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## City Council Meeting Agenda

5:30 p.m.  
June 12, 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/Discussion Items**
  - A. Presentation of a Proclamation commemorating the 9<sup>th</sup> Annual National Dump the Pump Day – Mayor Jay Dean.
  - B. Presentation of a Proclamation commemorating National HIV Testing Day – Mayor Jay Dean.
  - C. Presentation of simplified sanitation collection system – Dwayne Archer, Sanitation and Fleet Services Manager.
  - D. Discuss proposed hotel conference center planning – Keith Bonds, P.E., Assistant City Manager.
- VI. Consent Agenda**
  - A. 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 Henry & Peters, PC of Longview, Texas for auditing services – Angela Coen, Finance Director. [Pages 5 - 8](#)
  - B. 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 City of Mesquite for cooperative purchasing – Jaye Latch, Purchasing Manager. [Pages 9 - 12](#)

- 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 Eurofins Eaton Analytical, Inc. for laboratory analysis services for the Water Treatment Plant – Jaye Latch, Purchasing Manager. [Pages 13 - 16](#)
- D. Consider an Ordinance amending Section 28-10 of the Longview City Code to authorize the use of the municipal court building security fund for all purposes permitted by law – Sally Forbus, Municipal Court Administrator. [Pages 17 - 20](#)
- E. Consider a Resolution authorizing a 380 Agreement to provide assistance in the maximum amount of \$136,000.00 pursuant to Article I to Chapter 33 of the Longview City Code for construction of the Amberwood Place project – Keith Bonds, P.E., Assistant City Manager. [Pages 21 - 26](#)
- F. Consider a Resolution authorizing and directing the General Manager of Longview Transit to act on behalf of the City of Longview in matters pertaining to the Federal Transit Administration grants program – Keith Bonds, P.E., Assistant City Manager. [Pages 27 - 29](#)
- G. Consider an Ordinance amending and adopting updates to the Water Conservation and Drought Contingency Plan – Rolin McPhee, P.E., Director of Public Works. [Pages 30 - 41](#)
- H. 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 East Texas Bridge of Longview, Texas, in the amount of \$3,271,101.70 for the "Methvin Street Improvement" project – Rolin McPhee, P.E., Director of Public Works. [Pages 42 - 45](#)
- I. 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 Reynolds & Kay of Tyler, Texas, in the amount of \$263,700.00 for the "2014 Street Overlay" project – Rolin McPhee, P.E., Director of Public Works. [Pages 46 - 49](#)
- J. 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 7-H Construction of Tyler, Texas, in the amount of \$1,011,903.00 for the "Flow Monitoring Improvements" project – Rolin McPhee, P.E., Director of Public Works. [Pages 50 - 53](#)

- K. 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, Inc. of Longview, Texas, in the amount of \$1,587,868.00 for the "East Texas Regional Airport Water Supply Line Improvements" project – Rolin McPhee, P.E., Director of Public Works. [Pages 54 - 57](#)
- L. Consider a Resolution accepting the Sylvan Drive Drainage Improvements project and authorizing final payment in the amount of \$32,673.29 to Haltom Construction of Marshall, Texas – Rolin McPhee, P.E., Director of Public Works. [Pages 58 - 61](#)
- M. Consider approval of the following minutes: May 19, 2014 and May 22, 2014 – Shelly Ballenger, City Secretary. [Page 62](#)

## VII. Zoning – Public Hearing Items

- A. **A PUBLIC HEARING** will be held to consider application #Z14-05 filed by E-Z Mart requesting a rezone from Multi-Family (MF-3) to General Retail (GR) for Lots 5-7 Holland Subdivision located at 1501 Pine Tree Road – Michael Shirley, AICP, City Planner. **THIS ITEM REQUIRES A PUBLIC HEARING.** [Pages 63 - 72](#)
- B. **A PUBLIC HEARING** will be held to consider application #Z14-06 filed by F & H Rental Properties LP requesting a rezone from General Retail (GR) to Light Commercial (C-1) for approximately 3.317 acres of AB 186 D Sanchez Survey Tracts 19-21, 22-06, Section 6, and Tract 1, Section 7 located on the southwest corner of E. George Richey Road and Gilmer Road – Michael Shirley, AICP, City Planner. **THIS ITEM REQUIRES A PUBLIC HEARING.** [Pages 73 - 83](#)
- C. **A PUBLIC HEARING** will be held to consider application #S14-02 filed by F & H Properties LP for a Specific Use Permit (SUP) for an Auto Laundry (Car Wash) in Light Commercial (C-1) Zoning District for approximately 3.317 acres of AB 186 D Sanchez Survey Tracts 19-21, 22-06, Section 6, and Tract 1, Section 7 located on the southwest corner of E. George Richey Road and Gilmer Road – Michael Shirley, AICP, City Planner. **THIS ITEM REQUIRES A PUBLIC HEARING.** [Pages 84 - 94](#)

## VIII. Action Items

- A. Consider a Resolution authorizing a tax abatement agreement with Tractor Supply Co. of Texas, LP, for improvements and job creation at facilities located at 2707 LEDCO Drive – Keith Bonds, P.E., Assistant City Manager. [Pages 95 - 117](#)

- B. Consider a Resolution authorizing the City Manager or the City Manager's designee to negotiate and execute a treated water supply contract with the City of Kilgore – Keith Bonds, P.E., Assistant City Manager.  
[Pages 118 - 140](#)
- C. Consider a Resolution appointing the Mayor Pro Tem – Mayor and City Council. [Pages 141 - 142](#)

**IX. Items of Community Interest**

**X. 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.

## FINANCIAL AUDITING SERVICES

**DESCRIPTION:** The City Charter requires an annual audit of the City's financial records be performed by independent Certified Public Accountants.

Staff is recommending that the City Council award Henry & Peters, PC. the annual audit for a one year period with up to four additional one year terms. The contract price begins at \$85,000.00 and may be adjusted in subsequent years under the condition that the adjustment is limited to a cost of living increase substantiated by a published index or the adjustment is substantiated in writing by a change in conditions such as a change in accounting or auditing standards. The City reserves the right to accept or reject any/all of the price adjustments.

**RECOMMENDED ACTION:** Approval of the Resolution.

**SOURCE OF FUNDS:**

**STAFF CONTACT:** Angela Coen, Finance Director  
903-239-5521  
[acoen@longviewtexas.gov](mailto:acoen@longviewtexas.gov)

**COUNCIL DATE:** June 12, 2014

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LONGVIEW, TEXAS, AUTHORIZING A PROFESSIONAL SERVICES AGREEMENT WITH HENRY & PETERS, PC, FOR AUDIT SERVICES; AUTHORIZING AND DIRECTING THE CITY MANAGER OR THE CITY MANAGER'S DESIGNEE TO EXECUTE ANY DOCUMENTS NECESSARY BETWEEN THE CITY OF LONGVIEW AND HENRY & PETERS, PC, FOR SAID AUDIT 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 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 City Charter of the City of Longview and Chapter 103 of the Texas Local Government Code require that the City have an annual audit performed by independent certified public accountants; and,

WHEREAS, the City Council finds and determines that professional audit services related to the annual audit to be performed by independent certified public accountants constitute professional and planning services within the meaning of §252.022 (a) (4) of the Texas Local Government Code exempting said services from the requirements of a competitive purchasing process; 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 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 a professional services agreement between the City of Longview, Texas, and Henry & Peters, PC, to provide audit services for the annual audit to be performed by independent certified public accountants as required by the City Charter of the City of Longview and Chapter 103 of the Texas Local Government Code.

Section 3. That the total amount of the contract for audit services to be provided by Henry & Peters, PC, during the first term of said contract shall not exceed budgeted funds for Fiscal Year 2014-2015.

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 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 5. That the meeting at which the aforesaid agreement was authorized was in all things conducted in strict compliance with 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 12<sup>th</sup> day of June, 2014.

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Jay Dean  
Mayor

ATTEST:

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Shelly Ballenger  
City Secretary

APPROVED AS TO FORM:

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Jim Finley  
City Attorney

R FINANCE AUDITING SERVICES 6-12-14



## CITY OF MESQUITE INTERLOCAL AGREEMENT

<b>DESCRIPTION:</b>	<p>This item would allow the City of Longview to enter into a cooperative purchasing agreement with the City of Mesquite, Texas. The City of Mesquite has requested to establish and interlocal agreement with the City of Longview so that they may utilized a contract that the City of Longview procured for water utility bill printing services. By entering into this interlocal agreement, this would also allow for the City of Longview to utilize contracts procured by the City of Meqsuite.</p> <p>Contracts that the City of Longview may utilize in the future with the City of Mesquite are pre-bid and therefore meet all of the competitive purchasing laws.</p>
<b>RECOMMENDED ACTION:</b>	<p>Approve the Resolution allowing City of Longview to enter into a cooperative purchasing agreement with the City of Mesquite.</p>
<b>SOURCE OF FUNDS:</b>	<p>No Direct Funding needed.</p>
<b>STAFF CONTACT:</b>	<p>Jaye Latch, Purchasing Manager 903-237-1324 <a href="mailto:jlatch@longviewtexas.gov">jlatch@longviewtexas.gov</a></p>
<b>COUNCIL DATE:</b>	<p>June 12, 2014</p>

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 THE CITY OF MESQUITE; 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 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 and the City of Mesquite are home-rule municipalities and political subdivisions of the State of Texas; and,

WHEREAS, the City of Longview negotiated a contract for water utility bill printing services; and,

WHEREAS, City of Mesquite in interested in obtaining said water utility bill printing services; and,

WHEREAS, both the vendor providing water utility bill printing services and the City of Longview are amenable to the procurement of said services by the City of Mesquite pursuant to the aforesaid agreement obtained by the City of Longview; and,

WHEREAS, Section 791.025 of the Texas Government Code and Section 271.102 of the Texas Local Government Code authorized political subdivisions of the State of Texas (including with limitation, the City of Mesquite and the City of Longview) to enter into cooperative purchasing agreements for the purchase of such functions, goods and services, including without limitation the aforesaid water utility bill printing

services; and,

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

WHEREAS, purchases pursuant to such a cooperative purchasing agreement satisfy all competitive purchasing requirements applicable to the City of Longview; and,

WHEREAS, as a result of the foregoing, the City of Longview and the City of Mesquite wish to enter into an interlocal agreement to provide for cooperative purchasing of goods and services; and,

WHEREAS, the City Council of the City of Longview, Texas, finds said interlocal agreement to be acceptable and in the best interests 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 Manager is hereby authorized to negotiate and execute a cooperative purchasing agreement by and between the City of Longview and the City of Mesquite pursuant to the authority granted by 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 the 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 become effective immediately from and after its passage.

PASSED AND APPROVED this 12th day of June, 2014

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Jay Dean  
Mayor

ATTEST:

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Shelly Ballenger  
City Secretary

APPROVED AS TO FORM:

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Jim Finley  
City Attorney

R PUR AUTHORIZE PURCH AGRT CITY OF MESQUITE 6-12-14

## BID 1314-12 LABORATORY ANALYSIS SERVICES

**DESCRIPTION:** This item is for annual agreement for laboratory analysis services for the Water Treatment Plant. The Water Treatment Plant performs testing on a regular basis for taste and odor compounds and algae content. This testing is needed to ensure that we maintain aesthetically pleasing drinking water.

On May 6, 2014 bid documents were mailed and emailed to laboratory analysis vendors and posted on the City of Longview website. Bids were advertised on May 6, 2014 and May 13, 2014. On May 29, 2014 three bids were on file.

The bids were as follows:  
Eurofins Eaton Analytical, Inc. of Monrovia, CA - \$320.00 per sample  
Analytical Environmental Labs of Tyler, TX - \$350.00 per sample  
Ana-Lab Corporation of Kilgore, TX - \$460.00 per sample

**RECOMMENDED ACTION:** Approval of the Resolution awarding Eurofins Eaton Analytical, Inc. bid # 1314-12 Laboratory Analysis Services

**SOURCE OF FUNDS:** 010-072-000-5160, Special Sevice, Water Sewer Fund

**STAFF CONTACTS:** Jaye Latch,Purchasing Manager  
903-237-1324  
[jlatch@longviewtexas.gov](mailto:jlatch@longviewtexas.gov)

Rolin Mcphee,Public Works Director  
903-237-1336  
[rmcphee@longviewtexas.gov](mailto:rmcphee@longviewtexas.gov)

**COUNCIL DATE:** June 12, 2013

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LONGVIEW, TEXAS, ACCEPTING THE BID OF EUROFINS EATON ANALYTICAL, INC. FOR LABORATORY ANALYSIS SERVICES FOR WATER TREATMENT PLANT; AUTHORIZING AND DIRECTING THE CITY MANAGER, OR THE CITY MANAGER'S DESIGNEE TO EXECUTE ANY DOCUMENTS NECESSARY BETWEEN THE CITY OF LONGVIEW AND EUROFINS EATON ANALYTICAL, INC. FOR SAID 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 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 issued and advertised an invitation to bid for laboratory analysis services for water treatment plant; and,

WHEREAS, Eurofins Eaton Analytical, Inc. submitted the lowest and best bid for laboratory analysis services; and,

WHEREAS, funding will be provided from budgeted funds for the corresponding budget 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 Eurofins Eaton Analytical, Inc. is the lowest and best bid submitted to the City of Longview for laboratory analysis services for water treatment plant.

Section 3. That the City of Longview hereby accepts the aforementioned bid from Eurofins Eaton Analytical, Inc.

Section 4. That the total amount of the contract for laboratory analysis services to be provided by Eurofins Eaton Analytical, Inc. shall not exceed budgeted funds for Fiscal Year 2013-2014.

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 Eurofins Eaton Analytical, Inc. for said laboratory analysis 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 12th day of June, 2014.

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Jay Dean  
Mayor

ATTEST:

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Shelly Ballenger  
City Secretary

APPROVED AS TO FORM:

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Jim Finley  
City Attorney

R-BID Lab Analysis Service-WTP



## USE OF COURT BUILDING SECURITY FUND

**DESCRIPTION:** Consider an Ordinance amending Section 28-10 of the Longview City Code to authorize the use of the Municipal Court Building Security Fund for all purposes permitted by law. The authorized purposes outlined in the Texas Code of Criminal Procedure, Article 102.017 provide for a broader scope of use than the existing City Code.

**RECOMMENDED ACTION:** Approve

**SOURCE OF FUNDS:** 053-054 Municipal Court Building Security Fund

**STAFF CONTACT:** Sally Forbus, Court Administrator  
903-239-5508  
[sforbus@longviewtexas.gov](mailto:sforbus@longviewtexas.gov)

**COUNCIL DATE:** June 12, 2014

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LONGVIEW, TEXAS, AMENDING SECTION 28-10 OF THE CODE OF ORDINANCES, CITY OF LONGVIEW, TEXAS, TO AUTHORIZE THE USE OF THE MUNICIPAL COURT BUILDING SECURITY FUND FOR ALL PURPOSES PERMITTED BY LAW; FINDING THAT THE MEETING AT WHICH THIS ORDINANCE WAS PASSED 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, Article 102.017 of the Code of Criminal Procedure allows municipalities to establish a municipal court building security fund and deposit into said fund a security fee collected as a cost of court for all defendants convicted of a misdemeanor offense in municipal court; and,

WHEREAS, said Article 102.017 of the Code of Criminal Procedure sets forth the purposes for which the municipal court building security fund may be used; and,

WHEREAS, said Article 102.017 of the Code of Criminal Procedure has been amended to authorize additional uses for said fund; and,

WHEREAS, the Longview City Council wishes to amend the city ordinance relating to the municipal court building security fund in order to allow the use of said fund for all purposes authorized by law; 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 Section 28-10 of the Code of Ordinances, City of Longview, Texas, is hereby rewritten in its entirety to read as follows:

**“Sec. 28-10. Same - Use.**

The monies deposited in the aforesaid city municipal court building security fund shall be used exclusively for the purposes authorized in Texas Code of Criminal Procedure Article 102.017, as said article may from time to time be amended, and for such other uses as may be specifically authorized by state law for said fund.”

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 the City Secretary is hereby 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.

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

PASSED AND APPROVED this 12<sup>th</sup> day of June, 2014.

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Jay Dean  
Mayor

ATTEST:

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Shelly Ballenger  
City Secretary

APPROVED AS TO FORM:

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Jim Finley  
City Attorney

O MUNI CRT BLDG SECURITY FUND AMDMT 6-12-14

## 380 AGREEMENT FOR AMBERWOOD PLACE

**DESCRIPTION:** Pinnacle Housing is developing a housing project named Amberwood Place and has requested support for the project in the form of a tax credit application submitted to the Texas Department of Housing and Community Affairs. The Amberwood Place project needs local financial participation in order to qualify for such tax credits. For this reason, in Resolution No. 4668 the Longview City Council authorized the City's financial participation in the Amberwood Place project in an amount not to exceed \$2,000.00 per fixed rate unit up to a maximum total of \$132,000.00.

Since the passage of Resolution No. 4668, Pinnacle Housing has increased the number of fixed rate units to be constructed as part of the Amberwood Place project. Accordingly, the proposed resolution would re-authorize the City's participation in the project and increase the City's maximum total participation to \$136,000.00.

