



City Council Meeting Agenda

5:30 p.m.
May 8, 2014
300 West Cotton Street
Jo Ann Metcalf Municipal Building
City Hall Council Chamber

- I. Call to Order**
- II. Invocation**
- III. Pledge of Allegiance**
- IV. Citizen Comment**
- V. Presentation Items**
 - A. Consider a Proclamation designating May 18 - 24th, 2014 as National EMS Week in Longview – Mayor Jay Dean.
 - B. Project Update of the 2011 Streets Bond Election – Rolin McPhee, P.E., Director of Public Works.
 - C. Presentation of special recognition for Historic Longview Depot – Dietrich Johnson, Liaison for Mayor's Task Force on Passenger Rail.
- VI. Consent Agenda**
 - A. Consider a Resolution authorizing and directing the City Manager or the City Manager's designee to execute any necessary documents for an interlocal agreement with the State of Texas, Department of Information Resources – Jaye Latch, Purchasing Manager. [Pages 4 -7](#)
 - B. Consider a Resolution supporting Gregg County's submission of an application for participation in the ACT Work Ready Communities initiative – Susan Gill, LEDCO Executive Director. [Pages 8 - 10](#)

- C. 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 Haltom Construction of Marshall, Texas, in the amount of \$421,477.05 for the construction of the Alice and New Forest Drive Drainage Improvements Project – Rolin McPhee, P.E., Director of Public Works. [Pages 11 - 14](#)
- D. 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 Excel Utility Construction of Longview, Texas, in the amount of \$530,445.00 for the construction of the 2013 Wastewater System Improvements at Bostic, Pam, Richwood, Leduke, Wood Place and Oden Project – Rolin McPhee, P.E., Director of Public Works. [Pages 15 - 18](#)
- E. 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 David Lawler Construction of Shreveport, Louisiana, in the amount of \$386,264.00 for the construction of the 2013 CDBG Water Improvements at Lane Wells and Niblick Drive Project – Rolin McPhee, P.E., Director of Public Works. [Pages 19 - 22](#)
- F. 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 NE-TEX Construction of New Boston, Texas, in the amount of \$517,400.00 for the construction of the 2014 Chip Seal Project – Rolin McPhee, P.E., Director of Public Works. [Pages 23 - 28](#)
- G. Consider acceptance of the March 31, 2014 Quarterly Investment Report – Angela Coen, Director of Finance. [Pages 29 - 30](#)
- H. Consider an Ordinance providing for a City Marshal and deputy city marshals and setting forth the minimum duties and qualifications of all of said positions – Sally Forbus, Municipal Court Administrator. [Pages 31 - 35](#)
- I. Consider an Ordinance authorizing the conveyance of tax foreclosure property known as East ½ 75.00 feet fronting Gay Street out of a certain Lot, situated in the Alexander Jordan Headright Survey, Gregg County, Texas, as described in deed dated June 4, 1992, from Mary Florence Bohanan Stokes to Adrian Fagan et al, in Volume 2382, Page 231, Official Records of Gregg County, Texas, for the cash sum of \$2,160.00 – Robert Ray, Assistant City Attorney. [Pages 36 - 39](#)
- J. Consider approval of the following minutes: April 24, 2014 – Shelly Ballenger, City Secretary. [Page 40](#)

VII. Zoning – Public Hearing Item

A PUBLIC HEARING will be held to consider application #Z14-04 filed by YSP & Associates, LLC requesting a rezone from Single Family (SF-2) to General Retail (GR) for approximately 0.73 acres of AB 113, J Jackson Survey Tract 5, Section 1 located at 110 Magnolia Lane – Michael Shirley, AICP, City Planner. **THIS ITEM REQUIRES A PUBLIC HEARING.** [Pages 41 - 49](#)

VIII. Action Items

- A. Consider a Resolution denying the proposed rate increase requested by ATMOS Energy – MidTex division on or about February 28, 2014 – Jim Finley, City Attorney. [Pages 50 - 56](#)
- B. Consider a Resolution accepting a donation of 4.318 acres of land from the Humane Society of Northeast Texas for use of the site of the proposed animal shelter – Keith Bonds, Assistant City Manager. [Pages 57 - 60](#)

IX. Items of Community Interest

X. Executive Session Item

Consultation with the City's Attorney(s)---Under TEXAS GOVERNMENT CODE Section 551.071.

Deliberate and consider appraisal submitted by Westco Family Limited Partnership and/or counter-offer/counterproposal from Westco Family Limited Partnership regarding sale of real property interest related to the 4th Street Extension Project. Discuss legal issues relating to pending condemnation, and acquire legal advice from City attorneys regarding evaluation of new appraisal and legal issues relating to the acquisition/condemnation of such real property interest.

City Council may reconvene in public session for action on the above items discussed in a closed meeting or executive session.

XI. 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.

TEXAS DEPARTMENT OF INFORMATION RESOURCES PURCHASING COOP

DESCRIPTION: This item would allow the City of Longview to enter into a cooperative purchasing agreement for the purchase of Information and Communication Technology through the Texas Department of Information Resources, which is an agency of the State of Texas.

Items purchased through the Texas Department of Information Resources are pre-bid and therefore meet all of the competitive purchasing laws.

RECOMMENDED ACTION: Approve the Resolution allowing City of Longview to enter into a cooperative purchasing agreement with Texas Department of Information Resources.

SOURCE OF FUNDS: No Direct Funding needed.

STAFF CONTACT: Jaye Latch, Purchasing Manager
903-237-1324
jlatch@longviewtexas.gov

COUNCIL DATE: May 8, 2014

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LONGVIEW, TEXAS, AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE A COOPERATIVE PURCHASING AGREEMENT WITH TEXAS DEPARTMENT OF INFORMATION RESOURCES; CONDITIONING SAID AUTHORIZATION ON THE RECEIPT OF ALL RELEVANT DOCUMENTS IN A FORM ACCEPTABLE TO THE CITY ATTORNEY; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION WAS PASSED COMPLIED WITH THE TEXAS OPEN MEETINGS ACT; MAKING OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the Texas Department of Information Resources is an agency of the State of Texas; and,

WHEREAS, the Texas Department of Information Resources has negotiated agreements for the purchase of Information and Communication Technology for use by the State of Texas and Texas political subdivisions; and,

WHEREAS, the Texas Department of Information Resources obtained said agreements in compliance with all applicable competitive purchasing laws; and,

WHEREAS, the City of Longview is interested in purchasing items and service for Information and Communication Technology; and,

WHEREAS, there may be other governmental administrative functions, goods or services that the City of Longview wishes to purchase pursuant to contracts that are awarded by the Texas Department of Information Resources in accordance with all applicable competitive purchasing laws; and,

WHEREAS, Section 2054.0565 of the [Texas Government Code](#), Section 791.025 of the Texas Government Code, and Section 271.102 of the Texas Local Government Code authorize the Texas Department of Information Resources and the City of Longview to enter into cooperative purchasing agreements for the purchase of such functions, goods and services; and,

WHEREAS, purchases pursuant to such a cooperative purchasing agreement satisfy all competitive purchasing requirements applicable to the City of Longview; 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 is hereby authorized to negotiate and execute a cooperative purchasing agreement by and between the City of Longview and the Texas Department of Information Resources pursuant to the authority granted by Section 2054.0565 of the [Texas Government Code](#), Section 791.025 of the Texas Government Code, and Section 271.102 of the Texas Local Government Code.

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

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 8th day of May, 2014.

