A G E N D A

Regular Meeting of the Bedford City Council
Tuesday, February 12, 2013
Bedford City Hall Building A
2000 Forest Ridge Drive
Bedford, Texas 76021

Council Chamber Work Session 5:30 p.m.
Council Chamber Regular Session 6:30 p.m.

COMPLETE COUNCIL AGENDAS AND BACKGROUND INFORMATION ARE AVAILABLE FOR REVIEW ONLINE AT http://www.bedfordtx.gov

WORK SESSION

- **Review and discuss items on the regular agenda and consider placing items for approval by consent.**
- **Council briefing on meeting with TxDOT on the Highway 183 expansion.**
- **Presentation of sign options for a masonry sign at the Old Bedford School.**
- **Discussion regarding granting relief on the interest for mowing liens assessed against the property located at Block 1, Lots 12 and 13, Oak Grove Estates Addition.**
- **Council briefing on a partnership with H.E.B. I.S.D. regarding improvements to Central Pool.**

EXECUTIVE SESSION

To convene before the Regular Session, if time permits, in the conference room in compliance with Section 551.001 et. Seq. Texas Government Code, to discuss the following:

a) **Pursuant to Section 551.071, consultation with the City Attorney on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with this chapter re: Allied Waste Contract.**
b) **Pursuant to Section 551.087, deliberation regarding economic development negations relative to First State Bank Plaza Block 1 Lot 1.**
c) **Pursuant to Section 551.087, deliberation regarding economic development negations relative to the Shops at Central Park Block 1 Lot 1D.**

REGULAR SESSION 6:30 P.M.

CALL TO ORDER/GENERAL COMMENTS

INVOCATION (Dr. Jerry Chism, Martin United Methodist Church)

PLEDGE OF ALLEGIANCE

OPEN FORUM

(The public is invited to address the Council on any topic that is posted on this agenda. Citizens desiring to speak on Public Hearing(s) must do so at the time the Public Hearing(s) are opened. In order to speak during Open Forum a person must first sign in with the City Secretary prior to the Regular Session being called to order. Speakers will be called upon in the order in which they sign in. Any person not signing in prior to the commencement of the Regular Session shall not be allowed to speak under Open Forum. Further, Open Forum is limited to a maximum of 30 minutes. Should speakers not use the entire 30 minutes Council will proceed with the agenda. At the majority vote of the Council the Mayor may extend the time allotted for Open Forum.)

CONSIDER APPROVAL OF ITEMS BY CONSENT

COUNCIL RECOGNITION

1. **Proclamation declaring February 2013 as Love Your Library Month.**

APPROVAL OF THE MINUTES

2. **Consider approval of the following City Council minutes:**
   a) **January 8, 2013 regular meeting (Tabled at the January 22, 2013 regular meeting)**
   b) **January 22, 2013 regular meeting**
   c) **January 24, 2013 work session**

PERSONS TO BE HEARD

3. **The following individual has requested to speak to the Council tonight under Persons to be Heard.**
   a) **Ed Henderson, 2513 Meadow View, Bedford, Texas 76021 – Requested to speak to the Council regarding an open records request.**
   b) **Dorothy McWhorter, 1600 Martha Drive, Bedford, Texas 76022 – Requested to speak to the Council regarding Section 2.07 of the Bedford City Charter.**

NEW BUSINESS

4. **Consider a resolution ordering the General Election of the City of Bedford, Texas to be held on Saturday, May 11, 2013 for the purpose of electing Place 3 and Place 5 to the Bedford City Council and the Municipal Court Judge.**

5. **Consider a resolution authorizing the City Manager to enter into a contract with BuyBoard Cooperative Purchasing Network for the purchase of one 2013 Ford F150 swift water boat tow vehicle paid through a Department of Homeland Security Grant awarded to the City of Bedford.**

6. **Consider a resolution authorizing the City Manager to purchase a messaging sign for the Old Bedford School from Identity Management.**

7. **Consider a resolution authorizing the City Manager to enter into a contract with Ziegler Construction, Incorporated in the amount of $19,800 for the Fire Station #3 Driveway Paving Improvements.**

8. **Consider a resolution authorizing the City Manager to enter into Change Order #2 with Red River Construction Company in the amount of $23,383.78 to increase the authorized contracted amount for the Construction of Chemical Feed and Monitoring at Simpson Terrace and Stonegate Potable Water Wells. The authorized contracted amount was earlier reduced by $220,000 in Change Order #1.**

9. **Consider a resolution authorizing the City Manager to enter into a Select Government Merchant Payment Instrument Processing Agreement with Chase Paymentech for merchant services.**

10. **Discussion regarding the Bedford Connection being delivered to apartment complexes. ***This item requested by Councilmember Olsen**

11. **Report on most recent meeting of the following Boards and Commissions:**
    - ✓ **Animal Shelter Advisory Board - Councilmember Olsen**
    - ✓ **Beautification Commission – Councilmember Turner**
    - ✓ **Community Affairs Commission - Councilmember Boyter**
    - ✓ **Cultural Commission - Councilmember Nolan**

- ✓ **Library Board – Councilmember Brown**
- ✓ **Parks & Recreation Board - Councilmember Davisson**
- ✓ **Senior Citizen Advisory Board - Councilmember Turner**
- ✓ **Teen Court Advisory Board - Councilmember Olsen**

12. Council member reports

13. City Manager/Staff Reports

ADJOURNMENT

CERTIFICATION

I, the undersigned authority, do hereby certify that this Notice of Meeting was posted on the outside window in a display cabinet at the City Hall of the City of Bedford, Texas, a place convenient and readily accessible to the general public at all times, and said Notice was posted by the following date and time: Friday, February 8, 2013 at 5:00 p.m., and remained so posted at least 72 hours before said meeting convened.

_____ _____

Michael Wells, City Secretary **Date Notice Removed**

(Auxiliary aids and services are available to a person when necessary to afford an equal opportunity to participate in City functions and activities. Auxiliary aids and services or accommodations should be requested forty-eight (48) hours prior to the scheduled starting time of a posted council meeting by calling 817.952.2101.)

AGENDA

Council Agenda Background

PRESENTER:	**Beverly Griffith, City Manager** **David Miller, Deputy City Manager**	**DATE:**	**02/12/13**

Work Session

ITEM:

Council briefing on meeting with TxDOT on the Highway 183 expansion.

City Manager Review: _____

DISCUSSION:

City staff will update City Council regarding discussions with TxDOT on the Highway 183 expansion.

ATTACHMENTS:

N/A

AGENDA

Council Agenda Background

PRESENTER:	Mirenda McQuagge-Walden, Managing Director of Community Services Wendy Hartnett, Special Events Manager	**DATE:**	02/12/13

Work Session

ITEM:

Presentation of sign options for a masonry sign at the Old Bedford School.

City Manager Review: _____

DISCUSSION:

This item is a follow-up presentation regarding a new sign at the Old Bedford School. At the meeting on January 22, 2013, staff presented two different sign styles for the facility to solicit feedback from the Council on their preferred direction. One was a standard, non-digital sign or a zip track. The other sign was a digital or electronic messaging sign. Both signs would be surrounded by attractive masonry mirroring the sign at the Bedford Public Library. The discussed zip track sign would cost $19,599 and the electronic sign would be $27,890.96.

In order to provide for more messaging and communication ability, at the request of Council a third sign option will be presented. This electronic sign allows for a maximum of four lines of text with up to 22 characters per line. In comparison the electronic sign presented on January 22, had only two lines of text with a maximum of 12 characters per line. Also, the current sign at the Library has only two lines with a maximum of 12 characters per line. The character size for this version can range from five inches to nine inches depending on how many characters are used. The standard letter for a zip track sign ranges from five to seven inches and the letters used at the Boys Ranch are seven inches. The cost of this version is $31,439.36.

In the FY 2012/13 base budget, $22,494 was included to fund a masonry sign for the Old Bedford School.

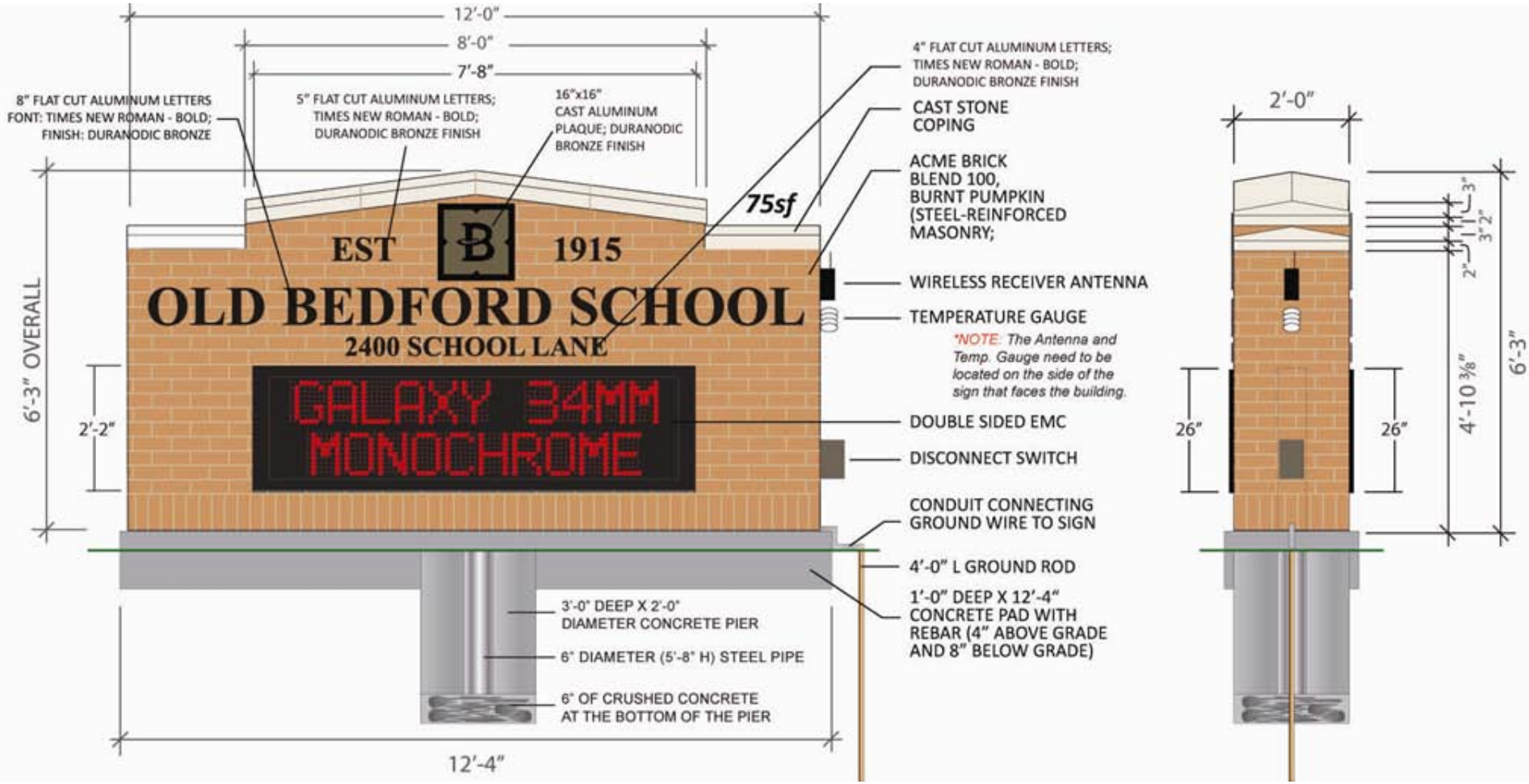
ATTACHMENTS:

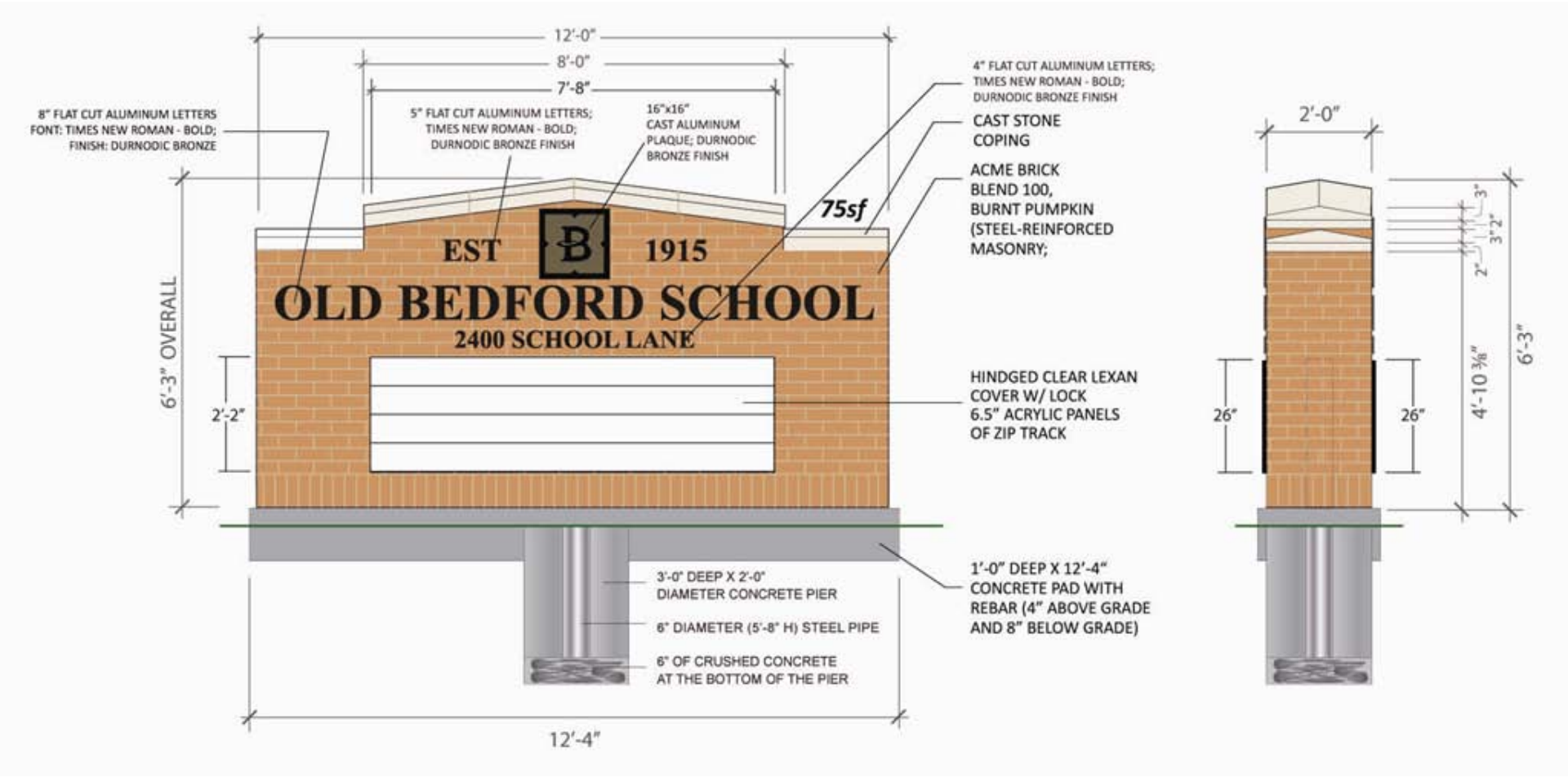
Sign Options

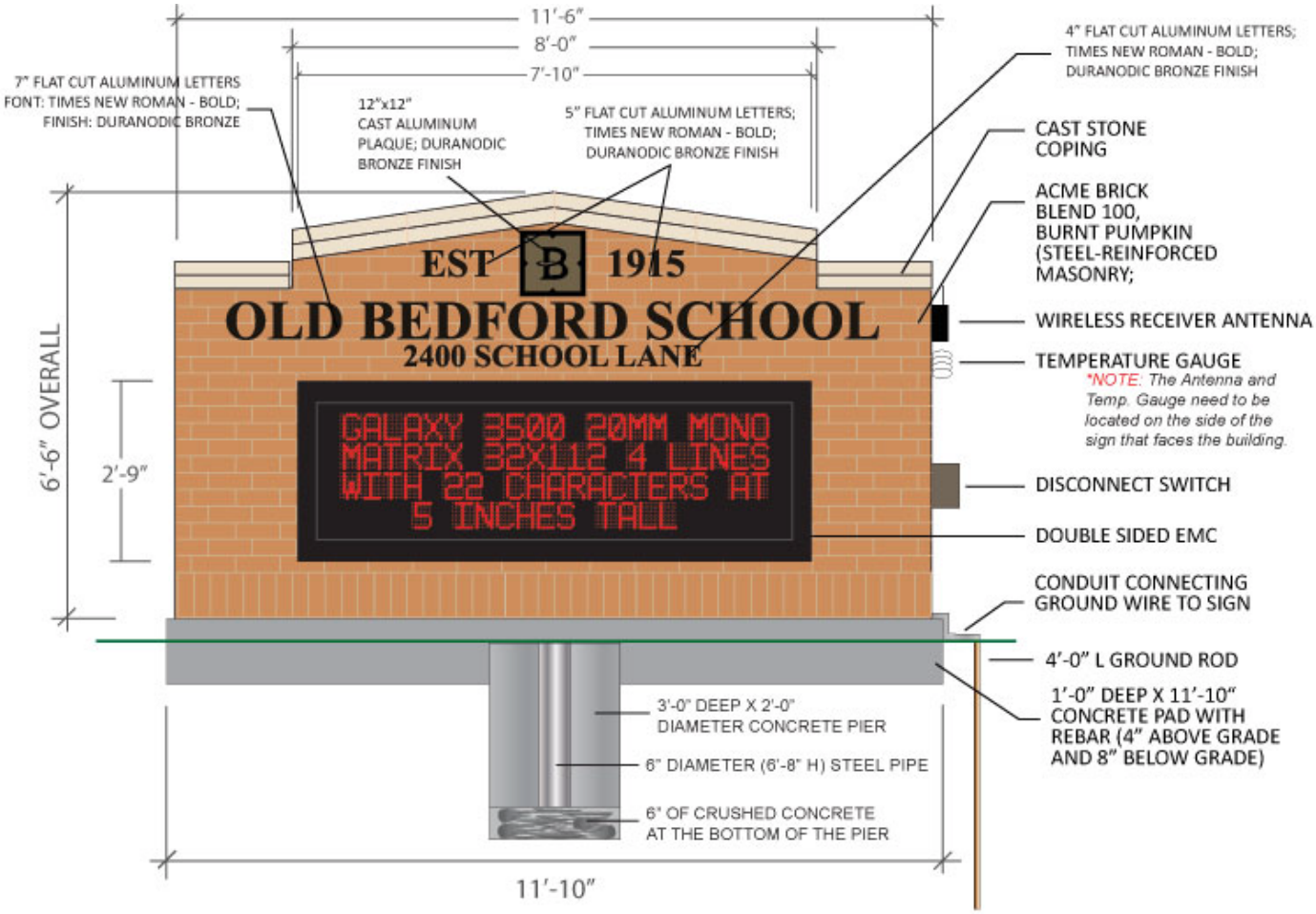
COMMUNIQUE

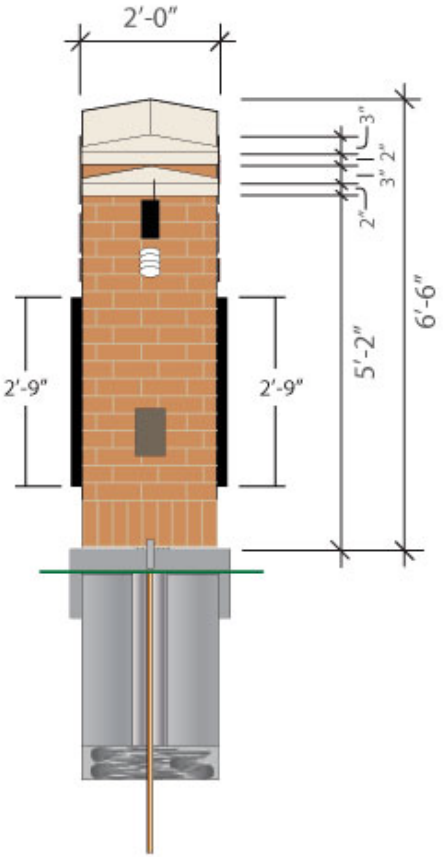
AGENDA

Old Bedford School Monument Options


12'-0"
8'-0"
7'-8"
8" FLAT CUT ALUMINUM LETTERS
FONT: TIMES NEW ROMAN - BOLD;
FINISH: DURANODIC BRONZE
5" FLAT CUT ALUMINUM LETTERS;
TIMES NEW ROMAN - BOLD;
DURANODIC BRONZE FINISH
16"x16"
CAST ALUMINUM
PLAQUE; DURANODIC
BRONZE FINISH
4" FLAT CUT ALUMINUM LETTERS;
TIMES NEW ROMAN - BOLD;
DURANODIC BRONZE FINISH
CAST STONE
COPING
ACME BRICK
BLEND 100,
BURNT PUMPKIN
(STEEL-REINFORCED
MASONRY;
75sf
EST
1915
OLD BEDFORD SCHOOL
2400 SCHOOL LANE
GALAXY 34MM
MONOCHROME
6'-3" OVERALL
2'-2"
WIRELESS RECEIVER ANTENNA
TEMPERATURE GAUGE
*NOTE: The Antenna and Temp. Gauge need to be located on the side of the sign that faces the building.
DOUBLE SIDED EMC
DISCONNECT SWITCH
CONDUIT CONNECTING
GROUND WIRE TO SIGN
4'-0" L GROUND ROD
1'-0" DEEP X 12'-4"
CONCRETE PAD WITH
REBAR (4" ABOVE GRADE
AND 8" BELOW GRADE)
3'-0" DEEP X 2'-0"
DIAMETER CONCRETE PIER
6" DIAMETER (5'-8" H) STEEL PIPE
6" OF CRUSHED CONCRETE
AT THE BOTTOM OF THE PIER
12'-4"
2'-0"
26"
26"
3"
3"2"
2"
4'-10 3/8"
6'-3"


12'-0"
8'-0"
7'-8"
8" FLAT CUT ALUMINUM LETTERS
FONT: TIMES NEW ROMAN - BOLD;
FINISH: DURNODIC BRONZE
5" FLAT CUT ALUMINUM LETTERS;
TIMES NEW ROMAN - BOLD;
DURNODIC BRONZE FINISH
16"x16"
CAST ALUMINUM
PLAQUE; DURNODIC
BRONZE FINISH
4" FLAT CUT ALUMINUM LETTERS;
TIMES NEW ROMAN - BOLD;
DURNODIC BRONZE FINISH
CAST STONE
COPING
ACME BRICK
BLEND 100,
BURNT PUMPKIN
(STEEL-REINFORCED
MASONRY;
75sf
EST
B
1915
OLD BEDFORD SCHOOL
2400 SCHOOL LANE
6'-3" OVERALL
2'-2"
HINDGED CLEAR LEXAN
COVER W/ LOCK
6.5" ACRYLIC PANELS
OF ZIP TRACK
3'-0" DEEP X 2'-0"
DIAMETER CONCRETE PIER
6" DIAMETER (5'-8" H) STEEL PIPE
6" OF CRUSHED CONCRETE
AT THE BOTTOM OF THE PIER
1'-0" DEEP X 12'-4"
CONCRETE PAD WITH
REBAR (4" ABOVE GRADE
AND 8" BELOW GRADE)
12'-4"
2'-0"
3"
3"
2"
26"
26"
4'-10 3/8"
6'-3"





identity management

© 2012 Identity Management All rights reserved.
This is an original drawing created by Identity. It is submitted for your personal use, however, it shall at all times remain the property of Identity. This drawing may be used in connection with the project being planned for you by Identity, but not otherwise. You are not authorized to show these drawings to anyone outside your organization, nor is it to be reproduced, used, copied or exhibited in any fashion.

All electrical signs will be wired 120 volts primary service.Other voltages are available at additional cost. Primary service time clocks or other electrical devices are not included in this presentation.

Old Bedford School
2400 School Lane
Bedford, TX 76021

AGENDA

Council Agenda Background

PRESENTER: Michael Wells, City Secretary **DATE:** 02/12/13

Work Session

ITEM:

Discussion regarding granting relief on the interest for mowing liens assessed against the property located at Block 1, Lots 12 and 13, Oak Grove Estates Addition.

City Manager Review: _____

DISCUSSION:

Mr. Wayne Brewer, the owner of the above properties, is seeking relief on the interest for seven mowing liens assessed against his property. Attached are emails received by the City Secretary from Mr. Brewer regarding this request. Due to health reasons and the fact that he lives in Austin, Mr. Brewer is unable to attend tonight's meeting. If Council has any questions for Mr. Brewer, he requested that they be forwarded to him.

Below is a breakdown of the principal and interest amounts on the seven liens as of Wednesday, February 6.