**RECOMMENDED ACTION:** Passage of Resolution

**SOURCE OF FUNDS:** Funding is available from 210-210-190-7620.

**STAFF CONTACT:** Keith Bonds, P.E., Assistant City Manager  
903-237-1051  
[kbonds@longviewtexas.gov](mailto:kbonds@longviewtexas.gov)

**COUNCIL DATE:** June 12, 2014

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LONGVIEW, TEXAS, AUTHORIZING THE CITY MANAGER OR THE CITY MANAGER'S DESIGNEE TO ENTER INTO A 380 AGREEMENT TO PROVIDE ASSISTANCE PURSUANT TO ARTICLE I TO CHAPTER 33 OF THE LONGVIEW CITY CODE FOR CONSTRUCTION OF THE AMBERWOOD PLACE PROJECT; LIMITING THE TOTAL AMOUNT OF ASSISTANCE TO BE PROVIDED BY THE CITY PURSUANT TO SAID AGREEMENT TO A MAXIMUM OF \$136,000.00; PLACING OTHER RESTRICTIONS AND CONDITIONS ON SAID AGREEMENT; DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION WAS PASSED COMPLIED WITH THE TEXAS OPEN MEETINGS ACT; REPEALING AND SUPERSEDING ANY INCONSISTENT PROVISIONS OF RESOLUTION NO. 4424 AND RESOLUTION NO. 4668; MAKING OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT; AND ESTABLISHING AN EFFECTIVE DATE.**

WHEREAS, the City of Longview has a need for multifamily housing that is affordable to its citizens of modest means; and,

WHEREAS, Pinnacle Housing is currently developing such a housing project named Amberwood Place and has requested support for Amberwood Place in the form of a tax credit application submitted to the Texas Department of Housing and Community Affairs; and,

WHEREAS, the City Council hereby determines that the Amberwood Place project satisfies the criteria for participation in the City's Chapter 380 Economic Development Program as set forth in Article I to Chapter 33 of the Longview City Code; and,

WHEREAS, the City Council hereby determines that Pinnacle Housing has complied with the requirements set forth in Article I to Chapter 33 of the Longview City Code; and,

WHEREAS, the City Council hereby specifically determines that the Amberwood Place project will bring benefit to the City consistent with Section 33-8 of the Longview City Code and has considered the factors set forth in said section, including without limitation the following: Pinnacle Housing has applied for and appears to be otherwise qualified for other incentive programs which increase the feasibility of the Amberwood Place project, to wit, the tax credit incentive program cited above; Pinnacle Housing appears to have the financial capacity to undertake and complete the Amberwood Place project; the local market conditions are appropriate for the construction of additional affordable housing such as that provided by the Amberwood Place project; and housing such as that provided by the Amberwood Place project positively affects business activity in the City by providing housing for workers and their families, stimulating the local construction industry, and easing the burden of housing costs on low-income workers, thus freeing income for other spending that stimulates the local economy; and,

WHEREAS, in Resolution No. 4424 approved on February 23, 2012, the Longview City Council expressed its desire to participate financially in the Amberwood Place project; and,

WHEREAS, in Resolution No. 4668 approved on September 12, 2013, the Longview City Council authorized financial participation in the Amberwood Place project

in an amount not to exceed \$2,000 per fixed rate unit constructed as part of said project;  
and,

WHEREAS, said Resolution No. 4668 limited the total amount of said financial participation to no more than \$132,000; and,

WHEREAS, due to the increase in the number of fixed rate units to be constructed as part of the Amberwood Place project, the City Council wishes to increase the City's maximum total financial participation to \$136,000.00; 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, subject to the conditions and provisions set forth in this resolution, the City Manager or other person designated by the City Manager as the Administrator pursuant to Article I to Chapter 33 of the Longview City Code is hereby authorized to negotiate and execute on behalf of the City a 380 Agreement with Pinnacle Housing, or any affiliate or subsidiary thereof, pursuant to said article.

Section 3. That the 380 Agreement authorized herein shall provide for the City's participation in the Amberwood Place project in an amount not to exceed \$2,000 per fixed rate unit constructed as part of said project.

Section 4. That the 380 Agreement authorized herein shall limit the total amount of the City's participation in the Amberwood Place project to no more than \$136,000.



Section 5. That the City's participation in the Amberwood Place project may take the form of reimbursements or waivers of City fees and charges, reimbursement of the costs of public infrastructure or the City's participation in the construction of such infrastructure, a short term loan, a performance-based grant, any form of assistance authorized by Section 33-6 of the Longview City Code, or any combination of said measures.

Section 6. That the funds to be provided by the City pursuant to any 380 Agreement authorized herein have not been provided and shall not be provided to the City of Longview by Pinnacle Housing, by any other party related to or acting on behalf of Pinnacle Housing, or by any party acting on behalf of the Amberwood Place project.

Section 7. That this resolution and the 380 Agreement authorized herein shall not be construed as creating any debt by or on behalf of the City of Longview and all obligations of the City of Longview that may arise hereunder or under the 380 Agreement authorized herein are subject to the availability of funds and any 380 Agreement negotiated and executed pursuant to this resolution is specifically contingent upon appropriation of any funds required for the payment of or performance of the City's obligations under said 380 Agreement.

Section 8. That the assistance authorized for the Amberwood Place project pursuant to this resolution is intended to and shall constitute the City's participation in said project as said participation was described in Resolution No. 4424 and in Resolution No. 4668, and any provisions of said resolutions inconsistent with the provisions of this resolution, including without limitation any deadline for the City's participation as described in said resolutions and the amount of the City's participation

as set forth in said resolutions, are hereby repealed and superseded by the provisions hereof.

Section 9. 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 10. That this resolution shall be effective immediately from and after its date of passage.

PASSED AND APPROVED this 12<sup>th</sup> day of June, 2014.

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Jay Dean  
Mayor

ATTEST:

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Shelly Ballenger  
City Secretary

APPROVED AS TO FORM:

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Jim Finley  
City Attorney

R AMBERWOOD PLACE FUNDING 6-12-14

## LONGVIEW TRANSIT AUTHORIZATION

**DESCRIPTION:** The Federal Transit Administration requires local governments to authorize individuals to act on behalf of them in matters pertaining to their grant programs. The City contracts with McDonald Transit to operate and maintain our mass transit system. Scott Lewis is the general manager. This Resolution authorizes Mr. Lewis to act on the City's behalf in matters pertaining to FTA grants.

**RECOMMENDED ACTION:** Passage of Resolution.

**SOURCE OF FUNDS:** N/A

**STAFF CONTACT:** Keith Bonds. P.E., Assistant City Manager  
903-237-1051  
[kbonds@longviewtexas.gov](mailto:kbonds@longviewtexas.gov)

**COUNCIL DATE:** June 12, 2014

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LONGVIEW, TEXAS, AUTHORIZING AND DIRECTING SCOTT LEWIS, GENERAL MANAGER OF LONGVIEW TRANSIT THE ASSIGNMENT AND USE OF A PERSONAL IDENTIFICATION NUMBER (PIN) FOR EXECUTION OF ANNUAL CERTIFICATION AND ASSURANCES ISSUED BY THE FEDERAL TRANSIT ADMINISTRATION (FTA), SUBMISSION OF ALL FTA GRANT APPLICATIONS, EXECUTION OF ALL FTA GRANT AWARDS ON BEHALF OF THE CITY OF LONGVIEW, FOR THE FTA'S TRANSPORTATION ELECTRONIC AWARD AND MANAGEMENT SYSTEM (TEAM) ; 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 City of Longview is under contract with McDonald Transit Associates, Inc. to manage and operate the motor bus transit system, known as Longview Transit, in and about the City of Longview; and,

WHEREAS, Scott Lewis is the General Manager of Longview Transit; and,

WHEREAS, the Federal Transit Administration requires local governments authorize an individual to act on it's of behalf to in matters pertaining to the FTA grant program; 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 authorizes and directs Scott

Lewis, General Manager of Longview Transit the assignment and use of a PIN for execution of annual Certification and Assurances issued by FTA, submission of all FTA grant applications, and execution of all FTA grant awards on behalf of the City of Longview, for the FTA's TEAM.

Section 3. 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 4. That this resolution shall become effective immediately from and after its passage.

PASSED AND APPROVED this 12<sup>th</sup> day of June, 2014.

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Jay Dean  
Mayor

ATTEST:

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Shelly Ballenger  
City Secretary

APPROVED AS TO FORM:

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Jim Finley  
City Attorney

R TRANSIT AUTHORIZATION FOR FTA 6-12-14

## **WATER CONSERVATION AND DROUGHT CONTINGENCY PLAN**

**DESCRIPTION:** The Texas Commission on Environmental Quality requires all water suppliers to have a Water Conservation and Drought Contingency Plan in place. Our plan was originally adopted by Resolution No. 931 on May 12, 1987, and by Ordinance No. 2567 on July 16, 1996. It was amended on March 22, 2001, on August 25, 2005, and most recently by Ordinance No 3642 on May 28, 2009. Current TCEQ regulations require that Water Conservation and Drought Contingency Plans include the following items: Specific, quantified targets for water use reductions; Drought response stages, universal metering of both customer and public uses of water; measures to determine and control unaccounted-for uses of water; a public education and information program; rate structures that are not “promotional”, i.e. a rate structure that is cost-based and does not encourage excessive use of water; means of implementation and enforcement; documentation of coordination with the Regional Water Planning Group to ensure consistency with the approved regional water plan; leak detection, repair and water loss accounting; and a record management system to record water pumped, water deliveries, water sales and water losses. All of these requirements have been accomplished and are now being made part of our official Water Conservation and Drought Contingency Plan.

**RECOMMENDED ACTION:** Amendment of Ordinance

**STAFF CONTACT:** Rolin McPhee, P.E., Director of Public Works  
903-237- 1336  
[rmcphee@longviewtexas.gov](mailto:rmcphee@longviewtexas.gov)

**COUNCIL DATE:** June 12, 2014

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LONGVIEW, TEXAS, DEFINING EMERGENCY CONDITIONS REQUIRING WATER CONSERVATION; EMPOWERING THE MAYOR TO DECLARE SUCH EMERGENCY CONDITIONS; EMPOWERING THE MAYOR TO DECLARE EFFECTIVE ONE OR MORE WATER CONSERVATION MEASURES; PROVIDING OTHER DEFINITIONS; PROVIDING A CITY PUBLIC AWARENESS PLAN; PROVIDING FOR PENALTIES; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE WAS PASSED WAS IN ACCORDANCE WITH THE REQUIREMENTS OF THE TEXAS OPEN MEETINGS ACT; PROVIDING FOR THE REPEAL OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING A SAVINGS CLAUSE; MAKING OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT; AND DECLARING AN EFFECTIVE DATE.**

WHEREAS, the protection and maintenance of an adequate potable water supply is a vital function of municipal government; and,

WHEREAS, a great deal of planning is required to ensure that water is available in both quality and quantity necessary to serve the needs of the citizens of Longview; and,

WHEREAS, having an adequate supply of potable water continues to be one of the major factors in the success of any community; and,

WHEREAS, the implementation of efficient water use practices is one method of providing for future water needs; and,

WHEREAS, water supply planning also requires that consideration be given to periodic drought conditions or conditions of system failure or contamination

which require mandatory water conservation measures necessary to preserve those water supplies that are available; and,

WHEREAS, the Texas commission on Environmental Quality requires all water suppliers to have a Water Conservation and Drought Contingency Plan in place that mandate certain water conservation measures and adopt penalties for violations thereof; and,

WHEREAS, a Water Conservation and Drought Contingency Plan was originally adopted by Resolution No. 931 on May 12, 1987, by Ordinance No. 2567 on July 16, 1996, and amended by Ordinance No. 3017 on March 22, 2001, and by Ordinance No. 3407 on August 25, 2005, and by Ordinance No. 3642 on May 28, 2009; and,

WHEREAS, said Water Conservation and Drought Contingency Plan was subsequently received and accepted by the Texas Commission on Environmental Quality; and,

WHEREAS, certain identified biological and chemical conditions within the Sabine River, which forms a portion of the City of Longview's water supply, prompt additional water conservation and control measures when such biological or chemical conditions exist; and,

WHEREAS, the City Council finds and determines that the adoption of a process for implementing mandatory water conservation measures under certain defined water conservation emergency conditions is necessary for the protection of the health, safety, and welfare of the citizens of the City of Longview; and,



WHEREAS, the Plan is now being modified to comply with current TCEQ regulations; 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 for the purposes of this ordinance, the following definitions shall apply:

1. *Declaration of water conservation emergency conditions* shall mean a formal, written declaration signed by the Mayor of the City of Longview and attested to by the City Secretary of the City of Longview, declaring that one or more water conservation emergency conditions, as defined in said declaration, currently exist for the City of Longview water supply system. Any such declaration shall be accompanied by a designation of one or more water conservation measures as such measures are defined herein.
2. *Using water for outdoor purposes* shall mean using water from the City of Longview water system for any outdoor watering of plants, shrubs, or any other vegetation; car washing; draining and refilling swimming pools; or other similar purposes.
3. *Water conservation emergency conditions* shall mean one or more of the following emergency conditions exist with regard to the City of Longview potable water supply:

- (a) Diminished water supply or excessive pumpage of water at the City's water supply facilities is approaching or exceeds the water system's ability to meet current water supply demands and reserve sufficient pressure to respond to a major fire or other similar demand upon the water system;
  - (b) A major equipment failure has occurred, such as a pump failure or a major water line break, which severely jeopardizes the water system's ability to meet current supply demands and reserve sufficient pressure to respond to a major fire or other similar demand upon the water system;
  - (c) A portion of the City's water supply is subject to impending contamination which could adversely affect the quality of the water, its taste, or its odor, thereby rendering the water unfit or undesirable for human consumption.
4. *Water conservation measures* shall mean a combination of one or more of the following identified measures:
- (a) Locations within the City having even-numbered street addresses may use water for outdoor purposes on even-numbered days of the month only, and locations having odd-numbered street addresses may use water for outdoor purposes on odd-numbered days of the month only.
  - (b) Locations within the City having even-numbered street addresses may use water for outdoor purposes for a maximum of two (2) days per week, on Tuesdays and Thursdays of each week; locations within the City having odd-numbered street addresses may use water for outdoor purposes for a maximum of two (2) days per week on Mondays and Wednesdays of each week.

- (c) No water shall be used for outdoor purposes between the hours of 5:00 p.m. to 9:00 p.m. daily.
- (d) No water shall be used for outdoor purposes except during the hours of 8:00 a.m. to 10:00 a.m. and twelve o'clock midnight to 6 o'clock a.m.
- (e) No use of water for outdoor purposes shall be permitted.
- (f) Industrial customers of the City of Longview shall be permitted to take no more water during any week than a quantity equal to ninety percent (90%) of the weekly average of water taken by that customer during the comparable period for the prior calendar year, or a quantity equal to ninety percent (90%) of the average of the water taken by that customer during the comparable period for three prior calendar years, whichever amount of usage shall be lower.
- (g) With regard to limitations on outdoor water usage, save and except for water control measure (e) above, any such controls on outdoor water usage as applied to outdoor car washing shall not apply to commercial car washes.

Section 3. That upon finding that one or more water conservation emergency conditions exist, the Mayor of the City of Longview is hereby empowered to enter a declaration of water conservation emergency conditions, including designation of one or more water control measures therein.

Section 4. That following the entry of any such declaration of water conservation emergency conditions, the Mayor of the City of Longview is hereby empowered to make subsequent declarations of water conservation emergency

conditions as shall be deemed necessary and appropriate and containing water control measures in addition to or in lieu of those implemented in previous declarations or omitting previously imposed water control measures.

Section 5. That upon finding water conservation emergency conditions have subsided and water control measures are no longer necessary, the Mayor shall execute and the City Secretary shall attest to a formal declaration suspending said finding of emergency conditions and suspending the accompanying water control measures which remain outstanding.

Section 6. That Gum Springs Water Supply Corporation, Elderville Water Supply Corporation, the City of Hallsville, and any and all other customers receiving water service outside the city limits of the City of Longview shall adopt a program of water conservation measures similar to those provided for customers of the City of Longview water system as set forth in this ordinance and shall submit such program in writing to the City Manager of the City of Longview not later than fourteen (14) days from the effective date of this ordinance. Such programs shall include enforcement measures similar to those set out in this ordinance. To satisfy the requirements of this ordinance, and to be consistent with the terms and provisions of water purchase contracts between the City of Longview and the respective customers named or designated herein, if any such program of water conservation measures is deemed unsatisfactory by the City Manager, shall authorize the City of Longview to invoke any and all measures available to the City under the law to compel compliance with this ordinance and the requirements of the City's water supply contracts.

Section 7. That there is hereby created a City Public Awareness Plan. The City's Public Awareness Plan shall mean a measured, defined program of progressively escalating levels of notification to the public designed to inform the public of the need to curtail water usage on a voluntary basis and to alert and educate the public regarding current water quality or water supply conditions. The public awareness program shall be implemented at the discretion of the City Manager beginning at one of the following levels of notification as designated by the City Manager:

Level 1 Notification. Notification of current water supply or water quality conditions through one or more of the following strategies:

- (1) Letters to local businesses and service providers advising of current water shortages or potential water taste/odor problems with regard to taste and odor problems. The letters shall explain this natural phenomenon with suggestions of: (a) keeping a supply of bottled water on hand for drinking purposes; (b) purchasing a point-of-use filter device (activated carbon filter); (c) encouraging conservation methods to keep water levels from going even lower; (d) affected retailers/wholesalers of bottled water considering expansion of supplies.
- (2) Targeted groups to receive letters: restaurants, grocery and convenience stores, bottled water distributors, water wholesalers, schools, nursing homes, day care centers, motels, hospitals.
- (3) Individual visits to major water users--stressing conservation when possible to help reduce consumption.

- (4) Full-page advertisement in the local newspaper (open letter to Longview residents) explaining the potential problem.
- (5) News release/production of citizen "Tips List" (print and Government Access Channel 5)--including map of areas most likely to be first affected.

Level 2 Notification. Notification of current water supply or water quality conditions through one or more of the following strategies:

- (1) Implement the strategies under Level 1.
- (2) Utilize Government Access Channel 5 for video-taped, live call-in and electronic bulletin board programming.
- (3) Utilize spot radio commercials.
- (4) Provide notice through news releases and all other strategies of any water conservation measures mandated under this ordinance.

Level 3 Notification. Notification of current water supply or water quality conditions through one or more of the following strategies:

- (1) Implement the strategies under Levels 1 and 2.
- (2) Utilize Government Access Channel 5 for live programming--daily updates.
- (3) Provide Citywide distribution of door hangers outlining City's mandatory conservation guidelines.
- (4) Utilize increased radio commercials.

