume Charge:

VOLUME	RESIDENTIAL RATE	COMMERCIAL/ INDUSTRIAL RATE	SENIOR/ DISABLED RATE
First 5,000 Gallons	\$2.85 / Per 1000 Gallons	\$2.85 / Per 1000 Gallons	\$2.85 / Per 1000 Gallons
5,001-20,000 Gallons	\$5.36 / Per 1000 Gallons	\$5.36 / Per 1000 Gallons	\$5.36 / Per 1000 Gallons
20,001-50,000 Gallons	\$6.70 / Per 1000 Gallons	\$6.70 / Per 1000 Gallons	\$6.70 / Per 1000 Gallons
Over 50,000 Gallons	\$8.38 / Per 1000 Gallons	\$8.38 / Per 1000 Gallons	\$8.38 / Per 1000 Gallons

Note: For multiple residential units on a single water meter, the volume charge shall be calculated on a per unit basis by dividing the total volume of water used by the number of residential units.

**SECTION 2.
SEWER RATES**

In accordance with the provisions of Section 23-79 of the Code of Ordinances, the City Council hereby adopts sewer rates to fund the expenditures necessary to operate and maintain the sewer system and for payment of debt related to the provision of such service. The following rate schedule is hereby adopted for monthly residential and commercial/industrial sewer usage within the city limits of Kennedale. The total monthly charge shall include a base rate plus a volume charge based on water usage.

For service within the city limits:

	RESIDENTIAL	COMMERCIAL	INDUSTRIAL	SENIOR/DISABLED RATE
Min. Base Rate	\$36.00	\$55.00	\$55.00	\$36.00*
Volume	\$2.90 / Per 1000 Gallons	\$6.72 / Per 1000 Gallons	\$4.50 / Per 1000 Gallons	\$2.90 / Per 1000 Gallons

*For senior/disabled rate, a credit of \$7.50 per month/billing cycle will apply towards the applicable meter size for water service.

**SECTION 3.
RATE EFFECTIVE DATE**

The rates established in this ordinance shall supersede all prior adopted rates and shall become effective November 1, 2017.

**SECTION 4.
CUMULATIVE CLAUSE**

This Ordinance shall be cumulative of all provisions of all existing ordinances and of the Kennedale City Code (1991), as amended, 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. The criteria for qualifying senior citizen and disabled individual credits adopted in Ordinance No. 611 shall remain in effect.

**SECTION 5.
SEVERABILITY CLAUSE**

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 6.
PUBLICATION CLAUSE**

The City Secretary of the City of Kennedale is hereby directed to publish in the official newspaper of the City of Kennedale the caption, Section 4, the penalty clause and effective date clause of this ordinance two (2) days as authorized by section 52.013 of the Local Government Code.

**SECTION 7.
SAVINGS CLAUSE**

All rights and remedies of the City of Kennedale are expressly saved as to any and all violations of the Code of Ordinances of the City of Kennedale, as amended, or any other ordinance regarding the regulation of water and sewer rates 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, 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 8.
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 18th DAY OF SEPTEMBER, 2017.

APPROVED:

MAYOR, BRIAN JOHNSON

[CITY SEAL]

ATTEST:

CITY SECRETARY, LESLIE GALLOWAY

EFFECTIVE DATE: _____

APPROVED AS TO FORM AND LEGALITY:

CITY ATTORNEY, WAYNE OLSON

Staff Report to the Honorable Mayor and City Council

Date: September 18, 2017

Agenda Item No: DECISION ITEMS - E.

I. Subject:

Discuss and consider approval of an amendment to the current contract with Waste Connections, regarding the proposed 2017 rate adjustment for residential and commercial solid waste collection, transport, disposal, and recycling services; and authorize the City Manager to sign the agreement (**Postponed on May 15, 2017; June 19, 2017**)

II. Originated by:

Kelly Cooper, Director of Human Resources

III. Summary:

This item was postponed twice — at the Monday, May 15, 2017, meeting and the Monday, June 19, 2017 meeting.

INFORMATION PREVIOUSLY INCLUDED IN THE JUNE 19, 2017 STAFF REPORT:

In response to Councilmember questions from the May 15, 2017 meeting, Waste Connections has provided the following information about residents' recycling usage. Currently, about 52% of Kennedale customers utilize recycling services. The volume of waste that has been diverted from the landfill through this program are as follows:

YEAR	ANNUAL TOTAL	MONTHLY AVG
2015 <i>(Apr-Dec*)</i>	379.48 Tons	42.16 Tons
2016	556.77 Tons	46.40 Tons
2017 YTD <i>(Jan-May)</i>	221.63 Tons	44.32 Tons

**City-wide recycling service began April 1, 2015, following positive resident feedback from a pilot program in the Steeplechase subdivision.*

INFORMATION PREVIOUSLY INCLUDED IN THE MAY 15, 2017 STAFF REPORT

On November 1, 2007, the City entered into a contract with IESI TX Corporation to provide residential and commercial customers with solid waste collection, transport, and disposal for a five-year term, ending January 31, 2013.

Since that time, the City has entered into two amendment and renewal agreements. The first, on October 3, 2012, extended the contract another five years through January 31, 2018, and amended the rates.

The second amendment, dated May 14, 2015, extended the contract through January 31, 2020, and included the option to extend the contract for two successive terms of five years each, should the City desire to do so. It was during this extension that the curbside recycling containers were implemented and the rates were adjusted to include weekly curbside recycling service.

The current rate adjustment requested in the attached letter is \$0.33 per month per customer, which is a 3% (\$0.26) increase for garbage collection and a 2% (\$0.07) increase for recycling, for a total monthly residential rate of \$12.82. The increase will also include commercial customers. This rate adjustment

request is based on the Consumer Price Index (CPI) and landfill disposal cost increases. The last rate adjustment for solid waste collection was in 2014.

Per the original contract (attached), letter C. Residential Charges, number (6) and (7) Rate Adjustments, on page 11, Progressive Waste (now Waste Connections), may request an adjustment based on CPI or to offset unusual changes in the cost of operations due to or directly resulting from a variety of items, including landfill costs.

In accordance with the contract, number (7) also states that should the City fail to or refuse to consent to a requested rate increase — and the contractor can demonstrate that such rate increase is necessary to offset increased costs — the contractor may, at its discretion, terminate the agreement upon a 180-day written notice.

Should Council approve the rate adjustment, the new rates would appear on the utility bills dated June 28, 2017, with the first payment being received in July. Notification of the rate adjustment will be placed on the city website, in the newsletter, and on Facebook, Twitter, and NextDoor. Discussion of this rate adjustment was included as a work session item on the May 15, 2017, agenda in order that Waste Connection of Texas can present the request to Council and answer any questions about the proposed rate adjustment.

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

Approve

VII. Alternative Actions:

VIII. Attachments:

1.	01. Rate Letter (04.17.2017)	Rate+letter.Waste+Connections.pdf
2.	02. Garbage Rate Comparison	Garbage+Rate+Comparison.docx
3.	03. Original Contract with IESI (11.01.2007)	Original+Contract+with+IESI.pdf
4.	04. First Amendment to the Contract (10.03.2012)	First+Amendment.pdf
5.	05. Second Amendment to the Contract (05.14.2015)	Second+Amendment.April+2015.pdf
6.	06. Third Amendment to the Contract (Currently Under Consideration)	Third+Amendment+with+Rates_Date.pdf



WASTE CONNECTIONS
OF TEXAS

April 17, 2017

Honorable Mayor and Members of Council
City of Kennedale
405 Municipal Drive
Kennedale, Texas 76060

Re: Price Increase Request:

Dear Honorable Mayor and Members of Council:

Waste Connections, dba Progressive Waste Solutions would like to take this opportunity to express our appreciation for your business. Per our contract we would like to present to you our request for a 2017 rate adjustment. Our last approved rate increase was July, 2014. The 2017 increase is based on the published Bureau of Labor Standard Consumer Price Index / Urban Consumers (CPI-U DFW)-all items- March, 2017 (see attached). Also, per our Contract we can request a landfill disposal adjustment, due to an increase in disposal cost (see attached). The amount of the request for 2017 is equal to \$.33 per home or 3% (\$.26) for curbside garbage collection and 2% (\$.07) for curbside recycling collection (see attached). This increase would also include the commercial customers as well. We respectfully ask for your support in order to maintain our operations and continue to meet our financial obligations. If approved the effective date would be June 1, 2017. Your current rate per home is \$12.49, so with the increase your new rate will be \$12.82.

If you have any questions or need additional information, please feel free to contact me if you have any questions per this request.

Sincerely,

Norm Bulaich
Municipal Manager
Progressive Waste Solutions
817-999-2584

Consumer Price Index - All Urban Consumers DFW

Mar-17	223.78
Mar-16	218.88

Change in CPI	2.00%
---------------	-------

Disposal Inc.	1.00%
25% of total cost	

Total Increase	<u>3.00%</u>
-----------------------	---------------------

Current Rate Per Home	\$8.89
------------------------------	---------------

Proposed Rate Per Home	\$9.15
-------------------------------	---------------

Increase Per Home	<u>\$0.26</u>
--------------------------	----------------------

Consumer Price Index - All Urban Consumers DFW

Mar-17 223.78

Mar-16 218.88

Change in CPI 2.00% 2.00%

Recycling(no landfill charges)

Total Increase	<u>2.00%</u>
-----------------------	---------------------

Current Rate Per Home	\$3.60
------------------------------	---------------

Proposed Rate Per Home	\$3.67
-------------------------------	---------------

Increase Per Home	<u>\$0.07</u>
--------------------------	----------------------

[A to Z Index](#) | [FAQs](#) | [About BLS](#) | [Contact Us](#) | [Subscribe to E-mail Updates](#)
[Follow Us](#) | [What's New](#) | [Release Calendar](#) | [Blog](#)
[Search BLS.gov](#)
[Home](#) | [Subjects](#) | [Data Tools](#) | [Publications](#) | [Economic Releases](#) | [Students](#) | [Beta](#)

Databases, Tables & Calculators by Subject

[SHARE ON:](#)
[FONT SIZE:](#)
Change Output Options:

 From: To:
☒ include graphs ☐ include annual averages

[More Formatting Options](#)

Data extracted on: April 17, 2017 (2:19:37 PM)

CPI-All Urban Consumers (Current Series)

Series Id: CUURA316SA0, CUUSA316SA0

Not Seasonally Adjusted

Series Title: All items in Dallas-Fort Worth, TX, all urban consumers, not seasonally adjusted

Area: Dallas-Fort Worth, TX

Item: All items

Base Period: 1982-84=100

 Download: [.xlsx](#)

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual	HALF1	HALF2
2007	188.890		190.156		192.779		194.286		194.847		196.465		193.245	191.057	195.433
2008	197.079		198.596		202.357		206.413		205.883		200.051		201.791	200.118	203.463
2009	198.623		200.039		199.311		200.663		201.802		201.958		200.544	199.494	201.595
2010	202.106		201.982		202.108		200.227		201.882		201.168		201.624	201.908	201.339
2011	203.199		206.967		208.794		208.602		209.255		209.283		207.933	206.768	209.097
2012	209.203		212.618		212.226		211.267		214.033		212.901		212.227	211.520	212.935
2013	213.696		216.465		215.670		216.979		217.068		215.450		215.995	215.550	216.441
2014	216.291		218.715		219.590		219.543		219.380		217.188		218.392	218.469	218.316
2015	214.899		217.487		218.484		218.676		217.507		217.104		217.500	217.375	217.625
2016	217.164		218.877		220.717		221.507		221.923		222.259		220.677	219.223	222.132
2017	223.082		223.782												