Lien Date	Principal	Interest
04/21/1993	$100.00	$198.11
10/12/1993	$77.29	$149.43
08/17/1994	$109.54	$202.51
10/19/1994	$102.29	$187.34
01/03/2005	$189.00	$153.06
01/03/2005	$164.00	$132.82
11/07/2008	$271.32	$115.37
Totals	$1,013.44	$1,138.64

ATTACHMENTS:

Emails

From: Wayne Brewer
To: Wells, Michael
Subject: City of Bedford Assessments (Mowing Liens)
Date: Tuesday, February 05, 2013 10:11:29 AM
Attachments: Oak Grove Est Lots 12&13 Mowing Liesn.pdf

Michael Wells
City Secretary
City of Bedford, Texas

We spoke last week regarding some old mowing liens on the attached property as Oak Grove Estates, Block 1, Lots 12 & 13.
These liens are several years (80s-90s) old and have been accruing interest.
The reason I am writing is to explain my position as to how they occurred and why I do feel I owe the city the expense of the initial mowing but not the interest that has continued.

Prior to moving from the Bedford area several years ago I was diligent in having the lots mowed as needed, even hauling off at my expense old trash, concrete and building materials (the area was undeveloped and had a reputation of being a popular trash dumping area). When I moved away I had an older gentleman that mowed, but because of health reasons was unable to continue. After several spring and summer months of heavy rainfall I received a call from a lady with the city code enforcement (I think her name was Archibald) and she informed me I was in violation of high weeds. I explained to her I had retired and was living in Austin, Tx., and I wanted to know if she could recommend someone to me in the area that could mow the lots on a regular basis. She told me she could and had someone in mind. She recommended I contact Scott Hurd and gave me his phone number. I did and Scott told me he knew Ms. Archibald and he did a lot of mowing for her and the city when she would call. He said he would give her a call and let her know he was going to mow these lots on a regular basis and has been mowing them ever since. I immediately followed up with a phone call back to Ms. Archibald and told her I had worked out a deal with Scott to mow them as needed. She thanked me and told me directly "she would call Scott in the future if they were in violation again".
Since that arrangement with Ms Archibald and the city, every time the lots needed mowing Scott would call me to let me know they needed mowing or he had received a call from Ms. Archibald that they were close (18") to being in violation. During the following years someone at the city called other mowers to have the property mowed and without any notification to me, not a phone call or letter (which I was told they did not have to call or write) I received lien notices. When I inquired with the code department as to how this could happen, my objections fell on deaf ears.

Michael, I would ask the city to accept my payment for the initial expense(s) of mowing these lots; but, under the circumstances give me the consideration of amending the interest amount that has built up over the years. The property is in the process of being sold and after all of these years is going to be improved finally as an income producing property on the tax rolls.

Please contact me at your earliest convenience to advise what decision the city has made in this matter.

Wayne Brewer

(512) 363-0900
[redacted]

From: Wayne Brewer
To: Wells, Michael
Cc: Griffin, Jim; slowry@boyle-lowry.com
Subject: Re: City of Bedford Assessments (Mowing Liens)
Date: Tuesday, February 05, 2013 12:22:07 PM

Michael,

I appreciate your offering the opportunity for me to travel from Austin to Bedford to attend the council hearing on February 12, and then for me to return back to Austin by car would not be possible at this time due to health reasons.
I would welcome the opportunity to answer any questions the council may have regarding this matter or to meet with Ms. Archibald in person to refresh her recall of the facts. Would it be possible to have a conference call in some type of work session the council would have prior to the official meeting? I am available to answer any questions at any time by phone.
Please accept my apology for not being able to attend in person. I hope the council understands. Let me know if there are any other options that can be arranged.

Thank you,

Wayne Brewer
(512) 363-0900
[redacted]

On Tue, Feb 5, 2013 at 11:30 AM, Wells, Michael <Michael.Wells@bedfordtx.gov> wrote:

> Good morning Mr. Brewer,
>
> This would be the decision of the Council and they meet next on February 12. I will give them this email, it may be in your best interest to be present though I know you live out of town. I can also put you on a future meeting. Council meets the second and fourth Tuesday of each month. Please let me know how you would like to proceed.
>
> Michael Wells
> City Secretary
> City of Bedford
>
> Sent from my HTC on the Now Network from Sprint!
>
> ----- Reply message -----
> From: "Wayne Brewer" <[redacted]>
> Date: Tue, Feb 5, 2013 10:11 am
> Subject: City of Bedford Assessments (Mowing Liens)
> To: "Wells, Michael" <Michael.Wells@bedfordtx.gov>
>
> Michael Wells
> City Secretary

City of Bedford, Texas

We spoke last week regarding some old mowing liens on the attached property as Oak Grove Estates, Block 1, Lots 12 & 13.
These liens are several years (80s-90s) old and have been accruing interest.
The reason I am writing is to explain my position as to how they occurred and why I do feel I owe the city the expense of the initial mowing but not the interest that has continued.

Prior to moving from the Bedford area several years ago I was diligent in having the lots mowed as needed, even hauling off at my expense old trash, concrete and building materials (the area was undeveloped and had a reputation of being a popular trash dumping area). When I moved away I had an older gentleman that mowed, but because of health reasons was unable to continue. After several spring and summer months of heavy rainfall I received a call from a lady with the city code enforcement (I think her name was Archibald) and she informed me I was in violation of high weeds. I explained to her I had retired and was living in Austin, Tx., and I wanted to know if she could recommend someone to me in the area that could mow the lots on a regular basis. She told me she could and had someone in mind. She recommended I contact Scott Hurd and gave me his phone number. I did and Scott told me he knew Ms. Archibald and he did a lot of mowing for her and the city when she would call. He said he would give her a call and let her know he was going to mow these lots on a regular basis and has been mowing them ever since. I immediately followed up with a phone call back to Ms. Archibald and told her I had worked out a deal with Scott to mow them as needed. She thanked me and told me directly "she would call Scott in the future if they were in violation again".
Since that arrangement with Ms Archibald and the city, every time the lots needed mowing Scott would call me to let me know they needed mowing or he had received a call from Ms. Archibald that they were close (18") to being in violation. During the following years someone at the city called other mowers to have the property mowed and without any notification to me, not a phone call or letter (which I was told they did not have to call or write) I received lien notices. When I inquired with the code department as to how this could happen, my objections fell on deaf ears.

Michael, I would ask the city to accept my payment for the initial expense(s) of mowing these lots; but, under the circumstances give me the consideration of amending the interest amount that has built up over the years. The property is in the process of being sold and after all of these years is going to be improved finally as an income producing property on the tax rolls.

Please contact me at your earliest convenience to advise what decision the city has made in this matter.

Wayne Brewer
(512) 363-0900
[redacted]

CONFIDENTIALITY NOTICE: This City of Bedford (CoB) email transmission is intended only for the use of the individual to whom it is addressed and may contain information that is confidential, privileged, and exempt from disclosure. Any use, copying, retention or disclosure by any person other than the intended recipient or the intended recipient's designees is strictly prohibited. If you have received this email in error, please notify the sender immediately by return email and destroy all electronic and paper copies of the original message and any attachments immediately.

COMMUNIQUE

AGENDA

CITY OF
BEDFORD
2000 Forest Ridge Drive - Bedford, TX 76021
(817)952-2100 www.bedfordtx.gov

NOTICE OF PUBLIC HEARING

October 23, 2012

Zoning Case Z-229

BREWER, WAYNE M
14428 HUNTERS PASS
AUSTIN TX 787342911

Dear BREWER, WAYNE M:

The City of Bedford has scheduled a public hearing concerning the above referenced request on the following date and location:

Planning and Zoning Commission: Thursday, November 8, 2012, at 7:00 p.m.

At the City Council Chamber, located at 2000 Forest Ridge Drive, Building A, Bedford, Texas.

Zoning Case Z-229, for a public hearing and to consider a rezoning from "R-7,500" Single-Family Residential District to Heavy Commercial for the properties located at 925 North Industrial Boulevard and 929 North Industrial Boulevard, Bedford, Texas, known as Lots 12A and 13A, Block 1, Oak Grove Estates Addition for a Shipley Donuts. The property is generally located west of Industrial Boulevard and south of Harwood Road.

According to the City Tax Records, you are the owner of real property, which is within the area of the proposed Zoning Change, or within two hundred (200) feet thereof. You will be given an opportunity to be heard in connection with said proposed Zoning Change. Information on proposed zoning change is available for review in the Planning and Zoning Department.

All interested persons are encouraged to attend the public hearings and express their opinions on the zoning change request. If you are unable to attend the public hearing, you may express your opinion by mail or e-mail to the address below. Letters must be received no later than five (5) calendar days prior to the date of the public hearings

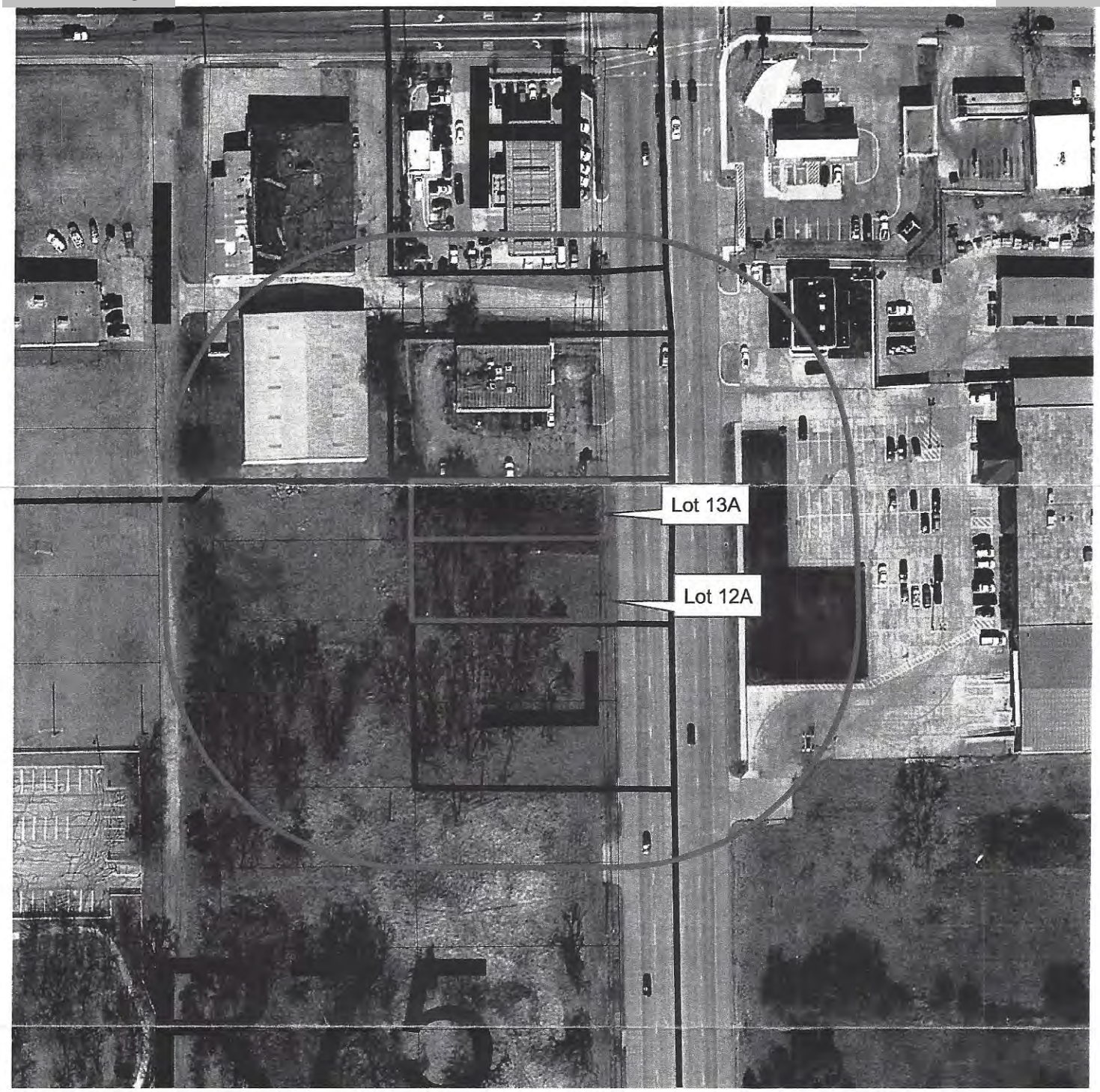
If you have further questions concerning these public hearings, you may contact our office at 817-952-2137. The application is on file for public examination in the Planning and Zoning Department at the address below.

NOTE: The data on the attached map is to be used for graphical representation only. The accuracy is not to be used as data produced for engineering purposes or by a Registered Professional Land Surveyor for the State of Texas. The City of Bedford assumes no responsibility for the accuracy of said data.

Yolanda Alonso, Planning and Zoning Coordinator

Attachment: Location map and applicant's proposal

Planning and Zoning Department
817-952-2137, Fax 817-952-2210
E-mail: yolanda.alonso@befordtx.gov



Hearing Date: 11-8-12 Z-229

Addresses: 925 North Industrial Boulevard,
Bedford, Texas 76021
and
929 North Industrial Boulevard
Bedford, Texas 76021

Legal Description: Lots 12A and 13A, Block 1
Oak Grove Estates Addition

City of Bedford, Texas

N
W E
S

Parcel Boundary
Subject Parcel and Buffer

DISCLAIMER
The City of Bedford makes no representation or warranty as to the accuracy of this map and its information or to its fitness for use. Any user of this map product accepts the same AS IS, WITH ALL FAULTS, and assumes all responsibility for the use thereof, and further agrees to not hold the City of Bedford liable from any damage, loss, or liability arising from any use of the map product. Independent verification of all information contained on this map should be obtained by the end user.

City of Bedford Assessments

Description	Principal	Interest	Total	Per Diem
1020 HWY 157 - Schedule C#6	100.00	197.21	297.21	0.03
1020 HWY 157 - Schedule C #7	77.29	148.74	226.03	0.02
1020 HWY 157 - Schedule C #8	109.54	201.52	311.06	0.03
1020 HWY 157 - Schedule C #9	102.29	186.42	288.71	0.03
1020 HWY 157 - Schedule C #13	189.00	151.36	340.36	0.05
1020 HWY 157 - Schedule C #14	164.00	131.33	295.33	0.04
1020 HWY 157 - Schedule C #15	271.32	112.17	383.49	0.07
Report Totals:	**1,013.44**	**1,128.75**	**2,142.19**	

AGENDA

Council Agenda Background

PRESENTER: Beverly Griffith, City Manager **DATE:** 02/12/13

Work Session

ITEM:

Council briefing on a partnership with H.E.B. I.S.D. regarding improvements to Central Pool.

City Manager Review: _____

DISCUSSION:

Staff will discuss with Council an opportunity to partner with H.E.B. I.S.D. regarding improvements to Central Pool.

ATTACHMENTS:

N/A

AGENDA

Council Agenda Background

PRESENTER: Mayor Jim Griffin **DATE:** 02/12/13

Council Recognition

ITEM:

Proclamation declaring February 2013 as Love Your Library Month.

City Manager Review: _____

DISCUSSION:

Scott Probasco will accept the Love Your Library Month Proclamation on behalf of the Library Advisory Board and the Bedford Public Library. He will promote various activities for the month of February including:

- The Library Satisfaction Survey
- The Seuss Festival scheduled for Sunday, March 3

Mr. Probasco and Jeanne Green will also be accepting a plaque on behalf of the Library for the 2012 Achievement in Excellence in Libraries Award from the Texas Municipal Library Directors Association.

Information is available on all Library programs at www.bedfordlibrary.org.

ATTACHMENTS:

Proclamation

COMMUNIQUE

AGENDA

CITY OF
BEDFORD

Proclamation

WHEREAS, the Bedford Public Library fosters a love of learning and reading; and

WHEREAS, the Bedford Public Library supports a competitive workforce and economic development by bridging the digital divide; and

WHEREAS, the Bedford Public Library provides free of charge books, movies, music, and electronic books; and

WHEREAS, the Bedford Public Library serves as the community's front porch…for learning, for leisure, for life; and

WHEREAS, the Bedford Public Library has received the prestigious award of 2012 Achievement of Excellence in Libraries given to 30 libraries out of 561 by the Texas Municipal Library Director's Association.

NOW, THEREFORE, let it be known that I, Jim Griffin, Mayor of the City of Bedford, and the City Council do hereby proclaim February 2013 as:

Love Your Library Month

in the City of Bedford and urge all residents to visit the Bedford Public Library.

In witness whereof, I have hereunto set my hand and
caused the seal of the City of Bedford to be affixed this
12th day of February, 2013.

_____

JIM GRIFFIN, MAYOR

AGENDA

Council Agenda Background

PRESENTER: Michael Wells, City Secretary **DATE:** 02/12/13

Minutes

ITEM:

Consider approval of the following City Council minutes:

a) January 8, 2013 regular meeting (Tabled at the January 22, 2013 regular meeting)
b) January 22, 2013 regular meeting
c) January 24, 2013 work session

City Manager Review: _____

DISCUSSION:

N/A

ATTACHMENTS:

January 8, 2013 regular meeting (Tabled at the January 22, 2013 regular meeting)
January 22, 2013 regular meeting
January 24, 2013 work session

STATE OF TEXAS §

COUNTY OF TARRANT §

CITY OF BEDFORD §

The City Council of the City of Bedford, Texas, met in Work Session at 5:30 p.m. and Regular Session at 6:30 p.m. in the Council Chambers of City Hall, 2000 Forest Ridge Drive, on the 8th day of January, 2013 with the following members present:

Jim Griffin	Mayor
Michael Boyter	Council Members
Chris Brown	
Jim Davisson	
Patricia Nolan	
Sherri Olsen	
Roy W. Turner	

constituting a quorum.

Staff present included:

Beverly Griffith	City Manager
David Miller	Deputy City Manager
Stan Lowry	City Attorney
Michael Wells	City Secretary
Kelli Agan	Technical Services Manager
Roger Gibson	Police Chief
Eric Griffin	Deputy Police Chief
Les Hawkins	Deputy Police Chief
Tom Hoover	Deputy Director of Public Works
John Kubala	Public Works Director
Mirenda McQuagge-Walden	Managing Director of Community Services
Jacquelyn Reyff	Planning Manager
Bill Syblon	Development Director

WORK SESSION

Mayor Griffin called the Work Session to order at 5:30 p.m.

- **Review and discuss items on the regular agenda and consider placing items for approval by consent.**

Council discussed placing the following items on consent: 2, 7 and 8.

- **Presentation by Robert Hinkle and Lara Kohl, NTE, regarding the S.H. 183 expansion.**

Lara Kohl of NTE presented an update on the S.H. 183 expansion. She stated that the project is on track to be complete by June of 2015. The project covers 13.5 miles starting at I35W, across six cities and ending at the 121/183 interchange. The project involves 117 companies and employs 1,200 people. $596M has been spent and 44.6% of the construction has been completed as of the end of December. A big portion of the work has been utility relocation, which has been a struggle since the utility owners are mainly responsible for moving them. In 2012, there was an average of 260 lane closures a month. They are preparing to open the new eastbound frontage road from Bedford Road to Forest Ridge Drive. They have opened the new westbound main lanes between Central Drive and Bedford Road. They demolished half of the Brown Trail Bridge a month ago and have moved traffic over to the new portion of the bridge. They are nearing completion and are ahead of schedule on the new Hurstview Bridge. She discussed the reconfiguration of the eastbound 183 and northbound 121 exits. She displayed pictures

showing the progress made at Brown Trail and Bedford Road. She also gave an update on activity on the west segment of the project.

Ms. Kohl gave information on the "Beat the Traffic" application that can be downloaded free off their website and which can be used not only for the corridor but state-wide. She also gave information on the project's website, the twice-a-week email alerts, their Facebook and Twitter pages, their telephone hotline and their information center in North Richland Hills.

In response to a question from Council, Ms. Kohl stated that there are two different types of signs. The first are small, rectangular business driveway signs and the variable message signs that indicate lane or ramp closures. In response to a question from Council, Police Chief Roger Gibson stated that the Department is pleased with NTE's response to their needs. Their biggest problem is getting to major accidents due to the traffic. Ms. Kohl stated that the pylons east of the 121/183 split are going to be for ramps that will cross over the main lanes and to the managed lanes.

Managing Director of Community Services Mirenda McQuagge-Walden introduced Rebecca Asher who is the new Marketing Specialist. Ms. Asher has several years experience in marketing including at the Star-Telegram. Deputy City Manager David Miller introduced Tom Hoover who is the new Deputy Director of Public Works and will be taking over for Public Works Director John Kubala when he retires next Tuesday. Mr. Hoover has worked as the public works director in Keller and Lake Dallas and has his own engineering firm.

Mayor Griffin adjourned the Work Session at 5:55 p.m.

EXECUTIVE SESSION

To convene before the Regular Session, if time permits, in the conference room in compliance with Section 551.001 et. Seq. Texas Government Code, to discuss the following:

a) **Section 551.071, consultation with the City Attorney on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with this chapter re: Allied Waste Contract.**
b) **Pursuant to Section 551.087, deliberation regarding economic development negotiations relative to Block A, Lot 1A, Bedford Plaza Addition.**
c) **Pursuant to Section 551.087, deliberation regarding economic development negotiations relative to Block, Lot 2 Stonegate Shopping Center Addition, Block, Lot D Shady Oaks East Addition, and Bedford Forum Addition.**

Council convened into Executive Session pursuant to Texas Government Code Section 51.071, consultation with the City Attorney on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with this chapter re: Allied Waste Contract, Section 551.087, deliberation regarding economic development negotiations relative to Block A, Lot 1A, Bedford Plaza Addition and Section 551.087, deliberation regarding economic development negotiations relative to Block, Lot 2 Stonegate Shopping Center Addition, Block, Lot D Shady Oaks East Addition, and Bedford Forum Addition at approximately 5:59 p.m.

Council reconvened from Executive Session at 6:37 p.m. Council did not finish the Executive Session and will convene again at the end of the meeting.

Council convened into Executive Session at 8:17 p.m.

Council reconvened from Executive Session at 8:50 p.m. Any necessary action to be taken as a result of the Executive Session will occur during the Regular Session of the Bedford City Council Meeting.

REGULAR SESSION 6:30 P.M.

The Regular Session began at 6:42 p.m.

CALL TO ORDER/GENERAL COMMENTS

Mayor Griffin called the meeting to order.

INVOCATION (Pastor Dan Mendoza, Oasis Community Worship Center)

Pastor Dan Mendoza of Oasis Community Worship Center gave tonight's invocation.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was given.

OPEN FORUM

Nobody chose to speak under tonight's Open Forum.

CONSIDER APPROVAL OF ITEMS BY CONSENT

Motioned by Councilmember Turner, seconded by Councilmember Brown, to approve the following items by consent: 2, 7 and 8 and 9 with the change in the seventh year of the performance amount to $1.65M.

Motion approved 7-0-0. Mayor Griffin declared the motion carried.

COUNCIL RECOGNITION

1. Announcement of Holiday Decorating Contest Winners.

Managing Director of Community Services Mirenda McQuagge-Walden announced the winners of the Holiday Decorating Contest. Nine homes participated in the contest this year and a lot of positive feedback was received from people who submitted their ballots. The first component of the contest was the general vote ballot:

3rd Place: 2513 Barr Drive – the Svitak family
2nd Place: 2321 Caldwell Drive – the McMillan Family
1st Place – 2900 Magnolia Court – Mr. Berger

The second component was the Council favorite:

3rd Place – 1700 Berwickshire Court
2nd Place – 2713 Cedar Springs Court– Jay and Tammy Hoyer
1st Place – Magnolia Court – Mr. Berger

The Glenbrook HOA was the overwhelming favorite. They were represented by Gene Luck, chair of their Christmas Committee. 81 homes from the HOA participated.

APPROVAL OF THE MINUTES

2. Consider approval of the following City Council minutes:
a) December 11, 2012 regular meeting

This item was approved by consent.

PERSONS TO BE HEARD

3. The following individual has requested to speak to the Council tonight under Persons to be Heard.

a) **Doug Deere, 2008 Memphis Drive, Bedford, Texas 76021 – Requested to speak to the Council regarding lowering the speed limit to 20 MPH or installing speed bumps on Memphis Drive.**

Mr. Deere did not attend tonight's meeting.

