



City Council Meeting Agenda

5:30 p.m.

September 28, 2017

300 West Cotton Street

Jo Ann Metcalf Municipal Building

City Hall Council Chamber

- I. **Call to Order**
- II. **Invocation**
- III. **Pledge of Allegiance**
- IV. **Employee Recognition**
- V. **Community Recognition**
- VI. **Citizen Comment**
- VII. **Public Safety Update**
 - A. Police
 - B. Fire
- VIII. **Consent Agenda**
 - A. Consider a Resolution authorizing and directing the disbursement of grants of Hotel/Motel Occupancy Tax monies – Dietrich R. Johnson, Assistant Director of Community Services. [Pages 4 - 7](#)
 - B. Consider a Resolution awarding a contract to and authorizing and directing the City Manager or the City Manager’s designee to execute any necessary documents with Gill Electric, LLC of Longview, Texas for electrical services for buildings and facilities – Jaye Latch, Purchasing Manager. [Pages 8 - 11](#)
 - C. Consider a Resolution accepting the Helene Lane Drainage Improvements and authorizing final payment in the amount of \$39,996.36 to S&R Construction, LLC. of Marshall, Texas - Rolin McPhee, P.E., Director of Public Works. [Pages 12 - 15](#)
 - D. Consider a Resolution awarding a contract in the amount of \$1,737,213.75 to Excel Utility Construction, Inc., of Longview, Texas and approval of

Change Order No. 1 reducing the contract cost to \$1,617,433.75 for the construction of the Guthrie Trail Extension (Akin to Cargill) - Rolin McPhee, P.E., Director of Public Works. [Pages 16 - 19](#)

- E. Consider a Resolution committing the City to perform or cause to be performed certain equivalent match projects and authorizing the City Manager or his designee to enter into a Local Government Fund Participation Agreement with Texas Department of Transportation (TXDOT) – Rolin McPhee, P.E., Director of Public Works. [Pages 20 - 25](#)
- F. Consider a Resolution authorizing and directing the City Manager or the City Manager’s designee to negotiate and enter into an amendment to the City’s agreement with the Longview Economic Development Corporation (LEDCO) for construction of Guthrie Trail Phase I in order to increase the maximum amount that LEDCO may contribute toward costs of construction - Rolin McPhee, P.E., Director of Public Works. [Pages 26 - 29](#)
- G. Consider a Resolution authorizing and directing the City Manager or the City Manager’s designee and/or other official of the City as shall be required, to negotiate, draft, execute, and deliver such forms, declarations, and other documents (including, without limitation, IRS Form 2848) as may be necessary or convenient for Stefano Taverna and/or Harold T. Flanagan with the law firm of McCall, Parkhurst & Horton, L.L.P., to act as representative(s) and attorney(s)-in-fact and exercise power of attorney on behalf of the City of Longview with regard to a specified internal revenue service audit – Angela Coen, Director of Finance. [Pages 30 - 32](#)
- H. Consider approval of the following minutes: August 10, 2017, August 24, 2017 and August 31, 2017 – Shelly Ballenger, City Secretary. [Page 34](#)

IX. Zoning – Public Hearing Item

AN ANNEXATION PUBLIC HEARING will be held to consider a proposed annexation of approximately 40.648 acres of land within the city's extraterritorial jurisdiction in Gregg County bounded by Tryon Road and Hollybrook Drive and located north of East Loop 281 – Ingrid Self, Assistant Director of Development Services. **THIS ITEM REQUIRES A PUBLIC HEARING.** [Pages 35 - 39](#)

X. Action Items

- A. Consider a Resolution adopting a Five-Year Capital Improvements Program (CIP) and allocating funds for the 2017-2018 Projects – Alton Bradley, P.E., City Engineer. [Pages 40 - 43](#)
- B. Consider a Resolution authorizing the city to participate as part of the Cities Advocating Reasonable Deregulation (“CARD”) in proceedings related to Southwestern Electric Power Company’s (“SWEPCO”) application filed on about July 31, 2017 concerning its request to acquire

an interest in the Wind Catcher Wind Energy Connection Project – Jim Finley, City Attorney. [Pages 44 - 49](#)

- C. Consider a Resolution authorizing the city to participate as part of the Cities Advocating Reasonable Deregulation (“CARD”) in proceedings related to Southwestern Electric Power Company’s (“SWEPCO”) application to reconcile fuel costs submitted on or about August 28, 2017 – Jim Finley, City Attorney. [Pages 50 - 54](#)
- D. Consider an Ordinance amending chapters 58 and 67 of the *Longview City Code* to prohibit solicitation by coercion; to establish solicitation-free zones within the City of Longview; to prohibit camping, sleeping, or lounging in certain areas; and to establish a program of alternate sentencing for violations of these ordinances – Terry Jackson, Assistant City Attorney. [Pages 55 - 66](#)
- E. Consider a Resolution making appointments, reappointments, and chair designations to the Longview Economic Development Corporation’s Board of Directors and Planning and Zoning Commission – Dr. Andy Mack, Mayor and City Council. [Pages 67 - 68](#)
- F. Consider a Resolution nominating a candidate to the Gregg County Appraisal District Board of Directors – Dr. Andy Mack, Mayor and City Council. [Pages 69 - 70](#)

XI. Items of Community Interest

XII. Executive Session Items

Personnel Matters – Under Texas Government Code Section 551.074

Consider, discuss and deliberate the appointment, employment, duties and succession plan for the office of the City Manager.

City Council will reconvene in public session for action on the above item discussed in executive session.

Consider a Resolution appointing an acting City Manager and authorizing the Mayor to execute any documents associated with said appointment.

XIII. Adjourn

Any final action, decision, or vote on a matter deliberated in a closed meeting will only be taken in an open meeting that is held in compliance with Texas Government Code, Chapter 551. The City Council reserves the right to adjourn into a closed meeting or executive session as authorized by Texas Government Code, Sections 551.001, et seq. (the Texas Open Meetings Act) on any item on its open meeting agenda in accordance with the Texas Open Meetings Act, including, without limitation Sections 551.071-551.088 of the Texas Open Meetings Act. In addition, the City Council may consider a vote to excuse the absence of any City Council Member for absence from this meeting or for absence from any previous City Council meeting.

Persons with disabilities who plan to attend this meeting and who may need auxiliary aid or services are requested to contact the City Secretary's Office at 903.237.1080 at least two days before this meeting so that appropriate arrangements can be made. Para ayuda en español, por favor llame al 903.237.1000.

CULTURAL ACTIVITIES ADVISORY COMMISSION GRANT REQUEST

DESCRIPTION: The Cultural Activities Advisory Commission receives and reviews grant request for the arts and culture grant program. The CAAC received twenty-five projects from eight cultural organizations for a total request of \$471,275. After a discussion with applicants, reviewing applications and available funding, the Commission is recommending the award of \$262,000. The funding cycle will reflect a full funding year, October 2017 - September 2018.

RECOMMENDED ACTION: Passage of resolution

SOURCE OF FUNDS: 15% of the Hotel Occupancy Tax Revenue

STAFF CONTACT: Dietrich Johnson, Assistant Director Community Services Administration
903-237-1089
djohnson@longviewtexas.gov

COUNCIL DATE: September 28, 2017

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LONGVIEW, TEXAS, AUTHORIZING AND APPROVING THE DISBURSEMENT OF GRANTS OF HOTEL OCCUPANCY TAX MONIES AS RECOMMENDED BY THE CULTURAL ACTIVITIES ADVISORY COMMISSION; AUTHORIZING THE CITY MANAGER OR THE CITY MANAGER'S DESIGNEE TO EXECUTE CONTRACTS WITH THE GRANTEEES AND ANY OTHER DOCUMENTS INCIDENT TO SAID DISBURSEMENT OF GRANTS; DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION WAS PASSED COMPLIED WITH THE OPEN MEETINGS ACT; MAKING OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, City of Longview hotel tax revenue is used to fund arts and culture grants to local entities in accordance with the requirements of Chapter 351 of the Texas Tax Code; and,

WHEREAS, funding for the annual arts and culture grant cycle of 2017-2018 is scheduled to begin October 1, 2017; and,

WHEREAS, the Cultural Activities Advisory Commission of the City of Longview has as its primary purpose the charge of making recommendations to the City Council with regard to the expenditure of the aforementioned arts and culture grants; and,

WHEREAS, the Cultural Activities Advisory Commission held a public hearing on August 29 and August 30 of this year for annual grant requests; and,

WHEREAS, at the aforesaid hearing twenty-five proposals were received from eight local cultural organizations; and,

WHEREAS, said organizations requested a total of \$471,275 in grants;

and,

WHEREAS, monies available at the time of the public hearing for the annual funding cycle were \$262,000.00; and,

WHEREAS, because there were insufficient monies available to fully fund all grant requests, the Cultural Activities Advisory Commission elected to reduce all grants based on a scoring system; and,

WHEREAS, grantees must enter into contractual agreements with the City of Longview in order to receive the aforesaid grants; NOW, THEREFORE,

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

Section 1. That the findings set out in the preamble to this resolution are hereby in all things approved and adopted.

Section 2. That the disbursement of grants of hotel occupancy tax monies as recommended by the Cultural Activities Advisory Commission, as described in the attached Exhibit "A" (which exhibit is made a part hereof for all purposes), is hereby approved.

Section 3. That the City Manager, the City Manager's designee, and/or other official of the City as shall be required, is/are hereby authorized to execute any and all contracts and other documents, as approved by the City Attorney's Office, incident to the disbursement of hotel tax monies in accordance with the aforementioned recommendation of the Cultural Activities Advisory Commission.

Section 4. That the meeting at which this resolution was approved was in all things conducted in strict compliance with the Texas Open Meetings Act, Texas

Government Code Chapter 551.

Section 5. That this resolution shall be effective immediately from and after its date of passage.

PASSED AND APPROVED this 28th of September, 2017.