2.2%

 RECOMMEND THIS PAGE USING: [Facebook](#) [Twitter](#) [LinkedIn](#)

TOOLS

[Areas at a Glance](#)
[Industries at a Glance](#)
[Economic Releases](#)
[Databases & Tables](#)
[Maps](#)

CALCULATORS

[Inflation](#)
[Injury And Illness](#)

HELP

[Help & Tutorials](#)
[FAQs](#)
[Glossary](#)
[About BLS](#)
[Contact Us](#)

INFO

[What's New](#)
[Careers @ BLS](#)
[Find It! DOL](#)
[Join our Mailing Lists](#)
[Linking & Copyright Info](#)

RESOURCES

[Inspector General \(OIG\)](#)
[Budget and Performance](#)
[No Fear Act](#)
[USA.gov](#)
[Benefits.gov](#)
[Disability.gov](#)

[Freedom of Information Act](#) | [Privacy & Security Statement](#) | [Disclaimers](#) | [Customer Survey](#) | [Important Web Site Notices](#)

U.S. Bureau of Labor Statistics | Postal Square Building, 2 Massachusetts Avenue, NE Washington, DC 20212-0001

www.bls.gov | Telephone: 1-202-691-5200 | TDD: 1-800-877-8339 | [Contact Us](#)

	2014 Rate	2015 Rate	2016 Rate	Increase % - 2014-2015	Increase % - 2015-2016
Turkey Creek Landfill	24.01	24.49	25.01	2%	2%
Fort Worth C&D Landfill	23.88	24.36	24.86	2%	2%
Weatherford Landfill	30.22	30.9	31.68	2%	2%
DFW Landfill	18.68	19.05	19.45	2%	2%
	Average % of Increase			2.06%	2.15%



WASTE CONNECTIONS, INC

4001 Old Denton Rd, Haltom City, Texas 76117

Contact: Marty Grant; District Manager

Phone: (817) 222-2221

City of KENNEDALE RATE SHEET

Effective: June 2017 BILLING

RESIDENTIAL CURBSIDE COLLECTION:	\$9.15	per month, per Single-Family Residential Unit
CURBSIDE RECYCLING:	\$3.67	per month, per Single-Family Residential Unit
COMMERCIAL HAND COLLECT:	\$20.37	per month, per Commercial Hand Collect Unit
	\$28.33	per month, per Commercial Hand Collect Unit

COMMERCIAL RATE SCHEDULE

CONTAINER SIZE	Lifts Per Week						Extra-Lifts
	1	2	3	4	5	6	
2 Cubic Yd	74.78	112.81	153.67	213.02	306.58	410.29	27.72
3 Cubic Yd	79.66	127.53	170.42	216.05	315.93	426.20	38.12
4 Cubic Yd	105.15	156.69	238.35	312.57	388.41	454.66	48.51
6 Cubic Yd	133.37	211.67	285.18	374.20	474.28	540.80	55.42
8 Cubic Yd	158.95	264.93	367.63	476.14	542.13	589.97	62.36

FRONT LOAD COMPACTOR RATES* (Negotiable)

6 Cubic Yd							
8 Cubic Yd							

Containers w/ Casters	\$ 39.64 per month
Containers w/ Locks or Gates	\$ 9.05 per month

ROLL OFF RATE SCHEDULE

CONTAINER SIZE	ROLL OFF OPEN TOPS				DRY-RUNS		
	HAUL	DELIVERY	DAILY RENT	TONNAGE			
20 Cubic Yd	266.78	96.27	4.82	28.31			79.28
30 Cubic Yd	266.78	96.27	4.82	28.31			79.28
40 Cubic Yd	266.78	96.27	4.82	28.31			79.28

Franchise and Billing Fees:

Residential:	10.0%
Commercial:	10.0%

* All rates are inclusive of all franchise and billing fees

* Rates do not include any Sales Tax

* Rates do not include any Fuel Surcharges



Progressive Waste Solutions of TX, Inc.

4001 Old Denton Rd, Haltom City, Texas 76117

Contact: Marty Grant; District Manager

Phone: (817) 222-2221

City of KENNEDALE RATE SHEET

Effective: July 2014 BILLING

RESIDENTIAL CURBSIDE COLLECTION:	\$8.89	per month, per Single-Family Residential Unit
CURBSIDE RECYCLING:	\$3.60	per month, per Single-Family Residential Unit
COMMERCIAL HAND COLLECT:	\$19.78	per month, per Commercial Hand Collect Unit
	\$27.50	per month, per Commercial Hand Collect Unit

started April 2015

COMMERCIAL RATE SCHEDULE

CONTAINER SIZE	Lifts Per Week						Extra-Lifts
	1	2	3	4	5	6	
2 Cubic Yd	72.60	109.52	149.19	206.82	297.63	398.34	26.91
3 Cubic Yd	77.34	123.62	165.46	209.76	306.73	415.73	37.01
4 Cubic Yd	102.09	152.13	231.41	303.47	377.10	441.42	47.10
5 Cubic Yd	129.49	205.60	276.87	363.30	460.47	525.05	53.81
8 Cubic Yd	154.32	257.21	356.92	464.21	526.34	572.79	60.54

Residential is billed thru the City

Commercial we bill-Co
004 Srv Area is KND

FRONT LOAD COMPACTOR RATES* (Negotiable)

6 Cubic Yd							
8 Cubic Yd							

Containers w/ Casters \$ 38.49 per month

Containers w/ Locks or Gates \$ 6.79 per month

ROLL OFF RATE SCHEDULE

CONTAINER SIZE	ROLL OFF OPEN TOPS				DRY-RUNS
	HAUL	DELIVERY	DAILY RENT	TONNAGE	
20 Cubic Yd	259.01	93.47	4.68	27.49	76.97
30 Cubic Yd	259.01	93.47	4.68	27.49	76.97
40 Cubic Yd	259.01	93.47	4.68	27.49	76.97

Roll Off we bill-Co 0004
Srv Area is KND

Franchise and Billing Fees:

Residential: 10.0%

Commercial: 10.0%

* All rates are inclusive of all franchise and billing fees

* Rates do not include any Sales Tax

* Rates do not include any Fuel Surcharges

Solid Waste Comparison				
City	Residential Garbage	Residential Recycling	Commercial 1X per week	Commercial 2X per week
Midlothian	\$ 10.21	\$ 2.00		
Kennedale	\$ 9.15	\$ 3.67	\$ 20.37	\$ 28.33
Colleyville	\$ 9.77	\$ 3.22		
Mansfield*	\$ 12.23			
Westworth Village	\$ 10.86	\$ 2.25	\$ 13.11	\$ 7.01
Southlake*	\$ 13.44			
Haltom City*	\$ 14.18			
DWG*	\$ 16.00		\$ 20.00	
Burleson*	\$ 19.20		\$ 24.00	
<i>*Rate includes both Garbage and Recycling</i>				
No Recycling				
Venus	\$ 10.37	\$ -		
Forest Hill	\$ 11.39	\$ -	-	\$ 11.39
White Settlement	\$ 11.66	\$ -	-	\$ 28.88
Crowley	\$ 12.30	\$ -		
Crandall	\$ 13.33	\$ -	\$ 27.18	

CONSOLIDATED CONTRACT FOR RESIDENTIAL AND COMMERCIAL SOLID WASTE & RECYCLE COLLECTION

THIS CONSOLIDATED CONTRACT (the "CONTRACT") is made and entered into on November 1, 2007, by and between the CITY OF KENNEDALE, a municipal corporation of Tarrant County, Texas (hereinafter referred to as "CITY") and IESI TX Corporations, a Texas corporation ("CONTRACTOR"), authorized to do business in the State of Texas (hereinafter referred to as "CONTRACTOR").

WHEREAS, the CITY desires to provide residential and commercial customers within its corporate limits with solid waste collection, transport, disposal and recycling services for a term of five (5) years ending January 31, 2013; and

WHEREAS, the CONTRACTOR has provided the CITY with a response to its Request for Proposals (RFP) dated October 25, 2007 for solid waste disposal and recycling services on a Contract basis.

NOW, THEREFORE, in consideration of the mutual agreements hereinafter contained and in order to preserve and protect the public health of the citizens of the CITY it is hereby understood and agreed by the parties hereto as follows:

1. Grant. To the extent permitted by law, CITY hereby grants to CONTRACTOR a Contract with the exclusive franchise, license, and privilege to engage in the business of collecting and disposing of all residential and commercial Acceptable Waste, Construction and Demolition Waste, and Recyclable Materials as defined herein below which is generated within the corporate limits of the CITY and, further, hereby grants to CONTRACTOR a license and permit to use the public streets, alleys, easements and thoroughfares within the limits of the CITY for said business during the term of this Contract. The CITY hereby grants to the CONTRACTOR, in accordance with the CITY'S ordinances and regulations governing the collection and disposal of Acceptable Waste, the title to all Acceptable Waste collected and disposed of by the CONTRACTOR, over, upon, along and across the CITY'S present and future streets, alleys bridges and public properties. All title to and liability for materials excluded from this Contract shall remain with the generator of such materials.
2. Term. The term of this Contract shall be for five (5) years commencing on February 1, 2008 and terminating on January 31, 2013. The term may be renewed for two (2) successive terms of five (5) years each, by mutual consent of the parties hereto.
3. Definitions. Wherever used herein, the hereinafter listed terms shall have the following meanings:
 - A. Acceptable Waste: Any and all waste that is solid waste, including brush, garbage, yard waste and trash, as solid waste is defined under the laws of the

United States and/or the State of Texas and/or the regulations promulgated thereunder and that is acceptable for disposal in a Landfill, except for "Unacceptable Waste", as defined herein.

- B. **Bulky Item:** Any item measuring in excess of either forty-eight (48) inches in length or fifty (50) pounds in weight, including, but not limited to, refrigerators, stoves, washing machines, water tanks, chairs, couches and other similar household items.
- C. **By-Products With Residual Value:** Any excess industrial, manufacturing or commercial by-products or significant and constant volumes of materials of a company which have a residual value on the open market, (such as cardboard and packing materials).
- D. **Brush:** Tree and shrub trimmings which are not easily placed in disposable containers.
- E. **Commercial Containers:** Metal containers supplied by CONTRACTOR affording adequate capacity to service a customer so as to prevent spillage, unsightly and unsanitary conditions.
- F. **Construction and Demolition Waste:** Acceptable Waste resulting from construction or demolition activities or that is directly or indirectly the by-product of such activities, including, but not limited to, cartons, concrete, excelsior, gypsum board, metal, paper, plastic, rubber and wood products. Construction and Demolition Waste does not include Unacceptable Waste or Bulky Items.
- G. **Curbside Service:** Acceptable Waste or Recyclable Materials to be picked up by the CONTRACTOR will be located at the curbside of the street bearing the customer's address or, if there is no curb, where the customer's property line meets the street.
- H. **Debris:** Dirt, concrete, rocks, bricks, lumber, plaster, sand or gravel, other waste building materials, automobile frames, or large, uncut dead trees.
- I. **Bags or Disposable Containers:** Any plastic bag or cardboard box with a capacity or volume of thirty three (33) gallons or less and which is capable of containing garbage or trash without leaking or emitting odors, and which weighs, when loaded, less than fifty (50) pounds.
- J. **Garbage:** Refuse animal or vegetable matter (as from a kitchen or food processing facility), tin cans, bottles, sacks, clothes, extinguished ashes, paper (not including heavy accumulations of newspapers and magazines) and any other household waste which is damp or capable of emitting noxious odors.