NEW BUSINESS

4. **Public hearing and consider an ordinance to rezone the property known as Tract 1, Abstract 1537, Garrrett Teeter Survey, 3901 Central Drive, Bedford, Texas from Planned Unit Development (PUD), Medium-Density Single-Family Attached District (MD-4) to Planned Unit Development (PUD), Medium-Density Residential – Single-Family Detached District (MD-3). The property is generally located south of Cheek Sparger Road and west of Central Drive. (Z-226)**

Planning Manager Jacquelyn Reyff presented information regarding this ordinance. This item was published in the December 11 edition of the Star-Telegram. The property is currently zoned as PUD MD-4, which was approved in 2006 and platted; however, it was never filed with Tarrant County and nothing was ever built. This item is to downsize the zoning to PUD MD-3. The property has seen numerous proposals over the years. There is a 100-year flood plain towards the north and west sides of the property, including a 40-foot drainage easement. Under the proposed rezoning, the density would go from 8.43 units per acre down to 4.95 units per acre. The number of houses would drop from 68 to 40. The maximum lot area is going from 3,000 square feet to 5,000 square feet. The minimum lot area is going from 2,500 square feet to 4,000 square feet. The minimum unit size is going from 1,500 square feet to 1,600 square feet. The front yard setback would go from 10 feet to 22 feet. They are proposing 10 feet side yards with eight feet on one side and two feet on the other. There are specific design standards for MD3. It allows for minimum flooring area of not less than 1,250 square feet while the applicant is proposing 1,600 square feet. Parking would be two spaces per unit for a total of 80 spaces. Ingress and egress would be along Central Drive. The streets would be public. In discussions with engineering, the applicant and Public Works, it was decided not to include a six foot screening fence as a barrier between the neighborhoods due to possible effects on the flood plain. The proposed lot coverage meets the requirements of the Zoning Ordinance. In regards to landscaping, 40 trees would be provided, one for each lot in the front yard along with additional trees over what was initially presented to the Planning and Zoning Commission. Existing trees on the site would have to be removed so the applicant would not receive credits towards reduced landscaping. The sidewalks would be five feet wide and made of concrete with a broom finish. The visibility triangles meet the standards except for "Street C". The applicant is requesting variances to include: the visibility for "Street C" to be 15 feet by 15 feet; two foot side yard maintenance easements; a 31 foot right of way with a 9.5 foot utility easement adjacent to right of way on each side street; and to not include the six-foot masonry wall. At the time of platting, drainage and engineering would have to meet City ordinances. The Comprehensive Plan shows this area to be residential so this proposal is not in conflict with the Plan. The Planning and Zoning Commission approved this item at their December 13, 2012 meeting by a vote of 5-0-0 with the addition that trees be added to cul-de-sac north of the property, which the applicant has done on the Landscape Plan. Stipulations included in the ordinance are: a minimum floor area of not less than 1,600 square feet; a minimum lot size of not smaller than 4,000 square feet; and that the bylaws of the homeowner's association by provided to the City before the issuance of permits.

In answer to questions from Council, Ms. Reyff stated that the two parking spaces are in the driveway. In regards to the reduced visibility triangle on "Street C", Ms. Reyff stated that this is something the applicant can ask for under a PUD. In working with the applicant and the Fire Marshal, it was decided this was the best solution based on the design. If the visibility triangle was increased, it would reduce the lot size. Eddie Eckart of Goodwin and Marshall, the engineer for the project, stated that the reduction only shows up when you get internal to the subdivision. For visibility, two right-hand turn lanes were added.

Mayor Griffin opened the public hearing at approximately 7:02 p.m.

Tony Comparin, 3842 Brookside Drive – Mr. Comparin expressed concerns if they raise the property with fill dirt, that water would get higher and create more runoff. This might cause flooding which would devalue homes including his. He asked how high they would be putting the fill dirt. He understood that trees would have to be taken down; however, he requested that if possible trees could be put out by the curb. He also requested that whatever fencing that is eventually put up around the development be made uniform.

Bill Reily 3805 Edgewater Drive – Mr. Reily expressed his concerns that smaller lots and smaller homes would reduce the resale and value of the area he lives in.

Mayor Griffin closed the public hearing at 7:10 p.m.

Mr. Eckart stated that they did a flood study, which is currently under review by the City's consulting engineer Dick Perkins. They did check the finished elevations of the neighbors to make sure they are out of the flood plain and they are. He stated that the development would not be impacting the flood plain any more or less than any of the properties around them. They will be making some slight improvements to the channel on their side of the creek to make the water flow through as quickly as possible and they are not increasing the flood plain on anybody's property. He stated that the flood study is not approved at this standpoint. They would have to bring in fill dirt, which would kill off trees so they have to come down. He did measure their land plan versus where trees currently are and it looks like they will be able to leave a buffer in between Cheek Sparger and where the homes are. They have not done a tree survey but they will do everything they can do to save trees outside of the development's limits and the fill area. In regards to the screening requirements, they felt it was not a great value for specific screening on the south and west boundary lines based on the channels that are there. All the present homes currently have privacy fences and the development is 100 feet away from the Brookwood Hills property.

In response to questions from Council, Mr. Eckart stated that there are trees being planted outside of the floodplain. The projected price point for the homes is in excess of $300,000. In regards to the maintenance of the channel, there is a 40-foot drainage easement that is currently maintained by the City. In regards to the reason behind the two-foot and eight-foot side yards, Mr. Eckart explained that in discussions with the Fire Marshal they cannot have eaves that hang over into other people's property. The ten foot would be maintained and usable by the eight-foot owner so it still acts like zero lot line along with a fire wall. Architecturally, it allows for eaves on that side of the house. They also did not want to go with five-foot side yards due to the size of air conditioning units. In regards to fencing, he stated that a uniform fence would not add value to the property or their neighbors and allows the homeowners to choose the type of fencing they want. There will be a wrought iron screening fence along Cheek Sparger but not along the west or south property lines. There was discussion that language could be placed in the HOA bylaws regulating the type of materials and colors of the fence while the height of the fences would be regulated by the Fence Ordinance. Mr. Eckart stated that in meeting with the City of Colleyville, they indicated that they would not need additional right of way for the roundabout. Regarding the size of the houses, he stated that they wanted to give people the flexibility to buy a smaller home and that the minimum size is 500 feet over standard zoning. They would be raising the property between two and three feet. In regards to visibility with the roundabout, the median will stay so traffic cannot make left turns. The walking trail along Cheek Sparger will remain and there are three entrances and exits to the property. There was discussion that if something happens with engineering, drainage or permitting and the PUD has to be amended, that it would have to come back to Council for approval.

(Based on an inquiry from Council about the minutes for this item, specifically regarding fencing, an addendum has been added with a verbatim transcript of that portion of that dialogue)

Motioned by Councilmember Turner, seconded by Councilmember Davisson, to approve an ordinance to rezone the property known as Tract 1, Abstract 1537, Garrrett Teeter Survey, 3901 Central Drive, Bedford, Texas from Planned Unit Development (PUD), Medium-Density Single-Family Attached District (MD-4) to Planned Unit Development (PUD), Medium-Density Residential – Single-Family Detached District (MD-3) with the additions to the bylaws homeowner's association as discussed.. The property is generally located south of Cheek Sparger Road and west of Central Drive.

Motion approved 7-0-0. Mayor Griffin declared the motion carried.

5. **Public hearing and consider an ordinance to rezone a portion of the property known as Lot 3, Block 1, Parkwood Village Addition, located at 217 Harwood Road, Suite 222, Bedford, Texas, specifically for the operation of a Children's Day Care Center (Brighter Horizons Academy) from Heavy Commercial (H) to Heavy Commercial/Specific Use Permit/Children's Day Care Centers. The property is generally located north of Harwood Road and west of Brown Trail. (Z-232)**

Ms. Reyff presented information regarding this ordinance. This item was published in the December 19 edition of Star-Telegram. It is to operate a day care center at the location. The landscaping is from a previous development and does not have to be brought into compliance with the Zoning Ordinance if shown deficient per Section 5.6.J. The parking remains from a previous development and is in compliance as proposed per Section 5.2.A (3) of the Zoning Ordinance. The applicant is proposing a play area behind the lease space, which is currently fenced off by chain-link fence. Play areas cannot be located within 50 feet of residents and this area would be 55 feet from the nearest property to the north. The hours of operation would be 5:00 a.m. to 11:00 p.m. The center would accommodate children from four months to 13 years and have a pre-school curriculum for children three and four years old. They would have a staff of 10 people. The Comprehensive Plan shows the property to be commercial so the proposed use will not be in conflict. The item was approved by the Planning and Zoning Commission at their December 13, 2012 meeting by a vote of 5-0-0.

In answer to questions from Council, Ms. Reyff stated that the play area is a hard surface and that it is surrounded by the chain-link fence with bollards abutting the parking area.

Mayor Griffin opened the public hearing at 7:40 p.m.

Nobody chose to speak at tonight's public hearing.

Mayor Griffin closed the public hearing at 7:40 p.m.

Motioned by Councilmember Boyter, seconded by Councilmember Davisson, to approve an ordinance to rezone a portion of the property known as Lot 3, Block 1, Parkwood Village Addition, located at 217 Harwood Road, Suite 222, Bedford, Texas, specifically for the operation of a Children's Day Care Center (Brighter Horizons Academy) from Heavy Commercial (H) to Heavy Commercial/Specific Use Permit/Children's Day Care Centers. The property is generally located north of Harwood Road and west of Brown Trail. (Z-232)

Motion approved 7-0-0. Mayor Griffin declared the motion carried.

6. **Consider an ordinance amending Chapter 18 – Animals of the City of Bedford Code of Ordinances by repealing it in its entirety and replacing it with a new Chapter 18 – Animals; providing a penalty clause; providing a severability clause; and declaring an effective date.**

Deputy Police Chief Les Hawkins presented information regarding this ordinance. He stated that a vast majority of changes to the ordinance were the relocation of several sections for it to flow smoother and it was updated to be more current with State law. Some items were added to definitions and all were moved to the front of the ordinance for easy reference. The Animal Control Board was combined into the Animal Shelter Advisory Board with the addition of two members and the number of meetings was increased to six a year. The section on fierce and dangerous animals was patterned off of State law in regards to investigations. It would now be a requirement that an animal be spade/neutered and receive a rabies vaccination prior to adoption unless they pay a refundable deposit on top of the adoption fee. A local vet has offered to do low cost spay/neuter and rabies vaccination. Adoption costs would go up but be comparable to surrounding cities.

In answer to questions from Council, Deputy Chief Hawkins stated that adequate shelter deals with the section of the ordinance regarding the care and treatment of animals and is intended for animals that

are kept outside on a continuous basis. There was discussion on the definition of "enclosure" and chickens being allowed per the ordinance. In regards to the 30 day timeframe to register a fierce or dangerous animal, Deputy Chief Hawkins stated that it was based on State law; the ordinance could be more restrictive but there is a requirement for the owners to make improvements to their fencing. In order to have the animal back, the owner has to agree to certain requirements about securing the animal. There was discussion regarding acreage being defined as open ground; how Animal Control responds to animal attacks; and concerns over punishing animals for the actions of their owners. City Attorney Stan Lowry advised that clarifying what is meant by "enclosure" to mean something other than the yard or property itself in order to alleviate the concerns of Council. Deputy Chief Hawkins explained to Council that another change to the ordinance added after it was sent to Council initially was clarifying that the representative from an animal welfare organization on the Animal Shelter Advisory Board is not required to be a resident of the City.

Motioned by Councilmember Olsen, seconded by Councilmember Nolan, to approve an ordinance amending Chapter 18 – Animals of the City of Bedford Code of Ordinances by repealing it in its entirety and replacing it with a new Chapter 18 – Animals; providing a penalty clause; providing a severability clause; and declaring an effective date with the agreed amendment to add the definition of enclosure ot the definitions.

Motion approved 7-0-0. Mayor Griffin declared the motion carried.

7. Consider a resolution authorizing the City Manager to enter into the second year of a three year contract with B&B Wrecker Services, Inc. to provide towing for City initiated tows.

This item was approved by consent.

8. Consider a resolution authorizing the City Manager to renew a lease agreement with ONSTAGE relative to the Trinity Arts Theater located within the Bedford Boys Ranch Park.

This item was approved by consent.

9. Consider a resolution of the City Council of the City of Bedford, Texas approving an amendment to the Economic Development Program Agreement, pursuant to Chapter 380 of the Texas Local Government Code and the City's Economic Development Incentive Policy and Program, with Pappas Restaurants Inc.

This item was approved by consent with the amendment.

10. Report on most recent meeting of the following Boards and Commissions:

- ✓ **Animal Shelter Advisory Board - Councilmember Olsen**

Councilmember Olsen reported that the first meeting of the newly combined Board will be tomorrow.

- ✓ **Beautification Commission – Councilmember Turner**

Councilmember Turner reported that the Commission had an unusual December meeting. They are working on revamping the beautification along Harwood Road.

- ✓ **Community Affairs Commission - Councilmember Boyter**

Councilmember Boyter stated he was looking forward to the new members joining the Commission. They are working towards an outreach meeting that encompasses residents and businesses. They are continuing their efforts on Shop Bedford First and Bedford Open for Business.

- ✓ **Cultural Commission - Councilmember Nolan**

Councilmember Nolan reported that the Commission is in the process of putting together a "state of the union" address to the Council to be presented within the next month or so.

- ✓ **Library Board – Councilmember Brown**

No report was given.

- ✓ **Parks & Recreation Board - Councilmember Davisson**

Councilmember Davisson reported that the dog park was approved at the last meeting by HEB ISD and that the Board is moving forward with that project.

- ✓ **Senior Citizen Advisory Board - Councilmember Turner**

Councilmember Turner reported that the next meeting of the Board is January 21.

- ✓ **Teen Court Advisory Board - Councilmember Olsen**

Councilmember Olsen reported that the Board met last Thursday and they are getting ready for all of the things they need to do this spring. They elected officers and appointed subcommittees. The scholarship subcommittee will meet this Thursday. The next meeting of the Board is scheduled for February.

11. Council member reports

Councilmember Nolan invited everybody to the Bedford Library Foundation's Mardi Gras event on February 9. There will be celebrity waiters and the entertainment will be from "Old Blue Eyes".

12. City Manager/Staff Reports

City Manager Beverly Griffith reported that on Friday, January 11, the Old Bedford School will be holding a classic movie night with "The Good, the Bad and the Ugly." On Saturday, January 19 at 7:00 p.m., the Old Bedford School will be hosting a murder mystery dinner.

13. Take any action necessary as a result of the Executive Session

Item #9 was discussed in Executive Session and approved as amended during the Regular Session.

ADJOURNMENT

Mayor Griffin adjourned the meeting at 8:53 p.m.

_____
Jim Griffin, Mayor

ATTEST:

_____
Michael Wells, City Secretary

Addendum to the minutes of the Regular Meeting of the Bedford City Council held on the 8th day of January, 2013

4. Public hearing and consider an ordinance to rezone the property known as Tract 1, Abstract 1537, Garrrett Teeter Survey, 3901 Central Drive, Bedford, Texas from Planned Unit Development (PUD), Medium-Density Single-Family Attached District (MD-4) to Planned Unit Development (PUD), Medium-Density Residential – Single-Family Detached District (MD-3). The property is generally located south of Cheek Sparger Road and west of Central Drive. (Z-226)

Councilmember Nolan: The other question I had is that there is no fence running down the back of that. You aren't going to put up but a homeowner can put it up?

Mr. Eckert: On the west side of the property?

Councilmember Nolan: Right

Mr. Eckert: Yes, and we would expect that the homeowner probably would put it up. I mean, similar to the other homeowners in Brookwood Hills Phases I & II that have put up privacy fences along the channel. It's not a requirement, if we need to make it a requirement there's an expectation that they would probably go a head and put up a privacy fence.

Councilmember Nolan: But what I'm saying is when the other developments that we've looked at lately the developer has done that. That was the responsibility of the developer. So, is that just a way that you are cutting costs you know, what's the reason for you not developing the piece of property as it should be.

Mr. Eckert: We didn't feel that a uniform fence back there would create any added value for our property owners as well as the neighboring property owners. There are no consistent fences for any one along there and with their privacy fences they wouldn't see any of these fences. So, we weren't sure what advantage it would give our neighbors or us. It would allow each individual homeowner to choose what type of fence they want. You know, whether that's cedar fence or regular stockade fence or if they want to put a cap on it. Again there's a number of different fence types that are out there and you want to give the end user the homeowner as much flexibility to their own decisions if the City doesn't feel like that is the best way to go about it I think we are certainly open to discussion. The property owner is here tonight, I can let him speak to the issue but that was the thought process. It wasn't trying to do anything on the cheap by any means, because we don't feel like this is going to be a cheap neighborhood.

Councilmember Nolan: So there's no fence on the outside of the property either facing either Central or Cheek Sparger?

Mr. Eckert: There is wrought iron screening fence along Cheek Sparger with landscaping that's part of the ordinance part of the PUD but not along that south and west boundry line. That's correct it's up against the channel.

Councilmember Nolan: One homeowner could put up a four foot fence, the next one could put up a six foot fence, the other one could put up an eight foot fence, it would look very un-uniform.

Mayor Griffin: I think Jackie can address that one.

Planning Manager Jacquelyn Reyff: Not necessarily, I imagine that something can be put in the homeowners association documents that could regulate or guide them to the type of materials and colors, the height of course would be regulated by our fence ordinance so that would be looked at when they pull a permit for a fence.

Councilmember Nolan: So the wrought iron is going to be just open stakes, wrought iron, it's not going to be solid?

Mr. Eckert: Not along Central and we did that, again, so with the architectural features facing Central, it was an intentional purpose to have some landscaping but be able to see thru and see the homes and again this comes from the home builders themselves that felt like that is a better look, a better quality when you are talking about a small subdivision like this that has some challenges and they felt like that would have a little more I'll say front face appeal because you can't get a big entry feature within this community and by facing the homes they felt like that would almost act along with the wrought iron fence and landscaping upfront it would have a nice feel and presence.

Patricia Nolan and the developer discussed the roundabout.

Mayor Griffin: Just a follow-up question with regards to the comment about the residents having fencing options, Jackie can we just work with them to make sure that is included in the by-laws and homeowners documents?

Mr. Eckert: Not a problem at all.

Mayor: Then we will have some uniformity there and that kind of thing to match up with our fence ordinance.

Councilmember Turner made a motion to approve an ordinance to rezone the property known as Tract 1, Abstract 1537, Garrrett Teeter Survey, 3901 Central Drive, Bedford, Texas from Planned Unit Development (PUD), Medium-Density Single-Family Attached District (MD-4) to Planned Unit Development (PUD), Medium-Density Residential – Single-Family Detached District (MD-3). The property is generally located south of Cheek Sparger Road and west of Central Drive. Seconded by Councilmember Davisson.

Mayor: Before I ask everyone to vote, I hope that motion included the additions to the by-laws of the HOA.

Someone off mic confirmed.

Mayor:
OK

STATE OF TEXAS §

COUNTY OF TARRANT §

CITY OF BEDFORD §

The City Council of the City of Bedford, Texas, met in Work Session at 5:30 p.m. and Regular Session at 6:30 p.m. in the Council Chambers of City Hall, 2000 Forest Ridge Drive, on the 22nd day of January, 2013 with the following members present:

Jim Griffin	Mayor
Michael Boyter	Council Members
Chris Brown	
Jim Davisson	
Sherri Olsen	
Roy W. Turner	

constituting a quorum.

Councilmember Nolan arrived at 5:31 p.m.

Staff present included:

Beverly Griffith	City Manager
David Miller	Deputy City Manager
Stan Lowry	City Attorney
Michael Wells	City Secretary
Roger Gibson	Police Chief
Tom Hoover	Public Works Director
Mirenda McQuagge-Walden	Managing Director of Community Services
James Tindell	Fire Chief

WORK SESSION

Mayor Griffin called the Work Session to order at 5:30 p.m.

- **Review and discuss items on the regular agenda and consider placing items for approval by consent.**

Council discussed placing the following items on consent: 2, 8, 9 and 10.

Fire Chief James Tindell presented information on Item #8. It is for the purchase of a replacement ambulance for a 2001 Freightliner that has reached the end of its service life. It has 134 points on the City's decision tree, with 100 points being the maximum whereby a vehicle is no longer able to be maintained in the proper condition. At a previous work session, the cost was presented as $188,600; however, this item is higher due to the need for a brand new stretcher, which has raised the price by $11,000. In answer to questions from Council, Chief Tindell stated that the stretcher is fully automated. The ambulance is replacing a vehicle that is 12 years old and the normal life expectancy for this type of vehicle is 10 years. He will be coming to the Council in the next couple of years for remounting existing ambulances. The old ambulance will be put up for auction.

Council discussed Item #9 and was of the consensus to re-appoint Alicia McGlinchey as Chairperson and Tom Jacobsen as Vice Chairperson to the Cultural Commission.

Council discussed issues related to Item #4 on the January 8, 2013 minutes, specifically in regards to comments made on the fencing. Staff was directed to view the recording of that meeting during Executive Session for clarification.

- **Council briefing on meeting with TxDOT on the Highway 183 expansion.**

Deputy City Manager David Miller briefed Council on a meeting City staff had with TxDOT on the Highway 183 expansion on January 16. TxDOT cancelled NTEMP's contract for the expansions of Segment 2E, which runs from Industrial Boulevard to Highway 161, and Segments 3B, 3C and 4. In bidding the Dallas County segment of the project, NTEMP was the only bidder and TxDOT believed they could get better bids if they combine the Dallas County segment with Segment 2E.

Mr. Miller explained that in September of 2011, Senate Bill 1420 went into effect, which requires that TxDOT appoint a committee to oversee issuance of RFPs and RFQs on CDA/toll projects. The 2W Segment was not affected because construction in Bedford started prior to SB 1420. The section of Segment 2E that affects Bedford is the northwest corner of Industrial Boulevard and the frontage road. To serve on the 1420 Committee and have a vote, the City would have to make a financial contribution such as in the form of dedicating a right-of-way. The Council would also have to pass a resolution committing to those funds. TxDOT originally requested the financial commitment by February 4; however, this has been extended to February 14 when the 1420 Committee will meet. Staff has requested information from TxDOT including the size and scope of the impact on the City proper, which is unknown at this time. TxDOT is supposed to have answers back to the City by the end of this week or the beginning of next week. Mr. Miller has been invited to the 1420 Committee meeting on February 4 regarding the Dallas County segment to see how the two projects tie together.

Mr. Miller stated that he will be back at the Council meeting on February 12 with either a resolution agreeing to small financial commitment and appointing somebody as the City's spokesperson on the Committee or he will have an update that there has been no progress on this issue. The reason for TxDOT's rush on the 1420 Committee is that the Transportation Committee is meeting on January 31 for the issuance of RFQs on the Dallas County and 2E segments. RFPs should be issued by June, with contracts awarded by the end of the year and construction starting by June of 2014.

Based on questions from Council, Mr. Miller stated that the City of Euless will be dedicating right-of-way to be eligible for the 1420 Committee. It is unknown at this time if infrastructure relocation costs apply to the financial commitment authorized by SB 1420 or how much infrastructure the City has in Segment 2E. Further, it is unknown at this time whether the City would have a right be on the 1420 Committee based on previous financial contributions for the 2W Segment. He explained the reasoning for having 1420 Committee is that for CDA/managed private toll projects, cities, regional transportation coalitions and MPOs are at the table and that there is equal representation from all entities when RFQs and RFPs are issued. Further, there would be many eyes on bids to make sure that they are solid.

- **Presentation of two design styles for a masonry sign at the Old Bedford School.**

Managing Director of Community Services Mirenda McQuagge-Walden presented design styles for a masonry sign at the Old Bedford School. She stated that in the Fiscal Year 2013 budget, funds were included for a non-digital masonry sign at the Old Bedford School. As staff went through the process of looking at signs, the cost of a digital sign is more; however, it may be something that Council would want to look into. She showed examples for a digital and a non-digital sign. Both would be similar to what is at the Library and have brick that matches both the Old Bedford School and the Library. It would be oriented towards Bedford Road and be two-sided. The full digital sign would be the same size as the Library's but would only display in red. The cost is $27,890 for a digital sign and $19,599 for a non-digital sign. In speaking with the vendor, it would not be feasible to convert from non-digital to digital sign and it would be more expensive to do two projects instead of doing it all at one time.

Mark Brewer of Identity Management representing the vendor stated that the reason for going with monochromatic red is that it is cheaper. If a non-digital sign were later retrofitted with digital, the sign would stick out from the face. A digital sign can be controlled wirelessly from almost anywhere while a non-digital sign would require two people to change out the letters. His company would provide all the training and connectivity and would provide 24/7 tech support.

There was discussion regarding concerns over how much one can see on a digital sign at a time. Mr.

Brewer stated that the way to address those concerns would be to change the size of the digital sign from two lines, as currently presented, to three or four lines, which would require a change in the art work. In answer to questions from Council, Ms. McQuagge-Walden stated that this sign was in the base budget. The reason for the sign is to both improve advertising and the aesthetics of the facility. There is increased interest in programs at the Old Bedford School when they use a portable sign; however, they are only allowed to use it four times a year per City Ordinance. The original sign has been there since the mid-to-late 1990s. In regards to concerns over different appearance standards with the Central Bedford Development Zone and the Cultural District, she stated that the area in question is not considered a gateway. Further, the brick for the sign matches the Old Bedford School and the Library for continuity purposes. There was further discussion on the digital sign being out of place at the Old Bedford School and whether this was the best use of funds or the biggest need for the facility. Ms. Mcquagge-Walden stated that the storage issues will be addressed with the move of staff to the gray house. Old Bedford School Coordinator Amy Borquin stated that the current sign is way back and unable to be seen and with all the events at the School, using a portable sign four times a year is not enough. In answer to questions from Council, it was stated that the overall height of the sign is 6.3 feet. The contractor is not the same one that did the sign at Harwood Road. There are no issues from the Historical Commission for tearing down the old sign and putting up the new one as it is not part of the building proper. In regards to maintenance, Mr. Brewer stated there is a five-year unlimited parts warranty. Digital signs have a life span of approximately 12 years while the life span of a non-digital sign depends on weather conditions. There are some installation related costs for the digital signs. In regards to how this would be paid for, it was explained that it comes out of the Facility Maintenance Fund, which has a fund balance of approximately $300,000.

Council was of the consensus to ask staff to get with the vendor to put together options for a three line digital sign including costs.

Mayor Griffin adjourned the Work Session at 6:37 p.m.

EXECUTIVE SESSION

To convene before the Regular Session, if time permits, in the conference room in compliance with Section 551.001 et. Seq. Texas Government Code, to discuss the following:

- **Section 551.071, consultation with the City Attorney on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with this chapter re: Allied Waste Contract.**

Council was unable to meet in Executive Session prior to the Regular Session.