Dr. Andy Mack
Mayor

ATTEST:

Shelly Ballenger
City Secretary

APPROVED AS TO FORM:

Jim Finley
City Attorney

R ARTS & CULTURE AWARD GRANT 9-28-17

1617 - 39 ELECTRICAL SERVICES

DESCRIPTION:	<p>This item is for an annual agreement for electrical services for the City of Longview buildings and facilities. In this agreement electrical work is performed on an as needed basis. Work to be performed will be routine repairs, maintenance and special projects as designated for jobs totaling \$10,000.00 or less. Work totaling more than \$10,000.00 shall be competitively bid per City of Longview purchasing policy and Texas State Law. Evaluation is based on lowest and best price for hourly service call rate. The City spent approximately \$62,000.00 in fiscal year 2015 - 2016 and approximately \$77,000.00 so far in fiscal year 2016 - 2017 on routine electrical work under this contract.</p> <p>Bid documents were mailed and emailed to Electrical Services Vendors and posted on the City of Longview Website. Bids were advertised in compliance with state law. A pre-bid meeting was held. On September 13, 2017 four (4) bids were received and opened. Bidders were asked for hourly service call rate:</p> <p>The following bids were received:</p> <p>Gill Electric, LLC - Longview, Texas - \$76.50 Ballard East Texas Electrical - Gilmer, Texas - \$85.00 Wildts Wiring - Longview, Texas - \$95.00 Stiles Electric, Inc. - Longview, Texas - \$105.00</p>
RECOMMENDED ACTION:	Approval of resolution awarding electrical services bid to Gill Electric, LLC of Longview, Tx.
SOURCE OF FUNDS:	Each individual departments' fund for electrical services and the facility fund
STAFF CONTACTS:	Jaye Latch, Purchasing Manager 903-237-1324 jlatch@longviewtexas.gov Rolin McPhee, Pubic Works Director 903-237-1336 rmcphee@longviewtexas.gov
COUNCIL DATE:	September 28, 2017

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LONGVIEW, TEXAS, ACCEPTING THE BID OF GILL ELECTRIC, LLC OF LONGVIEW, TEXAS, FOR ELECTRICAL SERVICES FOR THE CITY OF LONGVIEW BUILDINGS AND FACILITIES; AUTHORIZING AND DIRECTING THE CITY MANAGER, OR THE CITY MANAGER'S DESIGNEE TO EXECUTE ANY DOCUMENTS NECESSARY BETWEEN THE CITY OF LONGVIEW AND GILL ELECTRIC, LLC OF LONGVIEW, TEXAS, FOR SAID ELECTRICAL SERVICES; AUTHORIZING THE RENEWAL OF SAID CONTRACT AT THE CITY MANAGER'S DISCRETION FOR UP TO FOUR ADDITIONAL ONE-YEAR TERMS PROVIDED THAT THE TOTAL AMOUNT SPENT UNDER SAID CONTRACT FOR ANY ONE RENEWAL TERM SHALL NOT EXCEED FUNDS BUDGETED FOR SAID CONTRACT IN THE CONCURRENT BUDGET YEAR; DETERMINING THAT THE CITY COMPLIED WITH ALL APPLICABLE BIDDING REQUIREMENTS IN ACCEPTING SAID BID; DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION WAS PASSED WAS IN ACCORDANCE WITH THE REQUIRMENTS OF THE TEXAS OPEN MEETINGS ACT; MAKING OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the City of Longview issued and advertised an invitation to bid for electrical services for the City of Longview; and,

WHEREAS, any work to be performed will be for routine repairs, maintenance and special projects for jobs totaling \$10,000.00 or less; and,

WHEREAS, any jobs totaling more than \$10,000.00 will be competitively bid per City of Longview purchasing policy and state law; and,

WHEREAS, Gill Electric, LLC. of Longview, Texas submitted the lowest and best bid for electrical services; and,

WHEREAS, funding will be provided from budgeted funds in the corresponding fiscal year; NOW, THEREFORE,

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

Section 1. That the findings set out in the preamble to this resolution are hereby in all things approved and adopted.

Section 2. That the bid submitted by Gill Electric, LLC of Longview, Texas is the lowest and best bid submitted to the City of Longview for electrical services for the City of Longview buildings and facilities.

Section 3. That the City of Longview hereby accepts the aforementioned bid from Gill Electric, LLC of Longview, Texas.

Section 4. That the total amount of the contract for electrical services to be provided by Gill Electric, LLC of Longview, Texas, shall not exceed budgeted funds in any corresponding fiscal year.

Section 5. That the City Manager, the City Manager's designee or other official of the City of Longview as shall be required, are hereby authorized and directed to execute any and all contracts and other documents, as approved by the City Attorney's Office incident to the acceptance on behalf of the City of Longview of aforesaid bid from Gill Electric, LLC of Longview, Texas for said electrical services.

Section 6. That the City Manager, the City Manager's designee or other official of the City of Longview as shall be required, is hereby authorized to renew said contract at the City Manager's discretion for up to four additional one-year terms provided that the total amount spent under said contract for any one renewal term shall

not exceed funds budgeted for said contract in the concurrent budget year.

Section 7. That the process by which the aforementioned bid was received and accepted in all things complied with the applicable purchasing requirements of state and federal law, including but not limited to the requirements of Chapter 252 of the Texas Local Government Code.

Section 8. That the meeting at which this resolution was approved was in all things conducted in strict compliance with Texas Open Meetings Act, Texas Government Code Chapter 551.

Section 9. That this resolution shall become effective immediately from and after its passage.

PASSED AND APPROVED this 28th day of September, 2017.

Dr. Andy Mack
Mayor

ATTEST:

Shelly Ballenger
City Secretary

APPROVED AS TO FORM:

Jim Finley
City Attorney

R BID ELECTRICAL SVCS MISC 9-28-17

HELANE LANE DRAINAGE IMPROVEMENTS

DESCRIPTION:	<p>Consider a resolution accepting the Helane Lane Drainage Improvements and authorizing final payment in the amount of \$39,996.56.00 to S & R Construction, LLC. Approval of final payment will begin the contractors one-year warranty period.</p> <p>The City Council awarded a contract to S & R Construction, LLC. on November 10, 2016 in the amount of \$130,541.20. The final cost is \$121,939.32 and is shown as final payment.</p> <p>The project provided for the installation of 156 feet of 18-inch, 181 feet of 24-inch and 5 feet of 36-inch drainage pipe. Also, it included two grate inlets, two curb inlets and miscellaneous work as necessary to complete the work.</p> <p>The project has been completed in accordance with the contract. Hayes Engineering, Inc. recommends acceptance of the project and approval of final payment. City staff concurs with the recommendations.</p>
RECOMMENDED ACTION:	Passage of the resolution.
SOURCE OF FUNDS:	Funding is available from the Drainage CIP Fund.
STAFF CONTACT:	Rolin McPhee, P.E., Director of Public Works 903-237-1336 rmcphee@LongviewTexas.gov
COUNCIL DATE:	September 28, 2017

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LONGVIEW, TEXAS, ACCEPTING PROJECT ENTITLED “HELANE LANE DRAINAGE IMPROVEMENTS”; AUTHORIZING AND APPROVING FINAL PAYMENT TO S & R CONSTRUCTION, LLC. OF MARSHALL, TEXAS, FOR COMPLETION OF SAID PROJECT; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION WAS PASSED WAS IN ACCORDANCE WITH THE REQUIREMENTS OF THE TEXAS OPEN MEETINGS ACT; MAKING OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, on November 10, 2016, the City Council awarded a contract to S & R Construction LLC of Marshall, Texas, in the amount of \$130,541.20 for the project known as “Helane Lane Drainage Improvements”; and,

WHEREAS, this project provided for the construction of approximately 342 feet of drainage pipe including the installation two grate inlets, two curb inlets and miscellaneous work as necessary to complete the installation; and,

WHEREAS, the final construction cost for said project was \$121,939.32; and,

WHEREAS, the project has been completed and the contractor, S & R Construction LLC, has requested final payment in the amount of \$39,996.56; and,

WHEREAS, the final amount of \$39,996.56 is due to the contractor as final payment; and,

WHEREAS, the acceptance of the work by S & R Construction LLC of Marshall, Texas, on the aforementioned contract and the approval of final payment therefore will begin the one-year warranty period for said work; NOW, THEREFORE,

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

Section 1. That the findings set out in the preamble to this resolution are hereby in all things approved and adopted.

Section 2. That the work performed by S & R Construction LLC of Marshall, Texas, on the project known as “Helene Lane Drainage Improvements” is hereby accepted as complete and that final payment in the amount of \$39,996.56 for the completion of said project is hereby approved.

Section 3. That the meeting at which the aforesaid bid was accepted was in all things conducted in strict compliance with the Texas Open Meetings Act, Texas Government Code Chapter 551.

Section 4. That this resolution shall become effective from and after its passage.

PASSED AND APPROVED this 28th day of September, 2017.

Dr. Andy Mack
Mayor

ATTEST:

Shelly Ballenger
City Secretary

APPROVED AS TO FORM:

Jim Finley
City Attorney

R PW FINAL PAY HELANE DRAINAGE IMPROVE 9-28-17

GUTHRIE TRAIL EXTENSION (AKIN TO CARGILL)

DESCRIPTION:

Consider a resolution awarding a contract in the amount of \$1,737,213.75 to Excel Utility Construction, Inc., of Longview, Texas and approval of Change Order No. 1 reducing the contract cost to \$1,617,433.75 for the construction of the Guthrie Trail Extension (Akin to Cargill). The following bid was opened on August 22, 2017:

Bidder	Amount
Excel Utility Construction, Inc. Longview, Texas	\$1,737,213.75
J.R. Pope Company, Inc.. Wake Village, Texas	\$1,752,558.95
We Build, Inc. dba Paris, Texas	\$1,824,252.92
East Texas Bridge, Inc. Longview, Texas	\$1,888,897.60
Pierce R&B, LLC Beckville, Texas	\$1,943,273.55
Longview Bridge and Road, Ltd. Longview, Texas	\$1,999,436.35

This is a part of our comprehensive plan that consists of approximately 5,622 square yards of 5-inch Portland cement concrete pavement and related work along Oakland Creek (Delwood Drive to Fourth Street), an 80' prefabricated steel pedestrian bridge over Oakland Creek, and pedestrian crossing infrastructure at Delwood Drive, Hollybrook Drive, and Fourth Street.

The resolution includes the authority to execute Change Order Number 1 to reduce the scope and cost of the contract by \$119,780.

KSA Engineers has examined the bids and the qualifications of the low bidder, and recommends award of the contract to Excel Utility Construction, Inc. of Longview, Texas in the amount of \$1,737,213.75. Staff concurs with their recommendation.

RECOMMENDED ACTION:

Passage of resolution.

SOURCE OF FUNDS:

Funding is available from the Longview Economic Development Corporation.

STAFF CONTACT:

Rolin McPhee, P.E., Director of Public Works
903-237-1336
rmcphee@longviewtexas.gov

COUNCIL DATE:

September 28, 2017

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LONGVIEW, TEXAS, ACCEPTING THE BID OF EXCEL UTILITY CONSTRUCTION, INC., OF LONGVIEW, TEXAS, FOR CONSTRUCTION OF THE PROJECT ENTITLED "GUTHRIE TRAIL EXTENSION (AKIN TO CARGILL)"; AUTHORIZING CHANGE ORDER NO. 1 FOR SAID PROJECT; AUTHORIZING AND DIRECTING THE CITY MANAGER OR THE CITY MANAGER'S DESIGNEE TO EXECUTE ANY DOCUMENTS NECESSARY BETWEEN THE CITY OF LONGVIEW AND EXCEL UTILITY CONSTRUCTION, INC., FOR THE ABOVE REFERENCED PROJECT AND CHANGE ORDER; MAKING THE AUTHORIZATION PROVIDED HEREIN CONTINGENT UPON REIMBURSEMENT FROM THE LONGVIEW ECONOMIC DEVELOPMENT CORPORATION; DETERMINING THAT THE CITY COMPLIED WITH ALL APPLICABLE COMPETITIVE PURCHASING REQUIREMENTS IN SOLICITING, RECEIVING, AND ACCEPTING SAID BIDS; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION WAS APPROVED COMPLIED WITH THE TEXAS OPEN MEETINGS ACT; MAKING OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the City of Longview desires to begin construction of the project known as "Guthrie Trail Extension (Akin to Cargill)"; and,

WHEREAS, this project provides for the construction of approximately 5,622 square yards of 5-inch Portland cement concrete pavement and related work along Oakland Creek between Delwood Drive and Fourth Street; and,

WHEREAS, funding for this project is to be provided by the Longview Economic Development Corporation and award of this contract is contingent upon approval of said funding by Longview Economic Development Corporation; NOW, THEREFORE,

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

Section 1. That the findings set out in the preamble to this resolution are hereby in all things approved and adopted.