- K. **Handicapped Residential Unit:** Any residential dwelling that is inhabited by persons, all of whom are physically handicapped to the extent that they are unable to place Acceptable Waste at the curbside, and that generates and accumulates Acceptable Waste. The identities of the members of a Handicapped Residential Unit shall be certified by the City Manager and agreed to by the CONTRACTOR.
- L. **Hazardous Waste:** Waste identified or listed as hazardous waste by the administrator of the United States Environmental Protection Agency (EPA) under the federal Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, or so classified by any federal or State of Texas statute, rule, order or regulation.
- M. **Multiple-Family/Apartment Residential Complex:** A structure in which three (3) or more families reside and claim as their permanent address.
- N. **Permanent Containers:** Any closed, waterproof, plastic or metal container or can with a capacity or volume of thirty three (33) gallons or less and which is capable of containing garbage or trash without leaking or emitting odors, and which weighs, when loaded, less than fifty (50) pounds. It is recommended that plastic bags be used along with permanent containers to prevent spillage on CITY streets.
- O. **Recyclable Materials:**
- | | |
|---|---|
| Metal Cans: | Rinse metal cans and place in bins composed of tin, steel or aluminum. |
| Aluminum Cans: | Aluminum drink cans. |
| Glass: | Clear, green and brown glass bottles and jars. No mirrors, window glass, plate glass, light bulbs or ceramics. |
| Plastic Bottles: | Only plastic bottles with recycling symbols, #1, #2, #3, #4, #5, #6, and #7. Examples include milk bottles, soft drink liter bottles, detergent bottles, cleaning bottles and shampoo bottles. Rinse and remove lids. |
| Newspapers, Magazines, Catalogs | Newspapers, magazines, and catalogs including slick and glossy inserts. |
| Junk Mail, Cardboard
Mixed Household Paper | Junk mail, envelopes, cereal boxes, cardboard, chipboard and other household paper placed inside the bin. No tissues, wet paper or paper contaminated with food |

products are acceptable. All cardboard must be broken down to a size that will fit inside the bin.

Other:

Items that are identified as recyclable by the CITY, CONTRACTOR, or as the result of changes in any local, state, or federal laws, ordinances, or regulation.

P. Recycling Containers: Thirty (30) roll off container provided by CONTRACTOR for each residential Customer to utilize. Any container must be approved by the City Council.

Q. Single-Family Residential Unit: Any residential dwelling that is designed for, and inhabited by, a single person or family unit and that generates and accumulates Acceptable Waste.

R. Special Waste: Any waste, even though it may be part of a delivered load of waste excluding insignificant quantities found in residential, commercial or industrial waste, which is:

- (1) defined as such by the laws of the United States and/or the State of Texas and/or the regulations promulgated thereunder; or
- (2) medical waste, including infectious or pathological waste from laboratories, research facilities, and health and veterinary facilities; and
- (3) dead animals and/or slaughterhouse waste, except for animals euthanized under the authority and direction of the CITY; or
- (4) sludge waste, including water supply treatment plant sludges and stabilized and/or unstabilized sludges from municipal or industrial wastewater treatment plants; or
- (5) liquid waste, which for the purposes of this Contract means any waste material that is determined to be or contain "free liquid" by the paint filter test (EPA Method 9095); or
- (6) waste from an industrial process; or
- (7) waste from a pollution control process; or
- (8) waste transported in a bulk tanker; or
- (9) friable and/or nonfriable asbestos waste; or

- (10) empty containers which have been used for pesticides, herbicides, fungicides, or rodenticides; or
- (11) containerized waste (e.g., a drum, barrel, portable tank, box, pail, etc.) of a type listed in this definition; or
- (12) residue or debris from the cleanup of a spill or release of chemical substances, commercial products or other wastes listed in this definition; or
- (13) soil, water, residue, debris or articles which are contaminated from the cleanup of a site or facility formerly used for the generation, storage, treatment, recycling, reclamation, or disposal of wastes listed in this definition, including soil contaminated from underground storage tanks used or formerly used for the storage of petroleum products; or
- (14) residential wastes, only if a change in federal or state law, statute, regulation, rule, code, ordinance, permit, or permit condition, which occurs after the Effective Date of this Contract, requires special or additional management that differs from the requirements applicable on the Effective Date of this Contract; or
- (15) any waste that requires other than normal handling, storage, management and/or disposal.

S. **Trash:** All household refuse other than garbage, debris, brush, household furniture and appliances. Trash shall include grass, yard clippings, leaves, weeds, heavy accumulations of newspapers and magazines, Recyclable Waste, old clothes and other household trash of like kind, but shall not include Hazardous Wastes.

T. **Unacceptable Waste:** Any and all waste that is either:

- (1) waste which is now or in the future prohibited from disposal at a sanitary landfill by state, federal and/or local laws and/or the regulations promulgated thereunder; or
- (2) "Hazardous Waste", as defined herein; or
- (3) waste which is prohibited from disposal at the Landfill by CONTRACTOR including tires, concrete, and bulk petroleum or chemical products or by-products; or
- (4) liquid waste, as defined herein, and septic tank pumpings and grease and grit trap wastes; or

- (5) sludge waste, including water supply treatment plant sludges and stabilized, and/or unstabilized sludges from municipal or industrial wastewater treatment plants; or
 - (6) dead animals and/or slaughterhouse waste, except for animals euthanized under the authority and direction of the CITY; or
 - (7) any waste, including "Special Waste" as defined herein, which because of its quantity, concentration, frequency of disposal, required disposal procedures, regulatory status, or physical, chemical, infectious or other characteristics jeopardizes or may jeopardize the environmentally sound operation of the disposal site, as determined by CONTRACTOR in its sole discretion.
- U. White Good: Any item measuring in excess of either three (3) cubic feet in size or fifty (50) pounds in weight and that is manufactured primarily from metal, including, but not limited to, a bath tub, heater, hot water heater, refrigerator, sink or washer and dryer.
- V. Yard Waste: Grass or shrubbery cuttings, leaves, tree limbs (less than 31 in length) and other materials accumulated as the result of the care of lawn, shrubbery, vines and trees. Yard waste does not include food wastes from gardens such as fruits or vegetables.

4. Single-Family Residential Units

- A. Duties and Obligations of Single-Family Residential Unit: Every owner, agent, lessee, tenant or occupant of any single-family residential premises in the CITY ("residential customer") shall have the following duties and obligations:
- (1) Brush and Trash: Each residential customer shall place brush or trash which cannot be placed in disposable containers or permanent containers into lengths not to exceed four (4) feet and with a weight not to exceed fifty (50) pounds, tie same in bundles, and stack such brush or trash at curbside (as is hereinafter provided).
 - (2) Containers Secured: Each residential customer shall keep all such containers in use securely closed in such a manner as to prevent the scattering of the contents thereof and to render said contents inaccessible to insects, rodents and other animals.
 - (3) Draining Liquids: Each residential customer shall drain all Acceptable Waste and Recyclable Materials mixed with water or other liquids before placing the same into appropriate containers.

- (4) **Items Exceeding Fifty (50) Pounds:** No residential customer shall place for collection, or permit to be placed for collection, any permanent container, disposable container, item, or bundle of brush or trash exceeding fifty (50) pounds in weight.
- (5) **Placement of Waste and Materials:** Each residential customer shall place appropriate containers containing Acceptable Waste at the curbside on the street bearing such residential customer's address in such a manner as to be easily accessible for collection and as to prevent Acceptable Waste from being scattered.
- (6) **Residential Containers:** Each residential customer shall provide and use containers (disposable or permanent) sufficient in number to hold the Acceptable Waste accumulating on the premises.
- (7) **Unacceptable Waste:** No residential customer shall place for collection, or permit to be placed for collection, any Unacceptable Waste.
- (8) **Time of Placement of Waste and Materials:** All appropriate containers and bundled brush required to be located at the curbside shall be placed at the prescribed curbside locations not more than twelve hours prior to the scheduled collection day and not later than 7:00 a.m. on the scheduled collection day.
- (9) **Vines and Bushes:** Each residential customer shall place all vines and thorny bushes in disposable containers.
- (10) **Waste and Materials in Containers:** Each residential customer shall place all Acceptable Waste (including brush, if the size of the brush allows) in either disposable containers or permanent containers.
- (11) **Notwithstanding anything to the contrary contained herein, the CONTRACTOR agrees to assist Handicapped Residential Units with house-side collection of their Acceptable Waste; provided, that the CONTRACTOR receives prior written notice from the Handicapped Residential Unit of such special need. The CITY shall be solely responsible for all other modifications and accommodations required by the Americans with Disabilities Act or any other applicable law or regulation in connection with the services provided hereunder to Single-Family Residential Units.**

B. Contractor's Duties and Obligations – Residential: It shall be the duty and obligation of CONTRACTOR to perform the following services:

- (1) **Collection:** CONTRACTOR agrees to make two (2) weekly collections for Acceptable Waste. CONTRACTOR shall not commence service to

residential customers prior to 7:00 a.m. and no collections will be made on Sundays. Collections may be made on designated holidays that do not fall on a Sunday, but shall not be required. CONTRACTOR shall provide collection services to residential customers in the manner specified herein.

(2) Customer Service Number: CONTRACTOR agrees to maintain a toll free telephone number for the purpose of handling complaints and other calls regarding the collection service provided by CONTRACTOR. CONTRACTOR agrees to secure an annual listing in the appropriate telephone directory under the name by which it conducts business in the community. CONTRACTOR agrees to keep said phones available for calls from 8:00 a.m. to 5:00 p.m. weekdays and Saturday 8:00 a.m. to 3:00 p.m. every day except Sunday and the holidays set forth in Section (6.L.) herein, and to keep said phone staffed with sufficient competent personnel to handle calls and inquiries during the above-mentioned hours. A daily log of all service calls, complaints, inquiries and the action taken thereon, shall be maintained by CONTRACTOR.

(3) Equipment and Services Furnished: CONTRACTOR agrees to furnish trucks, equipment, machinery, tools, and labor at its own expense, to adequately, efficiently and properly collect and dispose of Acceptable Waste or Recyclable Materials from premises within the corporate limits of the CITY in a systematic, clean, healthful, and sanitary manner. CONTRACTOR shall not be responsible under this Contract for collecting and disposing of Hazardous Waste, Special Waste or debris.

(4) Take-all Service: CONTRACTOR shall collect all items placed on the curb as part of the regular waste collection cycle providing that the items are acceptable for landfill disposal and the items are containerized in a can, bag or box. Brush and tree limbs must be tied in bundles not to exceed four (4) feet in length and fifty (50) pounds in weight. This service includes construction and fencing materials generated by the homeowner resulting from repair and remodeling projects as long as said materials are containerized or tied in bundle's not to exceed four (4) feet in length and fifty (50) lbs. in weight.

Bulky items and White Goods including stoves, furniture, water heaters, dishwashers, etc., when placed on the curb, will be picked up as part of normal service collections. Federal Law prohibits the collection of refrigerator or freezer units unless certification is provided that CFC's have been removed by a certified technician.

(5) Landfill Disposal and Vehicle Standards: CONTRACTOR agrees that the Acceptable Waste collected will be disposed of in compliance with the laws of the State of Texas. All vehicles used by the CONTRACTOR for the collection and transportation of Acceptable Waste or Recyclable

Materials shall be protected at all times while in transit to prevent leakage and the blowing or scattering of materials or waste onto the public streets of CITY or properties adjacent thereto and shall at all times be maintained in good repair. Further, such vehicles shall be clearly marked with CONTRACTOR'S name in letters not less than four (4) inches in height and shall be individually numbered. All collection equipment shall be washed and deodorized as necessary, but at minimum once each week, and shall be kept in sanitary condition.