Council convened into Executive Session pursuant to Texas Government Code Section 551.071, consultation with the City Attorney on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with this chapter re: Allied Waste Contract at 8:30 p.m.

Council reconvened from Executive Session at 9:14 p.m. Any necessary action to be taken as a result of the Executive Session will occur during the Regular Session of the Bedford City Council Meeting.

REGULAR SESSION 6:30 P.M.

The Regular Session began at 6:44 p.m.

CALL TO ORDER/GENERAL COMMENTS

Mayor Griffin called the meeting to order.

INVOCATION (Senior Pastor Nosa Onaiwu, Arise and Shine International Ministries)

Senior Pastor Nosa Onaiwu of Arise and Shine International Ministries gave tonight's invocation.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was given.

OPEN FORUM

Nobody chose to speak under tonight's Open Forum.

CONSIDER APPROVAL OF ITEMS BY CONSENT

Motioned by Councilmember Turner, seconded by Councilmember Brown, to approve the following items by consent: 8, 9 and 10.

Motion approved 7-0-0. Mayor Griffin declared the motion carried.

COUNCIL RECOGNITION

1. Employee service recognition.

The following employees received recognition for dedicated service and commitment to the City of Bedford:

Michael Kratky, Police Department - 25 years of service
Anthony Wynn, Public Services - 30 years of service

APPROVAL OF THE MINUTES

2. Consider approval of the following City Council minutes:
a) January 8, 2013 regular meeting
b) January 12, 2013 work session

Motioned by Councilmember Olsen, seconded by Councilmember Davisson, to table the minutes of the January 8, 2013 regular meeting to the next Council meeting and to consent the minutes of the January 12, 2013 work session.

Motion approved 7-0-0. Mayor Griffin declared the motion carried.

PERSONS TO BE HEARD

3. The following individual has requested to speak to the Council tonight under Persons to be Heard.
a) Doug Deere, 2008 Memphis Drive, Bedford, Texas 76021 – Requested to speak to the Council regarding lowering the speed limit to 20 MPH or installing speed bumps on Memphis Drive.

Doug Deere, 2008 Memphis Drive – Mr. Deere stated that there are ten to twelve children that play around his yard and he is concerned about their safety. He asked that the speed limit on Memphis Drive be changed from 30 MPH to 20 MPH and that two speed limit signs be installed. He stated that with cars parked on both side of the street, only one car can go through at a time. He related an incident from approximately 15 years ago where a child was killed in front of his house.

There was discussion between Council and staff regarding lowering the speed limit and the possible addition of speed bumps. Police Chief Roger Gibson stated that the installation of speed bumps requires that a street be at least 1,000 feet long and 30 feet wide, that a volume count would have to be conducted and that 80% of the residents on the street would have to request them. Schumac Lane is 20 MPH due to the two schools on the street. State regulations state that if there is no posted speed limit sign, then the assumption is that the speed limit is 30 MPH. He stated that he has not received any

other complaints on that street. There was discussion on the effects of lowering the speed limit on residents of the street and those that use it as a cut-through. Public Works Director Tom Hoover discussed the type of streets Memphis Drive and Schumac Lane are and the results of their recent traffic study, which showed that there is not a high volume of traffic on Memphis Drive and that the 85 percentile of drivers are going 22 MPH on weekends and 26 MPH on weekends.

NEW BUSINESS

4. **Public hearing and consider an ordinance extending Article IV Chapter 82, "Offenses and Miscellaneous Law Enforcement Regulations," of the Code of Ordinances of the City of Bedford, Texas, relating to curfews; making it cumulative; providing for penalties; providing a severability clause; and declaring an effective date.**

Police Chief Roger Gibson presented information regarding this ordinance**.** This is for extending the current ordinance, which covers both nighttime and daytime school curfews, for another three years. The original nighttime curfew was approved in 1994 and amended in 2008 to include the daytime school curfew at the request of the HEB School District. At that time, both the Cities of Euless and Hurst also approved the daytime school curfew. In speaking last year with Nate Hearn, who is over truancy for the District, they were number one in the State as far as truancy and Bedford was number one out of the three cities. In speaking with a representative from the District that morning, they have been near the top in the State in regards to attendance and truancy issues for the last couple of years.

Mayor Griffin opened the public hearing at 7:21 p.m.

Nobody chose to speak at tonight's public hearing.

Mayor Griffin closed the public hearing at 7:21p.m.

Motioned by Councilmember Davisson, seconded by Councilmember Turner, to approve an ordinance extending Article IV Chapter 82, "Offenses and Miscellaneous Law Enforcement Regulations," of the Code of Ordinances of the City of Bedford, Texas, relating to curfews; making it cumulative; providing for penalties; providing a severability clause; and declaring an effective date.

Motion approved 7-0-0. Mayor Griffin declared the motion carried.

5. **Public hearing and consider a resolution authorizing the City Manager to pursue grant funding from the Tarrant County Community Development Block Grant (CDBG) 39th Year Program for the water line improvements on Savannah Way from Pipeline Road northerly to Charleston Drive.**

Public Works Director Tom Hoover presented information regarding this resolution. He stated that every year, the City tries to get funding through Tarrant County's Community Development Block Grant program. This year, they have applied for some water line improvements along Savannah Way. There is 1,200 linear feet of water line that is estimated to be over 40 years old and there have been several leaks each year. Most of the funding for the project will come through the County.

Mayor Griffin opened the public hearing at 7:23 p.m.

Scott Hartford, 818 Savannah Way – Mr. Hartford asked what the schedule of events was for the pipeline, whether it would be replaced or repaired, whether residents will be able to get in and out of their houses, what would happen if this project is not done and how the street will be repaired.

Mr. Hoover explained that the existing 6 inch water line would be replaced with an eight inch line. The old line will be abandoned in place so that the street would not need to be torn up as much. Water service will be transferred and they will be repairing the asphalt pavement with their typical patch. They will require access to the private properties and there may be periods of 30 minutes to an hour where access will be blocked but they will notify people in advance. They will also not be doing work during

rush hours. This project will allow the City to get $115,000 worth of services for $7,000. They City will also do any repairs on irrigation or landscaping with in-kind as the pipe is five feet behind the curb.

In answer to questions from Council, Mr. Hoover stated that the current street is asphalt and that the newer pavement will be smooth so should not be felt. In regards to communication, they will contact residents through door hangers and possibly DeltAlert as well as putting information on the website. It should take about a month and a half to two months to do the work.

Mayor Griffin closed the public hearing at 7:28 p.m.

Motioned by Councilmember Davisson, seconded by Councilmember Nolan, to approve a resolution authorizing the City Manager to pursue grant funding from the Tarrant County Community Development Block Grant (CDBG) 39th Year Program for the water line improvements on Savannah Way from Pipeline Road northerly to Charleston Drive.

Motion approved 7-0-0. Mayor Griffin delcared the motion carried.

6. Consider a resolution to approve Amendment No. One to the Meadowpark Lease Agreement with the Hurst-Euless-Bedford Independent School District.

Ms. McQuagge-Walden presented information on this resolution. It is to amend the lease with the HEB School District for the Meadowpark property. In June, a presentation was made to Council regarding a dog park at that property and one of the components was to ask the District to allow it as a use. During the Budget Work Session, Council expressed interest in funding the trail extensions that cross the Meadowpark property so that use was included in the lease amendment as well. She spoke about numerous complications related to the ownership of portions of the property by the District and Oncor. Oncor has agreed to an encroachment and a license agreement and the District Board approved the lease amendment at their December 11 meeting. She stated that the Park Board is asking the Council to ratify the amendment.

There was discussion between Council and staff regarding the future of the Meadowpark site and the addition of language into the agreement specifying an eight to ten year timeframe and monetary relief provisions if the District decides to end the lease agreement early. Ms. McQuagge-Walden stated that the contract as presented adds the use of the dog park and trails but the rest of the terms, including the six month termination notice, remain unchanged. The current lease agreement was signed in 1990 and there is no end date. In regards to the dog park, the fencing and fountains could be transferred to another site but not the cement border or sidewalks.

Parks and Recreation Board Chairperson Jeannette Cook stated that approving the lease amendment would allow them to move forward with plans for the dog park. If the District terminated the lease with the six-month notice, they would be able to transfer everything except the cement. The fountains could be moved as there are already existing water lines at the site.

There was further discussion regarding approaching the District regarding the time frame and monetary relief provisions discussed previously. In answer to questions from Council, Ms. Griffith stated that any further dialogue with the District would need to include an elected official. There was discussion regarding extending the notice for termination of the lease agreement. In answer to questions from Council, Parks Superintendent Don Henderson stated it would take between six months to a year to move everything depending on what was done in-house and what was contracted out as well as the time of the year. In answer to questions from Council, Ms. McQuagge Walden stated that the dog park could not go to Brookhollow as it is considered a neighborhood park and there is a lack of access or room for parking. There are also flooding and drainage issues and it would be more expensive to develop. Meadowpark was the least expensive site to develop, has adequate parking and would have the lowest fiscal impact to the Board.

Council was not able to reach a consensus on the following items: seeking monetary compensation for when the City is told to vacate the property; adding a longer termination period in the lease agreement; or asking the District to change the lease to say eight to ten years.

Motioned by Councilmember Turner, seconded by Councilmember Boyter, to approve a resolution to approve Amendment No. One to the Meadowpark Lease Agreement with the Hurst-Euless-Bedford Independent School District.

Motion approved 5-1-1. Mayor Griffin declared the motion carried.

Voting in favor of the motion: Mayor Griffin, Councilmember Boyter, Councilmember Davisson, Councilmember Nolan and Councilmember Turner.
Voting in opposition to the motion: Councilmember Brown
Abstaining from voting on the motion: Councilmember Olsen

7. Consider a resolution authorizing the Parks & Recreation Advisory Board to expend $25,000 from the Park Donation Fund and proceed with fundraising efforts for a Dog Park at Meadowpark.

Ms. McQuagge-Walden presented information on this resolution. It is to authorize the Parks and Recreation Board to expend $25,000 from the Park Donation Fund and proceed with fundraising efforts for a dog park at Meadowpark. Included in the first phase of the dog park is a fence, a cement border, two cement pads and basic signage. Yearly maintenance is estimated at $5,000, a majority of which is for waste bags. There would be minimal costs for seeding, repair work and utility costs.

In answer to questions from Council, Mr. Henderson said that the site currently has Bermuda grass and they will be over-seeding with Bermuda. In regards to raising all the money now and doing the dog park all at one time, Ms. McQuagge-Walden stated that the Board's research showed that it was common in other cities to start with a basic concept, which then would grow over time with users and investment. Their goal was to get it started to meet the community's need and add niceties over time. In regards to what happens if the additional funds are not raised, Ms. Cooke stated that the Board's initial request several years ago was for the Council to match what the Board either raised or contributed out of the Donation Fund. They felt it important to get the park open and get people familiar with it and that would make their fundraising more robust. If they are not able to raise more money, the Board may look at utilizing more of their funds in the future.

The $5,000 yearly maintenance would come from the Parks Maintenance Fund. There was discussion on not including permanent fixtures as part of the dog park and using paving stones instead of cement. In answer to questions from Council, Ms. McQuagge-Walden stated that the cost of the cement pads are $700 and the cost of the cement border under the fence is $5,300.

Council was not able to reach a consensus on amending this item with additional language to remove the concrete foot guards and concrete pads.

Motioned by Councilmember Turner, seconded by Councilmember Davisson, to approve a resolution authorizing the Parks & Recreation Advisory Board to expend $25,000 from the Park Donation Fund and proceed with fundraising efforts for a Dog Park at Meadowpark.

Motion approved 5-0-2. Mayor Griffin declared the motion carried.

Voting in favor of the motion: Mayor Griffin, Councilmember Boyter, Councilmember Davisson, Councilmember Turner and Councilmember Brown,
Abstaining from voting on the motion: Councilmember Olsen and Councilmember Nolan.

8. Consider a resolution authorizing the City Manager to enter into a contract with BuyBoard Cooperative Purchasing Network for the purchase of one replacement ambulance, being a 2013 Ford F550 Type I Modular Ambulance, in the amount of $199,596.

This item was approved by consent.

9. Consider a resolution appointing the chairperson and vice-chairperson of the Cultural Commission.

This item was approved by consent. Alicia McGlinchey was appointed chairperson and Tom Jacobsen as vice-chairperson of the Commission.

10. Consider a resolution appointing a member to the Beautification Commission.

This item was approved by consent.

11. Report on most recent meeting of the following Boards and Commissions:

- ✓ **Animal Shelter Advisory Board - Councilmember Olsen**

Councilmember Olsen reported that the three new citizens on the Board are excited to be there and great things will be brought to the agenda for their next meeting in March.

- ✓ **Beautification Commission – Councilmember Turner**

Councilmember Turner reported on the Commissions schedule for the upcoming year which includes: 12 Saturday workdays at the Boys Ranch, a Bedford Clean-Up Day, a Chunk-Your-Junk Day, two Crud Cruiser events, a senior benefits fair, a paper shred event and quarterly/monthly business award presentations. They recently elected Faye Murphy as chairperson and Connie LeClair as vice chairperson.

- ✓ **Community Affairs Commission - Councilmember Boyter**

Councilmember Boyter reported that the Commission elected Steven Grubbs as chairperson. They are rapidly approaching the Outreach Meeting scheduled for January 29, which will include discussions on resident and business concerns. Roy Savage is working on the idea for a City of Bedford Expo scheduled for March 2. At the Expo, residents can talk to representatives from each City department. David Franklin is working on the Consumer Energy Expo. All of these events are listed on the City's website.

- ✓ **Cultural Commission - Councilmember Nolan**

Councilmember Nolan reported that Alicia McGlinchey was re-elected as chairperson and Tom Jacobsen as vice chairperson. The Commission has done a report and will present their findings to the Council regarding cultural activities.

- ✓ **Library Board – Councilmember Brown**

Councilmember Brown reported that the Board met last week and circulation is down due to construction and the fact that the Library is a year older. There is a new virtual tour of the Library created by the staff and can be found on the Library's website. The Mardis Gras Casino Night is February 9 and tickets can be purchased at the Library for $30.

- ✓ **Parks & Recreation Board - Councilmember Davisson**

Councilmember Davisson reported that the City Council recently approved the funding for the dog park.

- ✓ **Senior Citizen Advisory Board - Councilmember Turner**

Councilmember Turner reported that the last Board meeting was cancelled.

- ✓ **Teen Court Advisory Board - Councilmember Olsen**

Councilmember Olsen reported that the subcommittees have had a meeting and the next regular Board meeting is scheduled for February 7.

12. Council member reports

No other reports were given.

13. City Manager/Staff Reports

City Manager Beverly Griffith reminded everybody that the father/daughter and mother/son Valentine's Dance is scheduled for Saturday, February 9. There will be dancing and refreshments. Tickets need to be purchased before February 8 at the Boys Ranch Activity Center.

ADJOURNMENT

Mayor Griffin adjourned the meeting at 9:16 p.m.

_____
Jim Griffin, Mayor

ATTEST:

_____
Michael Wells, City Secretary

STATE OF TEXAS §

COUNTY OF TARRANT §

CITY OF BEDFORD §

The City Council of the City of Bedford, Texas, met in joint work session with the Planning and Zoning Commission at 6:30 p.m. in the Council Chambers of City Hall, 2000 Forest Ridge Drive on the 24th day of January, 2013 with the following members present:

Jim Griffin	Mayor
Michael Boyter	Council Members
Chris Brown	
Jim Davisson	
Patricia Nolan	
Sherri Olsen	

constituting a quorum.

Roy W. Turner did not attend tonight's meeting.

The following members of the Planning and Zoning Commission were present:

Tom Stroope	Chairperson
Todd Carlson	Commissioners
Roger Fisher	
Mickey Hall	
Hank Henning	
Bill Reese	
Jason Sinisi	
Mitchell Austin (alternate)	
Lee Pierson (alternate)	

constituting a quorum.

Staff present included:

Beverly Queen	City Manager
David Miller	Deputy City Manager
Michael Wells	City Secretary
Yolanda Alonso	Planning and Zoning Coordinator
Jackie Reyff	Planning Manager
Bill Syblon	Development Director

Also in attendance:

Dan Boutwell	Municipal Planning Resources Group

CALL TO ORDER/GENERAL COMMENTS

Mayor Griffin and Chairperson Stroope called the Work Session to order at 6:35 p.m.

JOINT WORK SESSION

Mayor Griffin stated that the main focus of the meeting was the Highway 183 Overlay District. Originally, the District had contained elements to help those businesses affected by the highway expansion; however, it negatively affected businesses in their negotiations with NTE. From a recent work session, Council's vision was to take the current Highway 121 Overlay District and extend it both east and west on Highway 183 while also removing the provisions designed to protect businesses. After the work Session, staff was to make those changes and bring it to the Planning and Zoning Commission for approval.

There was discussion between the Council, Commissioners and staff regarding what properties would be captured within the Overlay District and that it would not affect residential properties. There was discussion regarding businesses that are considered "legal-non conforming" including: the legality of putting a time period in place whereby those structures have to conform to the new District; the possibility of requiring structures to come into compliance when a business changes hands or through a remodeling permit; what properties the City hopes to capture in the District; the main focus of the District being to address the new things occurring with reconstruction and what constitutes "new"; what happens to those businesses that have not changed after the time frame is complete; the difference between "legal non-conforming" and "grandfathering"; landscaping; what legal options there are in regards to enforcement; and that the "legal non-conforming" section would be taken out of the Overlay District and any changes would be made in the Zoning Ordinance.

Development Director Bill Syblon stated that the purpose of the Highway 183 Overlay District was that the Council at the time wanted to regulate the look of the corridor through additional requirements and regulations. The main portion of the District is the prohibited uses. There was discussion on what kind of businesses the City wanted to bring in; the difference between Highways 121 and 183 due to the different amount of development; the amount of turnover in businesses; when the cutoff would be for the District going into affect and what current businesses would be affected; and having renderings of what structures would look like from the frontage roads, main lanes and managed lanes of the Highway.

Mayor Griffin stated that the consensus of the Council was to address the new items going in and not going back and penalizing current businesses. The desire was to put in place criteria as new businesses come in thereby changing the footprint and image of the City. There was discussion regarding zoning going with the land and not ownership; the amount of vacant land available for new construction; area-related conformities in landscaping; the possibility of certain residential properties becoming commercial; fast-food and drive through restaurants; and properties becoming more expensive.

There was discussion on Council's desire to receive feedback from the Commission and staff on what is working and what is not working; that neither the Commission or staff is aware of losing any businesses due to the current overlay districts; the Commission holding a work session prior to making a final draft of the District; the concessions made by current businesses such as Chili's and Quick Trip; the timeline for staff to provide a draft of the District to the Commission and having it come back before Council; the opening of the Central Drive exits within the next six months; and that certain properties would have to be rezoned prior to adopting the District.

There was discussion regarding issues related to fencing between businesses and residential areas.

ADJOURNMENT

Mayor Griffin and Chairperson Stroope adjourned the meeting at 7:46 p.m.

_____

Jim Griffin, Mayor

ATTEST:

_____

Michael Wells, City Secretary

AGENDA

Council Agenda Background

PRESENTER: See below **DATE:** 02/12/13

Persons to be Heard

ITEM:

a) Ed Henderson, 2513 Meadow View, Bedford, Texas 76021 – Requested to speak to the Council regarding background information received by City employees and discussed openly with the public.
b) Dorothy McWhorter, 1600 Martha Drive, Bedford, Texas 76022 – Requested to speak to the Council regarding Section 2.07 of the Bedford City Charter.

City Manager Review: _____

DISCUSSION:

N/A

ATTACHMENTS:

Letters of Request

DATE TO SPEAK

COMMUNIQUE 02/12/13

AGENDA

RECEIVED JAN 29 2013

Request for open records concerning my person as reported publically by city employees as to background information they have received and discussed openly with the public.

2513 Meadow View
Bedford TX 76021
817 283 1799

COMMUNIQUE

From: Roy & Dorothy McWhorter
Sent: Monday, February 04, 2013 2:29 PM
To: Wells, Michael
Subject: Feb. 12 cc meeting

Michael:

Please place my name under "Persons To Be Heard" for the February 12 cc meeting.

Topic: Section 2.07 of the Bedford City Charter

Thanks,

Dorothy McWhorter

AGENDA

Council Agenda Background

PRESENTER: Michael Wells, City Secretary **DATE:** 02/12/13

Council Mission Area: Encourage citizen involvement.

ITEM:

Consider a resolution ordering the General Election of the City of Bedford, Texas to be held on Saturday, May 11, 2013 for the purpose of electing Place 3 and Place 5 to the Bedford City Council and the Municipal Court Judge.

City Attorney Review: N/A

City Manager Review: _____

DISCUSSION:

This resolution is to order the General Election to be held on May 11, 2013 to elect two City Council members, Place 3 and Place 5, and the Municipal Court Judge, to be filled for three years or until their successors are duly elected and qualified. Pursuant to Section 3.005(c)(2) of the Texas Election Code, a city must order its election no later than the 71st day before Election Day, which this year falls on Friday, March 1. In the past, the City has normally ordered its election prior to the State mandated date to accept applications for a place on the ballot. However, as the yearly meeting between Tarrant County and the entities contracting for election services was not held until two days after the last Council meeting on January 22, staff felt it was wise to wait until after that meeting to order the election in case anything unusual came out of that meeting.

A runoff election, if necessary, ensuing from the May 11, 2013 General Election will be held on Saturday, June 15, 2013.

As in the past and per state law, staff recommends that this election be held jointly and administered by the Tarrant County Election's Administration. This has proven to be the most cost effective and efficient way to hold elections. The exact cost of the election is not known at this time and will depend on how many entities end up contracting with the County and if the HEB School District is holding elections, allowing the City to share the costs of polling locations with them. Generally, the County will send a cost estimate in April with a finalized total being sent in August.

RECOMMENDATION:

Staff recommends the following motion:

Approval of a resolution ordering the General Election of the City of Bedford, Texas to be held on Saturday, May 11, 2013 for the purpose of electing Place 3 and Place 5 to the Bedford City Council and the Municipal Court Judge.

FISCAL IMPACT:

The total estimated cost for this election is approximately $10,000. This item was budgeted and approved in the FY 2012-2013 budget.

ATTACHMENTS:

Resolution
Election Calendar

RESOLUTION NO. 13-

A RESOLUTION CALLING FOR THE GENERAL ELECTION OF CITY OFFICERS FOR THE CITY OF BEDFORD, TEXAS FOR MAY 11, 2013; AUTHORIZING A JOINT CONTRACT ELECTION AGREEMENT AND CONTRACT FOR ELECTION SERVICES WITH TARRANT COUNTY; AND ESTABLISHING THE DATES AND TIMES FOR EARLY VOTING FOR SUCH ELECTION.

WHEREAS, the regular election for the City Council of the City of Bedford, Texas as set forth by the Charter and by the Texas Election Code is required to be held on May 11, 2013, at which time the voters will elect persons to fill the offices of the City Council Place 3 and Place 5 and the Municipal Court Judge; and,

WHEREAS, the City Council of Bedford, Texas desires to conduct joint elections pursuant to the provisions of the Texas Election Code, and as established in a joint election agreement and contract for election services with the Tarrant County Election Administrator.

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

SECTION 1. **That unless one or more of the entities qualify under provisions of the Texas Election Code to cancel their election, the City of Bedford shall hold a joint election, per the aforesaid joint election agreement and contract for election services on Saturday, May 11, 2013 for the purposes of electing members of the Bedford City Council and the Municipal Court Judge.**

SECTION 2. **That the election is hereby called to elect persons to fill the offices of two (2) Bedford City Council Members for Place 3 and Place 5 and the Municipal Court Judge to serve until May 2016 or until their successors are duly elected and qualified. Such election shall be held at the Pat May Center, 1849-B Central Drive, Bedford, Texas, between the hours of 7:00 a.m. and 7:00 p.m. on Saturday, May 11, 2013.**

SECTION 3. **That qualified persons may file for a place on the ballot by filing an application in the Office of the City Secretary during regular business hours from 8:00 a.m. to 5:00 p.m. each weekday, beginning Wednesday, January 30, 2013 and continuing until 5:00 p.m. on Monday, March 1, 2013.**

SECTION 4. **That Steve Raborn, Tarrant County Elections Administrator, 2700 Premier Street, Fort Worth, Texas, 76111 is hereby appointed as Early Voting Clerk and Michael Wells, City of Bedford City Secretary, 2000 Forest Ridge Drive, Bedford, Texas, 76021, shall serve as the Deputy Early Voting Clerk. Applications for ballot by mail must be received by mail no later than the close of business on Friday, May 3, 2013. (Mailing Address: P.O. Box 961011, Fort Worth, Texas, 76161-0011; Attn: Steve Raborn, Early Voting Clerk).**

SECTION 5. **That early voting by personal appearance shall be conducted at the County's Main Early Voting polling location: 2700 Premier Street, Fort Worth, Texas, 76111. Branch offices for early voting by personal appearance shall be established as outlined in the election agreement with Tarrant County. The branch early voting location to be located within the City of Bedford is the Bedford Public Library, 2424 Forest Ridge Drive.**

Early voting by personal appearance will begin on Monday, April 29, 2013 and will end on Tuesday, May 7, 2013. Hours designated for early voting by personal appearance shall be as set forth below:

April 29 – May 3	**Monday – Friday**	**8:00 a.m. – 5:00 p.m.**
May 4	**Saturday**	**7:00 a.m. – 7:00 p.m.**
May 5	**Sunday**	**11:00 a.m. – 4:00 p.m.**
May 6 – May 7	**Monday – Tuesday**	**7:00 a.m. – 7:00 p.m.**

For purposes of processing ballots cast in early voting, the election officers for the early voting ballot board shall be appointed and designated in accordance with the provisions of the election agreement with the Tarrant County Elections Administrator.