Section 2. That the bid submitted by Excel Utility Construction, Inc., for construction of the project known as “Guthrie Trail Extension (Akin to Cargill)” in the amount of \$1,737,213.75 is the lowest bid submitted to the City of Longview for construction of said project.

Section 3. That the City of Longview hereby accepts the aforementioned bid by Excel Utility Construction, Inc., in the amount of \$1,737,213.75.

Section 4. That Change Order Number 1 in the amount of \$119,780.00 for the project known as the “Guthrie Trail Extension (Akin to Cargill)” is hereby approved and that the revised construction contract amount for the aforesaid project is \$1,617,433.75.

Section 5. That the City Manager, the City Manager’s designee or other official of the City as shall be required, are hereby authorized and directed to execute any and all contracts and other documents, as approved by the City Attorney’s Office, incident to the acceptance on behalf of the City of Longview of a bid by Excel Utility Construction, Inc., for the project known as “Guthrie Trail Extension (Akin to Cargill)” and the execution of the change order authorized herein.

Section 6. That the authorization provided herein is contingent upon the agreement of the Longview Economic Development Corporation to reimburse the City of Longview for expenditures made pursuant to the contract authorized herein.

Section 7. That the process by which the aforementioned bid was solicited, received, and accepted in all things complied with the applicable purchasing requirements of state and federal law, including but not limited to the requirements of Chapter 252 of the Texas Local Government Code.

Section 8. That the meeting at which the aforesaid bid was accepted was in all things conducted in strict compliance with the Texas Open Meetings Act, Texas Government Code Chapter 551.

Section 9. That this resolution shall become effective immediately from and after its passage.

PASSED AND APPROVED this 28th day of September, 2017.

Dr. Andy Mack
Mayor

ATTEST:

Shelly Ballenger
City Secretary

APPROVED AS TO FORM:

Jim Finley
City Attorney

R PW GUTHRIE TRAIL AKIN TO CARGILL 9-28-17

LOCAL GOVERNMENT FUND PARTICIPATION AGREEMENT FOR SOUTH HIGH STREET AT UPRR

DESCRIPTION: Consider a resolution committing the City to perform or cause to be performed certain equivalent-match projects and authorizing the City Manager or his designee to enter into a Local Government Fund Participation Agreement with Texas Department of Transportation (TXDOT). This agreement requires the city to perform, or cause to be performed, an equivalent dollar amount of structural improvement work on other deficient bridges or deficient mainlane cross-drainage structures within its jurisdiction.

TXDOT has a project to remedy the bridge at South High and UPRR. TXDOT has estimated the city's local match participation requirement at \$743,702.40.

The city has identified two local projects that meet the equivalent match requirements of the agreement. The projects are Graystone Road Culvert Improvements at Grace Creek; and Culvert Improvements at Meadowview Road.

RECOMMENDED ACTION: Passage of resolution.

SOURCE OF FUNDS: Drainage CIP, Operations and Maintenance Funds

STAFF CONTACT: Rolin McPhee, P.E., Director of Public Works
903-237-1336
rmcphee@longviewtexas.gov.

COUNCIL DATE: September 28, 2017

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LONGVIEW, TEXAS, COMMITTING THE CITY OF LONGVIEW TO PERFORM OR CAUSE TO BE PERFORMED CERTAIN EQUIVALENT-MATCH PROJECT(S) IN RETURN FOR WAIVER OF THE LOCAL MATCH FUND PARTICIPATION REQUIREMENT ON A CERTAIN APPROVED FEDERAL OFF-SYSTEM BRIDGE PROGRAM (PARTICIPATION-WAIVED) PROJECT NOT YET AWARDED; AUTHORIZING AND DIRECTING THE CITY MANAGER OR THE CITY MANAGER'S DESIGNEE TO NEGOTIATE, FINALIZE, AND EXECUTE AN ADVANCE FUNDING AGREEMENT (AND ANY AND ALL OTHER DOCUMENTS INCIDENT TO SAME) FOR SAID PURPOSES; ACKNOWLEDGING THE CITY OF LONGVIEW'S OBLIGATION TO CONFORM WITH ALL CONDITIONS OF 43 TAC SECTION 15.55(D); FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION WAS APPROVED COMPLIED WITH THE TEXAS OPEN MEETINGS ACT; MAKING OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the federal off-system bridge program is administered by the Texas Department of Transportation (the State) to replace or rehabilitate structurally deficient and functionally obsolete (collectively referred to as deficient) bridges located on public roads and streets off the designated state highway system; and,

WHEREAS, City of Longview, hereinafter referred to as the Local Government, owns bridges located at South High Street at UP RR and High Street, National Bridge Inventory (NBI) Structure Number 100930E00469001; and,

WHEREAS, a project to remedy the bridge is included in the currently approved program of projects as authorized by Texas Transportation Commission Minute Order Number 114670 dated August 25, 2016, Control-Section-Job (CSJ)

Number 0910-07-072; and,

WHEREAS, the usual fund participation ratio for projects on such program is 80 percent federal, 10 percent state and 10 percent Local Government; and,

WHEREAS, Texas Administrative Code, Title 43, Section 15.55(d) (43 TAC Section 15.55(d)) provides that under specified conditions the 10 percent Local Government match fund participation requirement may be waived with agreement by the Local Government to perform, or cause to be performed, an equivalent dollar amount of structural improvement work on other deficient bridges or deficient mainlane cross-drainage structures within its jurisdiction, such a project of structural improvement work being referred to as an “equivalent-match project”; and,

WHEREAS, the estimated local match fund participation requirement on the approved federal off-system bridge project is \$743,702.40 (dollars), hereinafter referred to as the “participation-waived” project, and the Local Government proposes that such participation requirement be waived in return for the Local Government performing or causing to be performed equivalent-match project structural improvement work; NOW, THEREFORE,

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

Section 1. That the findings set out in the preamble to this resolution are hereby in all things approved and adopted.

Section 2. That the Local Government shall perform or cause to be performed the following equivalent-match project(s) in return for waiver of the local match fund participation requirement on the approved federal off-system bridge program (participation-waived) project not yet awarded:

LOCATION (and NBI Structure Identification Number, if applicable)	ON SCHOOL BUS ROUTE?	DESCRIPTION OF STRUCTURAL IMPROVEMENT WORK	ESTIMATED COST
Graystone Road	Yes	Replace 54' of 96" steel pipe with 3 ea. – 10' x 8' x 54' RCBC	\$696,000.00
Meadowview Road	Yes	Replace 43' of 2 - 84" CMP with 2 ea. – 7' x 6' x 43' RCBC or equivalent	\$200,000.00

Section 3. That in receiving this waiver the Local Government acknowledges its obligation to conform with all conditions of 43 TAC Section 15.55(d), which conditions include but are not restricted to the following:

1. The Local Government must be currently in compliance with load posting and closure regulations as defined in National Bridge Inspection Standards under US Code of Federal Regulations, Title 23, Section 650.303.
2. The equivalent-match project work increases the load capacity of the existing bridge or other mainlane cross-drainage structure or upgrades the structure to its original load capacity with a minimum upgrade to safely carry school bus loading if located on a school bus route.
3. In performing or causing to be performed the equivalent-match project(s), the Local Government assumes all responsibilities for engineering and construction and for

complying with all applicable state and federal environmental regulations and permitting requirements for the structures being improved.

4. The work on the proposed equivalent-match project(s) has not begun and will not begin until the local match fund participation waiver approval process has been completed.
5. The Local Government will be allowed three years after the contract award of the participation-waived project to complete the structural improvement work on the equivalent-match project(s).
6. Should this waiver request be approved, an appropriate written agreement or amendment to a previously executed agreement will be executed between the State and Local Government.

Section 4. That the City Manager or the City Manager's designee and any other official of the City as shall be required are hereby authorized and directed to negotiate, finalize, and execute, as approved by the City Attorney's Office, an Advance Funding Agreement (and any and all other documents incident to same) by and between the Local Government and the State for the purposes of carrying out the equivalent-match project(s) mentioned in this resolution in return for waiver of the local match fund participation requirement on the approved federal off-system bridge program (participation-waived) project mentioned in this resolution.

Section 5. That the meeting at which this resolution was approved was in all things conducted in strict compliance with the Texas Open Meetings Act, Texas Government Code Chapter 551.

Section 6. That this resolution shall become effective immediately from

and after its passage.

PASSED AND APPROVED this 28th day of September, 2017.