- (6) Annual Clean-Up Events and Landfill Use: CONTRACTOR shall plan two bulky item and brush clean-up events each calendar year. They will be in the second week of April and the second week of October. CONTRACTOR shall provide eight (8) free roll offs per event at a location specified by the CITY. Each residential unit is also entitled to one (1) free landfill trip at the IESI Fort Worth C&D Landfill.
- (7) Large Objects/Large Quantity: The CONTRACTOR agrees to provide an on-call service for the collection of large objects and quantities of debris, including temporary roll-off service. Upon request by a residential customer, CONTRACTOR agrees to provide an estimate of the cost to remove and dispose of such items and upon mutual Contract between CONTRACTOR and residential customer, the CONTRACTOR shall perform the service. The agreed upon fee for the service shall be paid by the residential customer immediately upon completion of the work performed. (See Section "6.E." for more information.)
- (8) Non-Collection Days: CONTRACTOR agrees that no collections will be made on Sundays. Collections may be made on designated holidays that do not fall on a Sunday, but will not be required. (See Section "6. L." for more information about holidays).
- (9) Residential Recycling Containers: CONTRACTOR shall provide a drop off location for Recyclable Materials. Such container shall be located at the IESI Fort Worth C&D Landfill and accessible to residential customers during normal landfill operating hours.
- (10) Routes and Schedules: CONTRACTOR agrees to establish daily routes and special schedules for the collection of Acceptable Waste as necessary to fulfill the requirements of this Contract. Further, CONTRACTOR will utilize written route books for use in the collection of Acceptable Waste from all residential customers. CITY shall have the right to require alteration of service to any premises wherein unsightly or unsanitary conditions have resulted from inadequate containers or an insufficient number of collections, and CONTRACTOR shall be compensated for any such required additional services.

(11) Christmas Tree Pick up: See Section 6.D.

(12) Recycling Education: CONTRACTOR shall continue an ongoing public education program to encourage citizen participation in recycling including but not limited to informational flyers or brochures (with a detailed description of recycling program). CONTRACTOR shall also report to the City Council of CITY one (1) time annually to appraise the City Council on educational programs and participation in recycling.

C. Residential Charges

(1) Customer Billing: CITY agrees to bill all residential customers served by CONTRACTOR. CITY further agrees to collect and remit all sales taxes to the appropriate governmental authority and shall issue to CONTRACTOR a Resale Certification.

(2) CONTRACTOR agrees to provide, at no cost to the residential customer or the CITY, collection of Acceptable Waste from up to twenty-eight (28) residential units inhabited by Senior Citizens meeting the CITY's eligibility requirements. The CITY shall furnish CONTRACTOR the names and addresses of the qualifying Senior Citizens.

(3) Payment to CONTRACTOR: CITY agrees to pay to CONTRACTOR on or before the 15th day of each month following the services provided. Example - Service begins November 1st with the first payment due on or before December 15th and each month thereafter. The appropriate charges as herein provided:

- a. Residential Acceptable Waste Charges: For the Contract granted herein, CONTRACTOR agrees to pay a franchise fee to the CITY in an amount equal to 6% of the gross billings (excluding all appropriate sales taxes) from the collection of Acceptable Waste within the corporate limits of the CITY and 4% of the gross billings for billing and collection fee, for a total of 10%. CITY shall remit to the CONTRACTOR its check in the amount of 90% of all amounts billed for residential garbage and recycling service for Acceptable Waste. The 10% not remitted for residential billings shall become the property of the CITY.

Any billing that the CITY may do for the Acceptable Waste collection service to residential customers outside the CITY limits of Kennedale, CONTRACTOR agrees that the CITY shall retain 10% for the collection.

- (4) Residential Acceptable Waste: CITY and CONTRACTOR agree that the MONTHLY CUSTOMER SERVICE CHARGE for residential customers shall be as described on ATTACHMENT "A".
- (5) Residential Recycling: CITY and CONTRACTOR agree that the curbside residential recycling monthly service charge may be implemented during the term of this Contract upon service being initiated.
- (6) Rate Adjustments: No rate adjustment will be made in the first year of the contract (February 1, 2008 – January 31, 2009). Beginning February 1, 2009 rates may be adjusted annually to reflect changes in the cost of operations, as reflected by percentage change in the Consumer Price Index (CPI) for Urban Wage Earners and Clerical Workers (all items) for the Dallas-Fort Worth Metropolitan Area as published by the U.S. Department of Labor, Bureau of Labor Statistics. The measured increase will span a twelve month period (beginning August 1 and ending July 31) immediately preceding the Rate Adjustment Date. If the CONTRACTOR desires a review of the existing rates, CONTRACTOR shall submit, in writing, its adjustments to the rate and supporting data for the same period, on or before January 15th of the numbered year, beginning January 15, 2009.
- (7) In addition to the above CPI adjustment, the CITY may consider a discretionary rate adjustment to offset unusual changes in CONTRACTOR'S cost of operations due to, or directly resulting from, increased fuel costs, ad valorem taxes, governmental fees, landfill costs, or regulations or revised federal, state or local laws, ordinances or regulations. CONTRACTOR may submit a request to the City Council for such an adjustment in rates. Any such request must be accompanied by supporting documentation detailing the increased costs and their impact in providing the services described in this Consolidated Contract as they relate directly to the CITY. The City Council shall have authority, in its sole discretion, to determine the validity of any such request for a change in rates. The CITY shall not unreasonably withhold, condition or delay its consent to any requested rate increase. In the event the CITY fails or refuses to consent to any such requested rate increase and the CONTRACTOR can demonstrate that such rate increase is necessary to offset the CONTRACTOR'S increased costs in connection with performing the services under this Agreement, the CONTRACTOR may, in its sole discretion, terminate this Agreement upon one hundred eighty (180) days written notice to the CITY.

Other than the foregoing, no other rate adjustments shall be considered by the CITY.

5. Commercial, Industrial, and Multi-Family/Apartment

A. **Duties and Obligations of Commercial, Industrial, and Multi-Family/Apartment Customers:** Every owner, agent, employee or person otherwise in charge of any commercial, industrial, or multi-family/apartment premises within the CITY ("commercial customer") shall have the following duties and obligations:

- (1) **Containers Secured:** Each commercial customer shall keep all commercial containers in use securely closed in such a manner as to prevent the scattering of the contents thereof and to render said contents inaccessible to insects, rodents, and other animals.
- (2) **Draining Liquids:** Each commercial customer shall drain all Acceptable Waste or Recyclable Materials mixed with water or other liquids before placing same into a commercial container, and, further, no commercial customer shall place for collection, or permit to be placed for collection, any Hazardous Waste or Special Waste.
- (3) **Sufficient Containers:** Each commercial customer shall be provided by CONTRACTOR containers sufficient in number to hold the Acceptable Waste or Recyclable Materials accumulating on the premises.
- (4) **Waste and Materials in Containers:** Each commercial customer shall cause all Acceptable Waste or Recyclable Materials accumulating on such premises to be placed in commercial containers. Commercial customers shall place said containers in a certain designated location which is agreed to by CONTRACTOR and customer, bearing such commercial customer's address for collection at the same time and in the same manner as is provided for residential refuse collection. The location of the commercial customer's container shall be placed such that no damage results to the pavement or asphalt surfaces. CONTRACTOR shall not be liable for damages to pavement or asphalt surfaces which result from the container being placed in such location.

B. **Contractor's Duties and Obligations – Commercial, Industrial, and Multi-Family/Apartment:** It shall be the duty and obligation of CONTRACTOR to perform the following services:

- (1) **Containers:** CONTRACTOR shall provide all commercial containers for Acceptable Waste or Recyclable Materials storage which are available upon request of the owner or occupant of any premises within the corporate limits of CITY, excluding single family and two family residences. The commercial containers provided by CONTRACTOR shall be (i) equipped with suitable covers to prevent blowing or scattering of Acceptable Waste or Recyclable Materials while being transported for disposal of their contents, (ii) maintained in good repair, appearance, and

in a sanitary condition, and (iii) clearly marked with the CONTRACTOR'S name and telephone number in letters not less than two (2) inches in height, and (iv) emptied not less than one time each week.

- (2) Customer Service Number: CONTRACTOR agrees to maintain a toll free telephone number for the purpose of handling complaints and other calls regarding the collection service provided by CONTRACTOR. CONTRACTOR agrees to secure an annual listing in the appropriate telephone directory under the name by which it conducts business in the community. CONTRACTOR agrees to keep said phones available for calls from 8:00 a.m. to 5:00 p.m. weekdays and Saturday 8:00 a.m. to 3:00 p.m. every day except Sunday and the holidays set forth in Section "6K" herein, and to keep said phone staffed with sufficient competent personnel to handle calls and inquiries during the above-mentioned hours. A daily log of all service calls, complaints, inquiries and the action taken thereon, shall be maintained by CONTRACTOR.
- (3) Equipment Furnished: CONTRACTOR agrees to furnish trucks, equipment, machinery, tools, and labor at its own expense, to adequately, efficiently and properly collect and dispose of Acceptable Waste or Recyclable Materials from premises within the corporate limits of the CITY in a systematic, clean, healthful, and sanitary manner. CONTRACTOR shall not be responsible under this Contract for collecting and disposing of Hazardous Waste, Special Waste or debris.
- (4) Large Objects/Large Quantity: The CONTRACTOR agrees to provide an on-call service for the collection of large objects and quantities of debris, including temporary roll-off service. Upon request by a customer, CONTRACTOR agrees to provide an estimate of the cost to remove and dispose of such items and upon mutual Contract between CONTRACTOR and customer, the CONTRACTOR shall perform the service. The agreed upon fee for the service shall be paid by the customer immediately upon completion of the work performed.
- (5) Lawful Disposal: CONTRACTOR agrees that the Acceptable Waste collected will be disposed of in compliance with the laws of the State of Texas. All vehicles used by the CONTRACTOR for the collection and transportation of Acceptable Waste or Recyclable Materials shall be protected at all times while in transit to prevent leakage and the blowing or scattering of materials or waste onto the public streets of CITY or properties adjacent thereto and shall at all times be maintained in good repair. Further, such vehicles shall be clearly marked with CONTRACTOR'S name in letters not less than four (4) inches in height and shall be individually numbered. All collection equipment shall be washed and deodorized as necessary, but at minimum once each week, and shall be kept in sanitary condition.

- (6) **Non-Collection Days:** CONTRACTOR agrees that no collections will be made on Sundays. Collections may be made on designated holidays that do not fall on a Sunday, but shall not be required.
- (7) **Routes and Schedules:** CONTRACTOR agrees to establish daily routes and special schedules for the collection of Acceptable Waste as necessary to fulfill the requirements of this Contract. Further, CONTRACTOR will utilize written route books for use in the collection of Acceptable Waste from all commercial customers. CITY shall have the right to require alteration of service to any premises wherein unsightly or unsanitary conditions have resulted from inadequate containers or an insufficient number of collections, and CONTRACTOR shall be compensated for any such required additional services.