Level 4 Notification. Notification of current water supply or water quality conditions through one or more of the following strategies.

- (1) Implement the strategies under Levels 1, 2, and 3.
- (2) Utilize voice alerts through the City's Emergency Cable TV Warning System.
- (3) Utilize immediate and continued live broadcasts on Government Access Channel 5.
- (4) Utilize immediate radio and television Public Service Announcements.
- (5) Utilize news releases advising citizenry where to go to get water.

Section 8. That it shall be unlawful for any person to use water from the Longview water supply system in violation of this ordinance or any water conservation measure implemented as provided herein; provided further, that conviction for any violation of this ordinance shall be punishable by a fine as established in Section 1-4, as amended, of the Code of Ordinances of the City of Longview. Each day that a violation of this ordinance occurs shall be considered a separate offense for the purposes of this ordinance.

Section 9. The Water Conservation and Drought Contingency Plan referenced herein, as previously amended by the Longview City Council, is hereby affirmed and re-adopted, as amended by this ordinance.

Section 10. That the meeting at which the aforesaid ordinance passed was in all things conducted in strict compliance with the Texas Open Meetings Act, Texas Government Code Chapter 551.

Section 11. 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 12. 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 13. That this ordinance shall be effective from and after its date of passage and publication as required by law.

PASSED and APPROVED this 12<sup>th</sup> day of June, 2014.

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Jay Dean  
Mayor

ATTEST:



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Shelly Ballenger  
City Secretary

APPROVED AS TO FORM:

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Jim Finley  
City Attorney

O PW WATER CONSERVATION PLAN 6-12-14

## METHVIN STREET IMPROVEMENTS

**DESCRIPTION:** Consider a Resolution awarding a contract in the amount of \$3,271,101.70 to and authorizing the City Manager or his designee to execute any necessary documents with East Texas Bridge, Inc., Longview, Texas, for the construction of the referenced project. The following bids were opened on May 27, 2014:

<u>Bidder</u>	<u>Bid Amount</u>
East Texas Bridge (Longview )	\$3,271,101.70
Longview Bridge and Road (Longview)	\$4,694,974.00

This project is for the reconstruction of three blocks of Methvin Street from Green Street to High Street.

Staff has examined the bids and the qualifications of the low bidder and recommends that the City award the contract to East Texas Bridge in the amount of \$3,271,101.70.

**RECOMMENDED ACTION:** Passage of Resolution

**SOURCE OF FUNDS:** Funding is available from the 2011 General Obligation Bonds.

**STAFF CONTACT:** Rolin McPhee, P.E., Director of Public Works  
903-237-1050  
[rmcphee@longviewtexas.gov](mailto:rmcphee@longviewtexas.gov)

**COUNCIL DATE:** June 12, 2014

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LONGVIEW, TEXAS, ACCEPTING THE BID OF EAST TEXAS BRIDGE, OF LONGVIEW, TEXAS, FOR CONSTRUCTION OF THE PROJECT ENTITLED "METHVIN STREET IMPROVEMENTS"; AUTHORIZING AND DIRECTING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE ANY DOCUMENTS NECESSARY BETWEEN THE CITY OF LONGVIEW AND EAST TEXAS BRIDGE 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 "Methvin Street Improvements "; and,

WHEREAS, this project provides for the reconstruction of three blocks of Methvin Street from Green Street to High Street; and,

WHEREAS, funding for this project is provided from the 2011 General Obligation Bond funds; 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 East Texas Bridge, of Longview, Texas, for construction of the project known as "Methvin Street Improvements" in the

total amount of \$3,271,101.70 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 East Texas Bridge, of Longview, Texas, in the total amount of \$3,271,101.70.

Section 4. That the City Manager, his designee or other official of the City as shall be required, are hereby authorized 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 East Texas Bridge, of Longview, Texas, for the project known as "Methvin Street 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 12th day of June, 2014.

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Jay Dean  
Mayor

ATTEST:

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Shelly Ballenger  
City Secretary

APPROVED AS TO FORM:

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Jim Finley  
City Attorney

R PW BID METHWIN STREET IMPROVEMENTS 6-12-14

## 2014 STREET OVERLAY

**DESCRIPTION:** Consider a Resolution awarding a contract in the amount of \$263,700.00 to Reynolds and Kay, Ltd., of Tyler, TX for the construction of the referenced project. The following two bids were opened on May 29, 2014:

Bidder	Amount
Reynolds and Kay, Ltd. Tyler, TX	\$263,700.00
East Texas Bridge,	\$491,232.50

This is a part of our annual maintenance that consists of the asphalt overlay of approximately 16,500 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.

This contract will be placed on the next Gregg County Court agenda for approval of the project for reimbursement by Gregg County. Gregg County has budgeted \$250,000 for the City of Longview's Pavement Maintenance Program.

Streets to be overlaid include Fourth and Delwood.

Public Works Engineering has examined the bids and the qualifications of the low bidder, and recommends award of the contract to Reynolds and Kay of Tyler, TX in the amount of \$263,700.00.

**RECOMMENDED ACTION:** Passage of Resolution.

**SOURCE OF FUNDS:** Funding is available from the General Fund and Gregg County.

**STAFF CONTACT:** Rolin C. McPhee, P.E., Director of Public Works,  
903-237-1336  
[rmcphee@longviewtexas.gov](mailto:rmcphee@longviewtexas.gov)

**COUNCIL DATE:** June 12, 2014

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LONGVIEW, TEXAS, ACCEPTING THE BID OF REYONLDS AND KAY, LTD., OF TYLER, TEXAS, FOR CONSTRUCTION OF THE PROJECT ENTITLED "2014 STREET OVERLAY"; AUTHORIZING AND DIRECTING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE ANY DOCUMENTS NECESSARY BETWEEN THE CITY OF LONGVIEW AND REYNOLDS AND KAY, LTD. FOR THE ABOVE REFERENCED PROJECT; PROVIDING FOR FUNDING CONTINGENCY FROM GREGG COUNTY; 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 Street Overlay"; and,

WHEREAS, this project provides for the asphalt overlay of approximately 16,500 square yards of street citywide; and,

WHEREAS, the award of this contract is contingent upon approval by Gregg County for project reimbursement; and,

WHEREAS, funding for this project is provided from the General Fund and Gregg County; 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 Reynolds and Kay, Ltd., of Tyler, Texas, for construction of the project known as “2014 Street Overlay” in the amount of \$263,700.00 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 Reynolds and Kay, Ltd., of Tyler, Texas, in the amount of \$263,700.00.

Section 4. That the award of this contract to Reynolds and Kay, Ltd., of Tyler, Texas, is contingent upon the receipt of funding of up to \$250,000.00 from Gregg County for partial project reimbursement.

Section 5. 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 Gregg County for reimbursement and as approved by the City Attorney’s Office, incident to the acceptance on behalf of the City of Longview of a bid by Reynolds and Kay, Ltd., of Tyler, Texas, for the project known as “2014 Street Overlay”.

Section 6. 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 7. 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 8. That this resolution shall become effective from and after its passage.

PASSED AND APPROVED this 12th day of June, 2014.

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Jay Dean  
Mayor

ATTEST:

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Shelly Ballenger  
City Secretary

APPROVED AS TO FORM:

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Jim Finley  
City Attorney

R PW BID 2014 STREET OVERLAY 6-12-14

## FLOW MONITORING IMPROVEMENTS PROJECT

**DESCRIPTION:** Consider a Resolution awarding a contract in the amount of \$1,011,903.00 and authorizing the City Manager or his designee to execute any necessary documents with 7-H Construction Company, Inc., of Tyler, TX, for the construction of the referenced project. The following three proposals were opened on May 27, 2014:

Bidder	Amount
7-H Construction Co., Inc. Tyler, TX	\$1,011,903.00
J.S. Haren Company Athens, TN	\$1,146,297.00
Felix Construction Company Coollidge, AZ	\$1,214,755.00

The scope of work includes the construction of needed improvements to replace antiquated, inaccurate metering at the wastewater and water treatment plants and intakes.

KSA has examined the bids and the qualifications of the low bidder, and recommends that the City award the contract to 7-H Construction Company, Inc., in the amount of \$1,011,903.00. Staff concurs with their recommendation.

**RECOMMENDED ACTION:** Passage of the Resolution.

**SOURCE OF FUNDS:** Funding is available from Revenue Bonds.

**STAFF CONTACT:** Rolin C. McPhee, P.E., Director of Public Works  
903-237-1336  
[rmcphee@LongviewTexas.gov](mailto:rmcphee@LongviewTexas.gov)

**COUNCIL DATE:** June 12, 2014

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LONGVIEW, TEXAS, ACCEPTING THE BID OF 7-H CONSTRUCTION COMPANY, INC., OF TYLER, TEXAS, FOR CONSTRUCTION OF THE PROJECT ENTITLED "WATER SYSTEM FLOW MONITORING IMPROVEMENTS"; AUTHORIZING AND DIRECTING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE ANY DOCUMENTS NECESSARY BETWEEN THE CITY OF LONGVIEW AND 7-H CONSTRUCTION COMPANY, INC., OF TYLER, TEXAS, 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 "Water System Flow Monitoring Improvements"; and,

WHEREAS, this project will involve, among other things, the construction of needed improvements to replace antiquated, inaccurate metering at the wastewater and water treatment plants and intakes; and,

WHEREAS, funding for this project is provided from the from the Water Revenue Bond 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 7-H Construction Company, Inc., of Tyler, Texas, for construction of the project entitled "Water System Flow Monitoring Improvements" in the amount of \$1,011,903.00 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 7-H Construction Company, Inc., of Tyler, Texas, in the amount of \$1,011,903.00.

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 7-H Construction Company, Inc., of Tyler, Texas, for the project known as "Water System Flow Monitoring 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 12<sup>th</sup> day of June, 2014.

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Jay Dean  
Mayor

ATTEST:

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Shelly Ballenger  
City Secretary

APPROVED AS TO FORM:

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Jim Finley  
City Attorney

R PW BID WATER FLOW MONITORING IMPROV 6-12-14

## EAST TEXAS REGIONAL AIRPORT SUPPLY LINE PROJECT

**DESCRIPTION:** Consider a Resolution awarding a contract in the amount of \$1,587,868.00 and authorizing the City Manager or his designee to execute any necessary documents with Excel Utility Construction, Inc., of Longview, TX, for the construction of the referenced project. The following seven proposals were opened on May 20, 2014:

Bidder	Amount
Excel Utility Construction, Inc. Longview, TX	\$1,587,868.00
Wicker Construction, Inc. Shreveport, LA	\$1,697,679.50
Reyonlds and Kay, LTD Tyler, TX	\$1,830,256.40
Kodiak Trenching & Boring, Southlake, TX	\$1,992,578.85
Whitewater Construction Waco, TX	\$2,085,082.00
Apeck Construction, LLC Anacoco, LA	\$2,161,213.00
Resicom, Inc. Bellaire, TX	\$2,508,197.00

The scope of work includes the construction of an 12-inch water transmission line along Highway 149 and 322 between the East Texas Regional Airport and the Cherokee Water Treatment Plant. This work provides redunancy of water service to the airport.

KSA has examined the bids and the qualifications of the low bidder, and recommends that the City award the contract to Excel Utility Construction, Inc., in the amount of \$1,587,868.00. Staff concurs with their recommendation.

**RECOMMENDED ACTION:** Passage of the Resolution.

**SOURCE OF FUNDS:** Funding is available from Revenue Bonds.

**STAFF CONTACT:** Rolin C. McPhee, P.E., Director of Public Works  
903-237-1336  
[rmcphee@LongviewTexas.gov](mailto:rmcphee@LongviewTexas.gov)

**COUNCIL DATE:** June 12, 2014

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LONGVIEW, TEXAS, ACCEPTING THE BID OF EXCEL UTILITY CONSTRUCTION, INC. FOR CONSTRUCTION OF THE PROJECT ENTITLED "EAST TEXAS REGIONAL AIRPORT SUPPLY LINE"; AUTHORIZING AND DIRECTING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE ANY DOCUMENTS NECESSARY BETWEEN THE CITY OF LONGVIEW AND EXCEL UTILITY 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 "East Texas Regional Airport Supply Line"; and,

WHEREAS, the "East Texas Regional Airport Supply Line" project will involve, among other things, the installation of 20,000 linear feet of water lines along Highway 149 and Highway 322 from Cherokee Water Treatment Plant to the East Texas Regional Airport; and,

WHEREAS, funding for this project is provided from the from the Water Revenue Bond 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 Excel Utility Construction, Inc., for construction of the project known as “East Texas Regional Airport Supply Line” in the amount of \$1,587,868.00 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, Inc., in the amount of \$1,587,868.00.

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, Inc., for the project known as “East Texas Regional Airport Supply Line”.

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 12<sup>th</sup> day of June, 2014.



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Jay Dean  
Mayor

ATTEST:

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Shelly Ballenger  
City Secretary

APPROVED AS TO FORM:

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Jim Finley  
City Attorney

R PW BID EAST TEXAS REGIONAL AIRPORT SUPPLY LINE 6-12-14

## SYLVAN DRIVE DRAINAGE IMPROVEMENTS PROJECT

<b>DESCRIPTION:</b>	<p>Consider a Resolution accepting the Sylvan Drive Drainage Improvements Project and authorizing final payment in the amount of \$32,673.29 to Haltom Construction of Marshall, Texas. Approval of final payment will begin the contractor's one-year warranty period.</p> <p>The City Council awarded a contract to Haltom Construction, on June 13, 2013 in the amount of \$572,853.25. The final construction cost is \$554,665.75.</p> <p>This project consisted of constructing improvements to mitigate house flooding and/or storm sewer problems including the construction of 1300 linear feet of storm drain pipe and related work at Sylvan Drive; and miscellaneous work as necessary to complete the installation.</p> <p>The project has been completed in accordance with the contract. The consultant, Hayes Engineering recommends acceptance of the project and approval of the final payment. Staff concurs with the recommendation.</p>
<b>RECOMMENDED ACTION:</b>	Passage of the Resolution.
<b>SOURCE OF FUNDS:</b>	Funding is available from Drainage Funds.
<b>STAFF CONTACT:</b>	Rolin C. McPhee, P.E., Director of Public Works 903-237-1336 <a href="mailto:rmcphee@longviewtexas.gov">rmcphee@longviewtexas.gov</a>
<b>COUNCIL DATE:</b>	June 12, 2014

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LONGVIEW, TEXAS, ACCEPTING THE PROJECT KNOWN AS "SYLVAN DRIVE DRAINAGE IMPROVEMENTS"; AUTHORIZING AND APPROVING FINAL PAYMENT TO HALTOM CONSTRUCTION, OF MARSHALL, TEXAS, FOR CONSTRUCTION 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 June 13, 2013, the City Council awarded a construction contract to Haltom Construction of Marshall, Texas, in the amount of \$572,853.25 for the project known as "Sylvan Drive Drainage Improvements"; and,

WHEREAS, this project consisted of constructing improvements to mitigate house flooding and/or storm sewer problems including the construction of 1,300 linear feet of storm drain pipe and related work at Sylvan Drive and miscellaneous work as necessary to complete the installation; and,

WHEREAS, the final construction cost for said project was \$554,665.75; and,

WHEREAS, the project has been completed in accordance with the plans and specifications and the contractor, Haltom Construction, has requested final payment in the amount of \$32,673.29; and,

WHEREAS, the final amount of \$32,673.29 is due to the contractor as final payment; and,

WHEREAS, the acceptance of the work by Haltom Construction, on the aforementioned contract and the approval of final payment therefore will begin the one-year maintenance 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 construction work performed by Haltom Construction, on the project known as "Sylvan Drive Drainage Improvements" is hereby accepted as complete and that final payment in the amount of \$32,673.29 for the construction of said project is hereby approved.

Section 3. That the meeting at which this resolution was passed 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 12th day of June 2014.

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Jay Dean  
Mayor

ATTEST:

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Shelly Ballenger  
City Secretary

APPROVED AS TO FORM:

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Jim Finley  
City Attorney

R PW FINAL PAY SYLVAN DRAINAGE IMPROVEMENTS 6-12-14

**CONSIDER APPROVAL OF THE FOLLOWING MINUTES**

May 19, 2014 and May 22, 2014

Rezone from Multi-Family (MF-3) to General Retail (GR) for Lots 5-7 Holland  
Subdivision located at 1501 Pine Tree Road

<b>DESCRIPTION:</b>	A PUBLIC HEARING will be held to consider application #Z14-05 filed by E-Z Mart requesting a rezone from Multi-Family (MF-3) to General Retail (GR) for Lots 5-7 Holland Subdivision located at 1501 Pine Tree Road.
<b>RECOMMENDED ACTION:</b>	Staff recommends approval. Planning & Zoning Commission recommends Approval. (9-0)
<b>STAFF CONTACT:</b>	Michael R. Shirley, AICP, City Planner 903-237-1059 <a href="mailto:mshirley@LongviewTexas.gov">mshirley@LongviewTexas.gov</a>
<b>COUNCIL DATE:</b>	June 12, 2014

APPLICATION # Z14-05

## STAFF REPORT

May 20, 2014

**APPLICANT:** E-Z Mart  
**LOCATION:** Lots 5-7 Holland Subdivision located at 1501 Pine Tree Road.  
**REQUEST:** From Multi-Family (MF-3) to General Retail (GR).