SECTION 6. **That all resident qualified electors of the City shall be permitted to vote at said election, and on the day of the election, such electors shall vote at the polling place designated for the election precinct in which they reside. This election shall be held and conducted in accordance with the aforesaid election agreement, election laws of the Texas Election Code, the Federal Voting Rights Act of**

1965, as amended, the Charter of the City of Bedford, and as may be required by law. All election materials and proceedings shall be printed in both English and Spanish.

SECTION 7. That combined ballots may be utilized containing all of the offices and propositions to be voted on at each polling place, provided that no voter shall be given a ballot or permitted to vote for any office or proposition on which the voter is ineligible to vote. The County's voting equipment will be utilized for this election.

SECTION 8. That the Election Judge and officers for each polling place and the Early Voting Ballot Board shall be appointed in accordance with the provisions of the election agreement for the conducting of the election on the aforesaid election date with Tarrant County.

SECTION 9. That the Mayor is authorized to execute the aforesaid election agreement for and on behalf of the City.

SECTION 10. That the expenses of the joint election shall be borne as outlined in the election agreement with Tarrant County.

PASSED AND APPROVED this 12th day of February 2013, by a vote of ___ ayes, ___ nays, and ___ abstentions, at a regular meeting of the City Council of the City of Bedford, Texas.

_____
Jim Griffin, Mayor

ATTEST:

_____
Michael Wells, City Secretary

APPROVED AS TO FORM:

_____
Stan Lowry, City Attorney

Important Dates for Candidates
City of Bedford
General Election – May 11, 2013

Wed., January 30, 2013	First day to file an application for a place on the ballot.
Fri., March 1, 2013	Deadline to file an application for a place on the ballot **(Must be received in the City Secretary's Office by 5:00 p.m.)**
Mon., March 4, 2013	Last day for a candidate to withdraw application for a place on the ballot. **(Withdrawal of candidacy form must be received in the City Secretary's Office by 5:00 p.m.)**
Tues., March 5, 2013	Drawing for place on the ballot at 5:00 p.m. in City Hall, Council Chambers **(Date subject to change – all candidates will be notified if change is made)**
Thurs., April 11, 2013	Last day to register to vote in order to be able to vote in May 11, 2013 election.
	1st report of candidate/officeholder campaign finance report due. **(This is the 30-day prior to Election Day report.)**
Mon., April 29, 2013	Early voting by personal appearance begins.
Fri., May 3, 2013	Last day to receive applications for early voting ballots to be voted by mail.
	2nd report of candidate/officeholder campaign finance report due. **(This is the 8-day prior to Election Day report.)**
Tues., May 7, 2013	Last day to vote early by personal appearance.
Sat., May 11, 2013	*****ELECTION DAY*** 7:00 a.m. to 7:00 p.m. (Vote at Pat May Center ONLY)**
May 14-22, 2013	Official dates within which to canvass election returns and administer oaths of office for newly elected officials; unless runoff election is necessary. **(Candidates will be notified of specific canvassing date following Election Day.)**
June 3– July 8, 2013	**Possible Period for Runoff Election** **(Eligible candidates will be notified of specific dates for runoff election)**
July 15, 2013 & January 15, 2014	Last day for timely filing of semi-annual report of contributions and expenditures from campaigns.

AGENDA

Council Agenda Background

PRESENTER: James Tindell, Fire Chief **DATE:** 02/12/13

Council Mission Area: Be responsive to the needs of the community.

ITEM:

Consider a resolution authorizing the City Manager to enter into a contract with BuyBoard Cooperative Purchasing Network for the purchase of one 2013 Ford F150 swift water boat tow vehicle paid through a Department of Homeland Security Grant awarded to the City of Bedford.

City Attorney Review: N/A

City Manager Review: _____

DISCUSSION:

The City of Bedford has been awarded a $51,000 Department of Homeland Security Grant to purchase a vehicle for swift water rescue. The North East Fire Department Association Swift Water Team, which includes 16 members from the Bedford Fire Department, provides a multi-jurisdictional Swift Water Rescue Team. Currently five cities, Bedford, Euless, Haltom City, Hurst, and Keller provide approximately 100 trained team members for the Swift Water Rescue Team, with Bedford maintaining one of the Swift Water Rescue boats. This vehicle will be used to tow the rescue boat and transport personnel.

RECOMMENDATION:

Staff recommends the following motion:

Approval of a resolution authorizing the City Manager to enter into a contract with BuyBoard Cooperative Purchasing Network for the purchase of one 2013 Ford F150 swift water boat tow vehicle paid through a Department of Homeland Security Grant awarded to the City of Bedford.

FISCAL IMPACT:

The purchase price for one 2013 F150 Swift Water Boat tow vehicle will be $50,899.21 paid through a Department of Homeland Security Grant Awarded to the City of Bedford.

ATTACHMENTS:

Resolution
Buyboard quote 358-10
Picture of vehicle

RESOLUTION NO. 13-

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH BUYBOARD COOPERATIVE PURCHASING NETWORK FOR THE PURCHASE OF ONE 2013 FORD F150 SWIFT WATER BOAT TOW VEHICLE PAID THROUGH A DEPARTMENT OF HOMELAND SECURITY GRANT AWARDED TO THE CITY OF BEDFORD.

WHEREAS, the City Council of Bedford, Texas has determined a need to purchase a vehicle to transport rescue personnel, equipment, and tow a swift water rescue boat; and,

WHEREAS, the City of Bedford, Texas has been awarded a $51,000 grant through the Department of Homeland Security to purchase swift water rescue equipment; and,

WHEREAS, the City Council of Bedford, Texas determines that the purchase of said 2013 Ford F150 swift water boat tow vehicle be through the BuyBoard Cooperative Purchasing Network.

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

SECTION 1. **That the City Council does hereby authorize the City Manager to enter into a contract with Buy Board Competitive Purchasing for the purchase of one 2013 Ford F150 swift water boat tow vehicle.**

SECTION 2. **That this resolution shall take effect from and after the date of its passage.**

PASSED AND APPROVED this 12th day of February 2013, by a vote of _ ayes, _ nays, and _ abstentions, at a regular meeting of the City Council of the City of Bedford, Texas.

_____
Jim Griffin, Mayor

ATTEST:

_____
Michael Wells, City Secretary

APPROVED AS TO FORM:

_____
Stan Lowry, City Attorney

COMMUNIQUE

AGENDA

Bedford Fire Department
Swift Water Pull Vehicle
Explanation of Charges

Base Vehicle		$15,472.00
Vehicle Options		
	145" wheelbase	$5,942.00
	4X4	$2,977.00
	Limited slip axle	$329.00
	Skid Plates	$150.40
	Towing Package	$352.50
	Pre delivery inspection	$80.00
	State inspection	$22.50
	Manufacture destination/delivery	$995.00
Total Vehicle Price		**$26,320.40**
	Wildfire Equipment and installation	$24,178.81
	Buyboard Fee	$400.00
Total purchase price		**$50,899.21**

Items below are provided and installed by Wildfire Truck and Equipment Sales

Step Bars, Black Powder Coated

Front Black Powder Coated Grille Guard

Commercial Slide Out with Black Poly Equipment Tray

A.R.E. V Fiberglass Topper, Painted Ford Black

Graphics per Department specifications & Chevron

1-Whelen 54” Liberty with Opticom (No Clear Warning to Rear)

1-Whelen CEN-COM (Siren & Switch Control Center)

1-Whelen SA 315 P Siren Speaker with Mounting Brackets

2-Whelen M7RC Red/Clear, 2-Front Grille, with chrome flange

5- Whelen IONS LED 3-Red & 2-Amber, Rear of Topper

4-Whelen M6 LED Scene Lights, mounted each side of Topper

4-Whelen VTX609R Vertex Red, 2-Mounted in tails lights & two in front parking lights

4-Whelen M4 LED, front and rear intersectors

1-Knox Box 2600 (Customer to Order)

2-WhelenPELCC Perimeter Enhancement Lights, load area

2-Stream SL20 LED Rechargeable Flash Lights, mounting location to be determined

1-Havis C-2410 24” Console,2-C-ARM-102, 1-C-CUP2-1, 4-MC & 4-MC-B

1-Havis HAV-PKG-PSM-102 Docking Station

1-Havis HAV-C-MD-202 TILT SWIVEL

1-Kussmaul Auto Eject Charging System 091-56-12-S-KIT (Driver rear)

1-Master Disconnect Part # WF-DC

1- Honda ELST-1000-HG2 2000 Watt, Generator with Light Kit

1- Warn 9000lb Electric Winch, setup for Rear Winch Operations

Main Street Signs & Graphics
817-548-4360
1111 W. ABRAM ARLINGTON, TX 76013

AGENDA

Council Agenda Background

PRESENTER:	Mirenda McQuagge-Walden, Managing Director of Community Services Wendy Hartnett, Special Events Manager	**DATE:**	02/12/13

Council Mission Area: Encourage citizen involvement.

ITEM:

Consider a resolution authorizing the City Manager to purchase a messaging sign for the Old Bedford School from Identity Management.

City Attorney Review: N/A

City Manager Review: _____

DISCUSSION:

This item is to authorize the City Manager to purchase a messaging sign from Identity Management based on the three options presented to Council during the Work Session. The cost of each type of sign is as follows:

- Standard, Non-Digital: $19,599.00
- Electric, Digital (2 lines): $27,890.96
- Electric, Digital (4 lines): $31,439.36

In the FY 2012/13 base budget, $22,494.00 was included to fund a masonry sign for the Old Bedford School.

The current brick sign facing Bedford Road will be demolished and removed from the site.

RECOMMENDATION:

Staff recommends the following motion:

Approval of a resolution authorizing the City Manager to purchase a messaging sign for the Old Bedford School from Identity Management in the amount of $_____.

FISCAL IMPACT:

Funding for this item will come from the Facility Maintenance Fund

ATTACHMENTS:

Resolution

RESOLUTION NO. 13-

A RESOLUTION AUTHORIZING THE CITY MANAGER TO PURCHASE A MESSAGING SIGN FOR THE OLD BEDFORD SCHOOL FROM IDENTITY MANAGEMENT IN THE AMOUNT OF $_____.

WHEREAS, the City Council of Bedford, Texas determines the necessity for the construction of a new monument sign at the Old Bedford School; and,

WHEREAS, this sign will allow for more promotion and awareness of the Old Bedford School.

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

SECTION 1. **That the City Council authorizes the City Manager to purchase a messaging sign from Identity Management in the amount of $_____.**

SECTION 2. **That this resolution shall take effect from and after the date of passage.**

PASSED AND APPROVED the 12th day of February 2013, by a vote of ___ ayes, ___ nays and ___ abstentions, at a regular meeting of the City Council of the City of Bedford, Texas.

_____
Jim Griffin, Mayor

ATTEST:

_____
Michael Wells, City Secretary

APPROVED AS TO FORM:

_____
Stan Lowry, City Attorney

AGENDA

Council Agenda Background

PRESENTER: Thomas L. Hoover, P.E., Deputy Public Works Director	**DATE:** 02/12/13
Council Mission Area: Be responsive to the needs of the community.	

ITEM:

Consider a resolution authorizing the City Manager to enter into a contract with Ziegler Construction, Incorporated in the amount of $19,800 for the Fire Station #3 Driveway Paving Improvements.

City Attorney Review: Yes

City Manager Review: _____

DISCUSSION

The City of Bedford's Fire Department identified the need for driveway paving improvements at Fire Station #3 where the existing concrete pavement has shown significant failure. The contract calls for removing 2,180 square feet of 6"concrete pavement and replacing it with a more substantial 8"reinforced concrete pavement. A total of 15 bids were submitted and the low bid was submitted by Ziegler Construction, Inc. in the amount of $19,800. Funding is available in the General Fund Budget.

RECOMMENDATION:

Staff recommends the following motion:

Approval of a resolution authorizing the City Manager to enter into a contract with Ziegler Construction, Incorporated in the amount of $19,800 for the Fire Station #3 Driveway Paving Improvements.

FISCAL IMPACT:	ATTACHMENTS:
$19,800 from the General Fund Budget.	Resolution Bid Tabulation

RESOLUTION NO. 13-

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH ZIEGLER CONSTRUCTION, INCORPORATED IN THE AMOUNT OF $19,800 FOR THE FIRE STATION #3 DRIVEWAY PAVING IMPROVMENTS.

WHEREAS, the City Council of Bedford, Texas determines the necessity for these driveway improvements; and,

WHEREAS, the City Council of Bedford, Texas determines these improvements will improve the load bearing capacity of the driveway at Fire Station #3.

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

SECTION 1. **That the City Council does hereby authorize the City Manager to enter into a contract with Ziegler Construction, Incorporated in the amount of $19,800 for the Fire Station #3 Driveway Paving Improvements.**

SECTION 2. **That funding in the amount of $19,800 will come from the General Fund Budget.**

PASSED AND APPROVED this 12th day of February, 2013, by a vote of____ayes,__nays and_____ abstentions, at a regular meeting of the City Council of the City of Bedford, Texas.

_____
Jim Griffin, Mayor

ATTEST:

_____
Michael Wells, City Secretary

APPROVED AS TO FORM:

_____
Stan Lowry, City Attorney

COMMUNIQUE

AGENDA

BID TABULATION REPORT

CLIENT: City of Bedford, Texas
PROJECT DESCRIPTION: Fire Station #3 Driveway Paving Impr

BIDDERS

BID DATE: Wednesday, January 9, 2013
BID TIME: 10:00 AM

ITEM NO.	DESCRIPTION OF ITEMS	QUANTITY	UNIT	Nu-Way Construction, LLC UNIT COST	Nu-Way Construction, LLC TOTAL	Quality Construction & Transporters, LLC UNIT COST	Quality Construction & Transporters, LLC TOTAL	Overland Services, Inc. UNIT COST	Overland Services, Inc. TOTAL	Quality Excavation, Ltd. UNIT COST	Quality Excavation, Ltd. TOTAL	Northstar Construction UNIT COST	Northstar Construction TOTAL	Cates, Courtney & Roebuck, Inc. UNIT COST	Cates, Courtney & Roebuck, Inc. TOTAL
1	Remove 8" Concrete Pavement and 6" Curb	2,098	SF	$2.95	$6,189.10	$3.00	$6,294.00	$3.00	$6,294.00	$3.40	$7,133.20	$2.00	$4,196.00	$3.40	$7,133.20
2	Remove 6" HMAC Pavement	82	SF	$5.50	$451.00	$6.00	$492.00	$9.00	$738.00	$11.00	$902.00	$2.00	$164.00	$2.75	$225.50
3	Unclassified Excavation	1	LS	$6,500.00	$6,500.00	$3,226.00	$3,226.00	$2,800.00	$2,800.00	$3,500.00	$3,500.00	$4,300.00	$4,300.00	$5,800.00	$5,800.00
4	8" Thick R-Base Subgrade Material	2,180	SF	$2.50	$5,450.00	$2.00	$4,360.00	$3.00	$6,540.00	$3.00	$6,540.00	$4.00	$8,720.00	$4.15	$9,047.00
5	8" Reinforced Concrete Driveway Pavement	2,180	SF	$7.00	$15,260.00	$9.00	$19,620.00	$8.00	$17,440.00	$8.00	$17,440.00	$8.00	$17,440.00	$7.34	$16,001.20
6	Vehicle Loop Detector	1	LS	$1,700.00	$1,700.00	$1,265.00	$1,265.00	$2,000.00	$2,000.00	$1,800.00	$1,800.00	$3,000.00	$3,000.00	$2,500.00	$2,500.00
7	Yard / Parkway Restoration	1	LS	$1,500.00	$1,500.00	$2,038.00	$2,038.00	$2,000.00	$2,000.00	$2,500.00	$2,500.00	$2,000.00	$2,000.00	$2,000.00	$2,000.00
	Calendar Days Bid				**30**		**30**		**30**		**30**		**30**		**30**
	TOTAL AMOUNT BID				**$37,050.10**		**$37,295.00**		**$37,812.00**		**$39,815.20**		**$39,820.00**		**$42,706.90**

COMMUNIQUE

AGENDA

BID TABULATION REPORT

City of Bedford, Texas
PROJECT DESCRIPTION: Fire Station #3 Driveway Paving Improvements

BIDDERS

BID DATE: Wednesday, January 9, 2013
BID TIME: 10:00 AM

ITEM NO.	DESCRIPTION OF ITEMS	QUANTITY	UNIT	Ziegler Construction UNIT COST	Ziegler Construction TOTAL	Cole Construction, Inc. UNIT COST	Cole Construction, Inc. TOTAL	PC Contractors, LLC UNIT COST	PC Contractors, LLC TOTAL	Reliable Paving, Inc. UNIT COST	Reliable Paving, Inc. TOTAL	Advanced Paving Company UNIT COST	Advanced Paving Company TOTAL	McClendon Construction Company, Inc. UNIT COST	McClendon Construction Company, Inc. TOTAL
1	Remove 8" Concrete Pavement and 6" Curb	2,098	SF	$1.00	$2,098.00	$2.25	$4,720.50	$0.72	$1,510.56	$2.50	$5,245.00	$2.02	$4,237.96	$2.50	$5,245.00
2	Remove 6" HMAC Pavement	82	SF	$1.00	$82.00	$3.00	$246.00	$0.67	$54.94	$2.50	$205.00	$6.05	$496.10	$3.00	$246.00
3	Unclassified Excavation	1	LS	$1,000.00	$1,000.00	$410.00	$410.00	$1,507.00	$1,507.00	$1,500.00	$1,500.00	$3,461.00	$3,461.00	$5,850.00	$5,850.00
4	8" Thick R-Base Subgrade Material	2,180	SF	$1.90	$4,142.00	$0.95	$2,071.00	$1.76	$3,836.80	$1.80	$3,924.00	$2.72	$5,929.60	$2.75	$5,995.00
5	8" Reinforced Concrete Driveway Pavement	2,180	SF	$4.90	$10,682.00	$5.40	$11,772.00	$6.81	$14,845.80	$6.00	$13,080.00	$6.78	$14,780.40	$6.75	$14,715.00
6	Vehicle Loop Detector	1	LS	$1,000.00	$1,000.00	$1,220.00	$1,220.00	$2,006.00	$2,006.00	$1,600.00	$1,600.00	$1,431.60	$1,431.60	$850.00	$850.00
7	Yard / Parkway Restoration	1	LS	$796.00	$796.00	$1,100.00	$1,100.00	$931.00	$931.00	$2,000.00	$2,000.00	$2,000.00	$2,000.00	$2,350.00	$2,350.00
	Calendar Days Bid				**30**		**30**		**30**		**30**		**30**		**30**
	TOTAL AMOUNT BID				**$19,800.00**		**$21,539.50**		**$24,692.10**		**$27,554.00**		**$32,336.66**		**$35,251.00**

COMMUNIQUE

AGENDA

BID TABULATION REPORT

City of Bedford, Texas
PROJECT DESCRIPTION: Fire Station #3 Driveway Paving Improvements

BIDDERS

BID DATE: Wednesday, January 9, 2013
BID TIME: 10:00 AM

ITEM NO.	DESCRIPTION OF ITEMS	QUANTITY	UNIT	Ed A. Wilson, Inc. UNIT COST	Ed A. Wilson, Inc. TOTAL	Pavecon, Ltd. UNIT COST	Pavecon, Ltd. TOTAL	Ark Contracting Services, LLC UNIT COST	Ark Contracting Services, LLC TOTAL
1	Remove 8" Concrete Pavement and 6" Curb	2,098	SF	$2.50	$5,245.00	$2.60	$5,454.80	$10.25	$21,504.50
2	Remove 6" HMAC Pavement	82	SF	$5.00	$410.00	$3.30	$270.60	$8.00	$656.00
3	Unclassified Excavation	1	LS	$7,500.00	$7,500.00	$9,520.00	$9,520.00	$8,800.00	$8,800.00
4	8" Thick R-Base Subgrade Material	2,180	SF	$3.00	$6,540.00	$5.90	$12,862.00	$6.00	$13,080.00
5	8" Reinforced Concrete Driveway Pavement	2,180	SF	$11.00	$23,980.00	$9.80	$21,364.00	$9.75	$21,255.00
6	Vehicle Loop Detector	1	LS	$1,800.00	$1,800.00	$1,180.00	$1,180.00	$1,500.00	$1,500.00
7	Yard / Parkway Restoration	1	LS	$2,000.00	$2,000.00	$2,560.00	$2,560.00	$3,000.00	$3,000.00
	Calendar Days Bid				**30**		**30**		**30**
	TOTAL AMOUNT BID				**$47,475.00**		**$53,211.40**		**$69,795.50**

AGENDA

Council Agenda Background

PRESENTER: Thomas Hoover, P.E., Public Works Director **DATE:** 02/12/13

Council Mission Area: Be responsive to the needs of the community.

ITEM:

Consider a resolution authorizing the City Manager to enter into Change Order #2 with Red River Construction Company in the amount of $23,383.78 to increase the authorized contracted amount for the Construction of Chemical Feed and Monitoring at Simpson Terrace and Stonegate Potable Water Wells. The authorized contracted amount was earlier reduced by $220,000 in Change Order #1.

City Attorney Review: Yes

City Manager Review: _____

DISCUSSION:

The Stonegate Well was the first well put into production by the City of Bedford in June 1964. Most of the electrical and pumping equipment at the site is original equipment. The City has made routine maintenance to the system on a regular basis.

The consultant for the Chemical Feed and Monitoring improvements proposed for the Stonegate site did not include any repairs or replacements to the existing pumping system (these pumps move treated water from the ground storage tank into the distribution system). During the construction, it was determined that one of the two existing transfer pumps could not be repaired and would need to be replaced.

It is essential that there are two functioning transfer pumps at each well site. This allows for one pump to be receiving routine maintenance while the other pump continues to provide an uninterrupted source of treated water to the distributions system. If both pumps are not functional, the water in the storage tank has to be purged and the tank sterilized prior to being placed back in service. This process is required by the State Commission on Environmental Quality. Also, two pumps allow for additional water to be delivered during emergency fire conditions.

A change order was submitted by Red River Construction Company in the amount of $23,383.78. Funding will come from the 2011 and the 2012 Water Certificates of Obligation.

RECOMMENDATION:

Staff recommends the following motion:

Approval of a resolution authorizing the City Manager to enter into Change Order #2 with Red River Construction Company in the amount of $23,383.78 to increase the authorized contracted amount for the Construction of Chemical Feed and Monitoring at Simpson Terrace and Stonegate Potable Water Wells.

FISCAL IMPACT:

$23,383.78 2011 and 2012 Water Certificates of Obligation.

ATTACHMENTS:

Resolution
Change Order

RESOLUTION NO. 13-

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO CHANGE ORDER # 2 WITH RED RIVER CONSTRUCTION COMPANY IN THE AMOUNT OF $23,383.78 TO INCREASE THE AUTHORIZED CONTRACTED AMOUNT FOR THE CONSTRUCTION OF CHEMICAL FEED AND MONITORING AT SIMPSON TERRACE AND STONEGATE POTABLE WATER WELLS.

WHEREAS, the City Council of Bedford, Texas determines the necessity for the construction of Chemical Feed and Monitoring at Simpson Terrace and Stonegate Potable Water Wells; and,

WHEREAS, these improvements will provide for an economical source of potable water.

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

SECTION 1. **That the City Council authorizes the City Manager to enter into Change Order # 2 with Red River Construction Company in the amount of $23,383.78 to increase the authorized contracted amount for the Construction of Chemical Feed and Monitoring at Simpson Terrace and Stonegate Potable Water Wells.**

SECTION 2. **That the contract amount will increase from $438,800 to $462,183.**

PASSED AND APPROVED the 12th day of February 2013, by a vote of ___ ayes, ___ nays and ___ abstentions, at a regular meeting of the City Council of the City of Bedford, Texas.

_____
Jim Griffin, Mayor

ATTEST:

_____
Michael Wells, City Secretary

APPROVED AS TO FORM:

_____
Stan Lowry, City Attorney

DESCRIPTION OF PROPOSED CONTRACTOR'S MODIFICATION

PROJECT: Chemical Feed & Monitoring @ Simpson Terrace & Stonegate
OWNER: City of Bedford, TX
CONTRACTOR: RED RIVER CONSTRUCTION COMPANY, INC.
ENGINEER: J. Richard Perkins, PE
REFERENCE: Pump Room Modifications and Additional Electric

PROJECT NUMBER
279
WA 11-01.3
Date: Jan. 28, 2013

The Contractor proposes to make the following additions, modifications, or deletions to the Work described in the Contract Documents:

As per our previous conversations, we are providing a price to make modifications to the current pump room located at the Stonegate Well Site.