C. Commercial, Industrial, and Multi-Family/Apartment Charges

- (1) **Commercial, Industrial, and Multi-Family/Apartments Acceptable Waste:** CITY and CONTRACTOR agree that the commercial/industrial/multi-family/apartments monthly service charges shall be provided in ATTACHMENT "A", which is attached hereto and incorporated herein by reference.
- (2) **Commercial Recycling Charges:** The service charge for commercial recycling shall be as specified in ATTACHMENT "A".
- (3) **Customer Billing:** CONTRACTOR agrees to bill all commercial customers served by CONTRACTOR. CONTRACTOR further agrees to collect and remit all sales taxes to the appropriate governmental authority.
- (4) **Payment to CITY:** CONTRACTOR agrees to pay to CITY on or before the 15th day of each month the appropriate charges as herein provided:
- a. **Commercial, Industrial and Multi-Family/Apartments Acceptable Waste Charges and Commercial, Industrial and Multi-Family/Apartments Recycling Charges:** For the Contract granted herein, CONTRACTOR agrees to pay a franchise fee to the CITY in an amount equal to 10% of the gross billings(excluding all appropriate sales taxes) from the collection of Acceptable Waste and Recyclable Materials within the corporate limits of the CITY. CONTRACTOR shall remit to the CITY a check in the amount of 10% of all amounts billed for commercial/industrial Acceptable Waste and recyclables collected.
- (5) **Rate Adjustments:** No rate adjustment will be made in the first year of the contract (February 1, 2008 – January 31, 2009). Beginning February 1,

2009 rates may be adjusted annually to reflect changes in the cost of operations, as reflected by percentage change in the Consumer Price Index (CPI) for Urban Wage Earners and Clerical Workers (all items) for the Dallas-Fort Worth Metropolitan Area as published by the U.S. Department of Labor, Bureau of Labor Statistics. The measured increase will span a twelve month period (beginning August 1 and ending July 31) immediately preceding the Rate Adjustment Date. If the CONTRACTOR desires a review of the existing rates, CONTRACTOR shall submit, in writing, its adjustments to the rate and supporting data for the same period, on or before January 15th of the numbered year, beginning January 15, 2009.

- (6) In addition to the above CPI adjustment, the CITY may consider a discretionary rate adjustment to offset unusual changes in CONTRACTOR'S cost of operations due to, or directly resulting from, increased fuel costs, ad valorem taxes, governmental fees, landfill costs, or regulations or revised federal, state or local laws, ordinances or regulations. CONTRACTOR may submit a request to the City Council for such an adjustment in rates. Any such request must be accompanied by supporting documentation detailing the increased costs and their impact in providing the services described in this Consolidated Contract as they relate directly to the CITY. The City Council shall have authority, in its sole discretion, to determine the validity of any such request for a change in rates. The CITY shall not unreasonably withhold, condition or delay its consent to any requested rate increase. In the event the CITY fails or refuses to consent to any such requested rate increase and the CONTRACTOR can demonstrate that such rate increase is necessary to offset the CONTRACTOR'S increased costs in connection with performing the services under this Agreement, the CONTRACTOR may, in its sole discretion, terminate this Agreement upon one hundred eighty (180) days written notice to the CITY.

Other than the foregoing, no other rate adjustments shall be considered by the CITY.

6. Miscellaneous

- A. Assignment of Contract: This Contract and any and all rights and obligations of CONTRACTOR hereunder may be assigned by CONTRACTOR to any parent company, affiliate, or subsidiary of CONTRACTOR without the consent of CITY, but may not be assigned to any other third party without the prior written consent of the CITY'S City Council.
- B. Applicable Law: CITY and CONTRACTOR (and customers) shall comply with all rules and regulations of any federal, state or local authority. In this regard, CONTRACTOR shall not be required to collect and dispose of any Hazardous

Wastes, or any other Unacceptable Waste. Should CONTRACTOR elect to dispose of such materials, CONTRACTOR shall receive a fee or charge mutually acceptable to CONTRACTOR and the party requesting disposal of such materials. CONTRACTOR further agrees to comply with all applicable state and federal laws regulating collection and disposal of waste.

C. **Bad Debt Collections and Write-Offs:** The CITY will diligently pursue the collection of bad debts, and those which are deemed uncollectible after 90 days, will be written off annually by the CITY. Write-offs will be adjusted (deducted) from CONTRACTOR'S monthly payment following the date of the write-offs. Although write-offs will be made, CITY will continue to pursue collection and any bad debts collected after any quarterly payment adjustment will be added to the next monthly payment to the CONTRACTOR.

D. **Christmas Tree Recycling:** CONTRACTOR shall collect Christmas Trees when placed at curbside two times during December 26 through January 9 each year during the term of the Contract. Christmas Trees do not have to be cut or bound in any way and shall be picked-up whole.

E. **CITY Liaison:** CONTRACTOR and CITY agree that the City Manager will be the authority for the approval of charges for any service not contemplated by this Contract and for the disposition of any dispute between customer and CONTRACTOR. The CITY may designate a CITY employee to act as an enforcement officer hereunder and to act as a liaison between the CITY and CONTRACTOR.

F. **Contract Execution:** This Contract may be executed in any number of counterparts, each of which will for all purposes be deemed to be an original, and all of which are identical.

G. **Contract Validity:** If any provision or portion of this Contract is for any reason unenforceable, inapplicable, or invalidated then such provision or portion shall be reformed in accordance with applicable laws and the other provisions hereof will remain in full force and effect in the same manner as if such unenforceable, inapplicable or invalidated provision had never been contained herein. The invalidity, inapplicability, or unenforceability of any provision or portion of this Contract shall not affect the validity, applicability or enforceability of the other provisions or portions of this Contract.

H. **INDEMNIFICATION:** CONTRACTOR covenants and agrees to fully indemnify, hold harmless and defend the CITY, its officers, agents, servants and employees from and against any and all claims, demands, suits, judgments, costs and expenses (including attorney's fees) for property damage or loss, and/or personal injury, including death, to any and all Persons, of whatsoever kind or character, whether real or asserted, caused by any acts or omissions of CONTRACTOR in the performance, attempted

performance or non-performance of the work and services described hereunder including operations of subcontractors, if any, and the acts or omissions of employees or agents of CONTRACTOR. CONTRACTOR shall likewise assume all responsibility and liability for, and shall indemnify and hold harmless the CITY for any and all injury or damage to CITY property caused by all acts or omissions of CONTRACTOR, its officers, agents, servants, employees, contractors, subcontractors, licensees, or invitees, including attorney's fees expended by the CITY in any suit or claim against CONTRACTOR for same. However, CONTRACTOR shall not be liable for any legal proceeding, claims, demands, damages, costs, expenses and attorneys' fees caused by any acts or omissions of the CITY, its agents, directors, employees, officers and servants. The provisions of this indemnification are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity.

- I. Contractor Insurance: CONTRACTOR shall not commence work under this Contract until Contractor has obtained all the insurance listed below and certificates evidencing such coverage are received by the CITY. Contractor shall include the coverage of all subcontractors in any insurance policy it carries. The CITY also shall be named as an additional insured on each policy required hereunder.

<u>Coverage</u>	<u>Limits of Liability</u>
Worker's Compensation	Statutory
Employer's Liability	\$1,000,000
Bodily Injury Liability (except automobile)	\$1,000,000 per occurrence; \$1,000,000 in the aggregate
Property Damage Liability (except automobile)	\$1,000,000 per occurrence; \$1,000,000 in the aggregate
Automobile Bodily Injury Liability	\$ 1,000,000 per person; \$2,000,000 per occurrence
Automobile Property Damage Liability	\$2,000,000 per occurrence
Excess Umbrella Liability	\$5,000,000 per occurrence

- (1) Local Agent for Insurance and Bonding: The insurance and bonding companies with whom CONTRACTOR's insurance are written shall be authorized to do business in the State of Texas. Each agent shall be a duly qualified Person, upon whom service of process may be had, and must

have authority and power to act on behalf of the insurance to negotiate and settle with the CITY, or any other claimant, any claims that the CITY or other claimant, or any property owner who has been damaged, may have against CONTRACTOR or its insurance company. If the local insurance representative is not so empowered by the insurance, then such authority must be vested in a local agent or claims officer residing in the Fort Worth-Dallas metropolitan area. The name of the agent or agents shall be set forth on all such bonds and certificates of insurance. CONTRACTOR shall keep the required insurance in full force and effect at all times during the term of this Contract, and any renewals thereof. Contractor shall furnish to the CITY a certificate of insurance, evidencing that CONTRACTOR has obtained the required insurance coverage. All policies shall provide that they may not be changed or cancelled by the insurer in less than five (5) days after the CITY has received written notice of such change or cancellation.

J. Performance Bond: CONTRACTOR agrees that upon the execution of this Contract and before beginning work, it shall execute and deliver to CITY a good and sufficient surety bond in a form acceptable to the CITY, to secure the faithful performance of the terms and conditions herein. The bond shall be in the amount of Two Hundred Fifty Thousand Dollars (\$250,000.00), and the surety shall be a surety company duly authorized to do business in the State of Texas and approved by the CITY.

K. Free Service to CITY: CONTRACTOR shall provide free pickup and disposal for all CITY facilities in manners specified by the CITY. The CITY shall also have free dumping privileges during the term of this Contract at the nearest landfill or transfer station used by the CONTRACTOR. Free dumping is interpreted as meaning no charge or cost assessed to CITY vehicles and limited to 300 cubic yards per year.

L. Holidays/Make-Up Days: CITY and CONTRACTOR agree that the following days shall be recognized as holidays:

New Years Day
Thanksgiving Day
Christmas Day

The CONTRACTOR will collect all Acceptable Waste the next regular scheduled collection day following the holiday, except Sunday, so that each customer receives a minimum of one collection day during any given week which has a holiday on a regular scheduled collection day.

M. Interruption in Service: In the event that the collection and disposal of Acceptable Waste or Recyclable Materials should be interrupted by any reasons other than a catastrophe, riot, war, governmental order or regulation, strike, fire, accident, act

of God, changes in laws, statutes, regulations or ordinances or other similar or different contingency beyond the reasonable control of the CONTRACTOR for more than forty-eight (48) hours, CITY shall have the right to make temporary independent arrangements for the purposes of continuing this necessary service to its residents in order to provide and protect the public health and safety. If such interruption in service continues for a period of seventy-two (72) hours then the CITY shall have the right to terminate the rights and privileges granted in this franchise.

- N. Investigations and Public Hearings: The City Council shall have full power to examine or cause to be examined at any time, and at all times, the books, papers and records of CONTRACTOR with relation to the operation of the services set forth herein. In this connection, the CITY shall have the right, through its Council, to take testimony and compel the attendance of witnesses or the production of books, papers and records and to examine witnesses under oath and under such rules and regulations as it may adopt.
- O. Judicial Interpretation: CITY and CONTRACTOR agree that if any term or provision of this Contract is submitted to a court for judicial interpretation that such court shall not apply the presumption which results from the rule of construction that a document or its contents is to be construed against the person who himself or through his agent prepared the same.
- P. Non-Collection: Should a dispute arise between the CITY, CONTRACTOR, and/or a customer as to whether the CONTRACTOR actually failed to make a collection (whether the CONTRACTOR missed a pickup) the decision of the City Manager in such matter shall be final and CITY and CONTRACTOR agree to abide by said decision. However, it is understood and agreed by and between CITY and CONTRACTOR that if any customer fails to timely place brush, permanent containers, disposable containers, Recyclable Materials or commercial containers out, maintains improper or inadequate containers for the nature, volume, or weight of Acceptable Waste or Recyclable Materials to be removed from the premises, or places improper bundles or volumes of Acceptable Waste or Recyclable Materials for collection, CONTRACTOR may refrain from collecting all or a portion of such Acceptable Waste or Recyclable Materials and shall notify CITY of the reason for such non-collection. CONTRACTOR shall also provide notice to the customer of the reason for such non-collection (unless such non-collection is the result of the customer's failure to timely place the brush or containers out for collection). Contractor's notice to the customer shall be in writing, attached to the container or the front door of the residence or commercial business, and shall indicate the nature of the violation and the correction required in order that such waste or recycling materials may then be collected at the next regular collection date. When CITY is notified by a customer that Acceptable Waste or Recyclable Materials have not been removed from his premises on the scheduled collection day and where no notice of non-collection nor a change in collection schedule has been received from CONTRACTOR, CITY shall

investigate. If the investigation disclosed that CONTRACTOR has failed to collect Acceptable Waste or Recyclable Materials from the subject premises without cause, CONTRACTOR shall collect same within twelve (12) hours after a collection order is issued by CITY, at no additional charge.