	<u>ZONING</u>	<u>LAND USE</u>
SUBJECT PARCEL	MF-3	Vacant
NORTH	MF-3 & GR	Vacant & Office
<b>SOUTH</b>	<b>TF-3 &amp; GR</b>	<b>Duplex &amp; Bakery</b>
WEST	MF-3	Vacant
EAST	GR	Gas Station

**COUNCIL DISTRICT:**  
District 1 – Councilman John Sims

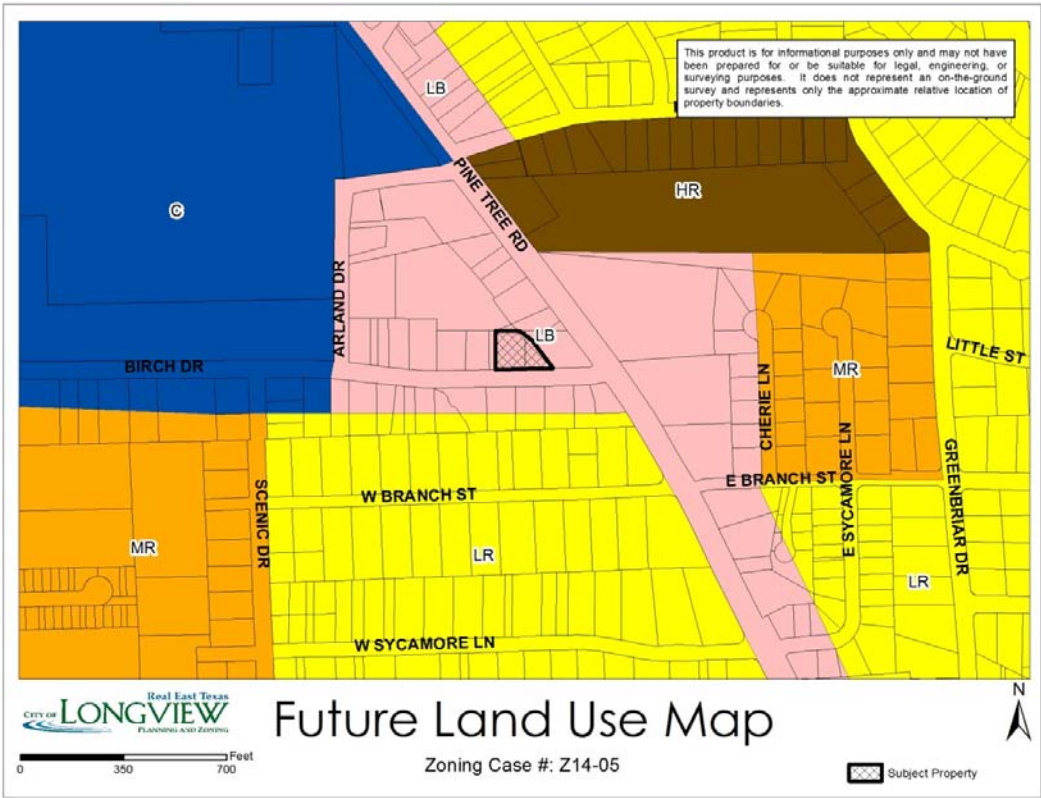
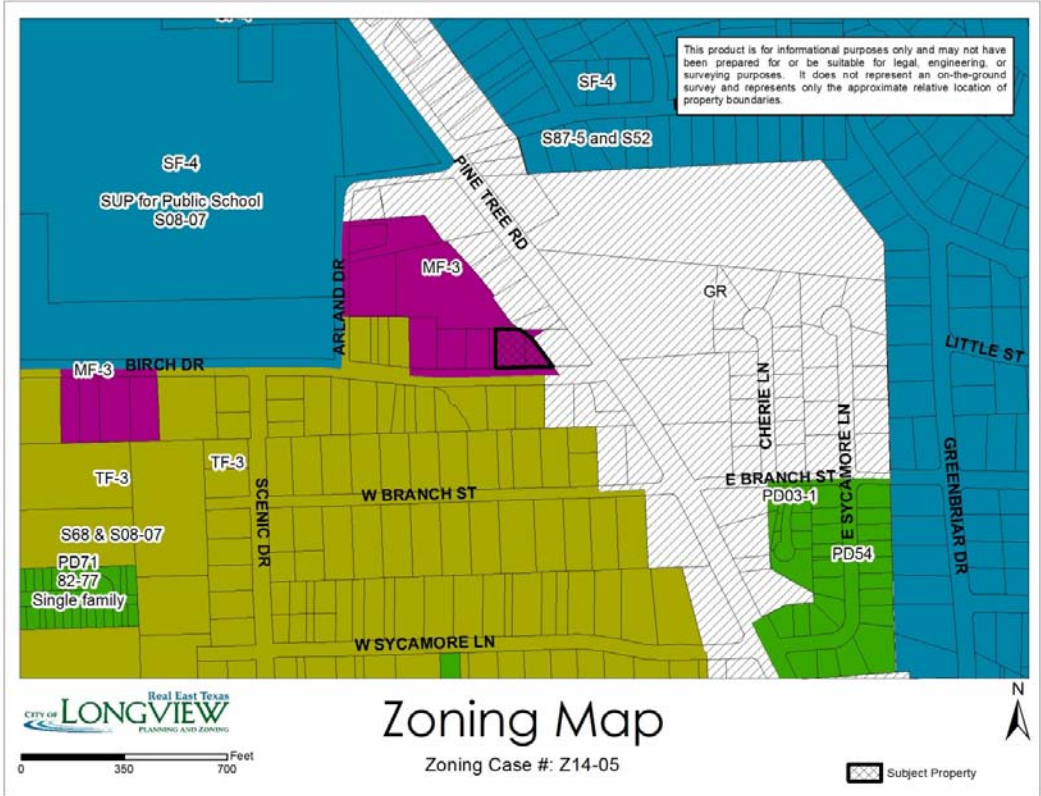
**FUTURE LAND USE:**  
The Comprehensive Plan designates this area for Light Intensity Business.

**STAFF COMMENTS:**  
The applicant is requesting a rezone from Multi-Family (MF-3) to General Retail (GR) to allow for the gas station and convenience store to expand to the west of the existing store. E-Z Mart is proposing to add approximately 430 square feet and to remodel the existing store. Pine Tree Road is a minor arterial which is appropriate for this type of development as long as access management is followed.

Staff finds the proposed zoning change is consistent with the existing use and the surrounding uses.

**STAFF RECOMMENDATION:**  
Planning and Zoning Commission (9-0) and Staff recommend **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 LOTS 5-7 HOLLAND SUBDIVISION LOCATED AT 1501 PINE TREE ROAD BE REZONED FROM MULTI-FAMILY (MF-3) 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 lots 5-7 Holland Subdivision located at 1501 Pine Tree Road be rezone from Multi-Family (MF-3) 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 12<sup>th</sup> day of June, 2014.

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Jay Dean  
Mayor

ATTEST:

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Shelly Ballenger  
City Secretary

APPROVED AS TO FORM:

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Jim Finley  
City Attorney

O P&Z Z14-05 6-12-14



Rezone from General Retail (GR) to Light Commercial (C-1) for approximately 3.317 acres of AB 186 D Sanchez Survey Tracts 19-21, 22-06, Section 6, and Tract 1, Section 7 located on the southwest corner of E. George Richey Road and Gilmer Road

<b>DESCRIPTION:</b>	A PUBLIC HEARING will be held to consider application #Z14-06 filed by F & H Rental Properties LP requesting a rezone from General Retail (GR) to Light Commercial (C-1) for approximately 3.317 acres of AB 186 D Sanchez Survey Tracts 19-21, 22-06, Section 6, and Tract 1, Section 7 located on the southwest corner of E. George Richey Road and Gilmer Road.
<b>RECOMMENDED ACTION:</b>	Staff recommends approval. Planning & Zoning Commission recommends Approval. (9-0)
<b>STAFF CONTACT:</b>	Michael R. Shirley, AICP, City Planner 903-237-1059 <a href="mailto:mshirley@LongviewTexas.gov">mshirley@LongviewTexas.gov</a>
<b>COUNCIL DATE:</b>	June 12, 2014

# STAFF REPORT

May 20, 2014

**APPLICANT:** F & H Rental Properties LP  
**LOCATION:** Approximately 3.317 acres of AB 186 D Sanchez Survey Tracts 19-21, 22-06, Section 6, and Tract 1, Section 7 located on the southwest corner of E. George Richey Road and Gilmer Road.  
**REQUEST:** From General Retail (GR) to Light Commercial (C-1).

	<u>ZONING</u>	<u>LAND USE</u>
SUBJECT PARCEL	GR	Two Single Family Homes, Mobile Home & Two Vacant Lots
NORTH	SF-4	Single Family Homes & Vacant
<b>SOUTH</b>	<b>SF-4 &amp; GR</b>	<b>Vacant &amp; Retail</b>
WEST	SF-4	Single Family Homes & Vacant
EAST	SF-4 & GR	Single Family Home & Vacant

**COUNCIL DISTRICT:**  
District 5 – Councilman Richard Manley

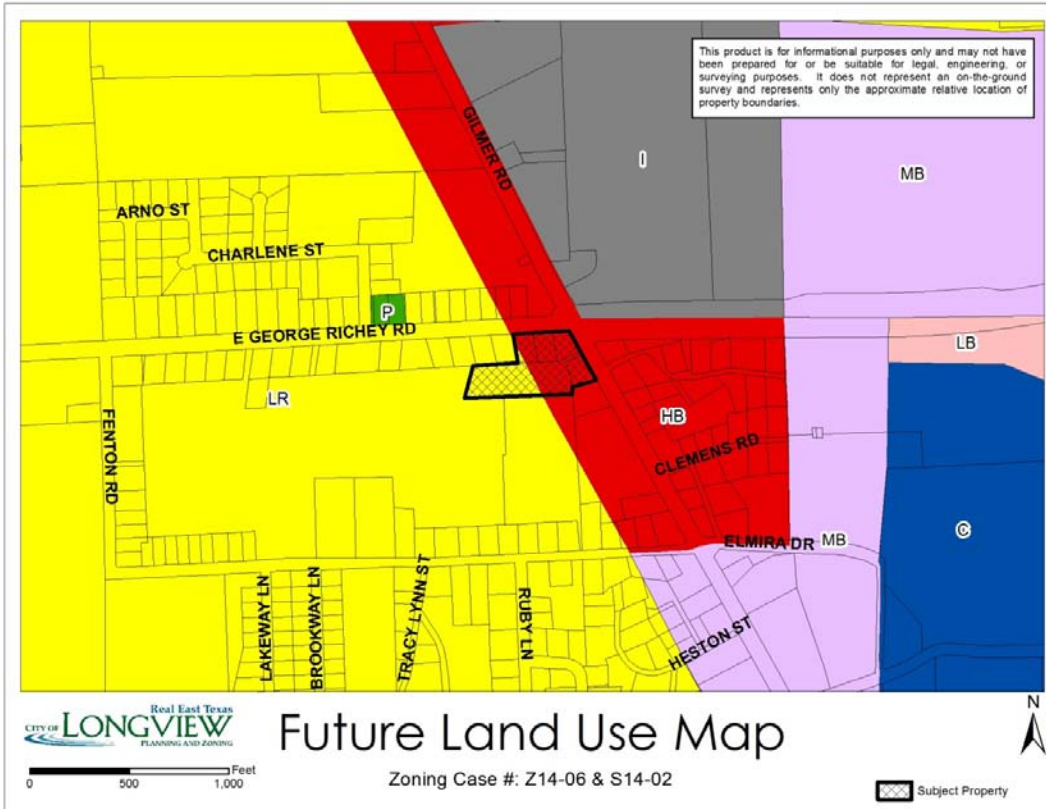
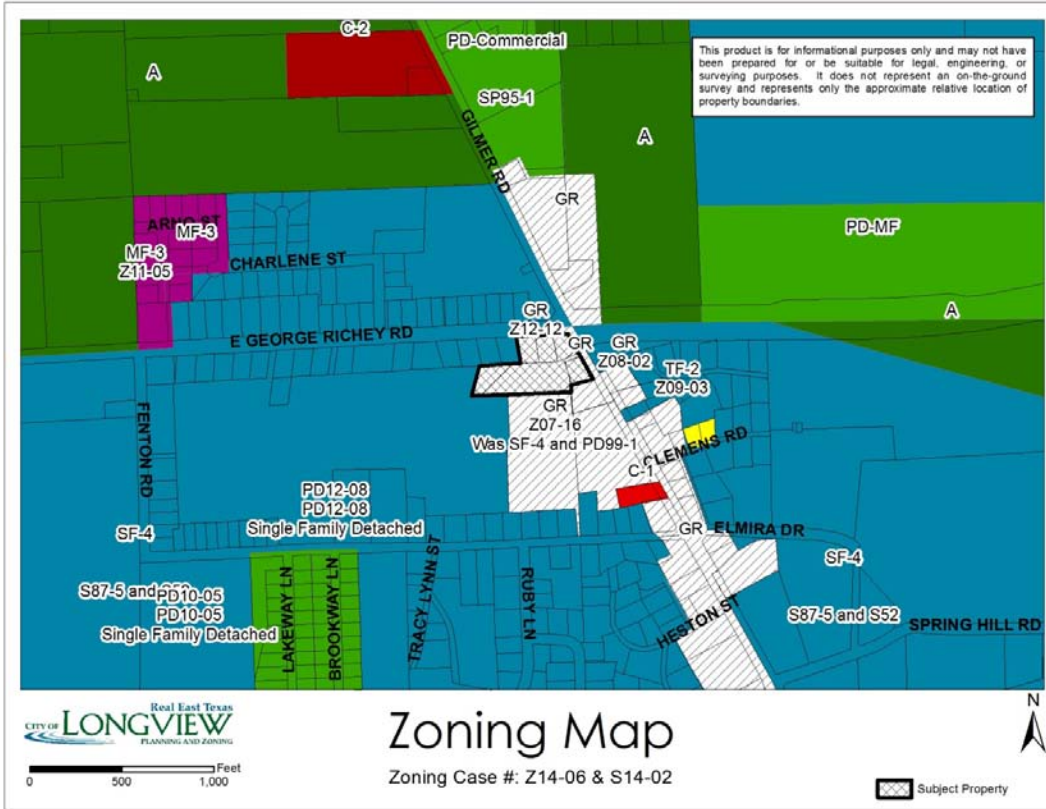
**FUTURE LAND USE:**  
The Comprehensive Plan designates this area for High Intensity Business & Low Density Residential.

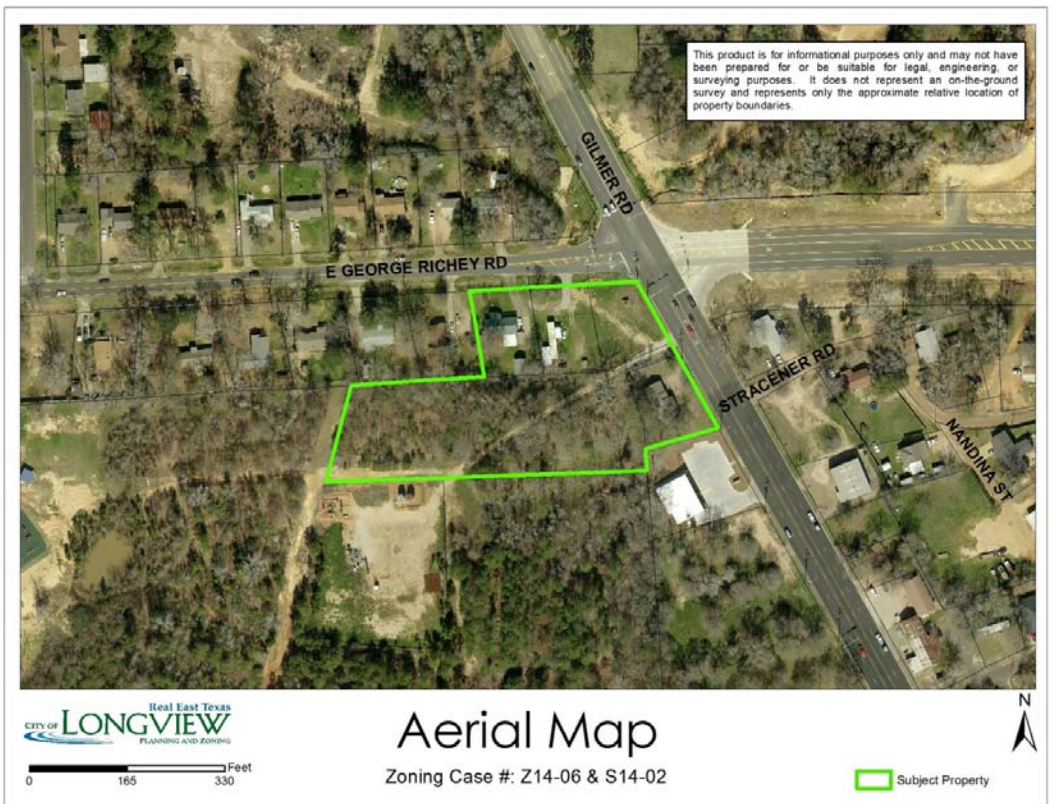
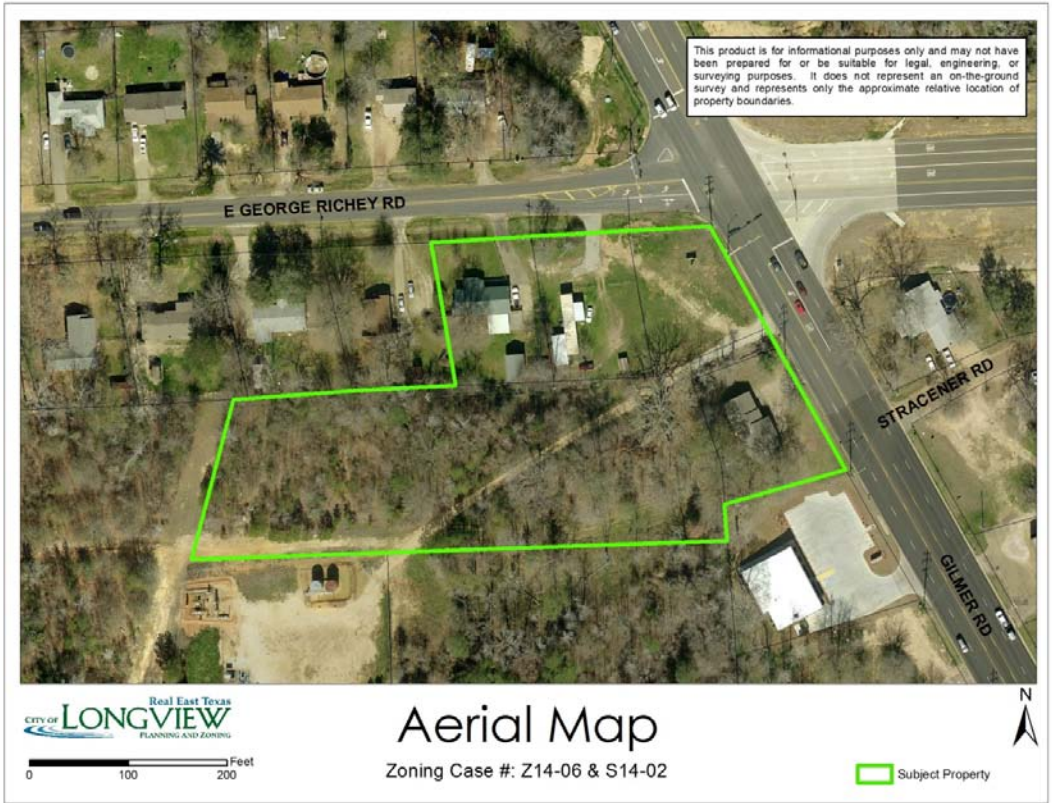
**STAFF COMMENTS:**  
The applicant is requesting a rezone from General Retail (GR) to Light Commercial (C-1) to allow for the development of a gas station, convenience store, and a semi-automatic car wash. In Light Commercial (C-1) zoning district, a specific use permit (SUP) is required for an auto laundry (car wash). A SUP is required to ensure no negative impact on surrounding properties. The applicant has applied for a SUP which is next on the agenda.