Jay Dean
Mayor

ATTEST

Shelly Ballenger
City Secretary

APPROVED AS TO FORM:

Jim Finley
City Attorney

R PUR AUTHORIZE PURCHASE AGRT TX DEPT OF INFO RESOURCES 05-8-14

SUPPORTING ACT WRC INITIATIVE

| | |
|----------------------------|---|
| DESCRIPTION: | <p>The Longview Economic Development Corporation is proposing that Gregg County apply for recognition as an ACT Work Ready Community. The application requires a resolution of support from a city within the county.</p> <p>The ACT Work Ready Community program helps counties, and by extension cities within those counties, identify the work skills gaps that exist in their area. The program also helps the counties close those gaps through a variety of programs designed to link workforce development to education, align the economic development needs of the community to the region and state, and match citizens to jobs based on their skill levels.</p> |
| RECOMMENDED ACTION: | Approval of the Resolution |
| SOURCE OF FUNDS: | n/a |
| STAFF CONTACT: | Susan Gill, LEDCO Executive Director 903-753-7878 susan@longviewusa.com |
| COUNCIL DATE: | May 8, 2014 |

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LONGVIEW, TEXAS, SUPPORTING GREGG COUNTY'S SUBMISSION OF AN APPLICATION FOR PARTICIPATION IN THE ACT WORK READY COMMUNITIES INITIATIVE; 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 Longview City Council would like to recognize and show support for Gregg County's submission of an application to participate in the ACT Work Ready Communities initiative, hereinafter entitled "ACT WRC application"; and,

WHEREAS, the Longview City Council intends that this resolution be included as part of the documentation submitted with the ACT WRC application; and,

WHEREAS, designation as an ACT Work Ready Community would help Gregg County to be able to identify skills gaps in the Gregg County workforce and quantify the level of skill within the workforce; and,

WHEREAS, the City Council recognizes the importance of a skilled workforce within Gregg County for the economic life of the City of Longview and its citizens; 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 of Longview hereby supports Gregg County's

submission of an application to participate in the ACT Work Ready Communities initiative.

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 immediately from and after its passage and publication as required by law.

PASSED AND APPROVED this 8th of May, 2014.

Jay Dean
Mayor

ATTEST:

Shelly Ballenger
City Secretary

APPROVED AS TO FORM:

Jim Finley
City Attorney

R CM ACT WRC SUPPORT 5-08-14

ALICE AND NEW FOREST DRIVE DRAINAGE IMPROVEMENTS

DESCRIPTION: Consider a Resolution awarding a contract in the amount of \$421,477.05 and authorizing the City Manager or his designee to execute any necessary documents with Haltom Construction of Marshall, TX, for the construction of the referenced project. The following bids were opened on April 15, 2014:

| <u>Bidders</u> | <u>Proposed Amount</u> |
|---|------------------------|
| Haltom Construction ion, Inc. Marshall, TX | \$ 421,477.05 |
| East Texas Bridge Longview, TX | \$ 537,082.00 |
| Longview Bridge and Road Longview, TX | \$ 568,915.00 |

The scope of work includes the construction of 750 linear feet of storm drain pipe, box culvert, inlets, curbs, gutters, and related work at Alice and New Forest Drive and miscellaneous work as necessary to complete the installation.

Wood Engineering has examined the proposals and the qualifications of the low bidder, and recommends that the City award the contract to Haltom Construction of Marshall, TX in the amount of \$421,477.05.

RECOMMENDED ACTION: Passage of Resolution.

SOURCE OF FUNDS: Funding is available from Drainage Funds.

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

COUNCIL DATE: May 8, 2014

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LONGVIEW, TEXAS, ACCEPTING THE BID OF HALTOM CONSTRUCTION, OF MARSHALL, TEXAS, FOR CONSTRUCTION OF THE PROJECT ENTITLED "ALICE AND NEW FOREST DRIVE DRAINAGE IMPROVEMENTS"; AUTHORIZING AND DIRECTING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE ANY DOCUMENTS NECESSARY BETWEEN THE CITY OF LONGVIEW AND HALTOM CONSTRUCTION, FOR THE ABOVE REFERENCED PROJECT; DETERMINING THAT THE CITY COMPLIED WITH ALL APPLICABLE BIDDING REQUIREMENTS IN ACCEPTING SAID BID; 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, the City of Longview desires to begin construction of the project known as "Alice and New Forest Drive Drainage Improvements"; and,

WHEREAS, funding for this project is provided from the City's Drainage Fund; 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 Haltom Construction, of Marshall, Texas, for construction of the project known as "Alice and New Forest Drive Drainage Improvements" in the amount of \$421,477.05 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 Haltom Construction, of Marshall, Texas, in the amount of \$421,477.05.

Section 4. That the City Manager, his 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 Haltom Construction, of Marshall, Texas, for the project known "Alice and New Forest Drive Drainage Improvements".

Section 5. 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 6. 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 7. That this resolution shall become effective from and after its passage.

PASSED AND APPROVED this 8th day of May, 2014.

Jay Dean
Mayor

ATTEST:

Shelly Ballenger
City Secretary

APPROVED AS TO FORM:

Jim Finley
City Attorney

R PW DRAINAGE IMPROVEMENTS ALICE AND NEW FOREST 5-8-14

2013 WASTEWATER SYSTEM IMPROVEMENTS AT BOSTIC, PAM, RICHWOOD, LEDUKE, WOOD, AND ODEN

DESCRIPTION: Consider a Resolution awarding a contract in the amount of \$530,445.00 to Excel Utility Construction of Longview, Texas, for the construction of the referenced project. The following bids were opened on April 15, 2014:

| Bidder | Amount |
|--|--------------|
| Excel Utility Construction, Inc. Longview, TX | \$530,445.00 |
| Wicker Construction Shreveport, LA | \$531,111.00 |
| Haltom Construction Marshall, TX | \$568,916.25 |

The scope of work includes the construction of 4,100 linear feet of 8" sewer main and related work at Bostic, Pam, Richwood, LeDuke, Wood Place and Oden Streets; and miscellaneous work as necessary to complete the installations.

It is recommended that the City Council award a contract to Excel Utility Construction in the amount of \$534,445.00. Wood Engineering has examined the bids and the qualifications of the low bidder, and recommends that the City award the contract to Excel Utility Construction in the amount of \$530,445.00. Staff concurs with their recommendation.

RECOMMENDED ACTION: Passage of the Resolution.

SOURCE OF FUNDS: Funding is available from the Utility CIP Fund.

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

COUNCIL DATE: May 8, 2014

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 "2013 WASTEWATER SYSTEM IMPROVEMENTS AT BOSTIC, PAM, RICHWOOD, LEDUKE, WOOD PLACE AND ODEN"; AUTHORIZING AND DIRECTING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE ANY DOCUMENTS NECESSARY BETWEEN THE CITY OF LONGVIEW AND EXCEL UTILITY CONSTRUCTION, FOR THE ABOVE REFERENCED PROJECT; DETERMINING THAT THE CITY COMPLIED WITH ALL APPLICABLE BIDDING REQUIREMENTS IN ACCEPTING SAID BID; 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, the City of Longview desires to begin construction of the project known as "2013 Wastewater System Improvements at Bostic, Pam, Richwood, LeDuke, Wood Place and Oden"; and,

WHEREAS, this project provides for the construction of approximately 4,100 feet of 8-inch sewer main and related work at Bostic, Pam, Richwood, LeDuke, Wood Place and Oden Streets; and,

WHEREAS, funding for this project is provided from the from the Wastewater Collection Division's annual budget; 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, for construction of the project known as “2013 Wastewater System Improvements at Bostic, Pam, Richwood, LeDuke, Wood Place and Oden” in the amount of \$530,445.00 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, in the amount of \$530,445.00.

Section 4. That the City Manager, his 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, for the project known as “2013 Wastewater System Improvements at Bostic, Pam, Richwood, LeDuke, Wood Place and Oden”.

Section 5. 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 6. 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 7. That this resolution shall become effective from and after its passage.

PASSED AND APPROVED this 8th day of May 2014.