Dr. Andy Mack
Mayor

ATTEST:

Shelly Ballenger
City Secretary

APPROVED AS TO FORM:

Jim Finley
City Attorney

R PW TXDOT MATCHING PARTICIPATION 2017 9-28-17

GUTHRIE TRAIL FUNDING AMENDMENT WITH LEDCO

DESCRIPTION:	<p>Consider a resolution authorizing the City Manager or his designee to negotiate and enter into an amendment to the Original Contract to increase the amount of funding to be provided by LEDCO for construction of Guthrie Trail Phase I to a maximum amount of \$1,983,923.75</p> <p>The Original Contract between the city and LEDCO was for \$1,900,000 for the connection of Cargill Long to Akin Park. Construction bids were more than originally contemplated.</p>
RECOMMENDED ACTION:	Passage of resolution.
SOURCE OF FUNDS:	LEDCO 4B Funds
STAFF CONTACT:	Rolin McPhee, P.E., Director of Public Works 903-237-1336 rmcphee@longviewtexas.gov .
COUNCIL DATE:	September 28, 2017

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LONGVIEW, TEXAS, AUTHORIZING AND DIRECTING THE CITY MANAGER OR THE CITY MANAGER'S DESIGNEE TO NEGOTIATE AND ENTER INTO AN AMENDMENT TO THE CITY'S AGREEMENT WITH THE LONGVIEW ECONOMIC DEVELOPMENT CORPORATION (LED CO) FOR CONSTRUCTION OF GUTHRIE TRAIL PHASE I IN ORDER TO INCREASE THE MAXIMUM AMOUNT THAT LEDCO MAY CONTRIBUTE TOWARD COSTS OF CONSTRUCTION; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION WAS APPROVED COMPLIED WITH THE TEXAS OPEN MEETINGS ACT; MAKING OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, in November of 1991 City of Longview ("Longview") voters authorized a ¼ cent sales tax for the promotion of economic development; and,

WHEREAS, in a special election held on January 20, 2001, Longview voters authorized the use of the aforesaid ¼ cent sales tax for certain 4B projects, including projects consisting of public infrastructure improvements for parks and park facilities; and,

WHEREAS, Longview wishes to make certain improvements to the city's public park trail system; and,

WHEREAS, said improvements, known as Guthrie Trail Phase I, involve the design and construction of an extension to Longview's system of outdoor recreational trails that will connect Cargill Long Trail to Akin Trail; and,

WHEREAS, Longview Economic Development Corporation ("LED CO") desires to encourage and assist in the improvement and enlargement of Longview's

public parks system, including the aforesaid Guthrie Trail Phase I; and,

WHEREAS, the City and LEDCO entered into a contract (the “Original Contract”) dated as of June 15, 2016, for the City to construct Guthrie Trail Phase I and for LEDCO to pay up to a maximum of \$1,900,000.00 of the costs associated with said construction; and,

WHEREAS, the costs associated with construction of Guthrie Trail Phase I are more than originally contemplated; and,

WHEREAS, the City and LEDCO desire to modify the not-to-exceed price of the Original Contract so that LEDCO may assist in paying the increased costs of constructing Guthrie Trail Phase I; NOW, THEREFORE,

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

Section 1. That the findings set out in the preamble to this resolution are hereby in all things approved and adopted.

Section 2. That the City Manager, the City Manager’s designee and/or other official of the City as shall be required, are hereby authorized and directed to negotiate and enter into an amendment to the Original Contract to increase the amount of funding to be provided by LEDCO for construction of Guthrie Trail Phase I to a maximum amount of \$1,983,923.75.

Section 3. That any contract amendment or other documents executed pursuant to the authority granted in this resolution must be in a form approved by the City Attorney.

Section 4. That the meeting at which this resolution was approved was in

all things conducted in strict compliance with the Texas Open Meetings Act, Texas Government Code Chapter 551.

Section 5. That this resolution shall be effective immediately from and after its date of passage.

PASSED AND APPROVED this 28th day of September, 2017.

Dr. Andy Mack
Mayor

ATTEST:

Shelly Ballenger
City Secretary

APPROVED AS TO FORM:

Jim Finley
City Attorney

R LEDCO PARKS FUNDING GUTHRIE TRAIL AMDMT 9-28-17

AUTHORIZE TWO ATTORNEYS WITH THE LAW FIRM OF McCALL, PARKHURST & HORTON, L.L.P To ACT AS REPRESENTATIVE(S) OF THE CITY

DESCRIPTION: The City of Longview received a letter from the Internal Revenue Service (IRS) informing the City that it has been selected for an audit of its General Obligation Bonds, Series 2005. The City has engaged the law firm of McCall, Parkhurst & Horton, L.L.P, to represent the City in connection with the audit. The City needs to authorize two individuals of the law firm as the City's representative(s) so that they may represent the City before the IRS and file certain required paperwork on the City's behalf.

RECOMMENDED ACTION: Adoption of Resolution

SOURCE OF FUNDS: N/A

STAFF CONTACT: Angela Coen, Director of Finance
903-239-5521
acoen@longviewtexas.gov

COUNCIL DATE: September 28, 2017

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LONGVIEW, TEXAS, AUTHORIZING AND DIRECTING THE CITY MANAGER OR THE CITY MANAGER'S DESIGNEE AND/OR OTHER OFFICIAL OF THE CITY AS SHALL BE REQUIRED, TO NEGOTIATE, DRAFT, EXECUTE, AND DELIVER SUCH FORMS, DECLARATIONS, AND OTHER DOCUMENTS (INCLUDING, WITHOUT LIMITATION, DEPARTMENT OF THE TREASURY INTERNAL REVENUE SERVICE FORM 2848) AS MAY BE NECESSARY OR CONVENIENT FOR STEFANO TAVERNA AND/OR HAROLD T. FLANAGAN WITH THE LAW FIRM OF MCCALL, PARKHURST & HORTON, L.L.P., TO ACT AS REPRESENTATIVE(S) AND ATTORNEY(S)-IN-FACT AND EXERCISE POWER OF ATTORNEY ON BEHALF OF THE CITY OF LONGVIEW WITH REGARD TO A SPECIFIED INTERNAL REVENUE SERVICE AUDIT; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION WAS APPROVED COMPLIED WITH THE TEXAS OPEN MEETINGS ACT; MAKING OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the City of Longview (sometimes hereinafter called the "City") is in receipt of a letter from Internal Revenue Agent Kurt J. Ochsner dated 09/08/2017 indicating that the City's issuance of certain bonds has been selected for audit by the U.S. Department of the Treasury Internal Revenue Service (the "IRS"); and,

WHEREAS, the City has engaged the law firm of McCall, Parkhurst & Horton, L.L.P., to represent the City in connection with the aforesaid audit; and,

WHEREAS, Stefano Taverna and Harold T. Flanagan work for the law firm of McCall, Parkhurst & Horton, L.L.P.; and,

WHEREAS, the City wishes to authorize one or both of the aforesaid individuals to act as the City's representative(s) and exercise power of attorney on

behalf of the City with regard to the audit described herein so that said individual(s) may represent the City before the IRS, including without limitation with regard to the filing of such forms and other documents as may be reasonably necessary or convenient in relation to the aforesaid audit; NOW, THEREFORE,

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

Section 1. That the findings set out in the preamble to this resolution are hereby in all things approved and adopted.

Section 2. That the City Manager, the City Manager's designee and/or other official of the City as shall be required, are hereby authorized and directed to negotiate, draft, execute, and deliver such forms, declarations, and other documents (including, without limitation, Department of the Treasury Internal Revenue Service Form 2848) as may be necessary or convenient for Stefano Taverna with the law firm of McCall, Parkhurst & Horton, L.L.P., and/or Harold T. Flanagan with the law firm of McCall, Parkhurst & Horton, L.L.P., to act as representative(s) and attorney(s)-in-fact and exercise power of attorney on behalf of the City of Longview with regard to the IRS audit described in the letter from Internal Revenue Agent Kurt J. Ochsner dated 09/08/2017 and attached hereto as Exhibit A.

Section 3. That the meeting at which this resolution was approved was in all things conducted in strict compliance with the Texas Open Meetings Act, Texas Government Code Chapter 551.

Section 4. That this resolution shall be effective immediately from and after its date of passage.

PASSED AND APPROVED this 28th day of September, 2017.

Dr. Andy Mack
Mayor

ATTEST:

Shelly Ballenger
City Secretary

APPROVED AS TO FORM:

Jim Finley
City Attorney

R FINANCE BOND AUDIT POW'R OF ATTY 9-28-17

CONSIDER APPROVAL OF THE FOLLOWING MINUTES:

August 10, 2017, August 24, 2017 and August 31, 2017

Application: #A17-01

STAFF REPORT

September 28, 2017

LOCATION: North of East Loop 281, east of Tryon Road and west of Hollybrook Drive

REQUEST: This is the first of two public hearings required by the local government code to consider a proposed annexation of approximately 40.648 acres of land.

COUNCIL DISTRICT:

District 4 – Council Member Kristen Ishihara (directly adjacent)

STAFF COMMENTS:

Staff has received a request for annexation of approximately 40.648 acres of land situated within the Extraterritorial Jurisdiction (ETJ) located directly adjacent to the city limits north of East Loop 281, east of Tryon Road and west of Hollybrook Drive.

Earlier this year, City Council authorized staff to enter into a 380 agreement with the developer to extend an 8 inch sanitary sewer line to this property. As part of this agreement, the developer agreed to request annexation and to construct a rehabilitation hospital containing a minimum of 30,000 square feet and at least 30 patient beds.

This is the last required public hearing that must be held prior to final action of the annexation on October 19, 2017.

**East Loop 281 Annexation
Service Plan
2017**

**CITY OF LONGVIEW, TEXAS
EAST LOOP 281
ANNEXATION SERVICE PLAN**

INTRODUCTION

This service plan has been prepared in accordance with Texas Local Government Code, Section 43.065 (Provisions of Services to Annexed Area). Municipal facilities and services to the annexed area described in Exhibit "A" will be provided or made available at the following levels and in accordance with the following schedule:

POLICE PROTECTION:

Patrolling, response to calls, and other police services will be provided upon the effective date of the annexation on the same basis and at the same level as provided throughout the city.

FIRE PROTECTION AND FIRE PREVENTION:

Fire protection and fire prevention services will be provided upon the effective date of the annexation on the same basis and at the same level as provided throughout the city.

EMERGENCY MEDICAL SERVICES:

Emergency medical services will be provided upon the effective date of the annexation on the same basis and at the same level as provided throughout the city.

SOLID WASTE COLLECTION AND DISPOSAL:

The City will provide solid waste collection services upon the effective date of the annexation on the same basis and at the same level as provided throughout the city.

OPERATION AND MAINTENANCE OF WATER AND WASTEWATER FACILITIES:

Water services are already available to this property and an 8-inch sanitary sewer line will be extended as part of an economic development agreement with Everest Rehabilitation Hospitals, LLC that was approved by City Council on January 26, 2017. On May 11, 2017, City Council approved Public Works to enter into a contract with W.M. Miller Construction in the amount of \$199,999.99 to install 3,800 feet of 8-inch sanitary sewer line. (See: Capital Improvements for details).

OPERATION AND MAINTENANCE OF PARKS, PLAYGROUNDS AND SWIMMING POOLS:

This area is vacant and there are no parks, playgrounds or swimming pools in this area.

MAINTENANCE OF ROADS, STREETS AND DRAINAGE:

Maintenance of public streets, rights-of-way and drainage facilities will be provided upon the effective date of the annexation on the same basis and at the same level as provided throughout the city. The City will maintain any new streets installed and dedicated to the City after the one year warranty period ends.

ROAD AND STREET LIGHTING:

All public streets constructed in the annexed area after the effective date of annexation will be provided lighting as set forth in the Street Lighting Policy. Beginning on the effective date of annexation, all current street lighting in the area will be maintained as set forth in the Street Lighting Policy.

OPERATION AND MAINTENANCE OF ANY OTHER PUBLICLY OWNED FACILITY, BUILDING OR SERVICE:

Other services that may be provided by the City, such as planning, code enforcement, animal control, park and recreation, library, court and general administration, will be made available upon the effective date of annexation on the same basis and at the same level as provided throughout the city.

Except as expressly discussed elsewhere in this Service Plan, the annexed area does not contain any publicly owned facility or building that will become the property of or be operated by the City upon annexation.