Through site plan review process, staff will ensure all requirements are met including buffering between adjacent residential. George Richey Road is a minor arterial and Gilmer Road is a principal arterial. This type of development is appropriate along these roads as long as access management is followed.

Staff finds the proposed zoning change is consistent with the comprehensive plan and the surrounding uses.

**STAFF RECOMMENDATION:**  
Planning and Zoning Commission (9-0) and Staff recommend **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 3.317 ACRES OF AB 186 D SANCHEZ SURVEY TRACTS 19-21, 22-06, SECTION 6, AND TRACT 1, SECTION 7 LOCATED ON THE SOUTHWEST CORNER OF E. GEORGE RICHEY ROAD AND GILMER ROAD BE REZONED FROM GENERAL RETAIL (GR) TO LIGHT COMMERCIAL (C-1); 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 3.317 acres of AB 186 D Sanchez Survey Tracts 19-21, 22-06, Section 6, and Tract 1, Section 7 located on the southwest corner of E. George Richey Road and Gilmer Road be rezone from General Retail (GR) to Light Commercial (C-1).

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 12<sup>th</sup> day of June, 2014.

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Jay Dean  
Mayor

ATTEST:

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Shelly Ballenger  
City Secretary

APPROVED AS TO FORM:

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Jim Finley  
City Attorney

O P&Z Z14-06 6-12-14

Specific Use Permit (SUP) for an Auto Laundry (Car Wash) in Light Commercial (C-1) Zoning District for approximately 3.317 acres of AB 186 D Sanchez Survey Tracts 19-21, 22-06, Section 6, and Tract 1, Section 7 located on the southwest corner of E. George Richey Road and Gilmer Road.

<b>DESCRIPTION:</b>	A PUBLIC HEARING will be held to consider application #S14-02 filed by F & H Properties LP for a Specific Use Permit (SUP) for an Auto Laundry (Car Wash) in Light Commercial (C-1) Zoning District for approximately 3.317 acres of AB 186 D Sanchez Survey Tracts 19-21, 22-06, Section 6, and Tract 1, Section 7 located on the southwest corner of E. George Richey Road and Gilmer Road.
<b>RECOMMENDED ACTION:</b>	Planning and Zoning Commission (9-0) with a condition that a six foot (6') wood or masonry fence is placed along the southern portion of the lot adjacent to the General Retail (GR) Zoning and Staff recommend approval.
<b>STAFF CONTACT:</b>	Michael R. Shirley, AICP, City Planner 903-237-1059 <a href="mailto:mshirley@LongviewTexas.gov">mshirley@LongviewTexas.gov</a>
<b>COUNCIL DATE:</b>	June 12, 2014

# STAFF REPORT

May 20, 2014

**APPLICANT:** F & H Rental Properties LP  
**LOCATION:** Approximately 3.317 acres of AB 186 D Sanchez Survey Tracts 19-21, 22-06, Section 6, and Tract 1, Section 7 located on the southwest corner of E. George Richey Road and Gilmer Road.  
**REQUEST:** Specific Use Permit (SUP) to allow for an Auto Laundry (Car Wash)

	<u>ZONING</u>	<u>LAND USE</u>
SUBJECT PARCEL	GR	Two Single Family Homes, Mobile Home & Two Vacant Lots
NORTH	SF-4	Single Family Homes & Vacant
<b>SOUTH</b>	<b>SF-4 &amp; GR</b>	<b>Vacant &amp; Retail</b>
WEST	SF-4	Single Family Homes & Vacant
EAST	SF-4 & GR	Single Family Home & Vacant

**COUNCIL DISTRICT:**  
District 5 – Councilman Richard Manley

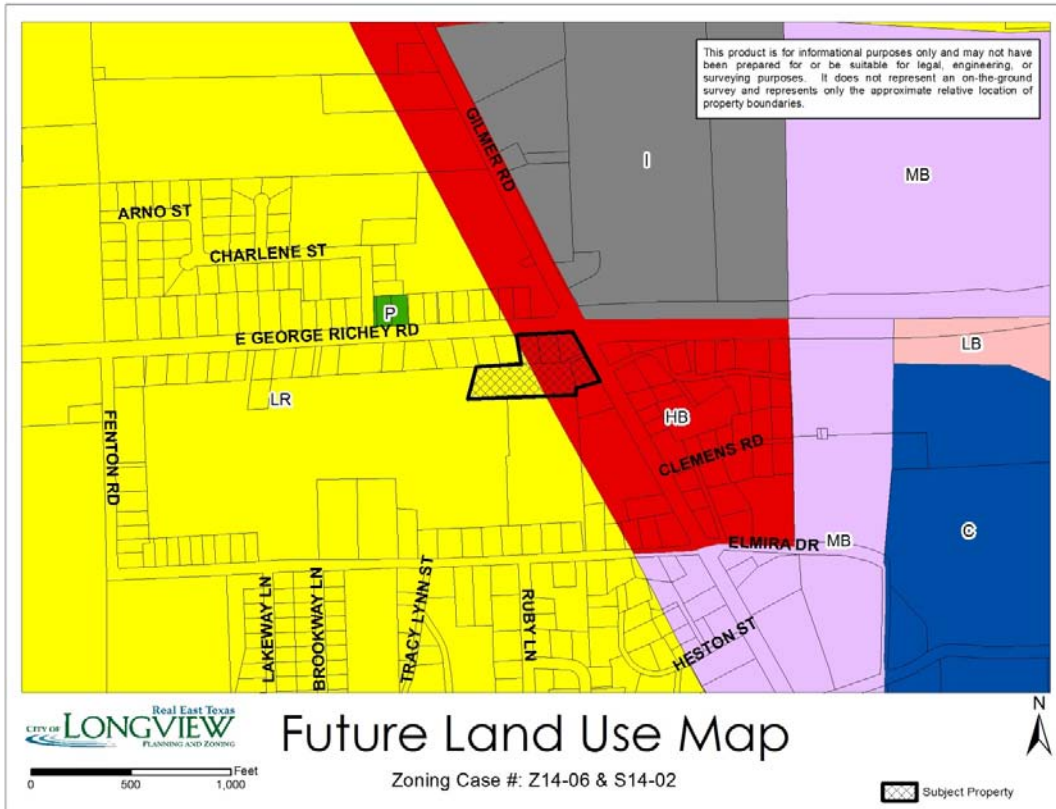
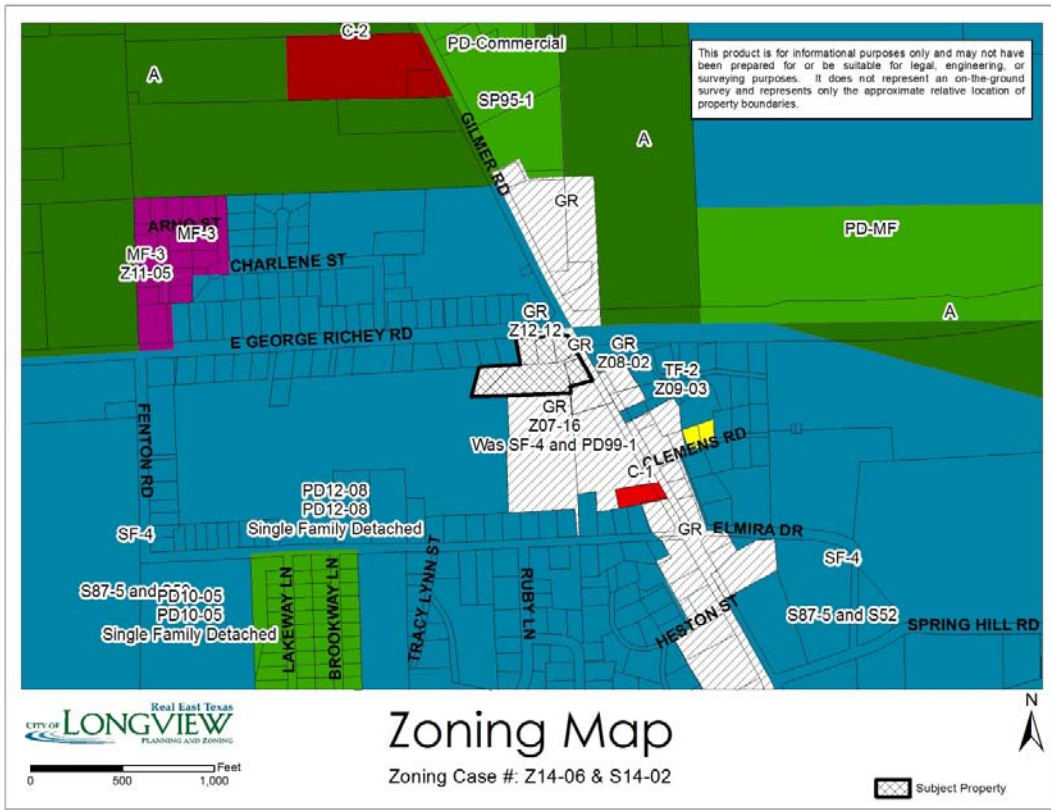
**FUTURE LAND USE:**  
The Comprehensive Plan designates this area for High Intensity Business & Low Density Residential.

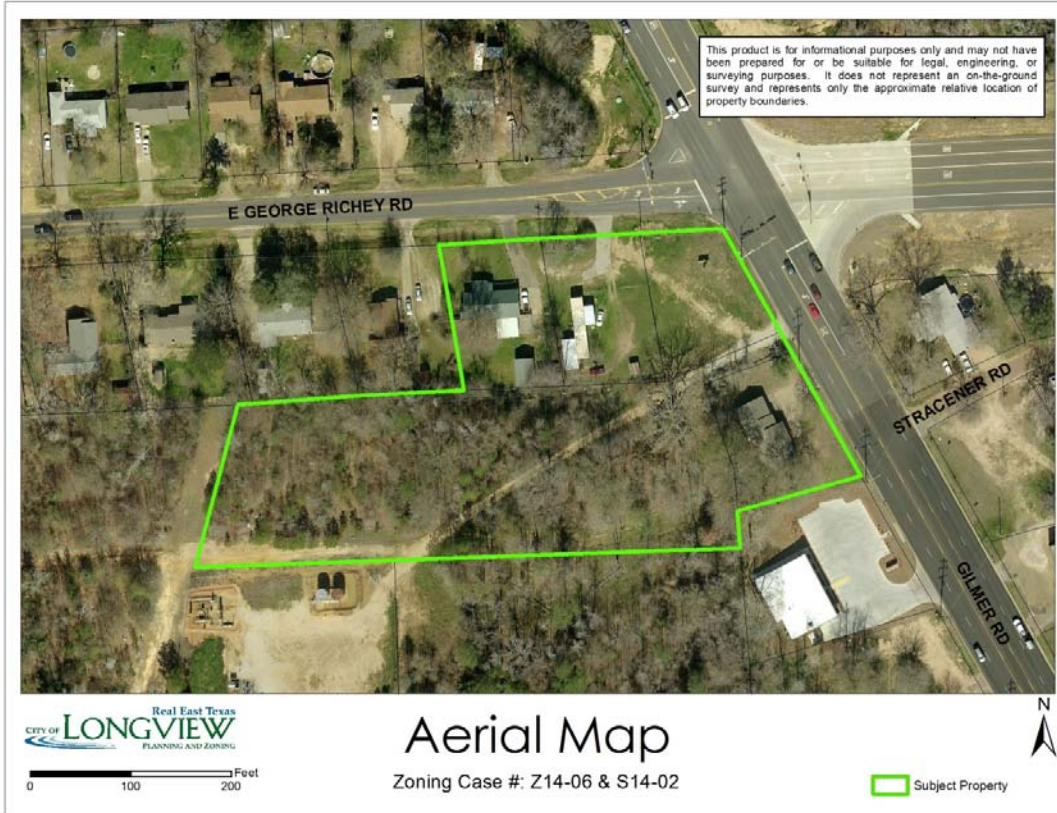
**STAFF COMMENTS:**  
The applicant is requesting a Specific Use Permit (SUP) to allow for an Auto Laundry (Car Wash) in Light Commercial (C-1) zoning district. A Specific Use Permit is required to ensure no negative impact on surrounding properties.

The proposed development is for a gas station, convenience store with a semi-automatic car wash. Through site plan review process, staff will ensure all requirements are met including buffering between adjacent residential. George Richey Road is a minor arterial and Gilmer Road is a principal arterial. This type of development is appropriate along these roads as long as access management is followed.

Staff finds the proposed SUP is consistent with the comprehensive plan and the surrounding uses.

**STAFF RECOMMENDATION:**  
Planning and Zoning Commission (9-0) with a condition that a six foot (6') wood or masonry fence is placed along the southern portion of the lot adjacent to the General Retail (GR) Zoning and Staff recommend **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 A SPECIFIC USE PERMIT (SUP) IS HEREBY GRANTED FOR AN AUTO LAUNDRY (CAR WASH) IN LIGHT COMMERCIAL (C-1) ZONING DISTRICT FOR APPROXIMATELY 3.317 ACRES OF AB 186 D SANCHEZ SURVEY TRACTS 19-21, 22-06, SECTION 6, AND TRACT 1, SECTION 7 LOCATED ON THE SOUTHWEST CORNER OF E. GEORGE RICHEY ROAD AND GILMER ROAD; 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 Charter of the City of Longview and the State laws in reference to the granting of such permits under the Zoning Ordinance regulations and zoning map, have given the 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 the persons interested situated in the affected area and in the vicinity thereof regarding the re-

zoning, proposed use or improvement of the property herein described, the City Council of the City of Longview, Texas, being of the opinion that said special use permit should be granted; 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 Ordinances of the City of Longview, be, and it is hereby amended insofar as it applies to the following described property, to-wit: that a specific use permit is hereby granted for a Specific Use Permit (SUP) for an Auto Laundry (Car Wash) in Light Commercial (C-1) Zoning District for approximately 3.317 acres of AB 186 D Sanchez Survey Tracts 19-21, 22-06, Section 6, and Tract 1, Section 7 located on the southwest corner of E. George Richey Road and Gilmer Road.

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 12<sup>th</sup> day of June, 2014.