Jay Dean
Mayor

ATTEST:

Shelly Ballenger
City Secretary

APPROVED AS TO FORM:

Jim Finley
City Attorney

R PW BID 2013 WASTEWATER IMPROVMENTS BOSTIC ECT 4-8-14

2013 CDBG WATER SYSTEM IMPROVEMENTS AT LANE WELLS AND NIBLICK DRIVES

DESCRIPTION: Consider a Resolution awarding a contract in the amount of \$386,264.00 to David Lawler Construction, LLC, of Shreveport, LA, for the construction of the referenced project. The following bids were opened on April 22, 2014:

| Bidder | Amount |
|---|--------------|
| David Lawler Construction Shreveport, LA | \$386,264.00 |
| Excel Utility Construction, Inc. Longview, Texas | \$435,422.00 |
| K. R. Black Construction Alto, Texas | \$517,314.00 |
| 7-H Construction Company Tyler, Texas | \$553,706.00 |

The scope of work includes the construction of 5,600 linear feet of 8" and 6" water mains and related work at Lane Wells and Niblick Drives and miscellaneous work as necessary to complete the installations.

Hayes Engineering has examined the bids and the qualifications of the low bidder, and recommends that the City award the contract to David Lawler Construction in the amount of \$386,264.00. Staff concurs with their recommendation.

RECOMMENDED ACTION: Passage of the Resolution.

SOURCE OF FUNDS: Funding is available from the Community Development Block Grant and CIP Utility.

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

COUNCIL DATE: May 8, 2014

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LONGVIEW, TEXAS, ACCEPTING THE BID OF DAVID LAWLER CONSTRUCTION, INC. OF SHREVEPORT, LOUISIANA, FOR CONSTRUCTION OF THE PROJECT ENTITLED "2013 CDBG WATER IMPROVEMENTS AT LANE WELLS AND NIBLICK"; AUTHORIZING AND DIRECTING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE ANY DOCUMENTS NECESSARY BETWEEN THE CITY OF LONGVIEW AND DAVID LAWLER CONSTRUCTION, INC., FOR THE ABOVE REFERENCED PROJECT; DETERMINING THAT THE CITY COMPLIED WITH ALL APPLICABLE BIDDING REQUIREMENTS IN ACCEPTING SAID BID; 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, the City of Longview desires to begin construction of the project known as "2013 CDBG Water Improvements at Lane Wells and Niblick"; and,

WHEREAS, this project provides for the construction of approximately 5,600 feet of 8" and 6" water mains and related work at Lane Wells and Niblick Drives; and,

WHEREAS, funding for this project is provided from the from the Community Development Block Grant and Water Distribution Division's Annual Budget;

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 David Lawler Construction, Inc. of Shreveport, Louisiana, for construction of the project known as “2013 CDBG Water Improvements at Lane Wells and Niblick” in the amount of \$386,264.00 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 David Lawler Construction, Inc. of Shreveport, Louisiana, in the amount of \$386,264.00.

Section 4. That the City Manager, his 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 David Lawler Construction, Inc. of Shreveport, Louisiana, for the project known as “2013 CDBG Water Improvements at Lane Wells and Niblick”.

Section 5. 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 6. 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 7. That this resolution shall become effective from and after its passage.

PASSED AND APPROVED this 8th day of May, 2014.

Jay Dean
Mayor

ATTEST:

Shelly Ballenger
City Secretary

APPROVED AS TO FORM:

Jim Finley
City Attorney

R PW 2013 CDBG WATER IMPROVEMENTS AT LANE WELLS AND NIBLICK 5-8-14

2014 CHIP SEAL

DESCRIPTION:

Consider a Resolution awarding a contract in the amount of \$517,400.00 to NE-TEX Construction Equipment Company of New Boston, Texas, for the construction of the referenced project. The following bids were opened on April 24, 2014:

| Bidder | Amount |
|--|--------------|
| NE-TEX Construction New Boston, TX | \$517,400.00 |
| Intermountain Slurry Seal North Salt Lake, UT | \$612,059.02 |
| Lone Star Equipment Co. Henderson, TX | \$642,200.00 |
| Reynolds and Kay Tyler, TX | \$643,400.00 |

This is a part of our annual maintenance that consists of the asphalt seal coating of approximately 220,000 square yards of streets citywide. The streets were selected using the Pavement Management Program, which selects the streets needing annual maintenance based upon actual field investigation, testing data and according to the Pavement Management Policy as adopted by City Council. The streets are:

| STREET | LIMITS |
|-----------------|--------------------------------|
| 15TH ST. | ASAFF ST.-LATHAM LN. |
| 1ST ST. | CONWAY ST.-DEAD END |
| 2ND ST. S. | COTTON ST. E.-COLLEGE ST. E. |
| 7TH ST. | PINE ST.-GREENWOOD ST. |
| ABE ST. | 2ND ST.-3RD ST. N. |
| AIRLINE RD. | HAWKINS PK. E.-LOOP 281 E. |
| ALLEY E. | ROSEWOOD CT.-ALLEY |
| AMERICA DR. | FREEDOM DR.-EALINE ST. |
| AMERICAN LEGION | MARSHALL AV. E.-GREGG AV. |
| ANDREA ST. | DEAD END-CHERYL ST. W. |
| AVENUE A N. | BERKLEY ST. E.-MARSHALL AV. W. |
| BENNY ST. | MEADOWVIEW DR.-MARSHALL AV. W. |
| BODIE ST. | 7TH ST.-CORNER |
| BOSTIC DR. | GREEN ST. S.-CURVE |
| BUCKNER ST. | HOPE DR. E.-EVERGREEN ST. |
| CANTERBURY BL. | HERITAGE BL.-ASHBOURNE LN. |
| CAPP ST. | FAGAN ST.-BROWN ST. |
| CENTER ST. S. | SOUTH ST. E.-SABINE ST. |
| CHAD ST. | FRANKIE LN.-CIRCLE |
| CHERRY | PINE TREE TO DEAD END |
| COURT ST. S. | SOUTH ST.-HOPKINS ST. |
| CREEKSIDE DR. | SILVER FALLS RD.-DEAD END |
| DALSTON AV. | BUCHANAN AV.-RIDGELEA AV. |
| DANVILLE CT. | CIRCLE-KEIGHLEY DR. |
| DAWN CI. | ENTIRE CIRCLE |
| DONALD DR. | HARRISON RD. W.-PINE BLUFF RD. |