CAPITAL IMPROVEMENTS:

Capital improvements to the described territory to be annexed include the following, all of which will be completed within 2 ½ years from the effective date of annexation as required by state law:

Item No.	Description	Estimated Quantity	Sewer Units	Total
1	8" Sewer Line	3,800	L.F.	\$199,999.99
			Engineering, surveying, ROW	\$35,775.00
			Total Project Cost	\$235,774.99

UNIFORM LEVEL OF SERVICES MAY NOT BE REQUIRED:

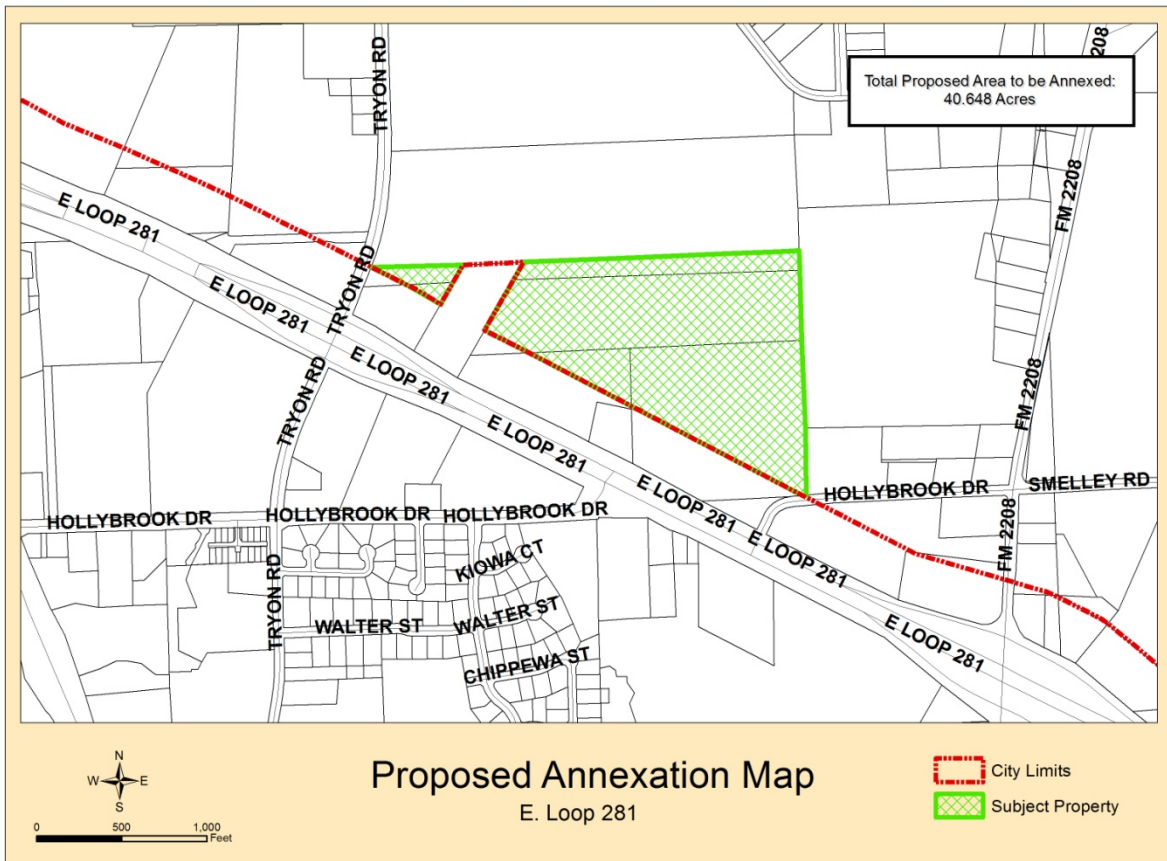
Nothing in this plan shall require the City to provide a uniform level of full municipal services to each area of the City, including the annexation area, if different

characteristics of topography, land use, and population density are considered a sufficient basis for providing different levels of service.

TERM:

This service plan shall be valid for a term of ten (10) years from the effective date of annexation of the area described in Exhibit “A.”

ANNEXATION MAPS EXHIBIT A



2017 - 2018 CAPITAL IMPROVEMENTS PROGRAM

DESCRIPTION:	<p>Consider a resolution adopting a five-year Capital Improvements Program (CIP) and allocating funds for the 2017-2018 Projects.</p> <p>The 2018-2022 Capital Improvements Program (CIP) represents the thirteenth annual review of the Five-Year Capital Improvements Program. Projects were submitted for consideration only after they were scored using a factoring scale for urgency and priority as adopted by the City Council. The 2018-2022 CIP contains 75 projects totaling \$127.68 million. The 2018 CIP contains 10 projects totaling \$4.4 million. Funding for the these projects would come from the general and utility capital reserve funds.</p>
RECOMMENDED ACTION:	Passage of resolution
SOURCE OF FUNDS:	Funding is available from the Hotel Occupancy Tax Fund, General Fund, Operation and Maintenance Fund, and Utility Capital Reserve Funds
STAFF CONTACT:	Alton Bradley, P.E., City Engineer 903-237-1067 abradley@longviewtexas.gov
COUNCIL DATE:	September 28, 2017

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LONGVIEW, TEXAS, APPROVING AND ADOPTING A FIVE YEAR CAPITAL IMPROVEMENTS PLAN FOR THE CITY OF LONGVIEW FOR FISCAL YEARS 2018-2022 AND ALLOCATING FUNDS FOR THE 2017-2018 FISCAL YEAR PROJECTS; PROVIDING FOR ANNUAL REVIEW AND POSSIBLE REVISION AND UPDATE OF SAID PLAN; MAKING OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT; DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION WAS PASSED COMPLIED WITH THE TEXAS OPEN MEETINGS ACT AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Longview has considered the need for major capital improvements to enhance public services to the Longview community; and,

WHEREAS, the City Council of the City of Longview has extensively reviewed and studied the capital needs of the community to set priorities of specific improvements; and,

WHEREAS, the City Council finds and determines that adoption of a comprehensive five year Capital Improvements Plan coupled with annual review, revision and update of said Plan is necessary to efficiently and effectively address the capital needs of the Longview community; NOW, THEREFORE,

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

Section 1. That the findings set out in the preamble to this resolution are hereby in all things approved and adopted.

Section 2. That a five year Capital Improvements Plan for the City of

Longview, Texas, for fiscal years 2018-2022, including the allocation of funds for the 2017-2018 fiscal year projects, a copy of which is attached hereto and for all purposes incorporated herein, is hereby approved and adopted.

Section 3. That this resolution and the Capital Improvements Plan adopted herein shall be for the years 2018-2022 in all things supersede all Capital Improvements Plans previously adopted by prior City Council resolution.

Section 4. That said Capital Improvements Plan shall be annually reviewed by the City Council and, where appropriate, shall be revised and updated on an annual basis.

Section 5. That the meeting at which this resolution was approved was in all things conducted in strict compliance with the Texas Open Meetings Act, Texas Government Code Chapter 551.

Section 6. That this resolution shall be effective from and after its date of passage.

PASSED, APPROVED and ADOPTED this 28th day of September, 2017.

Dr. Andy Mack
Mayor

ATTEST:

Shelly Ballenger
City Secretary

APPROVED AS TO FORM:

Jim Finley
City Attorney

R PW CIP 2018-2022 9-28-17

AUTHORIZATION TO INTERVENE THROUGH THE CITIES ADVOCATING REASONABLE DEREGULATION (“CARD”) IN REVIEW OF SOUTHWESTERN ELECTRIC POWER COMPANY’S (“SWEPCO”) APPLICATION FILED WITH THE PUBLIC UTILITY COMMISSION OF TEXAS TO ACQUIRE AN INTEREST IN THE WIND CATCHER ENERGY CONNECTION PROJECT

DESCRIPTION:

On July 31, 2017, Southwestern Electric Power Company (“SWEPCO” or “Company”) filed an application with the Public Utility Commission of Texas (“PUCT”) to amend its certificate of convenience and necessity (“CCN”) seeking authority to acquire an interest in a project SWEPCO refers to as the “Wind Catcher Energy Connection Project” (“Wind Catcher Project”).

The Wind Catcher Project is a very large wind-generation facility under construction by Invenergy Wind Development North America, LLC (“Invenergy”) in Oklahoma. SWEPCO, along with its affiliate, Public Service Company of Oklahoma, as a co-purchaser, plans to purchase the facility from Invenergy. SWEPCO estimates that at completion, the Wind Catcher Project will provide 1,900 megawatts (“mW”) of electricity at a cost of about \$4.5 billion, including the cost of an associated, dedicated transmission line. Of this amount, \$1.1 billion will be attributed for recovery from SWEPCO’s Texas retail ratepayers. SWEPCO contends that the investment will actually lower overall costs to Texas retail ratepayers by \$750 million in net present value as a result of lower fuel costs and because of the availability of federal “production tax credits” (“PTCs”).

As a key component of its application, SWEPCO also requests permission to recover the net costs of the Wind Catcher Project through fuel factor and to begin recovery when the facility commences commercial operations. SWEPCO proposes this rate treatment only until it files its next general base-rate case at which time it will seek to have the costs and benefits reflected in base rates.

RECOMMENDED ACTION:

Passage of Resolution. It is important that the City intervene in SWEPCO’s Wind Catcher Project and related proceedings to exercise its due diligence as a regulatory authority as well as to protect its and its citizens’ interests as rate-payers.

SOURCE OF FUNDS:

Cities by statute are entitled to recover their reasonable rate case expenses from the utility.