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Jay Dean  
Mayor

ATTEST:

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Shelly Ballenger  
City Secretary

APPROVED AS TO FORM:

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Jim Finley  
City Attorney

O P&Z SUP14-02 6-12-14

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LONGVIEW, TEXAS, AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE AND THE CITY SECRETARY TO ATTEST TO A TAX ABATEMENT AGREEMENT BETWEEN THE CITY OF LONGVIEW AND TRACTOR SUPPLY CO. OF TEXAS, LP, AND/OR ANY AFFILIATES OF SAID COMPANY, FOR PROPOSED IMPROVEMENTS TO PROPERTY AND FACILITIES AT 2707 LEDCO DRIVE, LONGVIEW, TEXAS, AND JOB CREATION AT SAID LOCATION; FINDING THAT THE TERMS OF THE TAX ABATEMENT AGREEMENT APPROVED HEREIN AND THE PROPERTY SUBJECT TO SAID AGREEMENT MEET THE APPLICABLE GUIDELINES AND CRITERIA ADOPTED BY SAID CITY COUNCIL UNDER THE AUTHORITY OF SECTION 312.002 OF THE TEXAS TAX CODE; AUTHORIZING AND DIRECTING THE CITY MANAGER OR THE CITY MANAGER'S DESIGNEE TO DELIVER NOTICE TO ALL OF THE OTHER TAXING UNITS WITH JURISDICTION OVER THE PROPERTY DESCRIBED HEREIN IN ACCORDANCE WITH THE REQUIREMENTS OF SECTION 312.2041 OF THE TEXAS TAX CODE; PROVIDING THAT FAILURE TO DELIVER SAID NOTICE AND/OR FAILURE TO STRICTLY COMPLY WITH THE REQUIREMENTS OF SAID SECTION 312.2041 SHALL NOT AFFECT THE VALIDITY OF THE TAX ABATEMENT AGREEMENT AUTHORIZED HEREBY; 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, Chapter 312 of the Texas Tax Code authorizes municipalities to abate property taxes on certain real and personal property located in a reinvestment zone; and,

WHEREAS, by law an enterprise zone is a reinvestment zone for purposes of tax abatement under Chapter 312 of the Texas Tax Code, and, therefore,

the requirements for a formal hearing and designation as a reinvestment zone do not apply when granting a tax abatement inside an enterprise zone; and,

WHEREAS, the City of Longview, Texas, has adopted guidelines for tax abatement to encourage and stimulate economic growth and diversification in reinvestment zones in the community; and,

WHEREAS, Tractor Supply Co. of Texas, LP, (the “Company”) intends to make certain improvements to facilities (hereinafter, the “Facilities”) located on a tract of land with an address of 2707 LEDCO Drive, in Longview, Harrison County, Texas, as said tract is described in the agreement attached hereto as Attachment “A” (said tract hereinafter called the “Property”); and,

WHEREAS, the Company intends to make improvements to the Facilities and the Property for the purpose of using the Facilities and the Property as a distribution center; and,

WHEREAS, said improvements will include new improvements as well as modifications, renovations and enhancements of existing improvements (said improvements hereinafter collectively called the “Project”); and,

WHEREAS, the Company intends to employ and maintain a number of full-time equivalent employees at said Facilities, all as described in Attachment “A”; and,

WHEREAS, the Property has been designated as a part of an enterprise zone in accordance with the Texas Enterprise Zone Act; and,

WHEREAS, in order to encourage the Company to carry out the Project and maintain full-time equivalent employees as described in Attachment “A,” the City of



Longview is willing to enter into a tax abatement agreement substantially in the form of Attachment "A" hereto; and,

WHEREAS, the application of the Company for the aforesaid tax abatement has been reviewed by the Longview Economic Development Corporation and said corporation has determined that said application appears to be both complete and compliant with the City's established policy and criteria for tax abatement; 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 Mayor is hereby authorized and directed to execute and the City Secretary to attest to a tax abatement agreement between the City of Longview, Texas, and Tractor Supply Co. of Texas, LP, and/or any such affiliates of said entity as may be necessary or convenient for said agreement, for the purpose of inducing said entity, and/or such affiliates, to carry out the Project described herein on the Property described herein.

Section 3. That the aforesaid tax abatement agreement shall be substantially in the form attached hereto as Attachment "A."

Section 4. That, as required by Texas Tax Code Section 312.002, the City Council of the City of Longview, Texas, hereby finds and determines that the terms of the tax abatement agreement approved herein and the property subject to said

agreement meet the applicable guidelines and criteria adopted by said City Council under the authority of said Section 312.002 of the Texas Tax Code.

Section 5. That the City Manager of the City of Longview, Texas, or the City Manager's designee, is hereby authorized and directed to deliver notice to all of the other taxing units with jurisdiction over the Property described herein in accordance with the requirements of Section 312.2041 of the Texas Tax Code; provided, however, that failure to deliver said notice and/or failure to strictly comply with the requirements of said Section 312.2041 of the Texas Tax Code shall not affect the validity of the tax abatement agreement authorized hereby.

Section 6. 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 7. That this resolution shall be effective immediately from and after its date of passage.

PASSED and APPROVED this 12<sup>th</sup> day of June, 2014.

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Jay Dean  
Mayor

ATTEST:

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Shelly Ballenger  
City Secretary

APPROVED AS TO FORM:

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Jim Finley  
City Attorney

R TAX ABATE TSC 6-12-14

## ATTACHMENT A

### TAX ABATEMENT AGREEMENT

This Tax Abatement Agreement (“Agreement”), by and between Tractor Supply Co. of Texas, LP, a Texas limited liability partnership, (hereinafter referred to as the “Company”), and the City of Longview, Texas (hereinafter “City of Longview”);

#### WITNESSETH:

**WHEREAS**, the Company owns a facility in the Longview Business Park with a street address of 2707 LEDCO Drive, Longview, Texas, and which is located on a tract of land further described in Exhibit A attached hereto and incorporated herein by reference (said facility and tract of land hereinafter collectively called the “Property”); and,

**WHEREAS**, the Company intends to make improvements to the Property for the purpose of using the Property as a distribution center, including new improvements and modifications, renovations and enhancements of existing improvements on the Property (said improvements hereinafter called the “Project” and further described in Exhibit B attached hereto and incorporated herein by reference); and,

**WHEREAS**, the Project is expected to result in a total capital investment of approximately \$5 million and the initial creation of 10 full-time jobs by the Company at the Property; and,

**WHEREAS**, the governing board of the Longview Economic Development Corporation has recommended a 5-year, 50% tax abatement, including inventory; and,

**WHEREAS**, the Property has been designated as a part of an Enterprise Zone in accordance with the Texas Enterprise Zone Act, which also constitutes designation as a

Reinvestment Zone for purposes of Tax Abatement under Chapter 312 of the Texas Tax Code; and,

**WHEREAS**, in order to encourage the Company to carry out the Project, the City of Longview is willing to enter into a tax abatement agreement upon the terms and conditions hereinafter provided;

**NOW THEREFORE**, for and in consideration of the mutual covenants hereinafter contained, the Company and the City of Longview agree as follows:

### **Article I. Definitions**

For purposes of this Agreement, each of the following terms shall have the meaning set forth herein unless the context clearly indicates otherwise:

“Abatement Conditions” means each of the two conditions to the tax abatement under this Agreement as described in Section II.A. below.

“Abatement Start Date” means January 1, 2015, if the last completed of the Abatement Conditions is met on or before December 31, 2014; and January 1, 2016, if the last completed of the Abatement Conditions is met on or after January 1, 2015, and on or before December 31, 2015.

“Abatement Years” means calendar years 2015-2019 if the Abatement Start Date is January 1, 2015, and means calendar years 2016-2020 if the Abatement Start Date is January 1, 2016.

“Affiliate” shall mean, with respect to any Person, any other Person directly or indirectly Controlling, Controlled by, or under common Control with such Person.

“Capital Investment” shall mean the total capitalized cost, including all hard and soft costs, incurred and paid by the Company (i) to complete the design, construction and implementation of all aspects of the Project (including both new improvements and modification, renovation and enhancement of existing improvements); and (ii) for the purchase of tangible personal property, including, without limitation, inventory, placed on the Property after the execution of this Agreement.

“Control,” or any derivation thereof, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through ownership of securities, by contract or otherwise.

“Full-time Equivalent Longview Worker” means, for a particular calendar quarter during the Abatement Years, one or more employees of the Company or its Affiliate who meets each of the following requirements: (i) he, she or they perform(s) a single job, either individually or between them, which in the aggregate totals an average of thirty-five (35) hours during a calendar week; and (ii) he, she or they work at a location on the Property during such calendar quarter.

“Person” shall mean an individual, corporation, partnership, trust, estate, unincorporated organization, association, or other entity.

“Required Use” shall mean the continuous use and occupancy of the Property and the Project for the operation of one or more of the following business activities of the Company: (i) mixing center; (ii) distribution center; (iii) warehouse; (iv) office space; (v) storage; and/or (vi) any other use similar to one or more of the foregoing business activities.

## **Article II. Company’s Obligations**

The Company covenants and agrees that it shall undertake and complete the Project in accordance with the description set forth in Exhibit B. In connection with the construction of the Project, the Company agrees as follows:

- A. To (1) make a minimum \$5,000,000.00 (five million dollars) Capital Investment; and (2) complete said Project before June 30, 2015. For each of the Abatement Years, the Company will render, for purposes of ad valorem property taxation, all improvements made to and tangible personal property placed on the Property as part of the Project; provided, however, that nothing in this Agreement makes taxable any property that is otherwise exempt from taxation by law. During the Abatement Years, the Company shall use the Project for the Required Use; provided, however, that the following exceptions to such Required Use requirement shall not be a breach of this Agreement: (i) temporary interruptions that cause cessation of the Required Use for less than three (3) months; and (ii) failure to meet the Required Use requirement that result from events of Force Majeure provided in Article VIII hereof.
- B. The Company will provide the City of Longview with documentation of the Company’s cost of the Capital Investment required by this Agreement. The Company shall provide the documentation required by this Paragraph B on or before the 60<sup>th</sup> day following the Abatement Start Date that the Company asserts applies. The documentation required by this Paragraph B shall contain detail sufficient to show the types and dates of improvements made to the Property, the sorts of personal property placed on the Property, the dates on which said personal property was first placed on the Property and the continued compliance of the Company

with the provisions of this Agreement. As part of the documentation required by this Paragraph B, an agent or representative of the City of Longview may require the Company to provide the City of Longview and/or Harrison County Appraisal District with an asset listing which includes the acquisition date and other pertinent information for each piece of personal property and/or equipment that the Company wishes to be credited towards satisfaction of the Capital Investment obligation under Article II, Paragraph A hereof, and said listing shall be certified as accurate and complete by an officer of the Company. The agent or representative of the City of Longview that requests such a listing may request any reasonable method or form of certification as said agent or representative, in the agent's or representative's sole discretion, may require, including without limitation an affidavit, signature or other verification from an officer of the Company or from a certified public accountant engaged by the Company.

- C. For the Abatement Years overall, the Company expects that the average number per year of Full-Time Equivalent Longview Workers will be approximately thirteen (13); however, the condition to a tax abatement under this Agreement for each particular Abatement Year is that the Full-Time Equivalent Longview Workers is at least ten (10), as determined below (the "FTE Requirement") (it being understood that the overall average of 13 for the Abatement Years is aspirational and is not a condition to the tax abatement under this Agreement).
- D. The average Full-Time Equivalent Longview Workers for each Abatement Year equals the quotient of (1) the sum of (A) the total Full-Time Equivalent Longview Workers during the first calendar quarter of the Abatement Year; (B) the total Full-Time Equivalent Longview Workers during the second calendar quarter of the Abatement Year; (C) the total Full-Time Equivalent Longview Workers during the third calendar quarter of the Abatement Year; and (D) the total Full-Time Equivalent Longview Workers during the fourth calendar quarter of the Abatement Year; divided by (2) four. Thus, for illustration purposes, if the Full-Time Equivalent Longview Workers for the four quarters of the first Abatement Year were 10 in the first quarter, 11 in the second quarter, 10 in the third quarter and 10 in the fourth quarter, then the average Full-Time Equivalent Longview Workers for the first Abatement Year would be 10.25 (41/4), and the Company would meet the Full Time Equivalent Longview Workers test for the first Abatement Year.
- E. The determination of Full-Time Equivalent Longview Workers for each Abatement Year shall be based on (1) the information provided by the Company in the quarterly worker report prepared by the Company or its Affiliate, which shall set forth the following information about each employee the Company hires, continues to retain or terminates during

such quarter: (A) full name; (B) residential address; (C) the date of hire or termination (as applicable); (D) the last four digits of the employee's social security number; (E) whether such individual is a full-time or part-time service provider; and (F) the employee's wages for the quarter; (2) the Company's and its relevant Affiliate's books and records as to its employees; (3) the Employer's Quarterly Report to the Texas Workforce Commission; and (4) such other supporting documentation as may be reasonably required by the City of Longview and reasonably available to the Company.

- F. To comply with the City of Longview's Amended and Restated Criteria and Guidelines for Tax Abatement, a copy of which is attached hereto and made a part hereof for all purposes as Exhibit C.
- G. To comply with all relevant local laws and regulations that relate to the Project, including but not limited to, all of the Codes of the City of Longview, such as the Zoning Ordinance, Building Code, Plumbing Code, Electrical Code, Mechanical Code, and Fire Code.
- H. To provide reasonable access to and authorize inspection of the Project and the Property by agents or representatives of the City of Longview, such access to be provided during reasonable times and with reasonable notice to the Company, in order to ensure that the improvements are made according to the terms, conditions, and specifications of this Agreement and/or that the Company is otherwise in compliance with this Agreement.
- I. To certify annually by February 1<sup>st</sup> in writing to the City of Longview that the Company is in compliance with this Agreement, such certification to be made on a form provided by the City of Longview.
- J. To provide agents or representatives of the City of Longview with reasonable access to and to authorize inspection of relevant records of the Company, including without limitation federal and state unemployment reports, Company payroll reports, and federal income tax forms such as W-2 forms, in order to allow said agents or representatives to determine whether the Company is in compliance with this Agreement, including without limitation, the FTE Requirement; provided, however, that such access shall not be unreasonably burdensome to the Company and the Company may redact any information it deems sensitive or confidential. The Company shall provide such access during reasonable times (i.e. during normal business hours of the Company) and with reasonable notice to the Company by the City of Longview or the agent or representative of the City of Longview.



- K. To keep records sufficient to show whether the Company is in compliance with each and every one of the provisions of this Agreement. Such records shall include, at a minimum, the records required or listed in Article II, Paragraph B hereof and Article II, Paragraph J hereof and all quarterly and annual payroll reports required by state and federal law. The Company shall retain said records for the period specified by applicable state and federal laws.

### **Article III. Commencement and Completion Dates**

After the execution of this Agreement, the Company shall, subject to events of Force Majeure, commence construction of the Project by December 31, 2014. The Company shall, subject to the events of Force Majeure, complete the entire Project before June 30, 2015.

### **Article IV. City of Longview Obligations**

The City of Longview agrees as follows:

- A. To abate fifty percent (50%) of the ad valorem property taxes for the Abatement Years on all increase in value of the Property above the assessed value of the Property for the tax year 2014. To abate fifty percent (50%) of the ad valorem property taxes for the Abatement Years on all abatable tangible personal property, including, without limitation, inventory, placed on the Property after the execution of this Agreement.
- B. To document the Capital Investment made by the Company pursuant to this Agreement.
- C. To provide tax abatement in accordance with the approved abatement policies of the City of Longview.
- D. To recapture property tax revenue as follows:
  - (i) If the Company breaches the FTE Requirement in any Abatement Year, then the City of Longview's sole remedy shall be to recapture the property tax revenue lost under this Agreement for the Abatement Year in which the FTE Requirement was not met; however, such breach shall not prevent the Company from being entitled to a tax abatement under this Agreement for any other Abatement Year provided it meets the FTE Requirement for such Abatement Year and the other provisions of this Agreement.

- (ii) If the City of Longview terminates this Agreement pursuant to Article VI hereof, and after giving written notice of the Deficiency (defined in Article VI hereof) and the expiration of the Cure Period (defined in Article VI hereof), the City of Longview's sole remedy for such Deficiency shall be to recapture the property tax revenue lost under this Agreement for (a) the Abatement Year in which such Deficiency occurred; and (b) one Abatement Year prior to the Abatement Year in which such Deficiency occurred.
- (iii) If the Company owes any recapture property taxes to the City of Longview under the subsection (ii) of this Paragraph D, such amount, plus interest at the rate provided for delinquent taxes in accordance with Section 33.01 of the Texas Tax Code ("Delinquent Interest"), will be due within thirty (30) days after termination of this Agreement.

#### **Article V. Tax Abatement to Comply With State Law**

The Company and the City of Longview additionally agree that the tax abatement described in this Agreement shall at all times comply with the requirements of Texas law as set forth in Chapter 312 of the Texas Tax Code or other applicable law. The parties at all times agree to cooperate with each other to assure compliance with such laws. In the event that for any reason this Agreement, or any part thereof, is determined to be invalid or otherwise ineffective to grant the tax abatement described herein, the parties agree to take such curative action as may be necessary to bring the Agreement into compliance with the applicable provisions of state law to the extent possible, and to achieve the intended tax abatement for the Company.

#### **Article VI. Termination**

This Agreement may be terminated by the City of Longview, in whole, or from time to time, in part, if the Company has failed to timely make the Capital Investment under Article II, Paragraph A hereof or has otherwise failed to comply with the terms of

this Agreement (provided that failure to meet the FTE Requirement for any Abatement Year is not grounds to terminate this Agreement) (such failure being hereafter referred to as the "Deficiency"). The City of Longview shall give the Company written notice of the Deficiency by delivering to the Company a written Notice of Proposed Termination informing the Company of the Deficiency. Notice of Proposed Termination shall be considered given when placed in the United States mail either by registered or certified mail, postage prepaid, and addressed to the Company at its address shown herein. The Company shall have sixty (60) days from the date on which said notice is given in which to cure the Deficiency; provided, however, that if the Deficiency is not reasonably curable within sixty (60) days, the Company shall have an additional ninety (90) days to cure such Deficiency if the Company is diligently pursuing a cure within the first sixty (60) days (such cure period referred to as the "Cure Period"). In the event the Company fails to cure the Deficiency within the Cure Period, this Agreement may be terminated, in whole or in part, by the City of Longview without further notice to the Company. In the event that this Agreement is terminated by the City of Longview, the City of Longview may recapture lost property tax revenue pursuant to Article IV, Paragraph D(ii) hereof; provided, however, that the City of Longview, in its sole discretion, may terminate this Agreement as to only a portion of said taxes, in which case only said portion of taxes plus Delinquent Interest on said portion shall be due within said time. The additional taxes and interest due upon termination become delinquent and incur penalties as provided by law for delinquent ad valorem property taxes if not paid by February 1<sup>st</sup> of the year following receipt by the Company of Notice of Termination of this Agreement. Termination by the City of Longview shall be in accordance with the established

Amended and Restated Criteria and Guidelines for Tax Abatement, the specific provisions of which are made a part of this Agreement.

This Agreement shall terminate at the end of the day on the last Abatement Year, unless earlier terminated as provided herein; provided, however, that (i) the City of Longview's obligations under Article IV, Paragraph A hereof; and (ii) the Company's obligations under Article II, Paragraph J hereof, shall survive the termination of this Agreement.