| | |
|-----------------|--------------------------------|
| DUMAS RD. | RAMO ST.-STEWART CHANDLER RD. |
| EASTGATE DR. | CROCKETT ST.-CIRCLE |
| EDWIN ST. | MCARTHUR DR.-GREEN ST |
| ELDERVILLE RD. | ROLLINS ST.-ACCESS RD |
| ELGIN ST. | BRANCH ST. E.-VINEWOOD LN. |
| FAIRVIEW DR. | ENTIRE LOOP |
| FLANAGAN DR. | RICHARDSON ST.-BIRDSONG ST. W. |
| FLANAGAN DR. | JEWEL DR.-GARFIELD DR. |
| FLANAGAN DR. | AVALON AV. W.-ISGREN DR. |
| FOREST SQ. | DEAD END-MCCANN RD. |
| FRANCES DR. | DIANE DR.-LARRY DR. |
| FRENCH DR. | ALTA ST.-LINDA KAYE DR. |
| GENE DR. | NIKKI DR.-BLAKE DR. |
| GIBSON RD. | COTTON ST. E.-CITY LIMITS |
| GILMOUR TE. | LETOURNEAU DR.-ESTES PK. |
| GRAND AV. E. | PINE TREE RD.-AVENUE C |
| GRAND AV. W. | CAMERON ST. N.-PINE TREE RD. |
| GRIGSBY ST. | COTTON ST. W.-SOUTH ST. W. |
| GROVE ST. | GREEN ST. N.-1ST ST. |
| HARRELL AV. | LEONA ST.-JANE ST. |
| HENDERSON ST. | 1ST ST. N.-3RD ST. N. |
| HOFFMAN AV. | BIRDSONG ST. E.-GLENN DR. E. |
| HOSKINS ST. | COTTON ST. E.-COLLEGE ST |
| IMPERIAL CI. | SUZANNE DR.-DEAD END |
| INSTITUTE DR. | EVELYN DR.-HARMON DR. |
| JENNY ST. | GILMER RD.-BENNY ST. |
| JEWEL DR. | FLANAGAN DR.-PLILER ST. W. |
| JOSEPH CI. | CIRCLE-MCCANN RD. |
| KIOWA CT. | MOHAWK ST.-CIRCLE |
| LAKE DR. | PARKVIEW ST.-DALE ST. |
| LAKESWOOD DR. | MILL RUN DR.-OVERLOOK DR. |
| LAKESWOOD DR. | OVERLOOK DR.-FAY ST. |
| LANGSTON LN. | CHEROKEE ST.-AVENUE A S. |
| LEOTA ST. | ALPINE-MARSHALL AV. E. |
| LIBERTY LN. | DEAD END-TIFFANY LN. |
| LOIS LN. | DEAD END-PAGE RD. |
| LOMOND ST. | MCCANN RD.-HIGH ST. N. |
| LOOKOUT CT. | CIRCLE-BLUE RIDGE PK. |
| LOUISIANA ST. | ALPINE RD.-JANE ST. |
| MEADOWBROOK DR. | MIAMI DR.-MCCANN RD. |
| MILLIE ST. | 12TH ST.-13TH ST. |
| MONTCLAIR ST. | MCCANN RD.-MONTCLAIR CI. |
| MYRTLE ST. | RODDEN DR.-JULIEANNA DR. |
| NORMANDY CI. | CIRCLE-LEDUKE BL. |
| NORTHCUTT AV. | MCCANN RD.-COURT ST. N. |
| NORTHCUTT AV. | HIGH ST. N.-CENTER ST. N. |
| PADON ST. | 4TH ST.-8TH ST. |
| PAR CT. | CIRCLE-BEN HOGAN DR. |
| PERKINS ST. | YOUNG ST.-OAKDALE ST. |
| PINEBROOK PL. | LEOTA ST.-CORNER |
| PRESTON DR. | H.G. MOSLEY PK.-GILMER RD. |
| PROWLER ST. | MOBILE DR.-HARRISON RD. W. |
| RICHARDSON ST. | CALDWELL ST.-BAXTER AV. |
| RUSSELL ST. | 2nd ST.-7TH ST. |
| SANDIFER ST. | 6TH ST.-7TH ST. |
| WALTER ST. | TRYON RD.-MOHAWK ST. |

Public Works has examined the bids and the qualifications of the low bidder, and recommends award of the contract to NE-TEX Construction in the amount of \$517,400.00.

RECOMMENDED ACTION: Passage of Resolution.

SOURCE OF FUNDS: Funding is available from the General Fund.

STAFF CONTACT:

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

COUNCIL DATE:

May 8, 2014

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LONGVIEW, TEXAS, ACCEPTING THE BID OF NE-TEX CONSTRUCTION, LLC, OF NEW BOSTON, TEXAS, FOR CONSTRUCTION OF THE PROJECT ENTITLED "2014 CHIP SEAL"; AUTHORIZING AND DIRECTING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE ANY DOCUMENTS NECESSARY BETWEEN THE CITY OF LONGVIEW AND NE-TEX CONSTRUCTION, LLC FOR THE ABOVE REFERENCED PROJECT; DETERMINING THAT THE CITY COMPLIED WITH ALL APPLICABLE BIDDING REQUIREMENTS IN ACCEPTING SAID BID; 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, the City of Longview desires to begin construction of the project known as "2014 Chip Seal"; and,

WHEREAS, this project provides for the asphalt overlay of approximately 220,000 square yards of street citywide; and,

WHEREAS, funding for this project is provided from the General Fund;
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 NE-TEX Construction, LLC, of New Boston, Texas, for construction of the project known as "2014 Chip Seal" in the amount

of \$517,400.00 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 NE-TEX Construction, LLC, of New Boston, Texas, in the amount of \$517,400.00.

Section 4. That the City Manager, his 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 NE-TEX Construction, LLC, of New Boston, Texas, for the project known as "2014 Chip Seal".

Section 5. 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 6. 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 7. That this resolution shall become effective from and after its passage.

PASSED AND APPROVED this 8th day of May, 2014.

Jay Dean
Mayor

ATTEST:

Shelly Ballenger
City Secretary

APPROVED AS TO FORM:

Jim Finley
City Attorney

R PW BID 2014 CHIP SEAL 5-8-14

INVESTMENT REPORT FOR QUARTER ENDING MARCH 31, 2014

DESCRIPTION: The Investment Report for the quarter ending March 31, 2014 is presented as required by the Public Funds Investment Act.

The City's investments for the quarter were in compliance with the City's investment Policy and the Public Funds Investment Act. The City had investments in Texpool, Texas Class Investment Pool and Certificate of Deposits.

Quarter Ending March 31, 2014

| | | | | | |
|---------|---------------------------|--------|--|--|--|
| Texpool | \$ 3,822,790 | | | | |
| | Ending Yield | 0.03% | | | |
| | Weighted Average Maturity | 1 Days | | | |
| | Interest Earned | \$281 | | | |

| | | | | | |
|-------------|---------------------------|---------|--|--|--|
| Texas Class | \$ 7,208,214 | | | | |
| | Ending Yield | 0.10% | | | |
| | Weighted Average Maturity | 1 Days | | | |
| | Interest Earned | \$4,649 | | | |

Certificate of Deposits \$42,697,661

| | |
|-----------------|----------|
| Ending Yields | |
| 12 Months | 0.62% |
| 15 Months | 0.54% |
| 18 Months | 0.30% |
| 18 Months | 0.61% |
| 24 Months | 0.56% |
| 24 Months | 0.64% |
| 24 Months | 0.57% |
| 24 Months | 1.02% |
| 30 Months | 0.73% |
| 30 Months | 1.12% |
| 36 Months | 0.88% |
| Interest Earned | \$68,106 |

Texpool is a local government investment pool. The primary objectives of the pool are to preserve capital and protect principal, maintain sufficient liquidity, provide safety of funds and investments, diversify to avoid unreasonable or avoidable risks, and maximize the return on the pool. The pool seeks to maintain a \$1.00 value per share as required by the Texas Public Funds Investment Act. Texpool investments consist exclusively of U.S. Government securities, repurchase agreements collateralized by U.S. Government securities, and AAA-rated no-load money market mutual funds. Texpool is rated AAAM by Standard & Poor's, the highest rating a

local government investment pool can achieve. The weighted average maturity of the portfolio is limited to 60 days calculated using the reset date for variable rate notes ("VRNs") and 90 days or fewer using the final maturity date for VRNs, with the maximum maturity for any individual security in the portfolio not exceeding 397 days for fixed rate securities and 24 months for VRNs.

Through our depository bank, Southside Bank, city funds are in an interest bearing account, with pledged securities for collateral. Per the depository contract, interest is earned thirty five basis points on the average daily balance.

RECOMMENDED ACTION: Receive written investment report. No formal action required.