1 lt	New Pump		$9,850.00
1 lt	Pump Concrete Pad		$440.00
1 lt	Piping & Valves		$2,576.26
1 lt	Tools & Miscellaneous		$790.00
160 hrs	Labor	$16.00	$2,560.00
40 hrs	Supervision	$37.50	$1,500.00
40.0%	Labor Burden		$1,624.00
1 lt	Additional Electric		$692.96
		SUBTOTAL:	**$20,033.22**
15.0%	Contractor's Fee		$3,004.98
	Bond		$345.57
		Total:	**$23,383.78**

Prepared by Red River Construction Company, Inc.

By: Steve Summerkamp

Steve Summerkamp, Project Manager

AGENDA

Council Agenda Background

PRESENTER: Clifford Blackwell, CGFO **DATE:** 02/12/13

Council Mission Area: Demonstrate excellent customer service in an efficient manner.

ITEM:

Consider a resolution authorizing the City Manager to enter into a Select Government Merchant Payment Instrument Processing Agreement with Chase Paymentech for merchant services.

City Attorney Review: Yes

City Manager Review: _____

DISCUSSION:

Since April 2000, the City of Bedford has accepted credit cards as an alternative form of payment in lieu of cash, checks or money orders for services and/or fines rendered. Additionally, over the years, Chase Paymentech was the original merchant responsible for processing all credit card payments and depositing funds in the City's bank depository account. This service comes with a cost that is provided through the deduction of fees by the merchant for processing credit card payments throughout the City.

In recent years, First Data/Bank of America has become the responsible party for processing credit card payments made via the City's Customer Service department, Municipal Court, the Boys Ranch Activity Center, the Library, the Old Bedford School, and Police Department services. During that time, the fees associated with processing various credit card payments have grown substantially. Half of the growth is directly related to a significant increase in transaction volume; however the remainder is due primarily to the increase in fees.

It is a common practice among merchant providers to assess service fees on top of the various interchange fees that both MasterCard and Visa assesses for the cards carrying their logo. The interchange fees are established rates that cannot be altered regardless of which merchant is processing the credit card payments. However, the service fees charged in addition to the Interchange rates are what distinguish a merchant versus another.

The City has witnessed an increase in its budgetary line-item from $20,000 eight years ago to more than $167,000 last year, divided among the General Fund and the Water Fund. The State of Texas has presented an opportunity for the City to piggyback off its contract for merchant services. Through the State's contract, the City of Bedford will benefit from discounted service fees provided by Chase Paymentech, a familiar vendor who is accustomed to the City's account history.

Through this agreement, the City of Bedford can transition to another merchant without any interruption in services. The main benefit of switching to the State contract is to prevent the City from incurring cost increases. Based upon schedule of fees listed in the Merchant Agreement, staff expects to save approximately $3,400 per month in merchant charges. However, the exact amount of savings can only be determined by the type of Mastercard or Visa being presented for payment.

RECOMMENDATION:

Staff recommends the following motion:

Approval of a resolution authorizing the City Manager to enter into a Select Government Merchant Payment Instrument Processing Agreement with Chase Paymentech for merchant services.

FISCAL IMPACT:	ATTACHMENTS:
Savings projected at $40,800 annually between both the Water Fund and the General Fund	**Resolution** **Form Agreement with Chase Paymentech** **Schedule A (fees) to Merchant Agreement**

RESOLUTION NO. 13-

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A SELECT GOVERNMENT MERCHANT PAYMENT INSTRUMENT PROCESSING AGREMEENT WITH CHASE PAYMENTECH FOR MERCHANT SERVICES.

WHEREAS, the City Council of Bedford, Texas recognizes that the State of Texas has entered into a contract for merchant services with Chase Paymentech; and,

WHEREAS, the written agreement between the City of Bedford and Chase Paymentech allows the City of Bedford to benefit from the State's contract; and,

WHEREAS, the City Council of Bedford, Texas has determined that the agreement be approved and authorizes the City Manager to enter into an agreement with Chase Paymentech.

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

SECTION 1. **That the City Council does hereby approve the Select Government Merchant Payment Instrument Processing Agreement and authorize the City Manager to enter into a contract with Chase Paymentech in accordance with the fees listed in Schedule A of the Form Agreement.**

SECTION 2. **That this resolution shall take effect from and after the date of passage.**

PASSED AND APPROVED this 12th day of February 2013, by a vote of ___ ayes, ___nays, and ___ abstentions, at a regular meeting of the City Council of the City of Bedford, Texas.

_____
Jim Griffin, Mayor

ATTEST:

_____
Michael Wells, City Secretary

APPROVED AS TO FORM:

_____
Stan Lowry, City Attorney

CHASE Paymentech

SELECT GOVERNMENT MERCHANT PAYMENT INSTRUMENT PROCESSING AGREEMENT
(GOVERNMENT ENTITY-STATE OF TEXAS)

THIS SELECT GOVERNMENT MERCHANT PAYMENT INSTRUMENT PROCESSING AGREEMENT (the "Agreement") is dated as of the Effective Date, among **JPMorgan Chase Bank, N.A.**, a national banking association ("Member"), **Paymentech, LLC**, a Delaware limited liability company ("Paymentech", "we", or "us"), and _____, a _____within the State of Texas ("Merchant", "you", or "your").

WHEREAS Member is a member of several Payment Brands and, through Member, Paymentech is authorized to process the Transactions listed on Schedule A; and
WHEREAS Merchant wishes to accept Payment Instruments from its customers for the sale or lease of goods or services offered by Merchant;
ACCORDINGLY, in consideration of the mutual promises made and the mutual benefits to be derived from this Agreement, Paymentech, Member, and Merchant agree to the following terms and conditions intending to be legally bound:

1. MERCHANT'S ACCEPTANCE OF PAYMENT INSTRUMENTS.

1.1 Exclusivity. Unless otherwise expressly agreed to in writing by Paymentech to the contrary, you will tender to us Transaction Data generated from all your US Transactions via electronic data transmission according to our formats and procedures. You will not use the services of any bank, corporation, entity, or person other than Paymentech for authorization or processing of Transactions throughout the term of this Agreement.

1.2 Certain Payment Acceptance Policies. Each Settled Transaction and Conveyed Transaction must be evidenced by a single Transaction Data record completed with (i) the Transaction date; (ii) a brief description of the goods or services sold, returned, or canceled; (iii) the price of the goods or services, including applicable taxes, or amount of any credit or adjustment; (iv) the Customer name; (v) your name in a manner recognizable to Customers; (vi) your address; (vii) a customer service telephone number; (viii) any applicable terms and conditions; and (ix) any other information required by the Payment Brand Rules. Unless specifically permitted under the Payment Brand Rules, you shall not impose any surcharge or finance charge on the Transaction or otherwise require the Customer to pay the fees payable by you under this Agreement. You shall not engage in any practice that unfavorably discriminates against or provides unequal treatment of the use of any Payment Brand over any other Payment Brand. You shall not set a dollar amount above or below which you refuse to honor otherwise valid Payment Instruments in violation of Payment Brand Rules. With respect to any Settled Transaction or Conveyed Transaction for which a Payment Instrument is not physically presented, such as in any on-line, mail, telephone, pre-authorized or recurring Transaction, you must (i) have notified us on your application or otherwise in writing of your intention to conduct such Transactions and secured our agreement to accept them; and (ii) have appropriate procedures in place to ensure that each Transaction is made to a purchaser who actually is the Customer. Notwithstanding the foregoing, you acknowledge that under certain Payment Brand Rules, you cannot rebut a Chargeback where the Customer disputes making the purchase without an electronic record (for example, "swiping", or "tapping" a Payment Instrument) or physical imprint of the Payment Instrument.

1.3 Operating Guide; Payment Brand Rules. You agree to comply with the operating guide attached to this Agreement, as we may amend it from time to time (the "Operating Guide"), and all Payment Brand Rules as may be applicable to you and in effect from time to time as published (on a website or otherwise) by any Payment Brand or of which you have been otherwise informed, and such other procedures as we may from time to time prescribe for the creation or transmission of Transaction Data. We may modify and supplement the Operating Guide in order to comply with requirements imposed by the Payment Brand Rules. You acknowledge that you have received a copy of the Operating Guide at or prior to your execution of this Agreement, and that you can also view the Operating Guide on-line at the Merchant Support Center of Paymentech's website, http://www.chasepaymentech.com/portal/community/chase_paymentech/public/public_website/solutions/merchant_support_center. To the extent that the Operating Guide is inconsistent with the Payment Brand Rules, the Payment Brand Rules shall prevail.

1.4 Requirements for Certain Transactions. As to all Settled Transactions and Conveyed Transactions you tender to us for processing, you represent and warrant that, to the best of your knowledge:

(1) The Transaction Data represents payment or refund of payment, for the bona fide sale or lease of the goods, services, or both, which you have provided in the ordinary course of your business, and the Transaction Data is not submitted on behalf of a third party.

(2) The Transaction Data represents an obligation of the Customer for the amount of the Transaction.

(3) The Transaction Data does not involve any element of credit for payment of a previously dishonored Payment Instrument or for any other purpose than payment for a current transaction and, except in the case of approved installment or pre-payment plans, the goods have been shipped or services actually rendered to the Customer.

(4) The Transaction Data is free from any material alteration not authorized by the Customer.

(5) The amount charged for the Transaction is not subject to any dispute, setoff, or counterclaim.

(6) Neither you nor your employees has advanced any cash to the Customer (except as authorized by the Payment Brand Rules) or to yourself or to any of your representatives, agents, or employees in connection with the Transaction, nor have you accepted payment for effecting credits to a Customer.

(7) The goods or services related to each Transaction are your sole property and you are free to sell them.

(8) You have made no representations or agreements for the issuance of refunds except as it states in your return/cancellation policy, which has been previously submitted to us in writing as provided in Section 3, and which is available to the Customer.

(9) Any transaction submitted to us to credit a Customer's account represents a refund or adjustment to a Transaction previously submitted to Paymentech.

(10) You have no knowledge or notice of information that would lead you to believe that the enforceability or collectibility of the subject Transaction Data is in any manner impaired. The Transaction Data is in compliance with all applicable laws, ordinances, and regulations. You have originated the Transaction Data in compliance with this Agreement and any applicable Payment Brand Rules.

(11) For a Transaction where the Customer pays in installments or on a deferred payment plan, a Transaction Data record has been prepared separately for each installment transaction or deferred payment on the date(s) the Customer agreed to be charged. All installments and deferred payments, whether or not they have been submitted to us for processing, shall be deemed to be a part of the original Transaction.

(12) You have not submitted any Transaction that you know or should have known to be either fraudulent, illegal, damaging to the Payment Brand(s), not authorized by the Customer, or otherwise in violation of any provision of this Agreement or Payment Brand Rules.

2. AUTHORIZATIONS.

2.1 Obtaining Authorizations. You are required to obtain authorization/approval codes through Paymentech, in accordance with this Agreement, for all Transactions. You acknowledge that authorization/approval code of a Transaction indicates **only** (i) that the Payment Instrument contains a valid account number; and (ii) that the Customer's Payment Instrument has an available credit balance sufficient for the amount of the Transaction at the time the authorization is given, but it does not constitute a representation from us, a Payment Brand or a card issuing bank that a particular Transaction is in fact a valid or undisputed transaction entered into by the actual Customer.

2.2 Lack of Authorization. We reserve the right to refuse to process any Transaction Data presented by you (i) unless a proper authorization/approval code is recorded, (ii) if we reasonably determine that the Transaction Data is or will become uncollectible from the Customer to which the Transaction would otherwise be charged, or (iii) if we determine that the Transaction Data was prepared in violation of any provision of this Agreement or the Payment Brand Rules.

3. REFUNDS AND ADJUSTMENTS.

3.1 Disclosure of Refund Policy. You are required to maintain a fair policy with regard to the refund, return or cancellation of merchandise or services and adjustment of Transactions. You are required to disclose your refund, return or cancellation policy to us on your application. Your refund, return or cancellation policy must also be disclosed to your customers.

3.2 Changes to Policy. Any change in your return/cancellation policy must be submitted to us, in writing, not less than 14 days prior to the effective date of such change. We reserve the right to refuse to process any Transaction Data made subject to a revised return/cancellation policy of which we have not been notified in advance.

3.3 Procedure for Refunds/Adjustments. If you allow a price adjustment, return of merchandise, or cancellation of services in connection with a Settled or Conveyed Transaction, you will prepare and deliver to us Transaction Data reflecting such refund/adjustment within 3 days of receiving the Customer's request for such refund/adjustment. The amount of the refund/adjustment cannot exceed the amount shown as the total on the original Transaction Data except by the exact amount

required to reimburse the Customer for postage that the Customer paid to return merchandise. You are not allowed to accept cash or any other payment or consideration from a Customer in return for preparing a refund to be deposited to the Customer's account; nor may you give cash refunds to a Customer in connection with a Settled or Conveyed Transaction, unless permitted or required by law.

4. SETTLEMENT.

4.1 Submission of Transaction Data. You are required to transmit your Transaction Data to us no later than the next business day immediately following the day that such Transaction Data is originated. Failure to do so can result in higher interchange fees and other costs and increased Chargebacks. For debit card transactions that are credits to a Customer's account, you agree to transmit such Transaction Data to us within 24 hours of receiving the authorization for such credit. Unless otherwise indicated on Schedule A, you will be solely responsible for all communication expenses required to facilitate the transmission of all Transaction Data to us.

4.2 Merchant's Settlement Account. In order to receive funds from Paymentech, you must maintain an account at a bank that is a member of the Automated Clearing House ("ACH") system or the Federal Reserve wire system ("Settlement Account"). During the term of this Agreement, and thereafter until we notify you that all monies due from you under this Agreement have been paid in full, you agree not to close your Settlement Account without giving us at least 5 days' prior written notice and substituting another Settlement Account. You are solely liable for all fees and costs associated with your Settlement Account and for all overdrafts. You authorize Paymentech to initiate electronic credit and debit entries and adjustments to your Settlement Account at any time without regard to the source of any monies in the Settlement Account. This authority will remain in full force and effect until we notify you that all monies due from you under this Agreement have been paid in full. We will not be liable for any delays in receipt of funds or errors in Settlement Account entries caused by third parties, including but not limited to delays or errors by the Payment Brands or your bank.

4.3 Conveyed Transactions. To the extent that you submit any Conveyed Transactions for processing by Paymentech and you do not have a valid agreement in effect with the applicable Payment Brand, you hereby authorize us, at our option, to submit such Transaction to the applicable Payment Brand, and to share with the applicable Payment Brand such information from your Application as may be required in order to approve your acceptance of such Payment Instrument as method(s) of payment. Subject to such approval, you agree to the applicable Payment Brand's standard terms and conditions with respect to such method(s) of payment. Upon your transmission of such Conveyed Transactions to us, we will forward the Conveyed Transaction to the appropriate Payment Brand. Payment of the proceeds due you will be governed by whatever agreement you have with that Payment Brand, and we do not bear any responsibility for their performance. Even if you receive a valid authorization for a Conveyed Transaction, we will not be liable for errors in Settlement Account entries relating to the funding of your Conveyed Transactions, including delays caused by you, third parties, the Payment Brands or your bank. If your agreement with a Payment Brand requires the Payment Brand's consent for us to perform the services contemplated by this Agreement, you are responsible for obtaining that consent.

4.4 Transfer of Settlement Funds. For all Settled Transactions, we will process your Transaction Data to facilitate the funds transfer between the various Payment Brands and you. Promptly after we receive credit for such Transaction Data, we will provide provisional credit to your Settlement Account for the proceeds. The proceeds payable to you shall be equal to the amounts received by us in connection with your Transaction Data minus all Reserve Account amounts, if any. You agree that amounts set forth above, and any other amounts are due and payable by you at the time the related services are rendered to you and may be imposed on a daily basis if we so determine; that all Reserve Account amounts are due and payable by you upon establishment; and that the related Chargebacks, Customer refunds, and adjustments, fees, charges, fines, assessments, penalties, and all other liabilities are due and payable by you when we receive notice thereof from the Payment Brands or any third party, or otherwise pursuant to this Section 4.4. In the event we do not deduct such amounts from the proceeds payable to you, you agree to pay all such amounts to us immediately without any deduction or offsets. Alternatively, at our option, we may debit the Settlement Account or your Reserve Account for such amounts at any time. Also, insofar as allowed by law, you agree to reimburse Paymentech, Member, the Payment Brands, affiliates, officers, directors, employees, agents and sponsoring banks from any losses, liabilities, and damages of any and every kind (including, without limitation, our costs, expenses and reasonable attorneys' fees) arising out of any claim, complaint, or Chargeback (i) made or claimed by a Customer with respect to any Transaction Data submitted by you, (ii) caused by your noncompliance with this Agreement, the Operating Guide, or the Payment Brand Rules, including any breach of a representation or warranty made by you, or (iii) resulting from any voluntary or involuntary bankruptcy or insolvency proceeding by or against you. The obligation provided for in this Section does not apply to any claim or complaint to the extent it is caused by Paymentech's own negligence or willful misconduct. Without limiting the foregoing or our rights under Section 7.2 or Section 10, if a third party notifies us, or a Payment Brand notifies us or the Member that it or they intend to impose any fine or penalty as a result of excessive Chargebacks or your acts or omissions (including, without limitation, your failure to fully comply with any Payment Brand Rules), we may suspend the processing of your Transactions. Additionally, Paymentech agrees that it will make a separate electronic deposit for each merchant number and that it will not deduct from daily settlement proceeds any fees, chargebacks, or miscellaneous debits. Rather, the amounts due under this Agreement will appear separately and Paymentech will debit the designated bank account once a month for the fees incurred per merchant number. Paymentech understands that Merchant must also be able to distinguish the type of transaction (credit or debit) by identification in each individual automated clearinghouse (ACH) transfer record for accounting purposes.

4.5 Negative Amounts. To the extent the proceeds from Settled Transactions do not represent sufficient credits or the Settlement Account does not have a sufficient balance to pay amounts due or reasonably anticipated to become due under this Agreement, in addition to any other rights and remedies we may have under this Agreement (including termination), we may pursue one or more of the following options: (i) demand and receive immediate payment for such amounts; (ii) debit your Settlement Account or Reserve Account for the amount of the negative balance; (iii) withhold or offset your settlement payments until all amounts are paid; (iv) delay presentation of your refunds until you make a payment to us of a sufficient amount to cover the negative balance; and (v) pursue any other remedies we may have at law or in equity. Furthermore, if the amount represented by your Transaction Data in any day is negative due to refunds or credits being submitted by you in excess of your proceeds from Transactions, you shall provide us with sufficient funds prior to the submission of the Transaction Data so as to prevent the occurrence of a negative balance.

4.6 Delinquency/Merchant Fraud. If: (i) there is a material, adverse change in your financial condition or your payment record with creditors; (ii) you are in material default of this Agreement; (iii) you change your billing practice in relation to shipment of merchandise or fulfillment of service or change refund procedures currently in place, and you fail to notify us in advance; (iv) you are receiving excessive Chargebacks (as defined in Section 7.2 below); (v) you significantly alter the nature of your business or product lines; (vi) we have reasonable grounds to believe that we may be or become liable to third parties for the provisional credit extended to you or that you may be liable to your Customers, Payment Instrument issuing banks or the Payment Brands, or (vii) we have reasonable grounds to believe that we may be subject to any additional liabilities, including, without limitation, any fines, fees, or penalties assessed against us by any of the Payment Brands, arising out of or relating to your Transactions, your Chargebacks, or your failure to comply with this Agreement, any of the Payment Brand Rules, the Operating Guide, or the Security Standards (as defined in Section 17), we may temporarily suspend or delay payments to you during our investigation of the issue and/or designate an amount of funds that we must maintain in order to protect us against the risk of, among other things, existing, potential, or anticipated Chargebacks and to satisfy your other obligations under this Agreement (such funds being hereinafter referred to as the "Reserve Account"), which may be funded in the same manner as provided for negative balances in Section 4.5. The Reserve Account will contain sufficient funds to cover any unbilled processing costs plus our estimated exposure based on reasonable criteria for Chargebacks, returns, unshipped merchandise and/or unfulfilled services, and all additional liabilities anticipated under this Agreement, including, but not limited to, Chargebacks, fines, fees and penalties as set forth in Section 4.4. We may (but are not required to) apply funds in the Reserve Account toward, and set off any funds that would otherwise be payable to you against, the satisfaction of any amounts which are or may become due from you pursuant to this Agreement. The Reserve Account will be held and controlled by Paymentech, will not bear interest, and you will have no legal right or interest in the funds in the Reserve Account; provided, however, that upon satisfaction of all of your obligations under this Agreement, we will pay to you any funds then remaining in the Reserve Account. Any funds in the Reserve Account may be commingled with other funds, and need not be maintained in a separate account. Effective upon our establishment of a Reserve Account, you irrevocably grant to us a security interest in any interest you may now have or later acquire in any and all funds, together with the proceeds thereof, that may at any time be in the Reserve Account and that would otherwise be payable to you pursuant to the terms of this Agreement. You agree to execute and deliver to us such instruments and documents (including, without limitation, security agreements and releases) that we may reasonably request (i) to perfect and confirm the security interest in the Reserve Account; and (ii) in connection with any return of Reserve Account funds.

5. ACCOUNTING. We will supply a detailed statement reflecting the activity for your merchant account(s) by online-access (or otherwise if agreed to by both parties). We will not be responsible for any error that you do not bring to our attention within 90 days from the date of such statement. You acknowledge and agree that it is your responsibility to ensure your secure online access. With reasonable prior notice, Paymentech will make available for Merchant's inspection and audit those books and records pertaining solely to services performed by us and fees paid to us pursuant to this Agreement.

6. RETRIEVAL REQUESTS.

6.1 Records. You agree to store and retain Transaction Data in compliance with the Payment Brand Rules.

6.2 Response to Retrieval Requests. We will send you any Retrieval Request that we cannot satisfy with the information we have on file concerning any Settled Transaction. In response, you must provide us, in writing by certified or overnight mail or by confirmed fax (or by other means as agreed to by Paymentech), the resolution of your investigation of such Retrieval Request and include legible copies of any documentation required by the Retrieval Request within 7 days after we send it to you (or such shorter time as the Payment Brand Rules may require). You acknowledge that your failure to fulfill a Retrieval Request timely and in accordance with Payment Brand

Rules may result in an irreversible Chargeback.

7. CHARGEBACKS.

7.1 Chargeback Reasons. You may receive a Chargeback from a Customer or Payment Brand for a number of reasons under the Payment Brand Rules. The following are some of the most common reasons for Chargebacks, and in no way is this intended to be an exhaustive list of possible Chargeback reasons:

(1) Your failure to issue a refund to a Customer upon the return or non-delivery of goods or services.

(2) A required authorization/approval code was not obtained.

(3) The Transaction Data was prepared incorrectly or fraudulently.

(4) We did not receive your response to a Retrieval Request within 7 days or any shorter time period required by the Payment Brand Rules.

(5) The Customer disputes the Transaction or the authenticity of the signature on the Transaction Data or Payment Instrument, or claims that the Transaction is subject to a set-off, defense, or counterclaim.

(6) The Customer refuses to make payment for a Transaction because in the Customer's good faith opinion, a claim or complaint has not been resolved, or has been resolved in an unsatisfactory manner.

(7) The credit or debit card comprising the Payment Instrument was not actually presented at the time of the Settled or Conveyed Transaction or you failed to obtain an electronic record or physical imprint of such Payment Instrument, and the Customer denies making the purchase. The Merchant acknowledges that, under these circumstances, the fact that an authorization/approval code was obtained does not mean that a particular Transaction is a valid or undisputed transaction entered into by the actual Customer.

7.2 Excessive Chargebacks. If you are receiving an excessive amount of Chargebacks, as determined by the Payment Brands from time to time, in addition to our other remedies under this Agreement we may take the following actions: (i) review your internal procedures relating to acceptance of Payment Instruments and notify you of new procedures you should adopt in order to avoid future Chargebacks; (ii) notify you of a new rate we will charge you to process your Chargebacks; (iii) collect from you (pursuant to Section 4.6) an amount reasonably determined by us to be sufficient to cover anticipated Chargebacks and all related fees, penalties, expenses, and fines; or (iv) terminate the Agreement. You also agree to pay, insofar as allowed by law, any and all penalties, fees, fines and costs assessed against you, Paymentech, and/or Member relating to your violation of this Agreement, the Operating Guide, or the Payment Brand Rules with respect to your acceptance of Payment Instruments, your Transactions or with respect to excessive Chargebacks under this Section.

7.3 Claims of Customers. You have full liability if any Settled Transaction, for which we have given your Settlement Account provisional credit, is the subject of a Chargeback. Subsequently, you may resubmit applicable Transaction Data for a second presentment, but only in accordance with Payment Brand Rules. To the extent we have paid or may be called upon to pay a Chargeback, refund or adjustment for or on the account of a Customer and you do not reimburse us as provided for in this Agreement, then for the purpose of our obtaining reimbursement of such sums paid or anticipated to be paid, we have all of the rights and remedies of such Customer under applicable federal, state, or local laws and you authorize us to assert any and all such claims in our own name for and on behalf of any such Customer individually or all such Customers as a class.