STAFF CONTACT:

Jim Finley, City Attorney
903-237-1091
jfinley@longviewtexas.gov

COUNCIL DATE:

September 28, 2017

RESOLUTION NO. _____

RESOLUTION BY THE CITY OF LONGVIEW (“CITY”) AUTHORIZING THE CITY TO PARTICIPATE AS PART OF THE CITIES ADVOCATING REASONABLE DEREGULATION (“CARD”) IN PROCEEDINGS RELATED TO SOUTHWESTERN ELECTRIC POWER COMPANY’S (“SWEPCO”) APPLICATION FILED ON ABOUT JULY 31, 2017 CONCERNING ITS REQUEST TO ACQUIRE AN INTEREST IN THE WIND CATCHER WIND ENERGY CONNECTION PROJECT; AUTHORIZING THE HIRING OF ATTORNEYS AND CONSULTANTS; DIRECTING THE ACTIVITIES OF LAWYERS AND CONSULTANTS REGARDING SWEPCO’S APPLICATION; REQUIRING REIMBURSEMENT OF REASONABLE LEGAL AND CONSULTANT EXPENSES TO THE EXTENT ALLOWED BY LAW; FINDING THAT THE MEETING COMPLIES WITH THE OPEN MEETINGS ACT; AND MAKING OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT

WHEREAS, on about July 31, 2017 Southwestern Electric Power Company (“SWEPCO” or “Company”) filed an application with the Public Utility Commission of Texas (“PUCT”) to amend its certificate of convenience and necessity (“CCN”) seeking authority to acquire an interest in a project SWEPCO refers to as the “Wind Catcher Energy Connection Project” (“Wind Catcher Project”); and

WHEREAS, the Wind Catcher Project is a wind generation facility being constructed by Invenergy Wind Development North America, LLC (“Invenergy”) in Oklahoma; and

WHEREAS, SWEPCO’s Wind Catcher Project includes the construction of an associated dedicated transmission line to be constructed by Quanta Services; and

WHEREAS, SWEPCO along with its affiliate, the Public Service Company of Oklahoma, as a co-purchaser, intends to purchase the Wind Catcher Project from

Invenergy; and

WHEREAS, SWEPCO estimates that the total cost of the Wind Catcher Project, including construction of the related transmission line, to be about \$4.5 billion, of which SWEPCO's share would be about \$3.2 billion; of that amount about \$1.1 billion in additional costs would be attributable to SWEPCO's retail customers in Texas; and

WHEREAS, SWEPCO estimates a savings of about \$750 million in net present value, associated with SWEPCO's estimate of fuel savings coupled with the availability of federal tax credits; and,

WHEREAS, SWEPCO also seeks approval of recovery of the net costs of the Wind Catcher Project through SWEPCO's fuel factor; and

WHEREAS, pursuant to the Public Utility Regulatory Act ("PURA") § 33.025 the City has standing in each case before the Public Utility Commission of Texas (the "Commission") that relates to an electric utility providing service in the municipality; and

WHEREAS, the City has the authority under PURA § 33.023 to participate in ratemaking proceedings and engage consultants and attorneys to advise and represent the City and assist in litigation before a regulatory authority, or a court; and

WHEREAS, to the extent SWEPCO's application comprises a ratemaking proceeding, the electric utility in shall reimburse the City for the reasonable cost of the services of a person engaged under PURA § 33.023(a) to the extent the applicable regulatory authority determines is reasonable; and

WHEREAS, in order to maximize the efficient use of resources and expertise in reviewing, analyzing and investigating SWEPCO's application relating to

the Wind Catcher Project it is prudent to coordinate the City's efforts with a coalition of similarly situated municipalities; and

WHEREAS, the City, in matters regarding applications by SWEPCO to change rates, has in the past joined with other local regulatory authorities to form Cities Advocating Reasonable Deregulation ("CARD") and hereby continues its participation in CARD; and

WHEREAS, the City will need to review and evaluate SWEPCO's application concerning the Wind Catcher Project to exercise its due diligence as a regulatory authority as well as to protect its interests and its citizens' interests as rate-payers; NOW THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LONGVIEW THAT:

Section 1. The findings set out in the preamble are in all things approved and incorporated herein as if fully set forth.

Section 2. The City continues its participation with other cities in a coalition of cities known as Cities Advocating Reasonable Deregulation ("CARD") with the understanding that the Steering Committee of CARD is to provide direction and guidance to Special Counsel representing said cities.

Section 3. The City authorizes participation and intervention in proceedings at the Public Utility Commission of Texas related to SWEPCO's Wind Catcher Project proceeding, as well as appeals taken, if any, from the Commission's decision.

Section 4. The City employs Herrera & Boyle, PLLC as Special Counsel

to represent the City with regard to SWEPCO's Wind Catcher Project and related proceedings before local and state regulatory authorities and any court of law and authorizes Special Counsel to employ such experts as may be necessary for review and evaluation of SWEPCO's Wind Catcher Project.

Section 5. The City, in coordination with the Steering Committee, shall review the invoices of the lawyers and rate experts for reasonableness before submitting the invoices to SWEPCO for reimbursement.

Section 6. To the extent SWEPCO's application comprises a ratemaking proceeding, SWEPCO shall reimburse the City on a monthly basis, through CARD's coordinating city, the City of Longview, Texas, for the reasonable costs of attorneys and consultants and expenses related thereto, upon the presentation of invoices reviewed by the City of Longview.

Section 7. A copy of this resolution shall be sent to Mr. Jay E. Toungate, Regulatory Case Manager, American Electric Power Services Corporation – SWEPCO, 400 West 15th Street, Suite 1520, Austin, Texas 78701; and to Mr. Alfred R. Herrera, Herrera & Boyle, PLLC, 816 Congress Ave., Suite 950, Austin, Texas 78701.

Section 8. The meeting at which this resolution was approved was in all things conducted in strict compliance with the Texas Open Meetings Act, Texas Government Code, Chapter 551.

Section 9. This resolution shall become effective from and after its passage.

PASSED AND APPROVED this 28th day of September, 2017.

Dr. Andy Mack
Mayor

ATTEST:

Shelly Ballenger
City Secretary

APPROVED AS TO FORM:

Jim Finley
City Attorney

R UTILITY SWEPCO DKT 47461 WIND CATCHER 9-28-17

**AUTHORIZATION TO JOIN WITH A COALITION OF MUNICIPALITIES AS PART OF THE CITIES
ADVOCATING REASONABLE DEREGULATION (“CARD”) TO REVIEW SOUTHWESTERN
ELECTRIC POWER COMPANY’S (“SWEPCO”) REQUEST TO RECONCILE FUEL COSTS IN A
PROCEEDING PENDING BEFORE THE PUBLIC UTILITY COMMISSION OF TEXAS**

DESCRIPTION: Under Texas law, a utility may seek to reconcile the amount it *spends* on fuel expenses with the amount it *recovers* through its fuel factor. These proceedings are referred to as “fuel-reconciliation” rate cases. On August 28, 2017, Southwestern Electric Power Company (“SWEPCO” or “Company”) filed an application with the Public Utility Commission of Texas (the “Commission”) asserting that for the period March 1, 2014 through February 28, 2017 (the “Fuel Reconciliation Period”), it had recovered \$4,384,730 more through its fuel factor than it incurred in fuel expenses.

SWEPCO also requested that the Commission find that SWEPCO prudently entered into, or modified its contracts for the purchase of power during the Fuel Reconciliation Period.

This proceeding before the Commission will provide an opportunity to review the reasonableness and prudence of power contracts that SWEPCO entered into between March 1, 2014 and February 28, 2017. These power contracts could impact fuel costs for years to come, and thereby affect SWEPCO’s rates going forward.

RECOMMENDED ACTION: Passage of Resolution. It is important that the City intervene in SWEPCO’s fuel-reconciliation proceeding and related proceedings to exercise its due diligence as a regulatory authority.

SOURCE OF FUNDS: Cities by statute are entitled to recover their reasonable rate case expenses from the utility.

STAFF CONTACT: Jim Finley, City Attorney
903-237-1091
jfinley@longviewtexas.gov

COUNCIL DATE: September 28, 2017

RESOLUTION NO. _____

RESOLUTION BY THE CITY OF LONGVIEW (“CITY”) AUTHORIZING THE CITY TO PARTICIPATE AS PART OF THE CITIES ADVOCATING REASONABLE DEREGULATION (“CARD”) IN PROCEEDINGS RELATED TO SOUTHWESTERN ELECTRIC POWER COMPANY’S (“SWEPCO”) APPLICATION TO RECONCILE FUEL COSTS SUBMITTED ON OR ABOUT AUGUST 28, 2017; AUTHORIZING THE HIRING OF ATTORNEYS AND CONSULTANTS; DIRECTING THE ACTIVITIES OF LAWYERS AND CONSULTANTS REGARDING SWEPCO’S APPLICATION; REQUIRING REIMBURSEMENT OF REASONABLE LEGAL AND CONSULTANT EXPENSES; FINDING THAT THE MEETING COMPLIES WITH THE OPEN MEETINGS ACT; AND MAKING OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT

WHEREAS, Southwestern Electric Power Company (“SWEPCO” or “Company”) filed an Application to reconcile fuel costs on or about August 28, 2017; and

WHEREAS, SWEPCO’s proposal asserts it has collected \$4,384,730 more in fuel charges than it incurred in fuel expenses; and

WHEREAS, pursuant to the Public Utility Regulatory Act (“PURA”) § 33.025 the City has standing in each case before the Public Utility Commission of Texas (the “Commission”) that relates to an electric utility providing service in the municipality; and

WHEREAS, the City has the authority under PURA § 33.023 to participate in ratemaking proceedings and engage consultants and attorneys to advise and represent the City and assist in litigation before a regulatory authority, or a court; and

WHEREAS, the electric utility in a ratemaking proceeding shall reimburse the City for the reasonable cost of the services of a person engaged under PURA §

33.023(a) to the extent the applicable regulatory authority determines is reasonable;
and

WHEREAS, in order to maximize the efficient use of resources and expertise in reviewing, analyzing and investigating SWEPCO's fuel reconciliation request it is prudent to coordinate the City's efforts with a coalition of similarly situated municipalities; and

WHEREAS, the City, in matters regarding applications by SWEPCO to change rates, has in the past joined with other local regulatory authorities to form Cities Advocating Reasonable Deregulation ("CARD") and hereby continues its participation in CARD; and

WHEREAS, the City will need to review and evaluate SWEPCO's fuel reconciliation request to exercise its due diligence with regard to SWEPCO's application; NOW THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LONGVIEW THAT:

Section 1. The findings set out in the preamble are in all things approved and incorporated herein as if fully set forth.

Section 2. The City continues its participation with other cities in a coalition of cities known as Cities Advocating Reasonable Deregulation ("CARD") with the understanding that the Steering Committee of CARD is to provide direction and guidance to Special Counsel representing said cities.

Section 3. The City authorizes participation and intervention in proceedings at the Public Utility Commission related to SWEPCO's fuel-reconciliation

case, as well as appeals taken, if any, from the Commission's decision.

Section 4. The City employs Herrera & Boyle, PLLC as Special Counsel to represent the City with regard to SWEPCO's requested fuel reconciliation and related proceedings before local and state regulatory authorities and any court of law and authorizes Special Counsel to employ such rate experts as may be necessary for review and evaluation of SWEPCO's fuel application.

Section 5. The City, in coordination with the Steering Committee, shall review the invoices of the lawyers and rate experts for reasonableness before submitting the invoices to SWEPCO for reimbursement.

Section 6. SWEPCO shall reimburse the City on a monthly basis, through CARD's coordinating city, the City of Longview, Texas, for the reasonable costs of attorneys and consultants and expenses related thereto, upon the presentation of invoices reviewed by the City of Longview.

Section 7. A copy of this resolution shall be sent to Ms. Jennifer J. Frederick, Regulatory Case Manager, American Electric Power Services Corporation – SWEPCO, 400 West 15th Street, Suite 1520, Austin, Texas 78701; and to Mr. Alfred R. Herrera, Herrera & Boyle, PLLC, 816 Congress Ave., Suite 950, Austin, Texas 78701.