STAFF CONTACT: Angela Coen, Director of Finance
903-239-5521
acoen@ci.longview.tx.us

COUNCIL DATE: May 8, 2014

CREATE THE OFFICE OF CITY MARSHAL

| | |
|----------------------------|---|
| DESCRIPTION: | <p>Consider an Ordinance providing for a City Marshal and Deputy City Marshals and setting forth the minimum duties and qualifications of said positions. The functions of the warrant officers are to be transferred from the Police Department to the Municipal Court. In order to accomplish this, a new law enforcement agency must be created. The Texas Commission for Law Enforcement recommends that the agency be that of City Marshall and requires that the agency be created by city ordinance as one step in the transfer process.</p> <p>There is no addition of personnel. The three existing warrant officer positions will be converted to a City Marshal and two Deputy City Marshals under the direction of the Court Administrator. This structure best serves the interest of the Court in service to the public, streamlines the supervision and administration of the unit function to concentrate on performance goals, and is more cost effective.</p> |
| RECOMMENDED ACTION: | Approval |
| SOURCE OF FUNDS: | Transfer of funds from 017 to 005 General Fund |
| STAFF CONTACT: | Sally Forbus, Court Administrator 903-239-5508 sforbus@longviewtexas.gov |
| COUNCIL DATE: | May 8, 2014 |

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LONGVIEW, TEXAS, ADDING A NEW SECTION 28-24 TO CHAPTER 28 OF THE CODE OF ORDINANCES, CITY OF LONGVIEW, TEXAS; CREATING THE OFFICE OF CITY MARSHAL; PROVIDING FOR THE APPOINTMENT OF SAME; PROVIDING FOR THE APPOINTMENT OF DEPUTY CITY MARSHALS; SETTING FORTH THE DUTIES AND QUALIFICATIONS OF SAID CITY MARSHAL AND DEPUTIES; FINDING THAT THE MEETING AT WHICH THIS ORDINANCE WAS APPROVED COMPLIED WITH THE TEXAS OPEN MEETINGS ACT; PROVIDING FOR THE REPEAL OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE SEVERABILITY OF THE PROVISIONS HEREOF; MAKING OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, Section 7.01 of the Longview City Charter authorizes the City Council to create departments, offices, or agencies of the City and prescribe the functions of same; and,

WHEREAS, the City Council of the City of Longview, Texas, wishes to establish the office of City Marshal in order to provide peace officer functions needed for the efficient operation of the Longview Municipal Court and the enforcement of the court's orders; 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 there is hereby added to Chapter 28 of The Code of

Ordinances, City of Longview, Texas, a new Section 28-24, said section to read as follows:

“Sec. 28-24. Office of City Marshal created; appointment; deputies; duties; qualifications.

(a) There is hereby created the office of City Marshal of the city.

(b) The City Marshal shall be appointed by the City Manager and hold office at the will of the City Manager.

(c) The City Manager shall have the authority to appoint one or more deputy city marshals, such deputy city marshal or deputy city marshals to hold office at the will of the City Manager.

(d) The City Marshal or any deputy city marshal shall execute process issued from the municipal court, shall assist the City Attorney or the City Attorney's designee, when so required, in the discovery of testimony and evidence in all cases prosecuted in the municipal court, shall execute warrants, *capias pro fine*, and other orders of the municipal court as permitted by law and as directed by the municipal court, shall effect arrests as permitted by law and as appropriate to enforce the orders of the municipal court, and shall perform such other duties as the municipal court may reasonably require.

(e) The City Marshall and each deputy city marshal, if any, shall be licensed as a peace officer in the State of Texas and shall possess such other qualifications as the City Manager may reasonably require.”

Section 3. That the City Council finds that the meeting at which this ordinance was passed was conducted in strict compliance with the provisions of the Texas Open Meetings Act (Texas Government Code Chapter 551).

Section 4. That all ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extend 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 5. 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 6. That this ordinance shall become effective immediately from and after its passage.

PASSED AND APPROVED this 8th day of May, 2014.

Jay Dean
Mayor

ATTEST:

Shelly Ballenger
City Secretary

APPROVED AS TO FORM:

Jim Finley
City Attorney

O MUNI CRT MARSHAL CREATED 5-8-14

SALE OF TAX FORECLOSURE PROPERTY AT 1429 GAY

DESCRIPTION: The proposed Ordinance would authorize the sale of a tax foreclosure property consisting of a single lot with a street address of 1429 Gay Street and located near the intersection of Gay Street and 13th Street (north of Cotton Street and south of the railroad right-of-way).

According to information on the Gregg County Appraisal District (GCAD) website, there are no improvements currently located on the property. GCAD information also indicates that the property was struck off to the City in 2013 and that the potential buyer owns the adjacent lot immediately to the west as well as the residential lot immediately to the south.

The ordinance authorizes the sale of the property for the cash sum of \$2,160.00. This sum would pay all back taxes due on the property and exceeds the appraised value assigned to the property by the Gregg County Appraisal District.

RECOMMENDED ACTION: Approval of the Ordinance

SOURCE OF FUNDS: not applicable

STAFF CONTACT: Robert Ray, Assistant City Attorney
903-237-1091
r-ray@longviewtexas.gov

COUNCIL DATE: May 8, 2014

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LONGVIEW, TEXAS, AUTHORIZING THE CONVEYANCE OF TAX FORECLOSURE PROPERTY KNOWN AS EAST ½ 75.00 FEET FRONTING GAY STREET OUT OF A CERTAIN LOT, SITUATED IN THE ALEXANDER JORDAN HEADRIGHT SURVEY, GREGG COUNTY, TEXAS, AS DESCRIBED IN DEED DATED JUNE 4, 1992, FROM MARY FLORENCE BOHANAN STOKES TO ADRIAN FAGAN ET AL, IN VOLUME 2382, PAGE 231, OFFICIAL RECORDS OF GREGG COUNTY, TEXAS (ACCOUNT NO. 34725), FOR THE CASH SUM OF \$2,160; FINDING THAT THE MEETING AT WHICH THIS ORDINANCE WAS APPROVED COMPLIED WITH THE OPEN MEETINGS ACT; MAKING OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, a certain parcel of land known as East ½ 75.00 feet fronting Gay Street out of a certain Lot, situated in the Alexander Jordan Headright Survey, Gregg County, Texas, as described in deed dated June 4, 1992, from Mary Florence Bohanan Stokes to Adrian Fagan et al, in Volume 2382, Page 231, Official Records of Gregg County, Texas (Account No. 34725) was offered for sale at a public auction pursuant to a judgment of foreclosure of the County Court at Law #2 in Cause No. 20,006-CCL#2, said cause being a delinquent tax suit; and,

WHEREAS, this parcel of land did not receive a sufficient bid as set by law and was struck off to the City of Longview (the "City") as Trustee pursuant to Section 34.01 (c) of the Texas Property Tax Code; and,

WHEREAS, a potential buyer of the property has come forward; and,

WHEREAS, it is to the benefit of all the taxing entities involved that the property be returned to their respective tax rolls; NOW, THEREFORE,

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

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

Section 2. That the Mayor be and is hereby directed and authorized to execute the deed and any and all documents necessary to convey the hereinabove described real property to Keven Chumley for and in consideration of the cash sum of \$2,160.00, said money to be distributed pursuant to Chapter 34 of the Texas Property Tax Code.

Section 3. That the meeting at which this ordinance 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 ordinance shall become effective immediately from and after its passage.

PASSED AND APPROVED this 8th day of May, 2014.