8. DISPLAY OF PAYMENT BRAND MARKS. Merchant is prohibited from using the Payment Brand Marks, as defined below (sometimes referred to herein as "Marks"), other than as expressly authorized by us in writing or by the Payment Brands. Payment Brand Marks mean the brands, emblems, trademarks and/or logos that identify a Payment Brand. Additionally, Merchant shall not use the Payment Brand Marks other than to display decals, signage, advertising and other forms depicting the Payment Brand Marks that are provided to Merchant (i) by the Payment Brands; (ii) by us pursuant to this Agreement; or (iii) as otherwise approved in writing by us. Merchant may use the Payment Brand Marks only to promote the services covered by the Marks by using them on decals, indoor and outdoor signs, advertising materials and marketing materials; provided, that all such uses by Merchant must be in writing and approved by us and consistent with Payment Brand Rules . Merchant shall not use the Payment Brand Marks in such a way that Customers could believe that the products or services offered by Merchant are sponsored, endorsed or guaranteed by the owners of the Payment Brand Marks. Merchant recognizes that it has no ownership rights in the Payment Brand Marks. Merchant shall not assign to any third party the rights to use the Payment Brand Marks. Your right to use the Payment Brand Marks hereunder terminates simultaneously with the termination of this Agreement.

9. FEES.

9.1 Schedule A. You agree to pay us for the services as set forth in Schedule A in accordance with this Agreement. Unless otherwise expressly stated in Schedule A, your pricing is based on all Transactions qualifying under the Payment Brand Rules for the lowest Payment Brand interchange rates. For Transactions that do not qualify for the best rate, the Payment Brands may dictate that the Transaction is subject to a "downgrade", which will result in us charging you a higher rate than the qualified rate shown on Schedule A. Fees payable under this Agreement that contain a fraction of a cent will be rounded up to the next full cent.

9.2 Price Changes. You acknowledge that your pricing is based on your annual volume of Transactions, method of processing, type of business, and interchange qualification criteria as represented to us in your Application and restated on Schedule A. To the extent your actual volumes, method, type, and criteria differ from this information, we may modify the pricing on Schedule A with 30 days' prior written notice. In addition, we may change our fees, charges, and discounts resulting from (i) changes in Payment Brand fees (such as interchange, assessments, and other charges); (ii) changes in pricing by any third party provider of a product or service used by you; or (iii) fees which are added by a Payment Brand or card issuer. Such new prices will be applicable to you as of the effective date established by the Payment Brand or third party provider.

10. TERMINATION.

10.1 Term. This Agreement takes effect upon our acceptance hereof (as evidenced by (i) our signature below; or (ii) our acceptance of your first Transaction for processing hereunder), and has an initial term expiring three (3) years from that date. Unless otherwise terminated by either party as provided in this Agreement, the Agreement will automatically extend for successive one-year terms. Either party may give notice of non-renewal of this Agreement in writing no more than 90 days and no less than 30 days prior to any expiration date.

10.2 Merchant Termination. You may terminate this Agreement for cause if our services provided under this Agreement fail to conform to generally accepted standards for such services in the payment processing industry. In such event, your sole remedy for such failure shall be that, upon written notice from you specifying the failure of performance, we will rectify such failure of performance. If we do not rectify our failure of performance within thirty days after receipt of written notification, then you may terminate this Agreement upon thirty days' written notice to us. Merchant reserves the right to terminate the Agreement at any time, in whole or in part, without penalty, by providing 30 calendar days' advance written notice. In the event of such a termination, the Respondent shall, unless otherwise mutually agreed upon in writing, cease all work immediately upon the effective date of termination.

10.3 Paymentech Termination. We may terminate this Agreement at any time upon written notice to you as a result of any of the following events: (i) any noncompliance with this Agreement, the Payment Brand Rules, or the Operating Guide, which is not cured within 30 days of our notice to you, except as otherwise provided in this Agreement and except that no cure period is allowed for termination based on Merchant fraud or failure to fund a Reserve Account; (ii) any voluntary or involuntary bankruptcy or insolvency proceeding involving you; (iii) Paymentech deems you to be financially insecure; (iv) Merchant or any person owning or controlling Merchant's business is or becomes listed in the MATCH file (Member Alert to Control High-Risk Merchants) maintained by Visa and MasterCard; (v) any Payment Brand notifies us that it is no longer willing to accept your Transaction Data; (vi) there exists any circumstances that create or could tend to create harm or loss to the goodwill of any Payment Brand, us or Member; or (vii) for a period of more than 60 consecutive days, you do not transmit Transaction Data to us.

10.4 Account Activity After Termination. Termination does not affect either party's respective rights and obligations under this Agreement as to Transaction Data submitted before termination. If you submit Transaction Data to us after the date of termination, we may, at our sole discretion and without waiving any of our rights or remedies under this Agreement, process such Transaction Data in accordance with and subject to all of the terms of this Agreement. Upon notice of termination of this Agreement, we may estimate the aggregate dollar amount of Chargebacks and other obligations, liabilities and expenses that we reasonably anticipate subsequent to termination, and you agree to immediately deposit such amount in your Settlement Account or as otherwise directed by us, or we may withhold such amount from your settlement funds in order to establish a Reserve Account pursuant to and governed by the terms and conditions of this Agreement.

11. INDEMNIFICATION.

We agree to defend, indemnify, and hold harmless you and your affiliates, officers, directors, employees, and agents from any claims, actions, suites, demands, proceedings, costs, damages, and liabilities(including, without limitation, attorneys' fees and court costs) arising out of any Customer complaint or Chargeback related to (i) any failure by us or our agents or employees to properly safeguard the Customer's account information, (ii) our or our agents' or employees' failure to deliver funds processed by us in accordance with Section 4.4 herein (which relates to payments due from us for Transaction Data), or (iii) any voluntary or involuntary bankruptcy or insolvency proceeding by or against us. This indemnification does not apply to any claim or complaint relating to your failure to resolve a payment dispute concerning merchandise or services sold by you or your negligence or willful misconduct. The indemnification provided under this Section 11.1 shall survive the termination of this Agreement.

12. TRANSACTION DATA AND PAYMENT INSTRUMENT INFORMATION. You acknowledge and understand the importance of compliance with the Security Standards, such as those relating to the storage and disclosure of Transaction Data and Payment Instrument Information. Therefore, you will exercise reasonable care to prevent disclosure or use of Payment Instrument Information, other than (i) to your agents and contractors for the purpose of assisting you in completing a Transaction, (ii) to the applicable Payment Brand, or (iii) as specifically required by law.

You are allowed by the Payment Brand Rules to store only certain Payment Instrument Information currently limited to the customer's name, Payment Instrument account number and expiration date) and are prohibited from storing additional Payment Instrument Information, including, without limitation, any security code data such as CVV2, CVC2, and PIN data, and any magnetic stripe track data. You will store all media containing Payment Instrument Information in an unreadable format wherever it is stored and in an area limited to selected personnel on a "need to know" basis only and, prior to either party discarding any material containing Payment Instrument Information, the party will destroy it in a manner rendering the account numbers unreadable. If at any time you determine that Payment Instrument Information has been compromised you will notify Paymentech immediately and assist in providing notification to such parties as may be required by law or Payment Brand Rules, or as we otherwise reasonably deem necessary. Merchant information may be shared by us with our affiliates, and with the Payment Brands subject to the provisions of this Agreement and Payment Brand Rules.

You agree to comply with all Security Standards, as defined in Section 17. You further agree to provide us upon our request with such tests, scans and assessments of your compliance with Security Standards as required by the Payment Brands.

You must notify us of your use of any Service Provider and, to the extent required by each Payment Brand all Service Providers must be (i) compliant with all Security Standards applicable to Service Providers, and (ii) registered with and/or recognized by such Payment Brand(s) as being so compliant. You agree to exercise due diligence to ensure that all of your Service Providers, and any other agents, business partners, contractors, or subcontractors with access to Payment Instrument Information, maintain compliance with the Security Standards. To the extent required by each Payment Brand, all payment applications, or software involved in processing, storing, receiving or transmitting of Payment Instrument Information, shall be (i) compliant with all Security Standards applicable to such payment applications or software, and (ii) registered with and/or recognized by such Payment Brand(s) as being so compliant.

You understand that your failure to comply with the Payment Brand Rules, including the Security Standards, or the compromise of any Payment Instrument Information, may result in assessments, fines, and/or penalties by the Payment Brands, and you agree to indemnify and reimburse us immediately, insofar as allowed by law, for any such assessment, fine, or penalty imposed on us or the Member and any related loss, cost or expense incurred by us or the Member. If any Payment Brand requires a forensic examination of you or any of your Service Providers, agents, business partners, contractors, or subcontractors due to a data security compromise event or suspected event, you agree to cooperate with such forensic examination (including, without limitation, the engagement of an examiner acceptable to the relevant Payment Brand) and agree to pay for all costs and expenses related to such forensic examination, including all of our attorneys' fees and other costs relating to such forensic examination.

By executing this Agreement, Merchant represents that, in the event of its failure, including bankruptcy, insolvency, or other suspension of business operations, Merchant shall not sell, transfer, or disclose any materials that contain Transaction Data or Payment Instrument Information to third parties, except as required by law. Merchant must return such information to Paymentech or provide Paymentech with acceptable proof of its destruction.

13. INFORMATION ABOUT MERCHANT'S BUSINESS.
13.1 Additional Financial Information. Upon five (5) days' written notice, Merchant agrees to furnish to us (i) its most recently prepared financial statements and credit information and (ii) if applicable, its three most recent filings with the SEC.
13.2 Audit Rights. With prior notice and during your normal business hours, our duly authorized representatives may visit your business premises and may examine your books and records that pertain to your Transaction Data or your compliance with this Agreement.
13.3 Other Information. You agree to provide us at least 30 days' prior written notice of your intent to change your product line or services, or your trade name, or the manner in which you accept Payment Instruments. If we determine such a change is material to our relationship with you, we may refuse to process Transaction Data made subsequent to the change or terminate this Agreement. You agree to provide us with prompt written notice if you are the subject of any voluntary or involuntary bankruptcy or insolvency petition or proceeding.

14. DISCLAIMER; LIMITATION OF DAMAGES. Subject to Section 5, we will, at our own expense, correct any Transaction Data to the extent that such errors have been caused by us or by malfunctions of our processing systems. Under no circumstances will Paymentech's financial responsibility for our failure of performance under this Agreement exceed the total fees paid to us under this Agreement (net of Payment Brand fees, third party fees, interchange, assessments, penalties and fines) for the six months prior to the time the liability arose. EXCEPT AS OTHERWISE PROVIDED FOR IN THIS AGREEMENT, AND EXCEPT WITH RESPECT TO MERCHANT'S FAILURE TO COMPLY WITH THE SECURITY STANDARDS, IN NO EVENT WILL ANY PARTY, ITS RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES, OR AFFILIATES, BE LIABLE FOR SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES OR ANY LOSS, THEFT, DISAPPEARANCE, OR DAMAGE TO DATA TRANSMITTED ELECTRONICALLY IN CONNECTION WITH THIS AGREEMENT. **WHILE ALL PARTIES ACKNOWLEDGE THAT THIS IS AN AGREEMENT FOR SERVICES TO WHICH THE UNIFORM COMMERCIAL CODE DOES NOT APPLY, PAYMENTECH AND MEMBER HEREBY DISCLAIM ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED, MADE TO MERCHANT OR ANY OTHER PERSON, REGARDING QUALITY, SUITABILITY, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR OTHERWISE (REGARDLESS OF ANY COURSE OF DEALING, CUSTOM, OR USAGE OF TRADE) OF ANY SERVICES PROVIDED UNDER THIS AGREEMENT OR ANY GOODS PROVIDED INCIDENTAL TO SUCH SERVICES.**

15. MISCELLANEOUS.
15.1 Taxes. Unless you are otherwise exempt, and, if applicable, provide a valid exemption certificate, you agree to pay any taxes imposed on the services, equipment, intellectual property, supplies, and other goods purchased or tangible property provided under this Agreement, and you authorize us to increase the amount we collect from you to reflect any and all assessments or increases in the sales, use, occupational, property, lease, or other taxes imposed on such sale or lease of services, tangible property, or intellectual property, equipment, supplies and other goods purchased.
15.2 Application and Credit Check. You represent and warrant that statements made on your Application for this Agreement are true as of the date of your execution of this Agreement. Your signature on this Agreement authorizes us to perform any credit check deemed necessary with respect to Merchant and its directors, officers, affiliates, principals, and guarantors (if applicable).
15.3 Section Headings. The section headings of this Agreement are for convenience only and do not define, limit, or describe the scope or intent of this Agreement.
15.4 Assignment. We and/or Member may assign this Agreement to an entity qualified under Payment Brand Rules to perform our obligations under this Agreement. You cannot assign or transfer your rights or delegate your responsibilities under this Agreement without our prior written consent. Failure to obtain our consent may result in a termination of this Agreement. Any assignee or successor entity must provide such additional information and execute such additional documentation or take any further actions as we request in order to ensure continued processing of Transactions under this Agreement.
15.5 Parties. This Agreement binds you and your respective heirs, representatives, and permitted and approved successors (including those by merger and acquisition) or assigns. This Agreement binds us and our respective heirs, representatives, successors and assigns. You represent and warrant that your execution of and performance under this Agreement (i) in no way breaches, contravenes, violates, or in any manner conflicts with any of your other legal obligations, including, without limitation, your corporate charter or similar document or any agreement between you and any third party or any affiliated entity; (ii) has been duly authorized by all necessary action and does not require any consent or other action by or in respect of any third party; and (iii) that the person signing this Agreement on your behalf is duly authorized to do so. In providing services to you, we will not be acting in the capacity of your agent, partner, or joint venturer; we are acting solely as an independent contractor. Each party agrees that any other party may publicly disclose, through press releases or otherwise, the existence of the business relationship that is the subject of this Agreement. Any such disclosure may identify the parties by name but shall not, without the prior written consent of the non-disclosing party, include any of the terms of this Agreement.
15.6 Severability. Should any provision of this Agreement be determined to be invalid or unenforceable under any law, rule, or regulation, including any Payment Brand Rule, such determination will not affect the validity or enforceability of any other provision of this Agreement.
15.7 Waivers. No term or condition of this Agreement may be waived except pursuant to a written waiver executed by the party against whom such waiver is sought to be enforced.

15.8 Entire Agreement. The Payment Brand Rules, Operating Guide, Application, and all schedules and attachments to this Agreement are made a part of this Agreement for all purposes. This Agreement represents the entire understanding between Merchant and Paymentech with respect to the matters contained herein and supersedes any prior agreements between the parties. This Agreement shall prevail over the terms of any agreement governing the Settlement Account. Merchant agrees that in entering into this Agreement it has not relied on any statement of Paymentech or its representatives. The parties acknowledge and agree (i) that this Agreement applies only to Transaction Data generated within the United States; and (ii) that this is a contract for commercial services.

15.9 Notices. Except as otherwise provided in this Agreement, all notices must be given in writing and either hand delivered, faxed, mailed first class, postage prepaid, sent via electronic mail transmission, or sent via overnight courier (and will be deemed to be given when so delivered or mailed). Notice to Paymentech shall be to the address set forth below or to such other address as either party may from time to time specify to the other party in writing.

Notice to Merchant shall be made to the following:

15.10 Governing Law of Jury Trial. This Agreement will be governed by and construed in accordance with the laws of the State of Texas without reference to conflict of law provisions.

15.11 Force Majeure. Neither party will be liable for delays in processing or other nonperformance caused by such events as fires, telecommunications failures, utility failures, power failures, equipment failures, labor strife, riots, war, terrorist attack, , acts of God, or other causes, over which the respective party has no reasonable control, except that nothing in this Section 15.11 will affect or excuse your liabilities and obligations for Chargebacks, refunds, or unfulfilled products and services.

15.12 Amendment. This Agreement may be amended at any time by Paymentech upon thirty days notice to you. Notwithstanding the foregoing, in the event the terms of this Agreement must be amended pursuant to a change required by the Payment Brand Rules or any third party with jurisdiction over the matters described herein, such amendment will be effective immediately.

15.13 Counterparts and Electronic Signature. This Agreement may be executed in several counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument. A signature received via facsimile or electronically via email shall be as legally binding for all purposes as an original signature.

16. SURVIVAL. The provisions of Sections 4.2, 4.4, 4.5, 4.6, 6.1, 7, 10.4, 11, 12, 14, 15, and 17 shall survive the termination of this Agreement.

17. DEFINITIONS.

"***Application***" is a statement of your financial condition, a description of the characteristics of your business or organization, and related information you have previously or concurrently submitted to us, including credit and financial information, to induce us to enter into this Agreement with you and that has induced us to process your Transactions under the terms and conditions of this Agreement.

"***Chargeback***" is a reversal of a Transaction you previously presented to Paymentech pursuant to Payment Brand Rules.

"***Conveyed Transaction***" is any Transaction conveyed to a Payment Brand for settlement by such Payment Brand directly to Merchant.

"***Customer***" is the person or entity to whom a Payment Instrument is issued or who is otherwise authorized to use a Payment Instrument.

"***Effective Date***" means the date this Agreement takes effect pursuant to Section 10.1.

"***Merchant***", "***you***", and "***your***" is the Merchant identified in the Application on the cover page of the Agreement.

"***Member***" is JPMorgan Chase Bank, N.A. or other entity providing sponsorship to Paymentech as required by all applicable Payment Brand. Member is a principal party to this Agreement and your acceptance of Payment Brand products is extended by the Member.

"***Payment Application***" is a third party application used by merchant that is involved in the authorization or settlement of Transaction Data.

"***Payment Brand***" is any payment method provider whose payment method is accepted by Paymentech for processing, including, but not limited to, Visa, U.S.A., Inc., MasterCard International, Inc., Discover Financial Services, LLC and other credit and debit card providers, debit network providers, gift card and other stored value and loyalty program providers. Payment Brand also includes the Payment Card Industry Security Standards Council.

"***Payment Brand Rules***" are the bylaws, rules, and regulations, as they exist from time to time, of the Payment Brands.

"***Payment Application***" is a third party application used by Merchant that is involved in the authorization or settlement of Transaction Data.

"***Payment Instrument***" is an account, or evidence of an account, authorized and established between a Customer and a Payment Brand, or representatives or members of a Payment Brand that you accept from Customers as payment for a good or service. Payment Instruments include, but are not limited to, credit and debit cards, stored value cards, loyalty cards, electronic gift cards, authorized account or access numbers, paper certificates and credit accounts.

"***Payment Instrument Information***" is information related to a Customer or the Customer's Payment Instrument, that is obtained by Merchant from the Customer's Payment Instrument, or from the Customer in connection with his or her use of a Payment Instrument (for example a security code, a PIN number, or the customer's zip code when provided as part of an address verification system). Without limiting the foregoing, such information may include a the Payment Instrument account number and expiration date, the Customer's name or date of birth, PIN data, security code data (such as CVV2 and CVC2) and any data read, scanned, imprinted, or otherwise obtained from the Payment Instrument, whether printed thereon, or magnetically, electronically or otherwise stored thereon.

"***Paymentech***", "***we***", "***our***", and "***us***" is Paymentech, LLC, a Delaware limited liability company, having its principal office at 14221 Dallas Parkway, Dallas, Texas 75254.

"***Retrieval Request***" is a request for information by a Customer or Payment Brand relating to a claim or complaint concerning a Transaction.

"***Security Standards***" are all rules, regulations, standards or guidelines adopted or required by the Payment Brands or the Payment Card Industry Security Standards Council relating to privacy, data security and the safeguarding, disclosure and handling of Payment Instrument Information, including but not limited to the Payment Card Industry Data Security Standards ("PCI DSS"), Visa's Cardholder Information Security Program ("CISP"), Discover's Information Security & Compliance Program, American Express's Data Security Operating Policy, MasterCard's Site Data Protection Program ("SDP"), Visa's Payment Application Best Practices ("PABP"), the Payment Card Industry's Payment Application Data Security Standard ("PA DSS"), MasterCard's POS Terminal Security program and the Payment Card Industry PIN Entry Device Standard, in each case as they may be amended from time to time.

"***Service Provider***" is any party that processes, stores, receives, transmits or has access to Payment Instrument Information on your behalf, including, but not limited to your agents, business partners, contractors and subcontractors.

"***Settled Transaction***" is a Transaction conducted between a Customer and Merchant utilizing a Payment Instrument in which consideration is exchanged between the Customer and Merchant for the purchase of a good or service or the return or refund of such purchase and the value for such Transaction is settled by the Payment Brand through Paymentech to the Merchant.

"***Stored Value Transaction***" is a Transaction in which a Customer adds or redeems value to or from a stored value and/or loyalty Payment Instrument issued by or on behalf of Merchant.

"***Transaction***" is a transaction conducted between a Customer and Merchant utilizing a Payment Instrument in which consideration is exchanged between the Customer and Merchant.

"***Transaction Data***" is the written or electronic record of a Transaction, including but not limited to an authorization code or settlement record.

IN WITNESS WHEREOF, the undersigned parties have duly executed this Agreement.

Agreed and Accepted by

By (authorized signature)

Print Name and Title

Date

Address

City, State Zip

Agreed and Accepted by:

PAYMENTECH, LLC for itself and on behalf of
JPMORGAN CHASE BANK, N.A.

By

Kyle J. Salvati
Print Name

Group Manager and Senior Director
Title

4 Northeastern Boulevard, Salem, NH 03079
Address

Date

Phankins/rpreble/012210

To Be Completed By Paymentech, LLC
Your Merchant Agreement Contract Number is:
Your Merchant Processing Identification Number Will Be Provided At Time of Processing Set Up

Merchant Operating Guide

General Rules Applicable to all Transactions

1 Acceptance Of Certain Payment Instruments

In offering Visa and MasterCard payment options to your Customers, you may elect any one of the following options: (i) accept all types of Visa and MasterCard Payment Instruments - including consumer credit and debit/check cards, and commercial credit and debit/check cards; (ii) accept only Visa and MasterCard credit cards and commercial cards (if you choose this option you must accept all consumer credit cards (but not consumer debit/check cards) and all commercial card products, including business debit/check cards; or (iii) accept only Visa and MasterCard consumer debit/check cards (if you choose this option you must accept all consumer debit/check card products (but not business debit/check cards) and will not accept any kind of credit cards). The acceptance options above apply only to U.S. domestic Visa and MasterCard Payment Transactions and, as such, they do not apply to Visa or MasterCard Payment Instruments issued by non-U.S. banks. In other words, if your Customer presents a Visa or MasterCard Payment Instrument issued from a European or Asian bank, for example, you must accept that card just as you would any other card (provided you receive a valid authorization and confirm the identity of the Customer, etc.), regardless of the acceptance option choice you have made and even if you have elected not to accept that type of Payment Instrument from U.S. issuers. If you choose to limit the types of Visa and MasterCard Payment Instruments you accept, the following rules apply to you: (i) you must display appropriate signage to indicate acceptance of the limited acceptance category you have selected (that is, accept only debit/check card products or only credit and commercial products; (ii) if you elect limited acceptance, any Transaction Data submitted into interchange outside of the selected product category will be assessed the standard interchange fee applicable to that card product and may also have additional fees/surcharges assessed; and (iii) additional Visa and MasterCard Rules that may be applicable to you may be viewed on their respective websites.

2 Authorization/Approval Codes

All Payment Transactions and Conveyed Transactions require authorization/approval codes. You must request and receive an authorization/approval code for the total amount of the Transaction. An authorization/approval code indicates (i) the availability of credit on the Payment Instrument at the time of inquiry, and (ii) that the Payment Instrument account number is valid. It is not a promise or a guarantee that you will receive payment for that transaction. It does not warrant that the person presenting the Payment Instrument has the authority to do so.

3 Refunds/Credits

You must disclose your return/refund policy to your Customers. You must complete a credit for the total amount of the refund and identify the merchandise being returned and any shipping and handling charges being returned. You must imprint or record the credit voucher with the same Payment Instrument used to make the original purchase. For retail Payment Transactions and Conveyed Transactions, the credit voucher must be dated and signed by the Customer and the appropriate copy provided to the Customer. Cash refunds should never be issued for Payment Transactions or Conveyed Transactions, unless required by law. If you fail to follow these procedures, you may be unable to rebut a Chargeback from the Customer for failure to issue a refund (even if you actually gave the refund by cash or check). Paperwork is not necessary for an even exchange. For an uneven exchange, complete a credit for the total amount of the merchandise being returned and complete a new Transaction receipt for any new merchandise purchased. You cannot process a credit or refund without having completed a previous purchase Transaction with the same Customer.

4 Processing Of Transaction Data

You must submit Transaction Data (including credit vouchers) to us on or before the next business day after the date of the Transaction. Late submission of Transaction Data may result in higher Payment Brand fees and interchange rates, Chargebacks and other negative consequences. You must not submit Payment Transactions or Conveyed Transactions for payment until the goods are delivered, shipped, or the services are performed (except as otherwise provided in the Merchant Agreement, and only if you have notified us that you are doing so on your application or otherwise in writing). If the Customer disputes being charged for merchandise or services before receiving them, the result will be a Chargeback to you. We may from time to time contact Customers to verify that they have received goods or services for which Transactions have been submitted. You cannot present for processing any Transaction Data that was not originated as a result of an act directly between the Customer and you. You cannot present for processing any Transaction Data you know or should have known to be (i) fraudulent or (ii) not authorized by the Customer. You will be responsible for the actions of your employees while acting in your employ. The collection and payment of all federal, state and local taxes is your responsibility. Taxes collected must be included in the total transaction amount and not collected separately by another form of payment. You must submit one Transaction Data record for all goods and services sold in the same transaction. All available information about the sale, including any handling and shipping charges, must be accurately recorded. You must provide to the Customer a true and completed record of the Transaction.