Section 8. The meeting at which this resolution was approved was in all things conducted in strict compliance with the Texas Open Meetings Act, Texas Government Code, Chapter 551.

Section 9. This resolution shall become effective from and after its passage.

PASSED AND APPROVED this 28th day of September, 2017.

Dr. Andy Mack
Mayor

ATTEST:

Shelly Ballenger
City Secretary

APPROVED AS TO FORM:

Jim Finley
City Attorney

R UTILITY SWEPCO DKT 47553 RECONCILE FUEL COSTS 9-28-17

AN ORDINANCE AMENDING CHAPTERS 58 AND 67 OF THE LONGVIEW CITY CODE TO PROHIBIT CERTAIN SOLICITATING; PROHIBIT CAMPING, SLEEPING, OR LOUNGING IN CEARTIN AREAS AND CERTAIN CIRCUMSTANCES; AND ESTABLISHING AN ALTERNATE SENTENCING PROGRAM

DESCRIPTION: In conjunction with the recommendations of the Mayor's Homelessness Task Force, city staff requests Council consider an ordinance that would amend Chapters 58 and 67 of the Longview City Code to prohibit solicitation by coercion; to define and establish solicitation-free zones in the city where solicitation would be prohibited; to prohibit camping in certain circumstances and in certain areas of the city; to make it unlawful to sleep or lounge in specific locations that are utilized by the public; to establish an alternate sentencing program for individuals charged with a violation of these ordinances.

RECOMMENDED ACTION: Passage of the ordinance.

SOURCE OF FUNDS: No unbudgeted funds are required.

STAFF CONTACT: Terry Jackson, Assistant City Attorney
903-237-1012
tjackson@longviewtexas.gov

COUNCIL DATE: September 28, 2017

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF LONGVIEW, TEXAS, CREATING A NEW ARTICLE II OF CHAPTER 67 OF THE LONGVIEW CITY CODE ENTITLED "SOLICITATION"; AMENDING ARTICLE I OF CHAPTER 67 OF THE LONGVIEW CITY CODE ENTITLED "OUTDOOR VENDORS AND SOLICITORS"; AMENDING SECTIONS 58-77, 58-78, AND 58-79 OF ARTICLE V OF CHAPTER 58 ENTITLED "PUBLIC MORALS AND CONDUCT"; DEFINING SOLICITATION AND SOLICITATION BY COERCION; ADDING NECESSARY DEFINITIONS; PROHIBITING SOLICITATION BY COERCION; ESTABLISHING ZONES AND AREAS WITHIN THE CITY OF LONGVIEW IN WHICH SOLICITATION IS PROHIBITED; PROHIBITING SLEEPING AND LOUNGING IN OR UPON CERTAIN PUBLIC AREAS; PROHIBITING CAMPING WITHIN THE CITY; CREATING EXCEPTIONS; NEGATING AND DISPENSING WITH A CULPABLE MENTAL STATE REQUIREMENT; PROVIDING FOR A PENALTY OF UP TO \$500 AND ALTERNATE SENTENCING FOR VIOLATION HEREOF; FINDING THAT THE MEETING AT WHICH THIS ORDINANCE WAS PASSED COMPLIED WITH THE TEXAS OPEN MEETINGS ACT; REPEALING ALL ORDINANCES IN CONFLICT HERewith; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE SEVERABILITY OF THE PROVISIONS HEREOF; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, coercion of any person by another to force a solicited person to accede to demands is unacceptable and a detriment to this community; and,

WHEREAS, certain areas of this community are areas in which business is commonly transacted or events held that make those citizens in the area more susceptible to solicitation; and,

WHEREAS, the practice of soliciting in those areas can be a detriment to those who conduct business or attend events; and,

WHEREAS, sleeping and lounging upon certain public property is an unacceptable hazard and danger and impedes the use of said property; and,

WHEREAS, unauthorized camping within the city is an unacceptable hazard and danger and a detriment to this community; and,

WHEREAS, sleeping and lounging upon certain public property can prevent citizens from using and enjoying public property, such as parks and recreational pathways and areas, and can be a detriment to business; and

WHEREAS, the Mayor's Task Force on Homelessness has determined that there are sufficient facilities within the City of Longview to provide shelter to house the homeless population in this city; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LONGVIEW, TEXAS:

Section 1. That the findings set out in the preamble to this ordinance are hereby in all things approved and adopted.

Section 2. That Chapter 67 of the Code of Ordinances, City of Longview, Texas, is hereby amended by adding a new Article II to said chapter, said new article to read as follows:

“Article II. Solicitation.

Section 67-20. Title and Purpose.

(a) This article may be known and cited as “Solicitation.”

(b) The purpose of this article is to protect the welfare of the citizens of the City of Longview by prohibiting all solicitation by coercion, and creating zones and areas of the City of Longview in which solicitation is prohibited.

Section 67-21. Definitions.

For the purpose of this article the following terms or words shall have the meaning ascribed after them:

AUTOMATED TELLER MACHINE means a machine, other than a telephone, that is capable of being operated by a customer of financial institution, by which the customer may communicate to the financial institution a request to withdraw a benefit for the customer or for another person directly from the customer's account or from the customer's account under a line of credit previously authorized by the financial institution for the customer, and the use of which may or may not involve personnel of a financial institution.

CENTRAL BUSINESS DISTRICT SOLICITATION-FREE ZONE means the area of the City bounded by the following street or portions of streets: North High Street on the west, Marshall Avenue on the north, Sixth Street and Mobberly Avenue on the east, and Cotton Street on the south.

COERCION means:

(A) to approach or speak to a person in such a manner as would cause a reasonable person to believe that the person is being threatened with:

- (1) imminent bodily injury; or,
- (2) the commission of a criminal act upon the person or another person, or upon property in the person's immediate possession;

(B) to persist in a solicitation after the person solicited has given a negative response;

(C) to block, either individually, or as part of a group of persons, the passage of a solicited person, or,

(D) to engage in conduct that would reasonably be construed as intended to compel or force a solicited person to accede to demands.

EAST MARSHALL AVENUE SOLICITATION-FREE ZONE means an area bounded by and including the following streets or portions of streets: East Marshall Avenue from its intersection with Sixth Street and traveling eastbound on East Marshall Avenue to its intersection with Industrial Boulevard, and the area on each side of East Marshall Avenue for one-quarter mile traveling north and south.

EXTERIOR PUBLIC PAY TELEPHONE means any coin or electronic card reader telephone that is installed or located anywhere on a premises except exclusively in the interior of a building located on the premises and accessible and available for use by members of the general public.

FOOD ESTABLISHMENT means an operation that stores, prepares, packages, serves,

vends, or otherwise provides food for human consumption.

LOOP 281 SOLICITATION-FREE ZONE means the area bounded by and including the following streets or portions of streets: Loop 281 from its intersection with Gilmer Road, eastbound to the North Eastman Road overpass, and one-quarter mile each side of Loop 281, traveling north or south.

PARK means a reservation, playground, or recreation center owned, used, or designated for and devoted to active or passive recreation.

PUBLIC TRANSPORTATION STOP means an area designated as a place to wait for a bus, or other public transportation vehicle.

SELF-SERVICE CAR WASH means a structure at which a vehicle may be manually washed by its owner or operator with equipment that is activated by the deposit of money or tokens in a coin-operated machine or by an electronic card reader, and is accessible and available for use by members of the general public.

SELF-SERVICE FUEL PUMP means a fuel pump from which a vehicle may be manually filled with gasoline or other fuel directly by its owner or operator, without the aid of an employee or attendant of the premises at which the fuel pump is located and that is accessible and available for use by members of the general public.

SOLICITATION means to ask, beg, solicit, or plead, by the spoken, written, or printed word, or other such means of communication, for the purpose of receiving contributions, alms, charity, money, or anything of value from another person, regardless of the solicitor's purpose or intended use of the money or thing of value, and regardless of whether consideration is offered.

Section 67-22. Solicitation by Coercion Prohibited.

- (a) A person commits an offense if the person conducts a solicitation by coercion.
- (b) A person commits an offense if the person conducts a solicitation in any outdoor area of the City between 6 o'clock p.m. and 8 o'clock a.m., on any day of the week. It is a defense to prosecution under this subsection, subsection (b), that the solicitation was being conducted exclusively on private property with the advance written permission of the owner of the property.
- (c) Solicitation-free zones.
 - (1) A person commits an offense if the person conducts a solicitation at any time in any outdoor area located within any of the following solicitation-free zones:
 - (A) Central Business District Solicitation-free Zone.

- (B) East Marshall Avenue Solicitation-free Zone.
- (C) Loop 281 Solicitation-free Zone.

- (2) It is a defense to prosecution under this subsection, subsection (c), if the solicitation was being conducted exclusively on private property with the advance written permission of the owner of the property.
- (d) A person commits an offense if he conducts any solicitation within 50 feet of:
 - (1) an automated teller machine;
 - (2) an entrance or exit of a bank, credit union, or other similar financial institution;
 - (3) an exterior public pay telephone;
 - (4) a self-service car wash;
 - (5) a self-service fuel pump;
 - (6) a public transportation stop;
 - (7) a food establishment; or,
 - (8) a park.
- (e) For purposes of Subsection (d), measurement will be made in a straight line, without regard to the intervening structures or objects, from the nearest part at which a solicitation is being conducted to whichever is applicable of the following:
 - (1) the nearest entrance or exit of a facility in which an automated teller machine is enclosed or, if the machine is not enclosed in a facility, to the nearest part of the automatic teller machine;
 - (2) the nearest entrance or exit of a bank, credit union, or other similar financial institution;
 - (3) the nearest part of an exterior public pay telephone;
 - (4) the nearest part of the structure of a self-service car wash;
 - (5) the nearest part of a self-service fuel pump;
 - (6) the nearest point of a public transportation stop;
 - (7) the nearest part of an entrance or exit of a food establishment, or the closest exterior wall to the place where the solicitation is being conducted;
 - (8) any border of a park.
- (f) In addition to any enforcement action by a peace officer for a violation of this section, any person who is a victim of a solicitation prohibited under Subsection (a), (b), (c), or (d), or who witnesses a violation of Subsection (a), (b), (c), or (d), may file a complaint. Evidence to support a conviction for a violation of this section may include, but is not limited to, testimony of witnesses, video or other electronic recordings of the violation, and other relevant evidence.

Section 67-23. Culpable Mental State.

A culpable mental state is not required for the commission of an offense under this

article and need not be proved.

Section 67-24. Penalty.