Jay Dean
Mayor

ATTEST:

Shelly Ballenger
City Secretary

APPROVED AS TO FORM:

Jim Finley
City Attorney

O CA TAX FORECLOSURE 1429 GAY 5-8-14

CONSIDER APPROVAL OF THE FOLLOWING MINUTES

April 24, 2014

Rezone from Single Family (SF-2) to General Retail (GR) for approximately 0.73 acres of AB 113, J. Jackson Survey, Tract 5, Section 1 located at 110 Magnolia Lane

| | |
|----------------------------|---|
| DESCRIPTION: | A PUBLIC HEARING will be held to consider application #Z14-04 filed by YSP & Associates, LLC requesting a rezone from Single Family (SF-2) to General Retail (GR) for approximately 0.73 acres of AB 113, J. Jackson Survey, Tract 5, Section 1 located at 110 Magnolia Lane. |
| RECOMMENDED ACTION: | Staff recommends approval. Planning & Zoning Commission recommends Approval. (8-0) |
| STAFF CONTACT: | Michael R. Shirley, AICP, City Planner 903-237-1059 mshirley@LongviewTexas.gov |
| COUNCIL DATE: | May 8, 2014 |

APPLICATION # Z14-04

STAFF REPORT

May 8, 2014

APPLICANT: YSP & Associates LLC
LOCATION: Approximately 0.73 acres of AB 113, J Jackson Survey Tract 5, Section 1 located at 110 Magnolia Lane.
REQUEST: From Single Family (SF-2) to General Retail (GR).

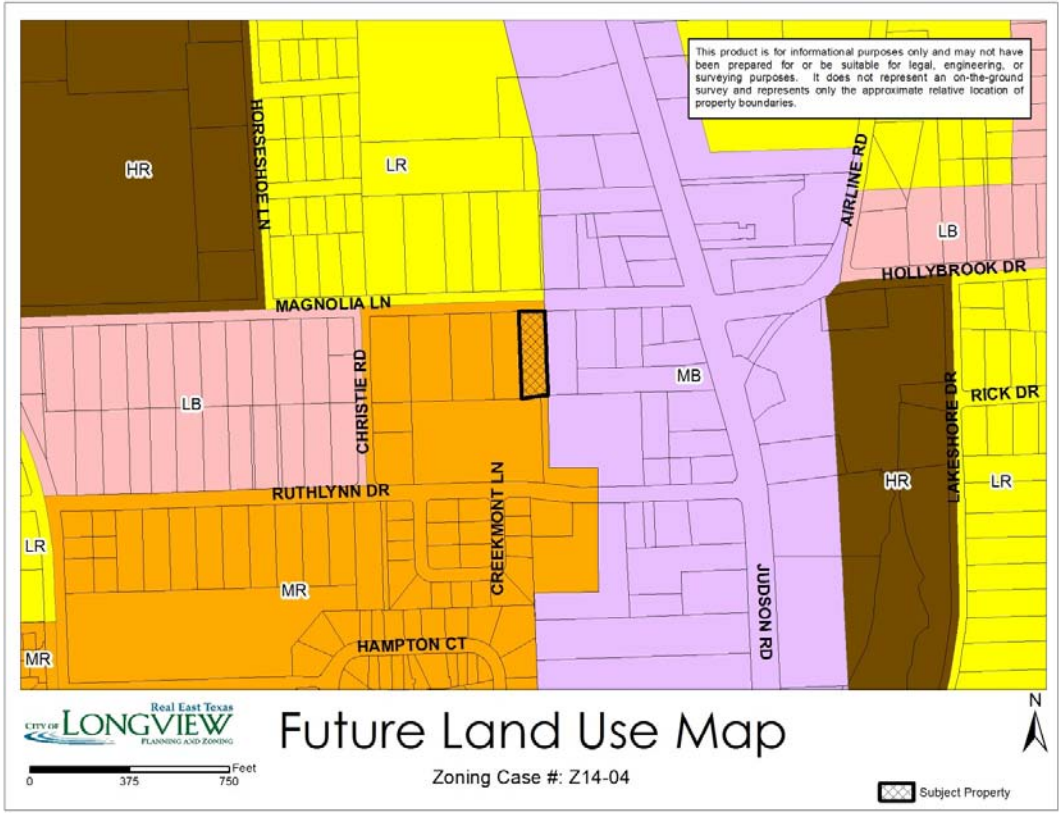
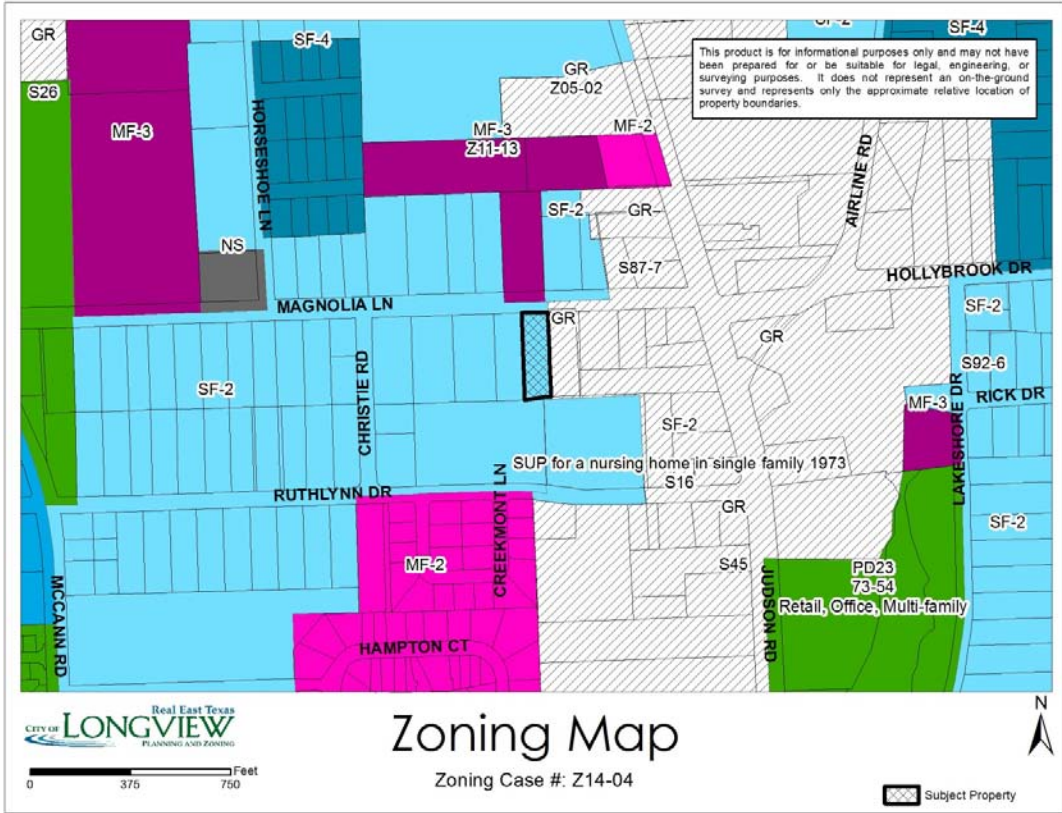
| | <u>ZONING</u> | <u>LAND USE</u> |
|----------------|----------------------|--|
| SUBJECT PARCEL | SF-2 | Single Family Home |
| NORTH | MF-3 & SF-2 | Apartments (under construction) & Single Family Homes |
| SOUTH | SF-2 | Nursing Home |
| WEST | SF-2 | Vacant & Single Family Homes |
| EAST | GR | Single Family Homes |

COUNCIL DISTRICT:
District 6 – Councilman Sidney Allen

FUTURE LAND USE:
The Comprehensive Plan designates this area for Medium Density Residential.

STAFF COMMENTS:
The applicant is requesting a rezone from Single Family (SF-2) to General Retail (GR) to make the property more marketable for retail space. The applicant recently purchased this property and owns the properties to the east. Construction will begin soon to widen Magnolia Lane from two lanes to four lanes. Staff finds the proposed zoning change is consistent with the comprehensive plan and the surrounding uses.

STAFF RECOMMENDATION:
Staff recommends **approval** of this request.