#### **Article VII. Status of the Company as Independent Contractor**

Nothing herein shall be construed as creating a partnership or joint enterprise between the City of Longview and the Company. It is expressly agreed that no officer, director, member, agent, employee, contractor, subcontractor, program participant, licensee or invitee of the Company is in the paid service of the City of Longview. The Company shall have exclusive control of, and the exclusive right to control, the details of the tasks performed pursuant to this Agreement by the Company, its officers, directors, members, agents, employees, contractors, subcontractors, program participants, licensees or invitees. The City of Longview has neither any authority nor any right to control any actions of the Company, its officers, directors, members, agents, employees, contractors, subcontractors, program participants, licensees or invitees by virtue of this Agreement. In no event shall any officer, agent, servant or employee of the City of Longview participate in the Capital Investment and job creation program of the Company provided for in this Agreement. Accordingly, the parties hereto acknowledge and agree as follows:

- A. THE CITY OF LONGVIEW SHALL BE NEITHER RESPONSIBLE NOR LIABLE FOR THE ACTS OR OMISSIONS OF THE COMPANY, AND**

**THE CITY OF LONGVIEW SHALL BE NEITHER RESPONSIBLE NOR LIABLE FOR THE ACTS OR OMISSIONS OF THE COMPANY'S OFFICERS, DIRECTORS, AGENTS, OR EMPLOYEES.**

- B. THE COMPANY SHALL BE NEITHER RESPONSIBLE NOR LIABLE FOR THE ACTS OR OMISSIONS OF THE CITY OF LONGVIEW, AND THE COMPANY SHALL BE NEITHER RESPONSIBLE NOR LIABLE FOR THE ACTS OR OMISSIONS OF THE CITY OF LONGVIEW'S OFFICERS, DIRECTORS, AGENTS, OR EMPLOYEES.**
- C. The doctrine of respondeat superior shall not apply between the City of Longview and the Company, nor between the City of Longview and any officer, director, member, agent, employee, contractor, subcontractor, program participants, licensees or invitees of the Company.
- D. The doctrine of respondeat superior shall not apply between the Company and the City of Longview nor between the Company and any officer, director, member, agent, employee, contractor, subcontractor, program participants, licensees or invitees of the City of Longview.

**Article VIII. Force Majeure**

The Company will not be liable for delays in the performance of this Agreement arising out of causes that are beyond the control and without the default or negligence of the Company and that directly impact the Company's ability to perform hereunder ("Force Majeure"). Such causes may include, but are not limited to, Acts of God, acts of war, civil unrest, strikes, fires, floods, epidemics, quarantine restrictions, and unusually severe weather. In any such event, the Company shall be granted an extension of time within which to perform its obligations hereunder provided that it seeks to remove that inability to perform with all reasonable diligence. In the event of such a delay beyond the Company's reasonable control, any deadlines imposed hereunder will be extended by one day for each day that the Company's performance is delayed. If a Force Majeure event should occur, the FTE Requirement shall be suspended (or appropriately reduced to take into account the reduction of Full-Time Equivalent Longview Workers resulting from such Force Majeure event) to the extent that such event affects the

Company's ability to hire and/or retain employees. The Company shall notify the City of Longview in writing of the beginning of a Force Majeure event as soon as reasonably practicable after the Company becomes aware of said event. The Company shall notify the City of Longview in writing of the end of a Force Majeure event as soon as reasonably practicable after the end of such an event. The City of Longview may require the Company to provide the City of Longview with relevant documents and other evidence reasonably necessary for the City of Longview to verify the duration of the Force Majeure event and determine the extent to which said event warrants any delay or suspension of the provisions of this Agreement.

#### **Article IX. Notices**

All notices required or contemplated by this Agreement shall be addressed as follows:

City of Longview  
Attn: City Manager  
P.O. Box 1952  
Longview, Texas 75606

With a copy to:  
Longview Economic Development Corporation  
Attn: Executive Director  
410 N. Center Street  
Longview, TX 75601

The Company  
Tractor Supply Co. of Texas, LP  
Attn: General Counsel  
200 Powell Place  
Brentwood, Tennessee 37027

With a copy to:  
Haynes and Boone, LLP  
Attn: Jeff Dorrill  
2323 Victory Avenue, Suite 700  
Dallas, Texas 75219

## **Article X. Undocumented Workers Prohibited**

As required by Chapter 2264 of the Texas Government Code (said chapter entitled "RESTRICTIONS ON USE OF CERTAIN PUBLIC SUBSIDIES") or any successor statute of said chapter, Company certifies that Company or a branch, division, or department of Company, does not and will not knowingly employ an undocumented worker, as the term "undocumented worker" is defined in said Chapter 2264 of the Texas Government Code. If Company is convicted of a violation under 8 U.S.C. Section 1324a(f), Company will be in substantial violation of this Agreement, entitling the City of Longview to any and all remedies available at law, in equity or under this Agreement. Company is not liable for a violation of this article by a subsidiary, affiliate, or franchisee of Company, or by a person with whom Company contracts. If, after receiving a tax abatement under this Agreement, Company, or a branch, division, or department of Company, is convicted of a violation under 8 U.S.C. Section 1324a(f), Company shall repay to the City of Longview an amount equal to the total amount of property tax abated pursuant to this Agreement from the effective date hereof to the date of such conviction, plus interest at the rate provided for delinquent taxes in accordance with Section 33.01 of the Texas Tax Code. Company shall pay such amounts to City of Longview not later than the 120th day after the date the City of Longview notifies Company of a violation under this article.

## **Article XI. Miscellaneous**

The following provisions shall apply to this Agreement:

- A. This Agreement shall be binding upon and inure to the benefit of the parties, their successors and assigns.

- B. The Company may assign this Agreement to any Person who purchases all or substantially all of the Property and/or the Project from the Company at any time during the term of this Agreement, with the written approval of the City of Longview, which permission shall not be unreasonably withheld, delayed or conditioned. The Company may assign this Agreement without the prior written consent of the City of Longview (i) to any Affiliate of the Company; (ii) to any Person that acquires all or a portion of the Property or the Project and then leases such property to the Company or any Affiliate of the Company; or (iii) to any Person in connection with a merger, consolidation, acquisition, or reorganization of the Company or its Affiliate.
- C. This Agreement sets forth the entire understanding between the parties, and may not be modified except by a written document referring to this Agreement which is signed by all parties hereto.
- D. Without regard to any rules on conflicts of law, the laws of the State of Texas shall govern the interpretation of this Agreement and Gregg County shall be the venue for the resolution of all matters of fact and law.
- E. This Agreement shall not be subject to binding arbitration.
- F. Any term or condition of this Agreement or the breach of any such term or condition may be waived only by the express, written consent of all parties hereto. Unless specified otherwise in writing, the waiver of any breach of a term or condition of this Agreement does not waive any other breach of that term or condition or any breach of any other term or condition of this Agreement.
- G. The parties agree that this Agreement shall not be construed in favor of or against any party on the basis that the party did or did not author this Agreement.
- H. This Agreement and any related documents and any amendments hereto or thereto may be executed in counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument.
- I. Upon the expiration or termination of this Agreement for any reason, the obligations of the parties hereunder shall thereupon cease, but the provisions of this Agreement which confer rights upon any party hereto and which limit or delineate the responsibility of any party hereto shall remain in effect as to the parties' conduct prior to expiration of this Agreement.



- J. Within this Agreement, words of any gender shall be held and construed to include any other gender, and words in the singular number shall be held and construed to include the plural, unless the context requires otherwise.
- K. By signing this Agreement, each person executing this Agreement on behalf of a party hereto personally warrants and represents that (i) he or she has full authority to execute this Agreement on behalf of the party that he or she represents and bind said party in accordance with the terms and provisions hereof and (ii) said party has taken all necessary action to enter into and make the agreements set forth herein.
- L. The parties agree that the titles of the articles of this Agreement are for the convenience of the parties only and shall have no effect on the interpretation of this Agreement.
- M. Nothing under this Agreement shall be construed to give any rights or benefits in this Agreement to anyone other than the parties hereto, and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of each of the parties hereto and not for the benefit of any other party.
- N. **TIME IS OF THE ESSENCE IN THE PERFORMANCE OF THIS AGREEMENT.**

***[Signature Page Follows.]***

SIGNED AND AGREED TO THIS THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2014.

**ATTEST:**

**THE CITY OF LONGVIEW, TEXAS**

\_\_\_\_\_  
Shelly Ballenger  
City Secretary

\_\_\_\_\_  
Jay Dean  
Mayor

State of Texas  
County of \_\_\_\_\_

SWORN TO AND SUBSCRIBED BEFORE ME on \_\_\_\_\_, 2014, by \_\_\_\_\_, the \_\_\_\_\_ of The City of Longview, Texas.

\_\_\_\_\_  
Notary Public, State of \_\_\_\_\_  
Notary's Printed Name: \_\_\_\_\_  
My Commission expires: \_\_\_\_\_

**ATTEST:**

**THE COMPANY**

Tractor Supply Co. of Texas, LP,  
by Tractor Supply Company, its general  
partner

\_\_\_\_\_  
Secretary

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_

State of \_\_\_\_\_

County of \_\_\_\_\_

SWORN TO AND SUBSCRIBED BEFORE ME on \_\_\_\_\_, \_\_\_\_\_,  
2014, by \_\_\_\_\_, the \_\_\_\_\_ of  
Tractor Supply Company, which is the general partner of Tractor Supply Co. of Texas,  
LP.

\_\_\_\_\_  
Notary Public, State of \_\_\_\_\_  
Notary's Printed Name: \_\_\_\_\_  
My Commission expires: \_\_\_\_\_

**EXHIBIT A**  
**The Property**

**[Attached]**

**EXHIBIT B**

**The Project**

**[Attached]**

## WATER SUPPLY CONTRACT WITH KILGORE

<b>DESCRIPTION:</b>	The City of Kilgore is requesting a 25 year contract to purchase up to 2 million gallons of treated water per day. Rates will be determined using the same methodology as the other 3 wholesale treated water contracts. Kilgore will construct, maintain and operate a pipeline which will connect to Longview's existing distribution system along SH 31 near Loop 281. Longview will also allocate 500,000 gallons of elevated storage to Kilgore for \$1,726 per month (rate will adjust annually according to the change in the consumer price index). As part of the water supply agreement, Longview will relinquish its extraterritorial jurisdiction south of the Sabine River. This agreement is contingent upon agreements between City of Kilgore and Kilgore Economic Development Corporation, Liberty City Water Supply Corporation and Gregg County.
<b>RECOMMENDED ACTION:</b>	Passage of the Resolution.
<b>SOURCE OF FUNDS:</b>	N/A
<b>STAFF CONTACT:</b>	Keith Bonds, P.E., Assistant City Manager 903-237-1051 <a href="mailto:kbonds@LongviewTexas.gov">kbonds@LongviewTexas.gov</a>
<b>COUNCIL DATE:</b>	June 12, 2014

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 EXECUTE A CONTRACT BY AND BETWEEN THE CITY OF LONGVIEW AND THE CITY OF KILGORE FOR THE SUPPLY OF TREATED WATER; FINDING THAT THE MEETING AT WHICH THIS RESOLUTION WAS APPROVED COMPLIED WITH THE OPEN MEETINGS ACT; MAKING OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT; AND DECLARING AN EFFECTIVE DATE.**

WHEREAS, the City of Longview and the City of Kilgore wish to enter into a Water Supply Contract, for an initial term of twenty-five (25) years; and,

WHEREAS, the City of Kilgore wishes to take up to 2.0 million gallons of water per day; and,

WHEREAS, the City of Kilgore wishes to construct, maintain and operate a pipeline to connect to the City of Longview's existing water distribution system; and,

WHEREAS, the City of Longview wishes to allocate 500,000 gallons of elevated water storage to the City of Kilgore; and,

WHEREAS, as part of this Water Supply Contract the City of Longview wishes to relinquish its extraterritorial jurisdiction south of the Sabine River; and,

WHEREAS, this Water Supply Contract shall be contingent upon executed agreements between the City of Kilgore and the Kilgore Economic Development Corporation, Liberty City Water Supply Corporation and Gregg County; 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 such other official(s) of the City as shall be required, are hereby authorized and directed to execute a Water Supply Contract (a copy of which is attached hereto and for all purposes incorporated herein as Attachment A) between the City of Longview and the City of Kilgore for the supply of treated water to said corporation by said city.

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 become effective immediately from and after its passage.

PASSED AND APPROVED this 12<sup>th</sup> day of June, 2014.

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Jay Dean  
Mayor

ATTEST:

---

Shelly Ballenger  
City Secretary



APPROVED AS TO FORM:

---

Jim Finley  
City Attorney

R WATER CITY OF KILGORE 6-12-14

ATTACHMENT A

STATE OF TEXAS       §  
                                  §  
COUNTY OF GREGG   §

KNOW ALL MEN BY THESE PRESENTS

WATER SUPPLY CONTRACT

This Water Supply Contract (hereinafter called “this Agreement”) is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2014, (the “Effective Date”) by and between the City of Longview, Texas (hereinafter called “Longview”), a municipal corporation, and the City of Kilgore, (hereinafter called “Kilgore”), a municipal corporation.

WITNESSETH:

WHEREAS, Kilgore is a municipal corporation that provides retail water utility service to its customers in Gregg County, Texas; and,

WHEREAS, Longview owns and operates a water supply and water distribution system capable of providing Kilgore supplemental supplies of treated water for use in serving its retail customers up to the maximum quantity and diversion rate specified in this Agreement,

WHEREAS, the parties concur that the terms, conditions and considerations stated herein are fair, just and reasonable and will mutually benefit the parties and serve the public interest; and,

WHEREAS, Longview has agreed to sell Kilgore treated water for use by its retail customers for the considerations and upon the terms and conditions hereinafter set forth.

NOW THEREFORE, in consideration of the mutual promises, covenants and considerations set forth herein, the parties hereto agree as follows:

ARTICLE I  
SALE TO KILGORE

Longview agrees to sell to Kilgore and Kilgore agrees to purchase from Longview at the Point of Delivery specified in Article V hereof, Water in the quantities and subject to the terms and conditions as set forth in this Agreement.

ARTICLE II  
DEFINITIONS

- a. Agreement. This Agreement, including its Attachments, and any written amendments thereto.
- b. Effective Date. The date that this Agreement has been signed by both parties.
- c. Excess Demand Charge. The annual cost of capital and operation and maintenance expenses allocable to the excess capacity function attributable to Kilgore.
- d. Maximum Daily Rate of Flow or Maximum Day. The highest daily rate of flow of water delivered to Kilgore by Longview on any day within the five water years immediately preceding the determination.
- e. Maximum Monthly Quantity. The maximum quantity of water which Longview is obligated to deliver to Kilgore under the terms of this Agreement during any calendar month. The Maximum Monthly Quantity is 60 million gallons (60,000,000) per month.

f. Monthly Direct Costs. A monthly charge by Longview to recover costs which are solely attributable to Kilgore, such as telemetering, meter calibration or repair, additional capital expenditures for facilities chargeable to Kilgore which are not recovered by lump sum payment, and other appropriate direct charges.

g. TCEQ. The Texas Commission on Environmental Quality or any successor state agency with jurisdiction over wholesale water supply contracts.

h. Total Maximum Diversion Rate. The maximum rate at which Longview is obligated to deliver Water to Kilgore under the terms of this Agreement, expressed in gallons per minute, at the Point of Delivery. The Total Maximum Diversion Rate is 1,389 gallons per minute. The Point of Delivery is identified in Article V.

i. Volume Charge. The rate per 1,000 gallons charged for Water.

j. Water. Treated water, at the Point of Delivery, meeting the standards of treatment established by the Texas Department of Health, the TCEQ, or any successor or other state agency of appropriate jurisdiction, and the enforceable standards of the Federal Safe Drinking Water Act, Title 42 U.S.C.A. § 300F.

k. Water Year. Longview's Fiscal Year (October 1 of any year through September 30 of the following year).

### ARTICLE III COMPENSATION

Kilgore shall pay to Longview at the times and in the manner prescribed herein an amount equal to the Volume Charge times the number of thousands of gallons of Water actually taken by Kilgore as measured at the Point of Delivery, plus 1/12 of the Excess Demand Charge, and the Monthly Direct Costs.

ARTICLE IV  
RATE DETERMINATION

The rates for the wholesale purchase of Water by Kilgore from Longview under this Agreement shall be based upon a study of Longview's cost of service. The methodology used in calculating Longview's cost of service is the modified Kilgore method, more fully described in Attachment A of this Agreement. The cash method of determining Longview's revenue requirement shall be used for the term of this Agreement. Longview may update its cost of service calculations once per Water Year and may conduct an updated cost of service study as it deems necessary.

a. The cost of service process shall include allocated reasonable and necessary operation and maintenance expenses; debt service requirements; and capital expenditures, which are not debt financed. The allocation and distribution of costs to wholesale water users shall be based on at least the following factors: total volume, rate of flow, metering, and customer-related costs such as billing and collecting.

b. Longview shall maintain and make available for Kilgore's inspection during reasonable business hours, all records and computations concerning the update of its cost of service calculations and any updated cost of service study performed in accordance with this Article.

c. The rates to be charged by Longview shall consist of the following:

- i. Volume Charge for each 1,000 gallons of Water consumed;
- ii. Monthly Direct Cost; and
- iii. Excess Demand Charge, recalculated annually and billed 1/12th each month.

d. The initial rates under this Agreement, effective upon the commencement of delivery of Water, shall be established by Longview using the methodology described in Article IV.a above. If commencement of delivery of Water occurs during the water year ending September 30 2014, the initial rates will be as follows :

- i. Volume Charge of \$2.21 per 1,000 gallons;
- ii. Monthly Direct Cost of \$60.00 per month; and
- iii. Excess Demand Charge of \$2,410.00 per month.

e. The rates to be charged for Water under this Agreement shall be changed no more often than once per Water Year (annually). New rates may become effective on or about October 1 of each year.

f. A written analysis describing and explaining any proposed annual Water rate changes (“Analysis”) shall be prepared by Longview and provided to Kilgore. Notice of any proposed change in Water rates, and the supporting Analysis, shall be provided to Kilgore at least thirty (30) days prior to the effective date of any such new rates. Kilgore shall have the opportunity to review and discuss or dispute the analysis, and the cost of service analysis including the Monthly Direct Cost and Excess Demand Charge calculations.