- Q. Records and Reports: The CITY shall have access at all reasonable hours to all CONTRACTOR'S records, customer service cards, and all papers relating to the operation of the services set forth herein. CITY shall have the right to audit CONTRACTOR'S records upon giving written notice.

The following records and reports shall be filed semi-annually (May and November) by the fifteenth (15th) day with the City Manager:

- (1) CONTRACTOR will provide an annual report on cubic yards of garbage deposited at the landfill from CITY. The report will include a breakdown of how much is from residential customers, commercial/industrial customers, CITY facilities, and landfill days.
- (2) Reports of the results of all complaints and investigations received and completed by the CONTRACTOR.
- (3) A listing of all commercial accounts served. This list shall include customers name, address, frequency of pickup, size of container or type of service and charges for same.

- R. Revocation: In the event of an alleged breach by CONTRACTOR of any of the terms, covenants, or conditions herein contained, CITY shall notify CONTRACTOR of such alleged breach and if same is not cured within fifteen (15) days from such notice, CITY may, upon a determination (at a hearing as described herein) that a breach has occurred, cancel and revoke this Contract. The hearing prerequisite to such revocation shall not be held until notice of such hearing has been given to the CONTRACTOR at the address shown on the records of the CITY, and a period of at least ten (10) days has elapsed since the mailing of such notice. The notice shall specify the time and place of the hearing and shall include the alleged reasons for revocation or cancellation of the Contract. The hearing shall be conducted in public by the CITY'S City Council and the CONTRACTOR shall be allowed to be present and shall be given full opportunity to answer such charges and allegations as are set out against it in the notice. If, after the hearing is concluded, the City Council shall determine that a breach of the terms, covenants or conditions of the Contract, as set forth in the notice, has occurred, they may revoke and cancel this Contract and the same shall be null and void. This Contract may, at the option of the CITY, be terminated in the event of bankruptcy, receivership, or assignment for the benefit of creditors by the CONTRACTOR.

- S. Spillage: CONTRACTOR will not be required to clean up or collect loose residential Acceptable Waste or Recyclable Materials not created by its operation, but if same is not collected by CONTRACTOR, CONTRACTOR shall report the location of such conditions to CITY so that proper notice can be given to the occupant of the residence to properly contain such waste or materials. Spillage or excess Acceptable Waste or Recyclable Materials at the location of commercial containers may be picked up by CONTRACTOR after the customer reloads the commercial container. CONTRACTOR shall then be entitled to, and shall receive, an extra collection charge for each reloaded container requiring an extra collection provided CONTRACTOR notifies CITY of such extra charge. Should such commercial spillage continue to occur, CITY shall require the commercial customer and CONTRACTOR to increase the frequency of collection of such customer's Acceptable Waste or Recyclable Materials or require the customer to utilize a commercial container with a larger capacity and CONTRACTOR shall be compensated for such additional services as provided in ATTACHMENT "A".
- T. Due Care. The CONTRACTOR shall exercise due care and caution in providing the Services so that the CITY'S public and private property, including streets and parking areas, will be protected and preserved.
- U. Personnel and Performance Standards. The CONTRACTOR shall not deny employment to any person on the basis of race, creed or religion, and will insure that all federal and state laws pertaining to salaries, wages and operating requirements are met or exceeded. The CONTRACTOR, its agents, servants and employees shall perform the Services in a courteous, competent and professional manner. During the term of this Contract and any extension thereof, the CONTRACTOR shall be responsible for the actions of its agents, servants and employees while such agents, servants and employees are acting within the scope of their employment or agency.
- V. Governing Law. This Contract shall be governed in all respects, including as to validity, interpretation and effect, by the internal laws of the State of Texas, without giving effect to the conflict of laws rules thereof. The parties hereby irrevocably submit to the jurisdiction of the courts of the State of Texas and the Federal courts of the United States located in the State of Texas, solely in respect of the interpretation and enforcement of the provisions of this Contract, and hereby waive, and agree not to assert, as a defense in any action, suit or proceeding for the interpretation or enforcement hereof, that it is not subject thereto or that such action, suit or proceeding may not be brought or is not maintainable in said courts or that the venue thereof may not be appropriate or that this Contract may be enforced in or by said courts, and the parties hereto irrevocably agree that all claims with respect to such action or proceeding shall be heard and determined in such a Texas State or Federal court. The parties hereby consent to and grant any such court jurisdiction over the person of such parties and over the subject matter of any such dispute and agree that mailing of process or other papers in connection with any such action or proceeding to the addresses

of the parties listed below, or in such other manner as may be permitted by law, shall be valid and sufficient service thereof.

- W. Force Majeure The performance of this Contract may be suspended and the obligations hereunder excused in the event and during the period that such performance is prevented by a cause or causes beyond reasonable control of such party. The performance of this Contract will be suspended and the obligations hereunder excused only until the condition preventing performance is remedied. Such conditions shall include, but not be limited to, acts of God, acts of war, accident, explosion, fire, flood, riot, sabotage, acts of terrorists, unusually severe weather, lack of adequate fuel, or judicial or governmental laws or regulations.

IESI TX CORPORATION

By: *Jeff Peckham*
Name: *Jeff Peckham*
Title: *Vice-President*

CITY OF KENNEDALE

By: *Bob Hart*
Name: *Bob Hart*
Title: *City Manager*



By: *Katrina Turner*
City Secretary



IESI TX CORPORATION

4091 Old Denton Rd, Haltom City, Texas 76117

Contact: Bob Kneis; District Manager

Phone: (817) 222-2221

City of Kennedale (Option 2) RATE SHEET

Effective: 2/1/2008

RESIDENTIAL CURBSIDE COLLECTION:	\$8.08	per month
RESIDENTIAL CURBSIDE COLLECTION WITH RECYCLING:	\$10.51	per month
COMMERCIAL HAND COLLECT:	\$18.00	1X per week (includes 96 gallon cart)
	\$25.00	2X per week (includes 96 gallon cart)

COMMERCIAL RATE SCHEDULE

CONTAINER SIZE	Lifts Per Week						
	1	2	3	4	5	6	Extra-Lifts
2 Cubic Yd	66.02	99.60	135.68	188.08	270.67	362.26	24.47
3 Cubic Yd	70.33	112.59	150.47	190.75	278.94	378.06	33.65
4 Cubic Yd	92.85	138.36	210.45	275.95	342.94	401.43	42.83
6 Cubic Yd	117.76	186.89	251.79	330.39	418.75	477.49	48.93
8 Cubic Yd	140.34	233.91	324.59	422.16	478.65	520.90	55.05

FRONT LOAD COMPACTOR RATES* (Negotiable)

6 Cubic Yd	NEGOTIABLE	NEGOTIABLE	NEGOTIABLE	NEGOTIABLE	NEGOTIABLE	NEGOTIABLE	NEGOTIABLE
8 Cubic Yd	NEGOTIABLE	NEGOTIABLE	NEGOTIABLE	NEGOTIABLE	NEGOTIABLE	NEGOTIABLE	NEGOTIABLE

Containers w/ Casters \$ 35.00 per month

Containers w/ Locks or Gates \$ 8.00 per month

ROLL OFF RATE SCHEDULE

CONTAINER SIZE	ROLL OFF OPEN TOPS				ROLL OFF COMPACTORS			
	HAUL	LF Fee	DELIVERY	DAILY RENT	HAUL	RENTAL	WASH-OUT	DRY-RUNS
20 Cubic Yd	235.50	\$25 per ton	85.00	4.25	NEGOTIABLE	NEGOTIABLE	NEGOTIABLE	70.00
30 Cubic Yd	235.50	\$25 per ton	85.00	4.25	NEGOTIABLE	NEGOTIABLE	NEGOTIABLE	70.00
40 Cubic Yd	235.50	\$25 per ton	85.00	4.25	NEGOTIABLE	NEGOTIABLE	NEGOTIABLE	70.00

Franchise and Billing Fees:

Residential: 10.0%

Commercial: 10.0%

* All rates are inclusive of all franchise and billing fees



IESI TX CORPORATION

4001 Old Denton Rd, Haltom City, Texas 76117

Contact: Bob Knets; District Manager

Phone: (817) 222-2221

City of KENNEDALE RATE SHEET

Effective: 4/1/2010

RESIDENTIAL CURBSIDE COLLECTION:	\$8.60	per month
CURBSIDE RECYCLING:	-	per month (NON-MANDATORY)
COMMERCIAL HAND COLLECT:	\$19.14	1X per week (includes 96 gallon cart)
	\$28.60	2X per week (includes 96 gallon cart)

COMMERCIAL RATE SCHEDULE

CONTAINER SIZE	Lifts Per Week						Extra-Lifts
	1	2	3	4	5	6	
2 Cubic Yd	70.23	105.84	144.92	200.87	267.81	385.34	26.03
3 Cubic Yd	74.81	119.77	160.08	202.81	298.71	402.15	35.80
4 Cubic Yd	99.78	147.17	223.88	293.58	364.79	427.01	45.56
6 Cubic Yd	125.26	198.79	267.83	351.43	445.43	507.80	52.05
8 Cubic Yd	149.28	248.81	345.27	449.06	508.15	554.09	53.50

FRONT LOAD COMPACTOR RATES* (Negotiable)

6 Cubic Yd						
8 Cubic Yd						

Containers w/ Casters:	\$ 37.23 per month
Containers w/ Locks or Gates	\$ 8.51 per month

ROLL OFF RATE SCHEDULE

CONTAINER SIZE	ROLL OFF OPEN TOPS				DRY-RUNS
	HAUL	DELIVERY	DAILY RENT	TONNAGE	
20 Cubic Yd	250.55	90.42	4.52	26.59	74.46
30 Cubic Yd	250.55	90.42	4.52	26.59	74.46
40 Cubic Yd	250.55	90.42	4.52	26.59	74.46

Franchise and Billing Fees:

Residential:	10.0%
Commercial:	10.0%

* All rates are inclusive of all franchise and billing fees

USAGE AGREEMENT

This Usage Agreement ("Agreement") is made and entered into as of February 1, 2008 (the "Effective Date") between IESI TX Corporation, a Texas corporation ("IESI"), and the City of Kennedale, Texas, a Texas municipality (the "City").

RECITALS:

WHEREAS, IESI owns and operates a Type IV solid waste landfill facility known as "Fort Worth C & D Landfill" located in the City (the "Landfill"); and

WHEREAS, the City desires to grant full and unrestricted access to IESI, and its customers, contractors, subsidiaries and affiliates, to travel upon and transport waste to and from the Landfill using Business Highway 287 and both the north and south approaches on Dick Price Road on the terms and conditions contained herein;

AGREEMENT:

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, the parties hereto agree as follows:

1. Right of Usage. The City hereby grants full and unrestricted access to IESI, and its customers, contractors, subsidiaries and affiliates, to travel upon and transport waste to and from the Landfill on Business Highway 287 and both the north and south approaches on Dick Price Road.