ORDINANCE NO. _____

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF LONGVIEW, TEXAS, ORDINANCE NO. 96, AS AMENDED, WHICH SAID ORDINANCE ADOPTS THE ZONING REGULATIONS, USE DISTRICTS, AND A ZONING MAP IN ACCORDANCE WITH A COMPREHENSIVE PLAN, BY CHANGING THE ZONING AND CLASSIFICATION OF THE FOLLOWING DESCRIBED PROPERTY, TO-WIT: THAT APPROXIMATELY 0.73 ACRES OF AB 113, J. JACKSON SURVEY, TRACT 5, SECTION 1 LOCATED AT 110 MAGNOLIA LANE BE REZONED FROM SINGLE FAMILY (SF-2) TO GENERAL RETAIL (GR); FINDING THAT THE PLANNING AND ZONING COMMISSION MEETING AND THE CITY COUNCIL MEETING AT WHICH THIS ORDINANCE PASSED COMPLIED WITH THE OPEN MEETINGS ACT; PROVIDING THAT VIOLATIONS OF THIS ORDINANCE SHALL BE SUBJECT TO THE SAME PENALTIES AND ENFORCEMENT AS VIOLATIONS OF THE ZONING ORDINANCE OF THE CITY OF LONGVIEW, INCLUDING WITHOUT LIMITATION A FINE OF UP TO \$2,000.00 PER VIOLATION; REPEALING OTHER PROVISIONS IN CONFLICT HEREWITH; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR SEVERABILITY OF THE PROVISIONS HEREOF; MAKING OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City Planning and Zoning Commission of the City of Longview, Texas, and the City Council of the City of Longview, Texas, in compliance with the Charter of the City of Longview and the State laws in reference to the Zoning Ordinance regulations of the zoning map, have given requisite notices by publication and otherwise, and after holding due hearings and affording a full and fair hearing to all property owners, generally and to persons interested, situated in the affected area and in the vicinity thereof, the City Council of the City of Longview, Texas, being of the opinion that the zoning changes should be made as set forth herein; NOW,

THEREFORE,

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

Section 1. That the basic Zoning Ordinance of the City of Longview, Texas, Ordinance No. 96, of the Ordinance of the City as amended, be, and the same is hereby amended insofar as the property herein described is concerned, and such property shall be classified and placed into the use district hereinafter set forth and be subject to the provisions of said ordinance generally, and the official zoning map of said city, is hereby amended and corrected so that the following described real property, to-wit: that approximately 0.73 acres of AB 113, J. Jackson Survey, Tract 5, Section 1 located at 110 Magnolia Lane be rezone from Single Family (SF-2) to General Retail (GR).

Section 2. The City Planner is hereby directed to correct the Official Zoning District Maps in the office of the City Secretary, the Building Inspector and the City Planner to reflect the herein changes in zoning.

Section 3. That in all other respects the use of the herein above-described property shall be subject to all the applicable regulations of the Zoning Ordinance of the City of Longview, as amended.

Section 4. That both the Planning and Zoning Commission meeting and the City Council meeting at which this ordinance was approved were in all things conducted in strict compliance with the Texas Open Meetings Act, Texas Government Code Chapter 551.

Section 5. That this ordinance is adopted in accordance with Chapter 211

of the Texas Local Government Code.

Section 6. That violations of this ordinance shall be subject to such penalties and enforcement as provided for violations of the City of Longview Zoning Ordinance (Ordinance No. 96 of the City of Longview, Texas, as amended).

Section 7. 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 8. That if any section, paragraph, subdivision, clause, subsection, phrase, sentence, or other provision of this ordinance shall be judged invalid or held unconstitutional, the same shall not affect the validity of this ordinance as a whole or any part or provisions thereof other than the part so decided to be invalid or unconstitutional.

Section 9. 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 thereof.

Section 10. That this ordinance shall be effective immediately from and after its passage and publication as required by law.

PASSED AND APPROVED this 8th day of May, 2014.

Jay Dean
Mayor

ATTEST:

Shelly Ballenger
City Secretary

APPROVED AS TO FORM:

Jim Finley
City Attorney

O P&Z Z14-04 5-8-14

DENIAL OF ATMOS ENERGY CORPORATION, MID-TEX DIVISION'S (ATMOS) REQUEST TO INCREASE ITS REVENUE AND CHANGE ITS RATES UNDER THE RATE REVIEW MECHANISM

DESCRIPTION:

The City is a member of the Atmos Texas Municipalities (ATM). The ATM group was organized by a number of municipalities served by Atmos and has been represented by the law firm of Herrera & Boyle, PLLC (through Mr. Alfred R. Herrera). On February 28, 2013, Atmos initiated a ratemaking proceeding with cities in the coalition known as the Atmos Texas Municipalities (ATM) by submitting an application to increase its revenue by about \$45.6 million and to change its rates to collect that increase in revenue. An increase of \$45.6 million represents an increase of about 9.2% in annual base-rate revenue.

The increase for an average customer is as follows:

Residential Customer: \$2.02/month (9.96%) in base rates.

Commercial Customer: \$2.16/month (10.16%) in base rates.

Industrial/Transportation Customer: \$53.65/month (10.29 %) in base rates.

ATM retained the law firm of Herrera & Boyle, PLLC (H&B) as Special Counsel and the consulting firm of Utilitech, Inc. (Utilitech) to review Atmos' filing. After an extensive review of Atmos' request to increase its revenue and change its rates, on about April 10, 2014, ATM's Special Counsel and consultants concluded Atmos merited an increase of no more than about \$26.6 million. ATM's Special Counsel and consultants engaged in good-faith negotiations with Atmos to attempt to reach a settlement of Atmos' proposed increase, but those negotiations failed to produce an agreement.

At this juncture, the ATM cities' options are as follows:

Option 1. To deny Atmos' requested increase and approve no increase;

Option 2. To deny Atmos' requested increase and approve an increase of no more than \$26.6 million, based on ATM's consultants' preliminary report; or

Option 3. To take no action and allow Atmos' proposed increase of \$45.6 million and its related rates to go into effect.

Note that under Option 1 and Option 2, Atmos has the

right to appeal the ATM cities' decisions to the Railroad Commission of Texas and pending such an appeal has the right to implement its proposed increase of \$45.6 million effective June 1, 2014, subject to refund if the Commission's review later finds a lower amount is appropriate. Atmos has notified ATM's Special Counsel of Atmos' intent to file an appeal of the City's decision to deny its requested increase.

RECOMMENDED ACTION:

ATM's Special Counsel recommends that the City deny Atmos' proposed increase in revenue and changes in rates.

Atmos will appeal the City's decision denying its requested increase and changes in rates to the Railroad Commission. ATM's Special Counsel recommends that the City participate in Atmos' appeal to the Railroad Commission and in any appeals to the courts of the Railroad Commission's decision.

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:

May 8, 2014

RESOLUTION NO. _____

A RESOLUTION BY THE CITY OF LONGVIEW, TEXAS DENYING AN INCREASE IN RATES REQUESTED BY ATMOS ENERGY CORPORATION – MIDTEX DIVISION, SUBMITTED ON OR ABOUT FEBRUARY 28, 2014 UNDER THE RATE REVIEW MECHANISM; FINDING ATMOS' REQUEST UNREASONABLE; DIRECTING ATMOS ENERGY TO REIMBURSE THE CITY'S RATE-CASE EXPENSES; AUTHORIZING THE CITY'S PARTICIPATION IN APPEALS ATMOS MAY TAKE DENYING ITS REQUESTED INCREASE; PROVIDING FOR THE REPEAL OF RESOLUTIONS AND ORDINANCES IN CONFLICT HEREWITH; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE SEVERABILITY OF THE PROVISIONS HEREOF; REQUIRING DELIVERY OF THE RESOLUTION TO THE COMPANY AND THE CITY'S SPECIAL COUNSEL; FINDING THAT THE MEETING COMPLIED WITH THE OPEN MEETINGS ACT; DECLARING AN EFFECTIVE DATE; AND MAKING OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT.