#### ARTICLE V POINT OF DELIVERY AND MAXIMUM DIVERSION RATE

a. Longview’s obligation to deliver water to Kilgore is limited to the Maximum Monthly Quantity and Total Maximum Diversion Rate. Longview is not obligated to provide the Water delivered at a minimum pressure level, but will use reasonable efforts to provide the Water at the pressure generally prevailing in Longview’s system at the time of delivery.

b. The Point of Delivery for Water delivered and taken under this Agreement shall be at the location on Longview's existing 12" cast iron water line which crosses State Highway 31 approximately 1,750 feet north of the Sabine River as shown on Attachment B. Provided however, Kilgore may elect, in lieu of this Point of Delivery, to establish the Point of Delivery at an alternative location on Longview's existing 18" ductile iron water line on the southeast corner of Loop 281 and the proposed FM 2087 as shown on Attachment C. In order to elect the alternative Point of Delivery, Kilgore must submit written notice to Longview within one year of the Effective Date stating Kilgore's intent to use the alternative Point of Delivery.

c. Kilgore shall be responsible for all costs associated with planning, designing, permitting, right-of-way acquisition for, constructing, owning, operating, and maintaining a pipeline that will connect its water supply system to Longview's system at the Point of Delivery. Kilgore shall also be responsible for all costs associated with the installation of the interconnection of its pipeline to Longview's water system, a meter vault, meter and associated telemetry, and back-flow preventer (the "Point of Delivery Infrastructure"). Prior to physically connecting its pipeline to the Point of Delivery or installing the Point of Delivery Infrastructure, Kilgore must provide Longview engineering design plans/specifications and obtain Longview's written approval for the Point of Delivery Infrastructure.

#### ARTICLE VI TITLE TO AND RESPONSIBILITY FOR WATER

a. Title to, possession and control of Water shall remain in Longview to the Point of Delivery that is specified in Article V herein, where title to, possession and control shall pass to Kilgore.

b. Longview shall be in exclusive control and possession of the Water deliverable hereunder until the same shall have been delivered to Kilgore at the Point of Delivery, at which point Kilgore shall be in exclusive control and possession thereof and solely responsible for any damage or injury caused thereby.

ARTICLE VII  
METERING FACILITIES

a. Kilgore shall furnish and install the metering equipment and all related telemetry and controls that Longview determines to be appropriate for the measurements and controls necessary to provide Water under this Agreement. Longview shall own, operate, maintain, repair, and calibrate all metering equipment, including telemetry, installed by Kilgore at the Point of Delivery. All costs of such operation, maintenance, repair, replacement and calibration of metering equipment shall be included in the determination of rates under Article IV hereof.

b. The properly authorized officers, agents and representatives of Longview shall at all times have free access to the metering equipment at the Point of Delivery for the purpose of shutting off Water for the failure to pay the water rates; for the purpose of reading the registration of said meters; to examine, shut off and test the same to ascertain whether or not they are in good condition and repair; and to make such repairs upon the same as may be necessary.

c. Longview shall, at reasonable times, provide Kilgore with access to all metering equipment, including any associated telemetry signals, used in making any measurements under this Agreement. Longview may test the metering equipment on its own initiative, and shall test such metering equipment for accuracy upon request by Kilgore, which request shall not be made more frequently than once in any twelve-



month period for each meter. In the event the percentage of accuracy of such metering equipment is found as the result of any testing, whether requested by Kilgore or performed by Longview on its own initiative, to be within the tolerance of two percent (2%), such meter shall be deemed to have correctly measured the quantity of water taken hereunder. If, however, upon any test of the percentage of the accuracy tolerance, such tolerance is found to be in excess of two percent (2%), then such meter shall be adjusted at once to register correctly and accurately, and the amount paid by Kilgore to Longview for the period from the last test on that meter until the current test (but for no more than three months) shall be adjusted by debit or credit in accordance with the percentage of inaccuracy found by such test.

d. In the event such metering equipment is out of service or out of repair and the amount of Water taken cannot be ascertained or computed by the reading thereof, the amount of Water taken during this period shall be estimated and agreed upon by Kilgore and Longview, unless the parties otherwise agree, based upon the amount of Water pumped in the corresponding period of the previous year (including any unaccounted loss of Water), as shown in existing records.

#### ARTICLE VIII COMMENCEMENT OF DELIVERY

Commencement of delivery of Water (Commencement of Delivery) by Longview to Kilgore under the terms of this Agreement shall be within three (3) business days after the latest of the following events: (1) Kilgore has constructed and connected its pipeline to the Longview's pipeline at the Point of Delivery, (2) Longview has issued its written approval of the installation of the Point of Delivery Infrastructure, and (3) Kilgore notifies Longview in writing that it is ready to begin selling water to its retail

customers, which notice shall be provided no later than sixty (60) days after Longview has issued its approval of the Point of Delivery Infrastructure. Kilgore shall have three (3) years after the Effective Date to connect its pipeline to Longview's pipeline at the Point of Delivery. If Kilgore does not connect its pipeline to Longview's pipeline at the Point of Delivery within three (3) years after the Effective Date, Longview may immediately terminate this Agreement by providing written notice of termination to Kilgore. If requested in writing Longview will provide Kilgore water for the purpose of testing Kilgore's pipeline prior to the commencement of delivery of water at its then-existing bulk water rate.

#### ARTICLE IX BILLING AND PAYMENT

a. For purposes of billing, Longview shall read the metering equipment provided for herein on or about the first day of each month (or more frequently if necessary as determined by Longview) and shall report the total quantity of Water taken (or rate of take thereof) for each meter during the preceding month to Kilgore on or before the 10<sup>th</sup> day of each calendar month.

b. Longview shall render to Kilgore at the address shown herein (or such other place as designated by Kilgore) on or before the 10<sup>th</sup> day of each calendar month a statement showing, the following information:

1. the date and reading of each meter at the beginning and at the end of the period for which the statement is rendered; the quantity of Water diverted at each meter;
2. the total amount due for the Water taken;
3. the total amount due on or before the due date of the bill; and

4. the amount of the charge or credit, if any, applicable to past undercharge or overcharge as determined by the true-up process.

c. Such statement shall be due and payable at Longview's offices in the municipal building, Longview, Texas (or at such other place as designated by Longview) on or before the twentieth (20<sup>th</sup>) day after the receipt of such statement.

d. Should Kilgore fail to tender payment of any amount when due, a late charge of five percent (5%) per annum of the total amount due will be added thereto.

#### ARTICLE X CANCELLATION FOR NONPAYMENT

In the event that Kilgore fails to make any payment to Longview when due hereunder, Longview may, in addition to any other remedy available to it by law or equity, cancel this Agreement, by written notice of such nonpayment and statement of Longview's election to cancel this Agreement by reason thereof delivered to Kilgore no less than thirty (30) days before the date for cancellation specified in such notice, provided that the nonpayment with respect to which notice has been given shall not be cured by the date thus specified in such notice.

#### ARTICLE XI INDEMNITY BY KILGORE

a. Kilgore agrees that the use and resale of the Water provided for in this Agreement shall be at the sole risk of Kilgore and Kilgore agrees to indemnify and hold Longview harmless from any and all claims for damages to property arising out of or in any way connected with the use of said Water by Kilgore or any other person.

b. Kilgore agrees to indemnify and hold Longview harmless from any and all claims for damages, loss of life, injury or illness to any person or persons or for damages to property arising out of the installation or maintenance of Kilgore's water distribution system, including damages to Longview's system occasioned by the installation, maintenance, or operation of Kilgore's system and Kilgore's Point of Delivery infrastructure.

c. Longview shall not be responsible in damages for any failure to supply Water or for any interruption of the Water supply, unless caused by the gross negligence of the Longview.

d. Kilgore agrees to save and keep Longview harmless from all damage of every kind, nature and description, which may arise as a result of the making and performance of this Agreement except for damages caused by Longview's gross negligence.

## ARTICLE XII RESALE OF WATER

Kilgore shall not permit the use of any of the Water covered by the terms of this Agreement for any of the following purposes:

1. Resale to a municipality, public or private water distribution company, water district, or rural water supply corporation or other retail public utility other than those served by Kilgore on the Effective Date of this agreement, without written authorization by City;
2. Save and except within Kilgore's certificated area of convenience and necessity, supply water to any customer inside the corporate limits or

extraterritorial jurisdiction of Longview without written authorization by Longview.

ARTICLE XIII  
KILGORE'S OBLIGATIONS

a. Kilgore shall comply with all rules and regulations of the Texas Department of Health and the TCEQ (or their successor agencies) as the same may pertain to the installation and operation of public water distribution systems or disposal facilities.

b. Kilgore shall comply with any and all sanitary regulations, both present and future, of the Texas Department of Health, the TCEQ, or any other State agency of appropriate jurisdiction.

c. Kilgore shall adopt and implement a water conservation plan and drought contingency plan that complies with the minimum requirements established by the Texas Commission on Environmental Quality and the Texas Water Development Board.

d. Kilgore shall ensure that each wholesale contract that it enters into or renews or extends after the Effective Date imposes on that wholesale customer the same obligations as those imposed on Kilgore. Upon request by Longview, Kilgore shall provide Longview copies of its water conservation and drought management plans.

e. Kilgore shall notify Longview as promptly as possible of all emergency and other conditions which may directly or indirectly affect the quality of the Water received hereunder.

From and after the date of this Agreement, Kilgore shall comply with Title 5, Subtitle C of the Texas Health and Safety Code.

ARTICLE XIV

## SUSPENSION OF DELIVERY

Longview shall have the right to make inspections and require tests of the quality of the water supply within Kilgore's transmission system. In the event Longview shall determine that water from Kilgore's system is flowing back into Longview's pipes or other delivery facilities or that the condition of Kilgore's system or other facilities creates a hazard to the health, safety or welfare of the water consumers of Longview, Longview shall have the immediate right to suspend delivery of Water as provided herein and to disconnect any connections with Kilgore's system until Longview is satisfied that such conditions have been corrected.

## ARTICLE XV WATER QUALITY

Longview makes no warranty, express or implied, as to the suitability or quality of the Water to be taken under the terms of this Agreement. Longview agrees that the quality of the Water delivered by it to Kilgore will meet or exceed the standards established by the regulations of the Texas Department of Health, the TCEQ, and the enforceable provisions of the Safe Drinking Water Act, Title 42 U.S.C.A., § 300F, as administered by the United States Environmental Protection Agency. Longview shall take such steps as shall be required to bring all Water delivered to Kilgore under the terms of this Agreement into compliance with such regulations and laws.

## ARTICLE XVI PRIORITY

In the event Longview finds the necessity to reduce water supply to its own users, the same pro rata reduction shall be effected to Kilgore in accordance with applicable provisions of Texas Water Code §11.039. Longview agrees to give Kilgore

verbal notice of such reduction and the terms of such reduction as soon as practical, but no later than twenty-four (24) hours after such reduction, followed by written notice within five (5) working days.

ARTICLE XVII  
STORAGE TANK CAPACITY

Longview agrees to allocate to Kilgore for a period of time beginning on the Commencement of Delivery of water under this Agreement and extending during the Term of this Agreement and any extensions thereof, 500,000 gallons of elevated water storage capacity. Kilgore agrees to pay Longview for its reservation of elevated water storage capacity as part of, and in addition to, Kilgore's monthly payment for water required by Article IX above. Kilgore's initial monthly charge for such reservation of elevated storage capacity shall be \$1,726 per month, beginning 2 years after the Effective Date of this Agreement, or the date of Commencement of Delivery by Longview to Kilgore, whichever occurs first. Beginning October 1, of the first full Water Year commencing after Commencement of Delivery of water under this Agreement, Kilgore's monthly charge for reservation of elevated storage capacity shall be adjusted by multiplying the initial monthly charge by an inflation index factor calculated in accordance with the following formula:

Adjusted monthly charge = Initial monthly charge x (Current CPI ÷ Base CPI)

Where:

Current CPI = The value of the Consumer Price Index-All Urban Consumers published by the U.S Bureau of Labor Statistics for the month of July of the current year; and

Base CPI =The value of the Consumer Price Index-All Urban Consumers published by the U.S Bureau of Labor Statistics for the month of July, 2013.

ARTICLE XVIII  
RELEASE OF EXTRA-TERRITORIAL JURISDICTION

Pursuant to Texas Local Government Code § 42.022 (d) Longview agrees, as part of its consideration under this Agreement, that Kilgore may, after the Commencement of Delivery of water under this Agreement, expand its extraterritorial jurisdiction by annexation to include the area identified in Attachment D which is currently within the extraterritorial jurisdiction of Longview, and this Agreement shall constitute the written agreement between Longview and Kilgore allocating the area identified in Attachment D to the extraterritorial jurisdiction to Kilgore required in Texas Local Government Code § 42.022 (d).

ARTICLE XIX  
FORCE MAJEURE

In the event either party is rendered unable wholly or in part by force majeure to carry out its obligations under this Agreement, other than the obligation to make payment of amounts accrued and due hereunder at the time thereof, it is agreed that upon such party's giving notice in full particulars of such force majeure in writing to the other party within a reasonable time after the occurrence of the cause relied upon, then the obligations of the party giving such notice, so far as they are affected by such cause, shall be suspended during the continuance of any inability so caused, but for no longer period, and such cause shall so far as possible be remedied with all responsible dispatch. The term "force majeure" as employed herein shall mean interferences not reasonably within the control of the party claiming force majeure, arising out of acts of



God, governmental action, strikes, lockouts or other industrial disturbances, acts of the public enemy, wars, blockades, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, hurricanes, storms, floods, washouts, droughts, arrests, and restraints of government and people, civil disturbances, explosions, major breakage or accidents to machinery, conduits and/or pipelines, partial or entire failure of the supply of water, contamination of water supply, extreme and unforeseeable delays in transportation and any other causes, whether of the kind enumerated or otherwise, not reasonably within the control of the part claiming suspension.

ARTICLE XX  
TERM

a. This Agreement shall be a binding obligation on the parties hereto from and after the execution hereof and shall extend for an initial term of twenty five (25) years from the Effective Date hereof, unless sooner terminated in accordance with the provisions hereof.

b. This Agreement may be extended for an additional ten year term upon the mutual agreement of Longview and Kilgore evidenced by a letter agreement executed no later than the twentieth (20th) anniversary of the Effective Date of this Agreement.

ARTICLE XXI  
ASSIGNMENT

This Agreement shall be binding upon and inure to the benefit of the respective parties hereto and their legal successors but the same shall not be otherwise assignable in whole or in part by either party without first obtaining the written consent of the other.

ARTICLE XXII  
APPLICABLE LAW

The Constitution and the laws of the State of Texas and the decisions of its Courts shall govern with respect to any question or controversy which may arise hereunder. Venue for any actions arising under this Agreement in state courts shall lie exclusively in the courts of Gregg County, Texas. Venue for any actions arising under this Agreement in federal courts shall lie exclusively in the Eastern District of Texas, Tyler Division.

ARTICLE XXIII  
NOTICES

Any notice, request or other communication under this Agreement shall be given in writing. Notice to Longview shall be provided to:

City Manager  
City of Longview  
P.O. Box 1952  
Longview, TX 75606-1952

Notice to Kilgore shall be provided to:

City Manager  
City of Kilgore  
815 N. Kilgore St.  
Kilgore, TX 75662

Notice shall be deemed to have been given by any party to the other party upon either of the following dates:

1. the date of the mailing thereof, as shown by a post office receipt, if mailed to the party hereto by registered or certified mail at the latest address specified for such other party in writing; or
2. the date of the receipt thereof by such other party if not so mailed by registered or certified mail.

ARTICLE XXIV  
MISCELLANEOUS

a. All headings of the Articles and particular sections of this Agreement have been inserted for the convenience of reference only and are not to be considered as part of this Agreement and in no way shall they affect the interpretation of any provision of this Agreement.

b. A waiver by either party of any default by the other hereunder shall not be deemed a waiver by such party of default of the other which may thereafter occur.

c. In case any one or more of the Articles, sections, provisions, clauses or words of this Agreement shall for any reason be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect any other Articles, sections, provisions, clauses or words of this Agreement and it is intended that this Agreement shall be severable and shall be construed and applied as if such invalid or unconstitutional Article, section, provision, clause or word had not been included herein.

d. This Agreement contains all of the agreements between the parties. As of the Effective Date of this Agreement this Agreement shall supersede any and all prior agreements between the parties, both oral and written, with regard to the subject matter hereof.

e. Both parties acknowledge and agree that they are authorized to enter into this Agreement and that this Agreement requires Longview to provide goods and services to Kilgore.

IN WITNESS WHEREOF, the parties have executed this Agreement as provided below.

CITY OF LONGVIEW

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City Manager

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

ATTEST:

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

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

CITY OF KILGORE

\_\_\_\_\_  
Mayor

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

ATTEST:

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

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LONGVIEW, TEXAS, ELECTING AND APPOINTING COUNCIL MEMBER SIDNEY ALLEN AS MAYOR PRO TEM; 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 Rules and Procedures of the City Council provide for the election of a Mayor Pro Tem on an annual basis; 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 Council Member Sidney Allen is elected Mayor Pro Tem and is hereby appointed to that position and shall serve in that position until the last regularly scheduled City Council meeting in May of 2015 or until a successor is selected, whichever event shall occur later, unless removed from the position as provided by the rules and procedures of the City Council.

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 from and after its date of passage.

PASSED AND APPROVED this 12<sup>th</sup> day of June, 2014.

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Jay Dean  
Mayor

ATTEST:

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Shelly Ballenger  
City Secretary

APPROVED AS TO FORM:

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Jim Finley  
City Attorney

R COUNCIL MAYOR PRO TEM 6-12-14