5 Chargebacks

Chargebacks of Payment Transactions and Conveyed Transactions may occur under a variety of circumstances, as dictated by the Payment Brand Rules, which are subject to modification from time to time. Consequently, the following is only a partial list of circumstances that might give rise to Chargebacks: (i) a Customer account number is incorrect or otherwise invalid; (ii) an authorization/approval code was not received or other required authorization was not obtained; (iii) an authorization/approval code was obtained for the wrong amount or wrong date; (iv) the Customer never received the merchandise/service requested; (v) a Customer's refund/credit was processed as a sale; (vi) the Transaction Data is for the wrong amount; (vii) a Customer was never credited for returned merchandise or a canceled order; (viii) the Payment Instrument was expired, counterfeit, altered, or invalid at time of sale; (ix) a Payment Transaction or Conveyed Transaction was deposited more than once; (x) the Customer did not authorize or consent to the Transaction; (xi) the signature on the Transaction receipt does not match the signature on the Payment Instrument (if required); (xii) the Payment Instrument was not imprinted or its magnetic strip was not electronically recorded (for example, "swiping" or "tapping" a Payment Instrument) through a terminal; (xiii) the Customer asserts any disputes, claim, counterclaim, defense or offset against you; (xiv) the Transaction Data or any material information thereon is illegible, incomplete, inaccurate or unsigned, or is not delivered to us within the required time limits; (xv) the Transaction Data is fraudulent or does not represent a bona fide transaction in the ordinary course of your business, or is subject to any claim of illegality, negligence, dishonesty or offset; and (xvi) you have failed to provide copies of Transaction Data requested by us (retrieval request) within the prescribed time period.

6 Disputing Chargebacks

If you have reason to dispute or respond to a Chargeback, then you must do so by the date provided by us on our report to you. We are not required to investigate, reverse or make any adjustment to any Chargeback when thirty (30) calendar days have elapsed from the date of the Chargeback. All responses to Chargebacks must be in writing, and must contain the following information: (i) date of debit/credit advice; (ii) company case number; (iii) total amount of Chargeback; (iv) date and dollar amount for which the Transaction Data was originally submitted (v) if known, the date and authorization approval code; and (vi) any supporting documentation to substantiate your claim. You should include a dated cover letter detailing reasons for requesting a review of the Chargeback. You should retain a copy of the correspondence and all documentation for your files. You should also retain proof that we received your response.

7 Data Security And Privacy

You agree to post and maintain on all your Web sites both your consumer data privacy policy (which must comply with all Payment Brand Rules, regulations and guidelines) and your method of transaction security. You may not retain or store CVV2/CVC2 data or PIN data subsequent to the authorization. You must comply

with all Security Standards published by the Payment Brands and the PCISSC including, but not limited to, Visa's Customer Information Security Program ("CISP), MasterCard's Security Data Program (MSDP) and the Payment Card Industry Data Security Standard (PCIDSS). Pursuant to the Security Standards, you must, among other things: (i) install and maintain a working network firewall to protect data accessible via the Internet; (ii) keep security patches up-to-date; (iii) encrypt stored data and data sent over open networks; (iv) use and update anti-virus software; (v) restrict access to data by employees who are on a "need-to-know" basis; (vi) assign a unique ID to each person with computer access to data; (vii) not use vendor-supplied defaults for system passwords and other security parameters; (viii) track access to data by unique ID; (ix) regularly test security systems and processes; (x) maintain a policy that addresses information security for employees and contractors; (xi) restrict physical access to Customer information; (xii) when outsourcing administration of information assets, networks, or data you must retain legal control of proprietary information and use limited "need-to-know" access to such assets, networks or data; and (xiii) reference the protection of Customer information and compliance with the Security Standards in contracts with other service providers. You must notify Paymentech of any third party vendor with access to Customer information, and you are responsible for ensuring that all third party vendors are compliant with the Security Standards, to the extent applicable. The Security Standards may require that you engage an approved third party vendor to conduct quarterly perimeter scans and/or an on-site security review of your systems in order to be compliant. Visa and MasterCard's individual requirements for such scans or security reviews can be accessed through the Visa and MasterCard websites at www.Visa.com and www.MasterCard.com. The Payment Brand rules provide that Customer information and Transaction Data is owned by the Payment Brand and the Customer. Paymentech also asserts some ownership rights in the Transaction Data to the extent it belongs to the Payment Brand system. You are responsible for securing Customer information. You will not use any Payment Instrument or Customer information other than for the sole purpose of completing the transaction authorized by the Customer for which the information was provided to you, or as specifically allowed by the Payment Brand Rules, or required by law. Paymentech or any Payment Brand may inspect Merchant's premises and computers, and the premises and computers of any company the Merchant has contracted with, for the purposes of verifying that Customer information is securely stored and processed, and is not used for any purpose other than processing the transactions to which it relates.

8 Certain Merchant Prohibitions

You may not (i) accept Customer payments for previous Visa or Visa Electron charges; (ii) require a Customer to complete a postcard or similar device that includes the Customer's account number, Payment Instrument expiration date, signature, or any other account data in plain view when mailed; (iii) add any tax to a Transaction unless applicable law expressly requires that you be permitted to impose a tax; (iv) request or use a Payment Instrument account number for any purpose other than as payment for its goods or services, except to support Visa's Health Care Eligibility Service or Prepaid Load Network; (v) disburse funds in the form of travelers cheques, if the sole purpose is to allow the Customer to make a cash purchase of goods or services from you; (vi) accept Visa or Visa Electron for the purchase of scrip; or (vii) accept Visa Electron for a manual cash disbursement. You understand and acknowledge that all Visa BIN information provided by us to you is proprietary and confidential information belonging to Visa. You must not disclose Visa BIN Information to any third party without prior written permission from Visa. You understand and acknowledge that Visa may impose conditions on, or permanently prohibit you from participating in the Visa program for any reasons it deems appropriate, including, but not limited to (i) fraudulent activity; (ii) submitting Transaction Data that does not result from an act between you and the Customer (laundering); (iii) entering into this Agreement under a new name with the intent to circumvent provisions of the Rules; (iv) activity that causes us to repeatedly violate the Rules; any other activity that may result in undue economic hardship or damage to the goodwill of the Visa system.

Specialized Rules for Retail Transactions

1 Presentation Of Payment Instruments

You or your employee must examine each Payment Instrument presented to determine that the Payment Instrument presented is valid and has not expired. You must exercise reasonable diligence to determine that the authorized signature on any Payment Instrument) presented corresponds to the Customer's signature on the Transaction Data. You must not honor expired, invalid, altered, counterfeit, or revoked Payment Instruments nor any Payment Instrument presented by any person other than the proper Customer as evidenced by the authorized signature on the Payment Instrument. A Customer may authorize another person to use his or her Payment Instrument for purchases, provided the user's signature appears on the back of the Payment Instrument. The signature on the back must match the one on the Transaction Data. If the Payment Instrument is not signed, in addition to requesting an authorization, you may review positive identification as allowed by local and state law, such as a passport or driver's license, to confirm that the user is the Customer, record the information and require the Customer to sign the signature panel of the Payment Instrument prior to completing the Transaction. You should not complete a Transaction if the Customer does not present his or her Payment Instrument or if you cannot obtain an electronic swipe record or physical imprint of the Payment Instrument (this includes mail, telephone and internet orders). By the submission of any Transaction Data to us, you will be deemed to warrant the identity of the purchaser as the authorized holder of the Payment Instrument, and if the Customer later denies making the purchase, you will not be able to rebut the Chargeback.

2 Completion Of Transactions

You must use a suitable imprinter to legibly imprint Payment Instruments on Transaction Data or, capture the information from the Payment Instrument by electronic data capture. A photocopy of the Payment Instrument is not an acceptable substitute for an imprint. If the account number is manually keyed into the terminal, you must imprint the Payment Instrument. Your name, location, city and state must match the Merchant plate on the imprinter. You must notify us of any changes to the information on the Merchant plate. In addition to having the Customer sign the Transaction receipt, the Transaction date and dollar amounts and other information must be clearly written or printed on the Transaction receipt or captured by an electronic device. A brief description of the goods sold or service rendered must be provided on the Transaction receipt. Authorization/approval code numbers must be clearly recorded in the appropriate place on the Transaction receipt. Never circle or underline any information on the Transaction receipt. Every Transaction Receipt and credit voucher must be imprinted (or printed from electronic draft capture equipment) with the Customer's truncated account number and Merchant name. You will give the Customer a true and completed copy of the Transaction Receipt or appropriate facsimile. If the Customer's copy of the Transaction receipt or credit voucher is printed from electronic draft capture equipment/terminal, it must comply with all applicable Payment Brand Rules and laws. You cannot require Customers to provide any personal information as a condition for honoring Payment Instruments unless otherwise required by the Payment Brand Rules or law. Personal information includes, but is not limited to, a home or business telephone number, a home or business address, a social security number, or a photocopy of a driver's license. You cannot retain or store full magnetic-stripe data, CVV2, CVC2 codes or PIN data after the authorization of a Payment Transaction or Conveyed Transaction, except as required to complete the transmission of such Transaction Data to us.

3 Forgeries/Counterfeit Payment Instruments

You should examine all notices received from us or from a Payment Brand to help you determine whether a Payment Instrument presented is counterfeit. You should attempt to retain the Payment Instrument while making an authorization request and then match any signature on the Payment Instrument with the one on the Transaction receipt. You should compare the account number on the Payment Instrument to the account number printed on the receipt or displayed on the terminal. You should examine each Payment Instrument to see if it looks genuine. You should use reasonable, peaceful efforts to recover any Payment Instrument if you have reasonable grounds to believe such Payment Instrument is counterfeit, fraudulent or stolen. You will be solely responsible for your actions in recovering/retaining Payment Instruments.

4 Travel And Entertainment Services

At your option and as specified in the applicable sections of the Payment Brand Rules, Merchants may participate in one or more specialized travel & entertainment services offered by any of the Payment Brands. Merchants offering travel and entertainment services must institute and comply with the procedures set forth in the Payment Brand Rules.

Specialized Rules for Mail Order, Telephone Order and Internet Transactions

1 Completion Of Sale

You are responsible for determining that the purchaser is the person whose name appears as the Customer. If an account number is transposed into an invalid or inaccurate account number, the sale will result in a Chargeback. You must be authorized by us to accept Payment Instruments for mail, telephone, internet and pre-authorized orders, and you must have noted such on your application to us. All information that would normally be imprinted from a Payment Instrument must be clearly written in the appropriate areas on the order or Transaction receipt. "Mail Order" or "Phone Order" should be written on the signature line of the Transaction receipt.

2 Recurring Transactions

For recurring transactions, you must obtain a written request from the Customer for the goods and services to be charged to the Customer's account, specifying the frequency of the recurring charge and the duration of time during which such charges may be made. You will not complete any recurring transaction after receiving: (i) a cancellation notice from the Customer (ii) notice from Paymentech or any Payment Brand that the Payment Instrument is not to be honored; or (iii) an authorization/approval code that the Payment Instrument is not to be honored. You must include in your Transaction Data the electronic indicator that the transaction is a recurring transaction.

Specialized Rules for Stored Value Transactions

1 Payment Instruments & Packaging

You may be obligated to purchase Stored Value Payment Transaction Payment Instruments ("Gift Cards") from us or pay us a data transfer fee in lieu thereof. Please check the pricing schedule of your Merchant Agreement to see if these requirements apply to you. If you are obligated to purchase Gift Cards from us or if you elect to do so, we will arrange for the Gift Card production and may, at our option, invoice you therefore, in lieu of electronically debiting your account. Any such invoice will be payable upon receipt. Gift Cards, Packaging and Point-of-purchase marketing materials are available and priced on a per bundle basis, based on current rates. All production and delivery timeframes and costs provided by us are estimates only and we do not guarantee any specific date of delivery or price for Gift Cards produced by third parties. You are responsible for all production costs and delivery charges for Gift Cards. The form and content of all Gift Cards will be subject to our approval.

2 Compliance and Warranties

You are solely responsible for complying with all applicable laws relating to your Gift Card program and you agree to indemnify and hold us harmless from any loss, damage or claim relating to or arising out of any failure to comply with applicable laws in connection therewith. You are solely responsible for monitoring the legal developments applicable to the operation of your Gift Card program and ensuring that your Gift Card program complies fully with such requirements as in effect from time to time. Merchant acknowledges that Paymentech cannot reasonably be expected to monitor and interpret the laws applicable to its merchants, and has no responsibility to monitor or interpret laws applicable to Merchant's business.

3 Fraud

You hereby agree (i) that you are responsible for ensuring that all Gift Cards require activation at the point of sale; (ii) to provide notification in writing to Paymentech of any fraud losses by type by fifteen days following the end of each calendar quarter; (iii) that you will be solely responsible for any and all value adding and fraud losses and expenses relating to or arising from your Gift Card; (iv) to discourage transportation of groups of sequentially numbered Gift Cards; and (v) to deactivate or otherwise remove all value from Gift Cards that have been compromised. You will be responsible for any fraudulent transactions involving your Gift Cards, including, without limitation, the unauthorized activation of Gift Cards, reloading of existing Gift Cards (whether pursuant to a manual telephone order or otherwise) with additional value, or the unauthorized replication of Gift Cards or Gift Card data for fraudulent transactions. Paymentech provides a number of tools and options to help Merchant reduce Merchant's risk of exposure for fraudulent transactions. We urge you to make use of any and all of such tools as we may offer in order to help reduce the risk of such transactions. In particular, we recommend that you utilize only those vendors that have been certified by Paymentech as having appropriate security measures in place to reduce the risk of counterfeit Gift Cards and the loss of sensitive Gift Card information that might result in unauthorized transactions, and we recommend that you promptly and frequently reconcile the transaction reports we provide to you against your own internal transaction records, and to report any unauthorized transactions to your account representative at Paymentech. Because manual Gift Card transactions (i.e. those involving the activation or reloading of Payment Instruments over the telephone in cases where your terminals may be unavailable) pose a higher risk of potential fraud, we urge you to pay special attention to these transactions and reconcile them on an even more frequent basis. In the event that you do not reconcile your transaction reports and promptly report any suspicious activity to us, Paymentech may not be able to assist you in canceling fraudulently activated or reloaded Gift Cards, or in otherwise identifying the source of any fraud.

CHASE Paymentech

Schedule A to Merchant Agreement

Merchant: **City of Bedford**

NAPSLSSCHEDAIPT 20121001 V2.0

Assumptions

Transaction-related assumptions	
Payment Transaction Sales Volume	$3,000,000
Average Transaction Amount	$125.00
PIN Debit / EBT Transactions	0
Conveyed Transactions	0

Other assumptions	
Number of locations	1
Authorization / Capture %	105%
Chargebacks as % of Sales Transactions	0.030%
Stored Value Transactions	0

Target Qualification Level:

Visa:	CPS RETAIL 2	VCR2
MasterCard:	PUBLIC SECTOR	MUPS
Discover:	PSL-PUBLIC SECTOR (CORE)	D161

1. Fees applied on every transaction *Visa, MasterCard and Discover assess an Interchange Rate, Interchange Fee, Assessment Fee & Network Fee for each transaction. These rates and fees will be passed thru at cost. Payment Brand interchange rates can be accessed by visiting the Learning & Resources section of Chase Paymentech's website, and selecting "Understanding Interchange".*

Payment Brand Interchange & any incremental discount rate %	
Visa, MasterCard & Discover Interchange Rates	as set by each Payment Brand
Visa, MasterCard & Discover Incremental Discount Rate	0.0300%
Billing Frequency:	Daily
PIN Debit and/or EBT Network Fees	All standard PIN Debit Network Fees will be assessed
PIN Debit - Incremental Discount Rate	0.03%
JCB (Japanese Credit Bureau)	N/A
Voyager Discount Rate (if settled):	N/A

Payment Brand Assessments		
Visa		0.110%
MasterCard	(Credit transactions < $1000 and all Debit transactions)	0.110%
MasterCard	(Credit transactions > $1000)	0.130%
Discover		0.105%

Payment Brand Network Fees	(Credit)	(Debit)
Visa Auth Processor Fee (APF)	$0.0195	$0.0155
MasterCard Network Access & Brand Usage Fee (NABU)	$0.0185	$0.0185
Discover Data Usage Fee	$0.0185	$0.0185

Transaction Fees	
MasterCard per transaction	N/A
Visa per transaction	N/A
Discover per transaction	N/A
JCB per transaction	N/A
American Express per transaction	N/A
PIN Debit per transaction	$0.0300
EBT per transaction	N/A
Check Verification - Scan per transaction	N/A
Voyager per transaction	N/A
Wright Express per transaction	N/A
Hosted Pay Page per transaction	N/A

Authorization Fees	
MasterCard per authorization	$0.0300
Visa per authorization	$0.0300
Discover per authorization	$0.0600
JCB per authorization	N/A
American Express per authorization	$0.0600
Voyager per authorization	N/A
Wright Express per authorization	N/A
Private Label per authorization	N/A
Dial Backup authorization surcharge	N/A

Encryption Fees	
Safetech Encryption per transaction	N/A

Communication Authorization Surcharge Fees	Credit	PIN Debit
Orbital VT Surcharge per authorization	$0.0200	$0.0300

Statement will reflect aggregate fee of Authorization Fee and Communication Authorization Surcharge Fee.

Customer Initials	X_____	Please initial to acknowledge page 1 of the Schedule A pricing sheet

2. One Time and Periodic Fees

One Time Fees	
Account Setup Fee	N/A
Rush Fee	N/A
Terminal Reprogram Fee	N/A
PIN Debit Setup Fee	N/A
PIN Pad Encryption Fee	N/A

Monthly Fees	
Monthly Service Fee [1]	N/A
Monthly Minimum Fee [2]	N/A
Monthly Helpdesk Fee	N/A
Online Reporting Tool	N/A
Safetech Encryption [3]	N/A

Monthly Fees - Pass Thru	
Visa Fixed Acquirer Network Fee [4]	Varies

Annual Fees	
Annual Fee	N/A

Internet Product: **Orbital Gateway / VT**

Setup Fee	Waived	Monthly Fee	Waived
Third Party Setup Fee	N/A	Third Party Monthly Fee	N/A

1 - Monthly service fees will be debited for the first time in the month after your account has been set up. These fees will be debited regardless of whether you are processing transactions through your account.

2 - If the total of all fees each month in section 1, 3, 4 and 5 do not equal the Monthly Minimum Fee, your account will be debited for the difference.

3 - If Merchant obtains point of sale device(s) from Chase Paymentech for use with Safetech Encryption, the following additional fees shall be assessed: (a) a one-time fee of $10.90 per device; and (b) an encryption injection fee of $34.95 per device per occurrence. These assessments are in addition to the above Safetech Encryption Fee(s). Merchant acknowledges and understands that its use of any fraud mitigation or security enhancement solution (e.g. an encryption product or service), whether provided to Merchant by Paymentech or a third party, in no way limits Merchant's obligation to comply with the Security Standards or Merchant's liabilities set forth in this Agreement.

4 - Visa Fixed Acquirer Network Fee is a monthly fee assessed by Visa based on Merchant Category Code (MCC), dollar volume, number of merchant locations, number of tax id's, and whether the physical Visa card is present or not present at the time of the transaction. This fee can vary monthly.

3. Per Incidence Fees

Per Incidence Fees - *Are charged every time your account incurs one of the below items*		
Statement Fee (emailed)	N/A	No charge if statements are sent to a valid email address
Statement Fee (mailed)	$5.00	Charged each month Paymentech mails a statement (whether at the request of Merchant or because delivery to a valid email address has failed)
Statement Fee (reprint)	N/A	Charged for each archived statement you request to have printed
Supplies: Billed Per Order	N/A	Charges for supply orders vary based on the items ordered
Chargeback Fee	$5.00	Charged when a cardholder or card-issuing bank formally protests a charge
Voice Authorization Fee	$0.65	Charged when you call the Voice Auth phone number to authorize a credit card
AVS Fee - Electronic	N/A	Charge for each electronic address verification authorization
Batch Settlement Fee	N/A	Charged for each batch of transaction(s) you submit for settlement
ACH Fee	$0.500	Charged for each ACH (transmission of funds) sent to your account
ACH Return Fee	N/A	Charged when Chase Paymentech is unable to debit fees from your account

Statement Type:	**E-Mail**	**Statement only**	Statement Frequency:	**Monthly**

Customer Initials	**X**_____	Please initial to acknowledge page 2 of the Schedule A pricing sheet

4. Stored Value Fees

Gift Card Program Type & Fees	
Gift Card Program:	**N/A**
Setup Fee	N/A
Monthly Fee	N/A
ACH Services Fee	N/A

Gift Card Fees	
Processing Fee per transaction	N/A
Block Activation Fee	N/A
Card Data File Fee	N/A

Cards, Packaging & Point-of-purchase marketing materials are available and priced on a per run basis, based on current rates. These rates are shown on the Gift Card Materials Order Form.

5. Payment Brand Fees - Per Incidence

MC AVS Auth Access Fee (Card Present)	$0.005	Charged by MasterCard when a merchant uses the address verification service to validate a cardholder address
MC AVS Auth Access Fee (Card Not Present)	$0.0075	
MC Account Status Fee (Intra-regional)	$0.025	Charged by MasterCard or Visa when a merchant uses this service to do an inquiry that a card number is valid
MC Account Status Fee (Inter-regional)	$0.030	
Visa Zero $ Account Verification Fee	$0.025	
MC Processing Integrity Fee	$0.055	Charged when a card is authorized but not deposited and the authorization is not reversed in a timely manner
Visa Misuse of Authorization Fee	$0.048	
Visa Zero Floor Limit Fee	$0.10	Charged when a transaction is deposited but never authorized
Visa Transaction Integrity Fee	$0.10	Applies to Visa Debit & Prepaid transactions that do not meet qualification criteria for Custom Payment Service (CPS) categories
MC Cross Border Assessment Fee	0.40%	Charged by MasterCard, Visa and Discover on foreign bank issued cards.
Visa International Service Assessment Fee	0.40%	
Discover International Service Fee	0.55%	
Visa Interregional IAF Fee	0.45%	Additional fee charged by Visa and Discover on foreign bank issued cards
Discover International Processing Fee	0.40%	
Visa Partial Auth Non-Participation Fee	$0.01	Applies to Petroleum merchants using automated fuel pumps that do not support Partial Authorization

6. Other Fees

Fee Description	(Amount)	Fee Description	(Amount)

Customer Initials	X_____	Please initial to acknowledge page 3 of the Schedule A pricing sheet

Equipment Swap Fees

Type	Description	Fee
Replacement Fee (swap)	In warranty - Terminals, Printers, & Pinpads [1]	$50.00
Replacement Fee (swap)	Out of warranty - Terminals, Printers, & Pinpads: Replacement (swap) fees vary based on Manufacturer and Model and will fall within the specified range to the right	$100 - $500
Injection Fee	All Injection types	$34.95
Restocking Fee	Return equipment for any reason other than repair	$150.00
Late Fee	For all equipment returned late, or not returned	$500.00

1 New Equipment Warranty timeframes

5 years - Verifone Vx5XX, Vx6XX, PP1000 SE180; Hypercom T42XX, P1300 Pinpad, Ingenico ICT250, IPP320

3 years - Verifone MX830 Pinpad

1 year - all other new equipment

In warranty coverage applies only to new equipment purchased or leased from Chase Paymentech

Amount payable upon Termination

In addition to the other amounts due under this Agreement (including without limitation, the fees and charges described in this Schedule A), you may owe an amount in the event you terminate this Agreement. Whether you will owe that amount, and how much you will owe, will be determined in accordance with Section 10 of the Merchant Agreement.

Payment Brand Charges

Part of the fees that we charge you for processing your transactions consist of fees we pay to the Payment Brands. These charges, called "Payment Brand Charges", include, but are not limited to, interchange rates, assessments, file transmission fees, access fees, and international and cross border fees. Therefore, in addition to the rates set forth above, you also will be charged Payment Brand Charges. Payment Brand interchange rates can be accessed online by visiting the Learning & Resources section of Chase Paymentech's website, and selecting "Understanding Interchange".

Please note that Chase Paymentech may, from time to time, elect not to charge you for certain existing, new or increased Payment Brand Charges. If we elect not to charge you, we still reserve the right to begin charging you for existing, new or increased Payment Brand Charges at any time in the future, upon notice to you. No such Payment Brand Charges will be imposed retroactively.

7. Authorized Signature

Authorized Representative Signature: Must appear on Merchant Application section 11

_____ _____

Printed Name Title

X_____ _____

Signature Date

Please ensure you have initialed pages 1, 2 and 3

AGENDA

Council Agenda Background

PRESENTER: Councilmember Olsen **DATE:** 02/12/13

Council Request

ITEM:

Discussion regarding the Bedford Connection being delivered to apartment complexes.

City Manager Review: _____

DISCUSSION:

Councilmember Olsen requested this item be placed on the agenda for discussion.

ATTACHMENTS:

Letter of Request

From: Olsen, Sherri
Sent: Wednesday, January 30, 2013 1:22 PM
To: Wells, Michael
Cc: Jacobs, Amanda
Subject: RE: Agenda

For the agenda how about....
Discussion regarding the Bedford Connection being delivered to apartment complexes.

Thank you!
Sherri