2. Royalty. In consideration of the right of usage described in Section 1 above and for as long as such right of usage exists and the landfill remains open, IESI hereby agrees to pay the City a royalty of \$0.25 per ton of waste accepted by IESI for disposal at the Landfill on or after the Effective Date. Payments of royalty for each month shall be due and payable to the City on the 15th day of the following month. Simultaneously with making any payment of royalty hereunder, IESI shall deliver to the City a statement setting forth the amount of all waste accepted for disposal at the Landfill during the applicable month for which such payment is made and IESI's calculation of such payment. It is understood and agreed that in the event any other municipality or governmental agency or authority shall claim any power, authority or jurisdiction to restrict the right of usage granted herein or to claim all or any portion of the royalty granted herein to the City, IESI shall have the right to immediately terminate this Agreement.

The royalty fee provided above shall be subject to annual adjustments. Beginning February 1, 2009 the royalty will be adjusted annually to reflect changes in the cost of operations, as reflected by percentage change in the Consumer Price Index (CPI) for Urban Wage Earners and Clerical Workers (all items) for the Dallas-Fort Worth Metropolitan Area as published by the U.S. Department of Labor, Bureau of Labor Statistics. The measured increase will span a twelve month period (beginning August 1 and ending July 31) immediately preceding the rate adjustment date.

3. Release of Liability. Notwithstanding anything to the contrary contained herein, IESI shall not be liable to the City or any other party for ordinary wear and tear caused to the City's roadway system, including Business Highway 287 or Dick Price Road, resulting from IESI or any of its customers, contractors, subsidiaries and affiliates use of the access to the Landfill.

4. Compliance with applicable law. IESI hereby agrees to comply with all applicable federal, state, and local law in connection with this Agreement.

5. INDEMNIFICATION. IESI COVENANTS AND AGREES TO FULLY INDEMNIFY, HOLD HARMLESS AND DEFEND THE CITY, ITS OFFICERS, AGENTS, SERVANTS AND EMPLOYEES FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, SUITS, JUDGMENTS, COSTS AND EXPENSES (INCLUDING ATTORNEYS' FEES) FOR PROPERTY DAMAGE OR LOSS, AND/OR PERSONAL INJURY, INCLUDING DEATH, TO ANY AND ALL PERSONS, OF WHATSOEVER KIND OR CHARACTER, WHETHER REAL OR ASSERTED, CAUSED BY THE NEGLIGENT USE OF OR NEGLIGENT OPERATION OF VEHICLES ON BUSINESS HIGHWAY 287 AND DICK PRICE ROAD BY IESI, ITS SUBSIDIARIES AND AFFILIATES PURSUANT TO THIS AGREEMENT.

6. Applicable Law; Venue. This Agreement will be deemed to be a contract made under the laws of the State of Texas, and for all purposes will be governed by, and interpreted and construed in accordance with, the laws of the State of Texas, without regard to principles of conflict of laws thereof. The parties agree that venue in any suit, action or proceeding arising out of or relating to this Agreement shall be in Tarrant County, Texas.

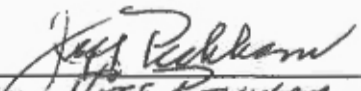
7. Counterparts. This Agreement may be executed in several counterparts, each of which when so executed will be deemed to be an original and all of which will together constitute one and the same agreement.

8. Entire Agreement. The terms and provisions of this Agreement constitute the entire agreement between the parties with respect to the subject matter hereof, and there are no collateral or contemporaneous agreements other than as expressly set forth or referred to in this Agreement. This Agreement supersedes any other agreement, whether written or oral, that may have been made or entered into by the parties hereto relating to the matters contemplated hereby.

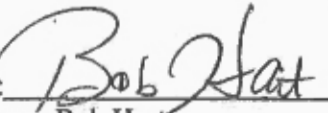
9. Successors and Assigns. This Agreement will inure to the benefit of and be binding upon the parties and their respective successors and assigns.

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the Effective Date.

IESI TX CORPORATION,
a Texas corporation

By: 
Name: JEFF BECKHAM
Title: VICE-PRESIDENT

THE CITY OF KENNEDALE, TEXAS

By: 
Name: Bob Hart
Title: City Manager

AMENDMENT AND RENEWAL AGREEMENT

This Amendment and Renewal Agreement (the "Amendment") is entered into this 3 day of OCTOBER, 2012 by and between Progressive Waste Solutions of TX, Inc. (the "Contractor") and the City of Kennedale, Texas (the "City").

RECITALS:

WHEREAS, the City and IESI TX Corporation entered into a Consolidated Contract for Residential and Commercial Solid Waste & Recycle Collection dated as of November 1, 2007 (the "Contract");

WHEREAS, on June 20, 2012 IESI TX Corporation changed its name to Progressive Waste Solutions of TX, Inc.;

WHEREAS, the Contract between the Contractor and the City is to terminate as of January 31, 2013; and

WHEREAS, the Contractor and the City mutually desire to amend and renew the Contract as further described herein.

AGREEMENT:

NOW, THEREFORE, and in consideration of the premises and such other lawful consideration, the receipt and sufficiency of which each of the parties hereto acknowledge, the parties agree as follows:

1. Term. Pursuant to Section 2 of the Contract, the term of the Contract is hereby extended for an additional five (5) year period beginning on February 1, 2013 thereby extending the termination date of the Contract to January 31, 2018.

2. Definitions. The following definition is hereby added to Section 3 of the Contract:

"Contract Year: A one year period beginning on February 1 and ending on January 31."

3. Annual Donation. The following is hereby added to the Contract as Section 4.B.(13):

"Keep Kennedale Beautiful: During each Contract Year of the Contract, beginning February 1, 2013, the Contractor shall donate \$2,000.00 to the City to assist the City in keeping Kennedale beautiful."

4. Attachment A. Attachment A of the contract is hereby deleted in its entirety and replaced with the attached Attachment A.
5. Reaffirmation. The parties hereby reaffirm their agreement with all the terms and provisions of the Contract, as amended by this Amendment.
6. Entire Agreement. The Contract together with this Amendment represents the entire agreement among the parties with respect to the matters that are the subject hereof.
7. Counterparts: Facsimile Signatures. The Amendment may be executed in counterparts, each of which shall be deemed an original, but all of which shall collectively constitute one and the same instrument representing this Amendment between the parties hereto, and it shall not be necessary for the proof of this Amendment that any party produce or account for more than one such counterpart. Facsimile signatures shall be given the same force and effect as original signatures and shall be treated for all purposes and intents as original signatures.

IN WITNESS WHEREOF, the undersigned have executed this Amendment as of the date first written above.

CITY OF KENNEDALE, TEXAS
405 Municipal Drive
Kennedale, TX 76060

By: Bob Hart
Name: Bob Hart
Title: City Manager

**PROGRESSIVE WASTE
SOLUTIONS OF TX, INC.**
2301 Eagle Pkwy, Ste. 200
Fort Worth, TX 76177

By: John Gustafson
John Gustafson, Vice President



ATTACHMENT "A"

PROGRESSIVE WASTE SOLUTIONS OF TX, INC.

4001 Old Denton Rd, Haltom City, Texas 76117

Contact: Bob Knels; District Manager

Phone: (817) 222-2221

City of Kennedale

RATE SHEET

Effective: 4/1/2010

RESIDENTIAL CURBSIDE COLLECTION:	\$8.60	per month, per Single-Family Residential Unit
COMMERCIAL HAND COLLECT:	\$19.14	1X per week (Includes 96 gallon cart), per month, per commercial premise
	\$26.60	2X per week (Includes 96 gallon cart), per month, per commercial premise

MONTHLY COMMERCIAL RATE SCHEDULE

CONTAINER SIZE	Lifts Per Week						(Charge Per Additional Lift)
	1	2	3	4	5	6	Extra-Lifts
2 Cubic Yd	\$70.23	\$105.94	\$144.32	\$200.07	\$287.91	\$385.34	\$26.03
3 Cubic Yd	\$74.81	\$119.77	\$160.06	\$202.91	\$296.71	\$402.15	\$35.80
4 Cubic Yd	\$98.76	\$147.17	\$223.86	\$293.56	\$364.79	\$427.01	\$45.56
6 Cubic Yd	\$125.26	\$198.79	\$267.83	\$351.43	\$445.43	\$507.90	\$52.05
8 Cubic Yd	\$149.28	\$248.81	\$345.27	\$449.06	\$509.15	\$554.09	\$58.56

MONTHLY FRONT LOAD COMPACTOR RATES (Negotiable)

	(Charge Per Additional Lift)					
6 Cubic Yd						
8 Cubic Yd						

Containers w/ Casters	\$37.23 per month
Containers w/ Locks or Gates	\$8.51 per month

ROLL OFF RATE SCHEDULE

CONTAINER SIZE	ROLL OFF OPEN TOPS				
	HAUL	DELIVERY	DAILY RENT	DISPOSAL	DRY RUNS
20 Cubic Yd	\$250.55	\$90.42	\$4.52	\$26.59 per ton	\$74.46
30 Cubic Yd	\$250.55	\$90.42	\$4.52	\$26.59 per ton	\$74.46
40 Cubic Yd	\$250.55	\$90.42	\$4.52	\$26.59 per ton	\$74.46

Franchise and Billing Fees:

Residential:	10.0%
Commercial:	10.0%

* All rates are inclusive of all franchise and billing fees

SECOND AMENDMENT TO CONTRACT

This **Second Amendment to Contract** (the "Second Amendment") is entered into as of the 14th day of May, 2015 to be retroactively effective as of April 1, 2015, by and between the City of Kennedale, Texas, a municipal corporation of Tarrant County, Texas (the "City") and Progressive Waste Solutions of TX, Inc., a Texas corporation (the "Contractor").

RECITALS:

WHEREAS, the City and IESI TX Corporation entered into a Consolidated Contract for Residential and Commercial Solid Waste and Recycle Collection dated as of November 1, 2007 (the "Agreement"); and

WHEREAS, the City and IESI TX Corporation entered into an Amendment to Contract with an effective date of March 1, 2011 (the "First Amendment", with the Agreement, collectively referred to as the "Contract");

WHEREAS, on June 20, 2012, IESI TX Corporation changed its name to Progressive Waste Solutions of TX, Inc.; and

WHEREAS, the City and Contractor desire to amend and extend the Contract as more fully described herein.

AGREEMENT:

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth herein and in the Contract, the City and Contractor hereby agree as follows:

1. Term. The parties hereby agree to amend Section 2 of the Contract by extending the termination date of the Contract to January 31, 2020. This Agreement may be renewed for two (2) successive terms of five (5) years by mutual consent of the parties hereto.

2. Recycling Container. The definition of "Recycling Container" in Section 3.P. of the Contract is hereby deleted in its entirety and replaced with the following:

"Recycling Container: A container with at least sixty-five (65) gallons of capacity that is provided by the Contractor for each residential customer to utilize for the collection of Recyclable Materials."

3. Duties and Obligations of Single-Family Residential Unit. The following sentence is hereby added to Section 4.A(10) of the Contract:

"Each residential customer shall place all Recyclable Materials in its designated Recycling Container."

IN WITNESS WHEREOF, the undersigned have executed this Second Amendment as of the 14th day of May, 2015.

PROGRESSIVE WASTE SOLUTIONS
OF TX, INC.

By: [Signature]
Amy J. Hochberger, Asst. Secretary

CITY OF KENNEDALE, TEXAS

By: [Signature]
Name: Brian Johnson
Title: Mayor

ATTEST:

By: [Signature]
Name: Leslie Galloway
Title: City Secretary





Progressive Waste Solutions of TX, Inc.