- (a) An individual arrested or charged with an offense pursuant to Article II of this Chapter or Sections 58-77 or 58-78 of Chapter 58, will be provided by the City of Longview Municipal Court the opportunity to enter a non-profit program designed or approved by the City of Longview Police Department, with said program's primary goal of obtaining necessary drug, alcohol, psychological, physiological, life skills and employment counseling and assistance, and providing necessary skills and options for the arrested or charged individual to secure needed housing, employment, life skills and assistance.
- (b) If the defendant agrees to participate in and complete the program as described in subsection (a), the defendant's case and all City of Longview Municipal Court cases pending against the defendant shall be abated by the City of Longview Municipal Court until the defendant successfully completes the program or until the City Attorney's Office reports to the court that the defendant refuses to participate in the program or has failed to successfully participate in or successfully complete the program.
- (c) Upon successful completion of the program, and upon the recommendation of the City Attorney, the court shall dismiss the case against the defendant.
- (d) If the defendant fails to successfully participate in or successfully complete the program described in subsection (a) above, the City of Longview Municipal Court will summons the defendant to court enter a plea as to the charges against the defendant, and either place the defendant upon a trial docket, or, upon a plea of guilty or no contest, determine if the defendant is or is not indigent.
- (e) Upon a determination that the defendant is indigent, the Court shall sentence the defendant to perform community service pursuant to the provisions of Chapter 45 of the Texas Code of Criminal Procedure, or, if the defendant is unable to perform community service, may waive the payment of fines and costs pursuant also to the provisions of Chapter 45 of the Texas Code of Criminal Procedure.
- (f) An offense under this section is punishable by a fine not to exceed \$500."

Section 3. That the definition for "Solicit" in Section 67-1 of the Code of Ordinances, City of Longview, Texas, is hereby amended to read as follows

"*Solicit*. The term "solicit" shall mean to offer for sale, attempt to sell, vend, display for sale, or accept orders for any merchandise, goods, or services, or to ask,

beg, or plead, by the spoken, written, or printed word, or other such means of communication, for the purpose of receiving contributions, alms, charity, money, or anything of value from another person, regardless of the solicitor's purpose or intended use of the money or thing of value, and regardless of whether consideration is offered.”

Section 4. That, except as otherwise expressly provided in this ordinance, the provisions of Section 67-1 of the Longview City Code shall remain unchanged and in full force and effect.

Section 5. That Section 67-3 of the Code of Ordinances, City of Longview, Texas, is hereby amended to read as follows:

“Section 67-3. Prohibited conduct.

No person, personally, by agent, or as the agent of another, may engage in, transact, or conduct the business or occupation of door-to-door soliciting, temporary outdoor vending, or charitable, political, or religious soliciting, or otherwise solicit, as herein defined, and:

- (a) make physical contact with the person being solicited unless that person grants permission;
- (b) misrepresent the affiliation of the vendor;
- (c) continue to sell to an individual, or solicit from an individual, once that individual gives notice to the vendor that they do not wish to be sold merchandise by, or solicited by that vendor or solicitor. Notice includes but is not limited to verbal communication that the individual does not wish to be solicited, or a sign or signs prominently displayed on or near the entrance to the business or residence conspicuously stating “NO SOLICITORS”, “NO SOLICITING”, or similar language of notice;
- (d) vend, sell, or solicit at a private residence at any time other than between the hours of 9:00 a.m. to 8:00 p.m., or such other hours posted by the occupant unless a prior invitation from the occupant has been received;
- (e) enter a private residence under false pretenses;

- (f) remain in a private residence or on the premises thereof after the owner or occupant has requested such person to leave; or,
- (g) a mobile food unit shall not conduct business in a residential area, other than events specifically allowed by this Code and permitted through the city.”

Section 6. That subsection (a) to Section 67-4 of the Code of Ordinances, City of Longview, Texas, is hereby amended to read as follows:

“(a) No person shall occupy public property or the public right-of-way in the city for the purpose of vending, selling, distributing, soliciting, or offering for sale any merchandise or services, or for the purpose of charitable, political, or religious solicitation.”

Section 7. That subsection (b) to Section 67-10 of the Code of Ordinances, City of Longview, Texas, is hereby amended to read as follows:

“(b) Any applicant may, within ten business days after the date of the notice provided for in subsection (a) above, submit to the City Manager a written request for a hearing to show cause as to why the permit should be granted or should not be revoked. Such request shall not stay the denial or revocation. A hearing shall be scheduled within ten business days of such request and notice shall be immediately given to all affected parties. The City Manager or the City Manager’s designee may cause the hearing to be conducted solely upon written submissions from the parties.”

Section 8. That subsection (h) to Section 67-12 of the Code of Ordinances, City of Longview, Texas, is hereby amended to read as follows:

“(h) Any religious, political, or charitable solicitation as defined in this chapter, where all of the proceeds are used for religious, political, or charitable

purposes, unless otherwise specifically prohibited in ordinance or by state statute.”

Section 9. That Section 58-77 of the Code of Ordinances, City of Longview, Texas, is hereby amended to read as follows:

“Section 58-77. Sleeping and Lounging.

Sleep – as used in this section shall mean the appearance of the body at rest with consciousness appearing to be suspended.

Lounge – as used in this section shall mean to sit or stand in a relaxed manner more than momentarily.

It is unlawful for any person to sleep or lounge in or upon any public street, alley, highway, sidewalk, or other public property where others tend to walk, run, or otherwise travel upon or use for recreational purposes, within the City of Longview.

It is an exception if the person or persons is specifically permitted to sleep or lounge upon said public property by ordinance or statute, or has been granted permission by a representative of the City of Longview having authority to grant such permission.”

Section 10. That Section 58-78 of the Code of Ordinances, City of Longview, Texas, is hereby amended to read as follows:

“Section 58-78. Camping in City.

Camping – as used in this section shall mean to live outside of a permanent structure in a tent or other temporary lodging.

It is unlawful for any person, family, or other group of persons to camp within the corporate limits of the City of Longview.

It is an exception if the camping occurs on property the camper owns, the camper lives in a permanent structure on the property, the tent or other temporary lodging is not readily visible from the roadway, and the camping is conducted for recreational purposes only.

It is an exception if the person, family, or other group of persons, is specifically

permitted to camp upon said public property by ordinance or statute, or has been granted permission by a representative of the City of Longview having authority to grant such permission.”

Section 11. That Section 58-79 of the Code of Ordinances, City of Longview, Texas, is hereby added to read as follows:

“Section 58-79. Culpable Mental State.

Proof of a culpable mental state is not required for the prosecution of the commission of an offense under this Article and need not be proven.”

Section 12. That the meeting at which this ordinance was passed was conducted in strict compliance with the Texas Open Meetings Act (Texas Government Code Chapter 551).

Section 13. That all ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of such conflict only; provided, however, that the repeal of an ordinance by this ordinance does not affect the prior operation of the ordinance or any prior action taken under it, any obligation or liability previously acquired, accrued, or incurred under such prior ordinance, any violation of the prior ordinance or any penalty, forfeiture, or punishment incurred under said ordinance before its repeal, and any investigation, proceeding, or remedy under said prior ordinance and the penalty, forfeiture, or punishment imposed as a result of such investigation, proceeding, or remedy shall be imposed as if the prior ordinance had not been repealed.

Section 14. That if any section, paragraph, subdivision, clause, phrase or provision of this ordinance is hereafter determined to be invalid or violative of the laws

of the State of Texas or the Constitution of the United States by a court of appropriate jurisdiction, such finding of invalidity shall affect the continued enforcement only of the provision or provisions so determined to be invalid, it being the intent of the City Council of the City of Longview that all other terms and provisions of this ordinance not affected thereby shall remain in full force and effect.

Section 15. That the City Secretary is directed to publish this ordinance in the official newspaper of the City of Longview in compliance with the provisions of Section 4.07 of the City Charter, which publication shall be sufficient if it contains the title of this ordinance and the penalty provided therein for violation hereof.

Section 16. That this ordinance shall be effective immediately upon passage in publication as required by law.

PASSED AND APPROVED this 28th day of September, 2017.

Dr. Andy Mack
Mayor

ATTEST:

Shelly Ballenger
City Secretary

APPROVED AS TO FORM:

Jim Finley
City Attorney

O POLICE HOMELESSNESS & SOLICITATION 9-28-17

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LONGVIEW, TEXAS, PROVIDING FOR APPOINTMENTS, AND REAPPOINTMENTS TO THE LONGVIEW ECONOMIC DEVELOPMENT CORPORATION'S BOARD OF DIRECTORS AND THE PLANING AND ZONING COMMISSION; PROVIDING FOR AN EFFECTIVE DATE FOR SAID APPOINTMENTS; DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION WAS PASSED COMPLIED WITH THE TEXAS OPEN MEETINGS ACT; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City Council has established advisory boards and commissions to provide feedback and recommendations on specific issues; and,

WHEREAS, the City Council provides for appointments, reappointments and chair designations to the various boards and commissions; and,

WHEREAS, there are vacancies on two boards that require City Council action; NOW, THEREFORE,

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

Section 1. That the findings set forth in the preamble to this resolution are hereby in all things approved and adopted.

Section 2. That the City Council of the City of Longview, Texas, does hereby submit the following persons whose names are attached hereto, marked as Exhibit "A" and for all purposes incorporated herein as nominees and confirm their appointment or reappointment for the boards designated on the attached Exhibit "A."

Section 3. That these appointments or reappointments are to be effective immediately; provided, however, that the LEDCO Board of Directors appointments are to be effective October 1, 2017.

Section 4. That the meeting at which this resolution was approved was conducted in strict compliance with the Texas Open Meetings Act, Texas Government Code Chapter 551.

Section 5. That this resolution shall be effective on and after its passage.

PASSED AND APPROVED this 28st day of September, 2017.

Dr. Andy Mack
Mayor

ATTEST:

Shelly Ballenger
City Secretary

APPROVED AS TO FORM:

Jim Finley
City Attorney

R APPOINT LEDCO P&Z 9-28-17

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LONGVIEW, TEXAS, NOMINATING A CANDIDATE TO THE GREGG COUNTY APPRAISAL DISTRICT BOARD OF DIRECTORS; DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION WAS PASSED COMPLIED WITH THE TEXAS OPEN MEETINGS ACT; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the Gregg County Appraisal District is soliciting nominations for the Board of Directors; and,

WHEREAS, local governments may nominate candidates by resolution for the Board of Directors; and,

WHEREAS, the purpose of the Gregg County Appraisal District is to establish appraisals of property within Gregg County; NOW, THEREFORE,

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

Section 1. That the findings set forth in the preamble to this resolution are hereby in all things approved and adopted.

Section 2. That the City Council of the City of Longview, Texas, does hereby submit the following person whose name is attached hereto, marked as Exhibit "A" and for all purposes incorporated herein, as the City of Longview's nominee to the Gregg County Appraisal District Board of Directors.

Section 3. That the meeting at which this resolution was approved was conducted in strict compliance with the Texas Open Meetings Act, Texas Government Code Chapter 551.

Section 4. That this resolution shall be effective on and after its date of passage.

PASSED AND APPROVED this 28th day of September, 2017.

Dr. Andy Mack
Mayor

ATTEST:

Shelly Ballenger
City Secretary

APPROVED AS TO FORM:

Jim Finley
City Attorney

R B&C NOMINEE GCAD BOARD 9-28-17