WHEREAS, Atmos Energy Corporation - MidTex Division ("Atmos" or "Company") filed a request with the City of Longview, Texas ("City") on or about February 28, 2014, thereby initiating a ratemaking proceeding to increase its revenue and change its rates within the corporate limits of the City, and specifically to increase its system-wide, annual revenue requirement by approximately \$45.7 million, which is an increase in base rates exclusive of the cost of gas of approximately 9.2%; and,

WHEREAS, the City is a regulatory authority under Utilities Code § 103.001 (more commonly referred to as the Gas Utility Regulatory Act ("GURA")) and has exclusive original jurisdiction over Atmos' rates, operations, and services within the City; and,

WHEREAS, Section 103.021 of GURA authorizes the City to obtain

information from Atmos as necessary to make a determination of the basis for the Atmos' proposed increase in rates in the City; and,

WHEREAS, Section 103.022 of GURA provides that Atmos shall reimburse the City its reasonable cost of engaging personnel to assist it in reviewing Atmos' application; and,

WHEREAS, the City has participated in prior cases regarding Atmos as part of a coalition of cities known as the Atmos Texas Municipalities ("ATM"); and,

WHEREAS, Atmos submitted its application to increase rates under the Rate Review Mechanism ("RRM"); and,

WHEREAS, Special Counsel and experts representing ATM have analyzed the data furnished by Atmos, sought and obtained additional data, and have interviewed Atmos' management regarding Atmos' request to increase rates; and,

WHEREAS, the City's Special Counsel and rate experts concluded that Atmos' request to increase rates by \$45.7 million is unreasonably high; and,

WHEREAS, the City's Special Counsel and rate experts' conclusion that Atmos' request to increase rates by \$45.7 million is unreasonably high is based on numerous elements in Atmos' request that are inconsistent with sound rate-setting and regulatory principles; and,

WHEREAS, the City's Special Counsel and rate experts participated in discussions with Atmos to attempt to resolve Atmos' proposed change in rates and increase in revenue through negotiations but were unable to reach agreement; and,

WHEREAS, it is anticipated that Atmos will appeal the City's denial of its request to increase rates to the Railroad Commission of Texas and possibly to the

courts, thus requiring the continued assistance of Special Counsel and rate experts in those proceedings; NOW, THEREFORE,

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

Section 1. The findings set forth in this resolution are hereby in all things approved and adopted.

Section 2. Atmos Energy Corporation-MidTex Division's request to change its rates and to increase its revenue by approximately \$45.7 million is hereby denied.

Section 3. Pursuant to Utilities Code § 103.022 and under the terms of the Rate Review Mechanism, Atmos is hereby directed to reimburse the City's rate case expenses, as participants in the coalition of cities known as the Atmos Texas Municipalities, for engaging counsel, rate consultants, and other personnel in assisting the City in its investigation of Atmos' proposed increase in rates, and is further directed to reimburse the City's rate case expenses on a monthly basis for the City's participation in any appeal Atmos seeks of the City's denial of its request to increase rates.

Section 4. Subject to the right to terminate employment at any time, the City authorizes the law firm of Herrera & Boyle, PLLC to act as Special Counsel with regard to appeals and rate proceedings involving Atmos before the City, the Railroad Commission of Texas, or any court of law and to retain such experts as may be reasonably necessary for review of Atmos' rate application subject to approval by the City.

Section 5. This resolution supersedes any resolution or ordinance previously adopted by the city council to the extent such previously adopted resolution or ordinance is inconsistent with this resolution.

Section 6. If any one or more sections or clauses of this resolution is judged to be unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remaining provisions of this resolution and the remaining provisions of the resolution shall be interpreted as if the offending section or clause never existed.

Section 7. A copy of this resolution shall be sent to Atmos Energy-Mid-Tex Division, care of Christopher Felan, Vice President of Rates and Regulatory Affairs, Atmos Energy Corporation, 5420 LBJ Freeway, Suite 1600, Dallas, Texas 75240, and to Special Counsel, Mr. Alfred R. Herrera, Herrera & Boyle, PLLC, 816 Congress Avenue, Suite 1250, Austin, Texas 78701.

Section 8. That the meeting at which this resolution was approved was in all things conducted in 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 8th day of May, 2014.

Jay Dean
Mayor

ATTEST:

Shelly Ballenger
City Secretary

APPROVED AS TO FORM:

Jim Finley
City Attorney

R UTILITY ATM 2014 DENY RATE INCREASE 5-8-14

RESOLUTION TO ACCEPT LAND DONATION FROM THE HUMANE SOCIETY OF NORTHEAST TEXAS

DESCRIPTION: The Humane Society of Northeast Texas wishes to donate 4.318 acres of land to the City for use of the site for the proposed animal shelter. The land is situated between Kermit Street, Pecos Street and HG Mosley Parkway. The schematic plan of the proposed animal shelter presented to Council sited the facility at this location.

RECOMMENDED ACTION: Approval of the Resolution authorizing staff to accept donation from the Humane Society of Northeast Texas.

SOURCE OF FUNDS: No Funding Required.

STAFF CONTACT: Keith Bonds, Assistant City Manager
903-237-1051
kbonds@longviewtexas.gov

COUNCIL DATE: May 8, 2014

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LONGVIEW, TEXAS, ACCEPTING 4.318 ACRES OF LAND FROM THE HUMANE SOCIETY OF NORTHEAST TEXAS FOR USE AS THE SITE OF AN ANIMAL SHELTER; AUTHORIZING AND DIRECTING THE CITY MANAGER OR THE CITY MANAGER'S DESIGNEE TO EXECUTE ANY DOCUMENTS NECESSARY BETWEEN THE CITY OF LONGVIEW AND THE HUMANE SOCIETY OF NORTHEAST TEXAS FOR ACCEPTANCE OF SAID DONATION; AUTHORIZING AND DIRECTING THE FILING OF DEEDS AND OTHER DOCUMENTS, THE OBTAINING OF TITLE INSURANCE, AND OTHER SUCH ACTIONS AS MAY BE REASONABLY NECESSARY TO CARRY OUT THE PURPOSES OF THIS RESOLUTION; DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION WAS PASSED COMPLIED WITH THE TEXAS OPEN MEETINGS ACT; MAKING OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the Humane Society of Gregg County, Inc., doing business as the Humane Society of Northeast Texas, Inc., owns 4.318 acres of land in the Marshall Mann Survey, A-256, Gregg County, Texas; and,

WHEREAS, the Humane Society of Northeast Texas wishes to donate said land to the City of Longview for use as the site of a proposed animal shelter; 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 of Longview hereby accepts the donation evidenced by the deed attached hereto as Exhibit A, and said deed is for all purposes

made a part hereof.

Section 3. That the donation accepted hereby is subject to the conditions set forth in Exhibit A.

Section 4. That the City Manager, the City Manager's designee or other official of the City of Longview as shall be required, is hereby authorized and directed to execute any and all contracts, deeds, and other documents, as approved by the City Attorney's Office, incident to the acceptance by the City of Longview of the donation described herein.

Section 5. That the City Manager, the City Manager's designee or other official of the City of Longview as shall be required, is hereby authorized and directed to file in the real property records of Gregg County a fully executed deed substantially in the form of Exhibit A, to obtain title insurance for said donation, and to otherwise take such actions and file such documents as may be reasonably necessary or convenient, in the opinion of the City Attorney's Office, to accept the donation described herein and otherwise carry out the purposes of this resolution.

Section 6. 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 7. That this resolution shall become effective immediately from and after its passage.

PASSED AND APPROVED this 8th day of May, 2014.

Jay Dean
Mayor

ATTEST:

Shelly Ballenger
City Secretary

APPROVED AS TO FORM:

Jim Finley
City Attorney

R CC ANIMAL SHELTER LAND DONATION 5-8-14