4001 Old Denton Rd, Haltom City, Texas 76117

Contact: Marty Grant; District Manager

Phone: (817) 222-2221

City of KENNEDALE RATE SHEET

Effective: July 2014 BILLING

RESIDENTIAL CURBSIDE COLLECTION:	\$8.89	per month, per Single-Family Residential Unit
CURBSIDE RECYCLING:	\$3.60	per month, per Single-Family Residential Unit
COMMERCIAL HAND COLLECT:	\$19.78	per month, per Commercial Hand Collect Unit
	\$27.50	per month, per Commercial Hand Collect Unit

started April 2015

COMMERCIAL RATE SCHEDULE

CONTAINER SIZE	Lifts Per Week						Extra-Lifts
	1	2	3	4	5	6	
2 Cubic Yd	72.60	109.52	149.19	206.82	297.63	398.34	26.91
3 Cubic Yd	77.34	123.82	185.46	209.76	306.73	415.73	37.01
4 Cubic Yd	102.09	152.13	231.41	303.47	377.10	441.42	47.10
6 Cubic Yd	129.49	205.50	276.87	363.30	460.47	525.05	53.81
8 Cubic Yd	154.32	257.21	356.92	464.21	526.34	572.79	60.54

Residential is billed thru the City

Commercial we bill-Co
004 Srv Area is KND

FRONT LOAD COMPACTOR RATES* (Negotiable)

6 Cubic Yd							
8 Cubic Yd							

Containers w/ Casters \$ 38.49 per month

Containers w/ Locks or Gates \$ 8.79 per month

ROLL OFF RATE SCHEDULE

CONTAINER SIZE	ROLL OFF OPEN TOPS				TONNAGE	DRY-RUNS
	HAUL	DELIVERY	DAILY RENT			
20 Cubic Yd	259.01	93.47	4.68	27.49		76.97
30 Cubic Yd	259.01	93.47	4.68	27.49		76.97
40 Cubic Yd	259.01	93.47	4.68	27.49		76.97

Roll Off we bill-Co 0004
Srv Area is KND

Franchise and Billing Fees:

Residential: 10.0%

Commercial: 10.0%

* All rates are inclusive of all franchise and billing fees

* Rates do not include any Sales Tax

* Rates do not include any Fuel Surcharges

THIRD AMENDMENT TO CONTRACT

This **Third Amendment to Contract** (the "Third Amendment") is entered into effective SEPTEMBER 18, 2017, by and between the City of Kennedale, Texas, a municipal corporation of Tarrant County, Texas (the "City") and Waste Connections, Inc., a Texas corporation (the "Contractor").

RECITALS:

WHEREAS, the City and IESI TX Corporation entered into a Consolidated Contract for Residential and Commercial Solid Waste and Recycle Collection dated as of November 1, 2007 (the "Original Contract"); and

WHEREAS, on June 20, 2012, IESI TX Corporation changed its name to Progressive Waste Solutions of TX, Inc.; and

WHEREAS, the City and Progressive Waste Solutions of TX, Inc. entered into an Amendment to Contract with an effective date of October 3, 2012 (the "First Amendment") and a Second Amendment to Contract with an effective date of April 1, 2015 (the "Second Amendment") (with the Original Contract, the First Amendment and Second Amendment collectively referred to as the "Contract"); and

WHEREAS, on June 1, 2016, Progressive Waste Solutions Ltd. and Waste Connections, Inc. completed a merger transaction and now operate under the name Waste Connections, Inc.; and

WHEREAS, the City and the Contractor desire to amend the Contract, as more fully described herein.

AGREEMENT

NOW THEREFORE, in consideration of the mutual covenants and agreements set forth herein and in the Contract, the City and the Contractor hereby agree as follows:

1. Rate Sheet. The Rate Sheet attached to the Contract is hereby deleted in its entirety and replaced with the Rate Sheet attached hereto as Exhibit "A."
2. Reaffirmation. The parties hereby restate and reaffirm their agreement with all of the terms and provisions of the Contract, as amended hereby.
3. Counterparts; Facsimile Signatures. This Third Amendment may be executed in any number of counterparts, each of which shall be deemed an original, but all of which collectively shall constitute one and the same instrument representing this amendment between the parties hereto, and it shall not be necessary for the proof of this amendment that any party produce or account for more than one such counterpart. Facsimile signatures shall be given the same force and effect as original signatures and shall be treated for all purposes and intents as original signatures.

IN WITNESS WHEREOF, the undersigned have executed this Third Amendment as of the date first written above.

CITY OF KENNEDALE, TEXAS
405 Municipal Drive
Kennedale, TX 76060

By: _____

Name: GEORGE CAMPBELL

Title: CITY MANAGER

Date: _____

WASTE CONNECTIONS, INC.
4001 Old Denton Rd.
Haltom City, TX 76117

By: _____

Name: _____

Title: _____



WASTE CONNECTIONS, INC

4001 Old Denton Rd, Haltom City, Texas 76117

Contact: Marty Grant; District Manager

Phone: (817) 222-2221

City of KENNEDALE RATE SHEET

Effective: June 2017 BILLING

RESIDENTIAL CURBSIDE COLLECTION:	\$9.15	per month, per Single-Family Residential Unit
CURBSIDE RECYCLING:	\$3.67	per month, per Single-Family Residential Unit
COMMERCIAL HAND COLLECT:	\$20.37	per month, per Commercial Hand Collect Unit
	\$28.33	per month, per Commercial Hand Collect Unit

COMMERCIAL RATE SCHEDULE

CONTAINER SIZE	Lifts Per Week						Extra Lifts
	1	2	3	4	5	6	
2 Cubic Yd	74.78	112.81	153.67	213.02	306.56	410.29	27.72
3 Cubic Yd	79.66	127.53	170.42	216.05	315.93	428.20	38.12
4 Cubic Yd	105.15	156.69	238.35	312.57	388.41	454.66	48.51
6 Cubic Yd	133.37	211.67	285.18	374.20	474.28	540.80	55.42
8 Cubic Yd	158.95	264.93	367.63	478.14	542.13	589.97	62.36

FRONT LOAD COMPACTOR RATES* (Negotiable)

6 Cubic Yd							
8 Cubic Yd							

Containers w/ Casters	\$ 39.64 per month
Containers w/ Locks or Gates	\$ 9.05 per month

ROLL OFF RATE SCHEDULE

CONTAINER SIZE	ROLL OFF OPEN TOPS						DRY-RUNS
	HAUL	DELIVERY	DAILY RENT	TONNAGE			
20 Cubic Yd	266.78	96.27	4.82	28.31			79.28
30 Cubic Yd	266.78	96.27	4.82	28.31			79.28
40 Cubic Yd	266.78	96.27	4.82	28.31			79.28

Franchise and Billing Fees:

Residential:	10.0%
Commercial:	10.0%

* All rates are inclusive of all franchise and billing fees

* Rates do not include any Sales Tax

* Rates do not include any Fuel Surcharges

STAFF REPORT TO THE MAYOR & CITY COUNCIL

Date: September 18, 2017

Agenda Item No: REGULAR ITEMS (E)

I. SUBJECT

CASE # PZ 17-08 to hold a public hearing and consider a recommendation concerning approval of Ordinance 625 to incorporate the Parks Master Plan into the comprehensive land use plan.

II. SUMMARY

The City updated its comprehensive land use plan in 2012. The city's charter requires the comprehensive plan to be updated every five years, and last year, the plan was updated with an amendment to the Master Thoroughfare Plan. Staff recommends further amending the plan by incorporating the Parks Master Plan into the comprehensive plan.

BACKGROUND AND OVERVIEW

Request	Amend comprehensive land use plan
Staff Recommendation	Approve
Planning & Zoning Commission Recommendation	Approve

STAFF REVIEW

It is common for cities to include a parks or open spaces element in their comprehensive plans (see, for example, the comprehensive plans for Mansfield, Grand Prairie, and Richland Hills). Including open space planning in the comprehensive plan means that land use decisions that may affect open space needs or the availability of open space resources are better managed over the long term. During Kennedale's last major update, however, the City was not able to include a parks and open space element. Now that the city has an approved parks master plan, staff recommends incorporating this plan into the comprehensive land use plan. Any major future updates to the plan could then also include an update to the parks element, as needed.

The Parks Master Plan is available on the city's website at <http://www.cityofkennedale.com/683/Parks-Master-Plan> (or by navigating to the Governance Documents page of cityofkennedale.com).

Please note that this is not a request to adopt the Parks Master Plan; the city's Parks Master Plan has already been adopted by the City. This request is simply to incorporate the Parks Master Plan into the comprehensive land use plan.

STAFF RECOMMENDATION

Staff recommends approval of Ordinance 625 incorporating the Parks Master Plan into the comprehensive land use plan.

PLANNING & ZONING COMMISSION RECOMMENDATION

The Planning & Zoning Commission considered this ordinance during its meeting in April of this year. After holding a public hearing, the Commission voted to recommend approval.

ACTION BY THE CITY COUNCIL

After holding a public hearing, the City Council may either approve or deny the ordinance. Sample motions are provided for your reference below. You are not required to use one of these motions.

Approval: Based on the information presented, I make a motion to approve Ordinance 625.

Deny: Based on the information presented, I make a motion to deny Ordinance 625.

ORDINANCE NO. 625

AN ORDINANCE AMENDING THE COMPREHENSIVE PLAN FOR THE CITY OF KENNEDALE BY INCORPORATING A PARKS MASTER PLAN; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING FOR 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 effectively plan for infrastructure and long-range development of the City, and to deliver city services adequate to serve the citizenry of the City of Kennedale, the City has previously adopted a Comprehensive Plan; and

WHEREAS, the City Council deems it necessary to amend the comprehensive plan in order to plan for the development of future parks, trails, and open spaces to meet the open space and recreation needs of the community; and

WHEREAS, in accordance with the powers and duties of the Planning and Zoning Commission, the Planning and Zoning Commission has assessed and developed goals, objectives and policies to guide the future development of the City and has recommended the adoption of the proposed amendment to Comprehensive Plan; and

WHEREAS, a public hearing was duly held by the Planning and Zoning Commission of the City of Kennedale on the 20th day of April, 2017, and by the City Council on the 15th day of May, 2017, with respect to the adoption of the proposed Comprehensive Plan; and

WHEREAS, all requirements of law dealing with notice and publication and all procedural requirements have been complied with in accordance with the Comprehensive Plan and Chapter 213 of the Local Government Code.

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

SECTION 1.

The Comprehensive Plan of the City of Kennedale is hereby amended by adding the City of Kennedale Parks and Master Plan as adopted in 2016 by Ordinance 601.

SECTION 2.

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 3.

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

SECTION 4.

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

PASSED AND APPROVED ON THIS 18th DAY OF SEPTEMBER, 2017.

APPROVED:

MAYOR, BRIAN JOHNSON

[CITY SEAL]

ATTEST:

CITY SECRETARY, LESLIE GALLOWAY

EFFECTIVE DATE: _____

APPROVED AS TO FORM AND LEGALITY:

CITY ATTORNEY, WAYNE OLSON

Staff Report to the Honorable Mayor and City Council

Date: September 18, 2017

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 and legal issues regarding litigation, settlement offers, and/or claims regarding the following matters:

- Altom claim regarding drainage easement at 1033 and 1041 Estates Drive

II. Originated by:

III. Summary:

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

VII. Alternative Actions:

VIII. Attachments:

Staff Report to the Honorable Mayor and City Council

Date: September 18, 2017

Agenda Item No: EXECUTIVE SESSION - B.

I. Subject:

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:

- New Hope Road Bridge Project

II. Originated by:

III. Summary:

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

VII. Alternative Actions:

VIII. Attachments: