

CITY OF TEXAS CITY  
REGULAR CALLED CITY COMMISSION MEETING

AGENDA

WEDNESDAY, JUNE 5, 2019 - 5:00 P.M.  
KENNETH T. NUNN COUNCIL ROOM - CITY HALL  
1801 9th Ave. N.  
Texas City, TX 77590

PLEASE NOTE: Public comments and matters from the floor are generally limited to 3 minutes in length. If you would like to request to speak, please do so in advance of the meeting by filling out a Request To Address Commission form. All in attendance are required to remove hats and/or sunglasses (dark glasses) during meetings and to also silence all cell phones and electronic devices.

- (1) ROLL CALL
- (2) INVOCATION
- (3) PLEDGE OF ALLEGIANCE
- (4) REPORTS
  - (a) Human Resource Annual Report (Human Resource)
- (5) PUBLIC HEARING
  - (a) Brad Hoepfner requests to rezone from "O" (Open Space) to "E-4" (Commercial Warehouse) to construct a boat and RV storage facility. Being 10.808 acres of land out of Lot 13, C.C. Pettit's S/d. Located in the 13000 block of FM 3436.
- (6) PRELIMINARY ZONING APPROVAL
  - (a) Approve or deny request for Brad Hoepfner to rezone from "O" (Open Space) to "E-4" (Commercial Warehouse). Being 10.808 acres of land out of Lot 13, C.C. Pettit's S/d. Located in the 13000 block of FM 3436.
- (7) CONSENT AGENDA
  - (a) Approve City Commission Minutes for May 15, 2019 meeting. (City Secretary)
  - (b) Consider and take action on Resolution No. 19-043, appointing members to the Galveston County United Board of Health. (City Secretary)

- (c) Consider and take action on Resolution No. 19-044, approving revisions to the Personnel Policy. (Human Resources)
- (d) Consider and take action on Resolution No. 19-045, approving and awarding Bid No. 2019-069 Emergency Pharmaceuticals, Medical Supplies and Equipment Annual Contract. (Purchasing)
- (e) Consider and take action on Resolution No. 19-046, approving revisions to the Drug & Alcohol Policy. (Human Resources)
- (f) Consider and take action on Resolution No. 19-047, removing and appointing Board Members to the Texas City Housing Corporation. (City Secretary)
- (g) Consider and take action on Resolution No. 19-048, removing and appointing Board Members to the Texas City Harbour Authority. (City Secretary)
- (h) Consider and take action on Resolution No. 19-049, removing and appointing Board Members to the Danforth Health Facilities Corporation. (City Secretary)
- (i) Consider and take action on Resolution No. 19-050, authorizing the dissolution of the Danforth Health Facilities Corporation and the execution of a Certificate of Dissolution. (City Secretary)
- (j) Consider and take action on Resolution No. 19-051, acknowledging the receipt of the 2018 Annual Report from the Tax Increment Reinvestment Zone One (TIRZ #1) board. (City Secretary)
- (8) REGULAR ITEMS
  - (a) Consider and take action on Ordinance No. 19-11, establishing monthly and annual time limits regarding time spent by personnel on public information requests. (Legal)
  - (b) Consider and take action on Ordinance No. 19-12, amending the Code of Ordinance Chapter 52: Telecommunications by adding a new section, 52.111 "Network Nodes Fee Schedule" for the purpose of updating the City's Right-of-Way management. (City Secretary)
  - (c) Consider and take action on Ordinance No. 19-13, amending the City's fiscal year 2018-2019 budget to appropriate funds for office renovation at the Criminal Justice Center. (Finance)
- (9) PUBLIC COMMENTS
- (10) MAYOR'S COMMENTS
- (11) COMMISSIONERS' COMMENTS
- (12) ADJOURNMENT

NOTICE OF ANY SUBJECT APPEARING ON THIS AGENDA REGARDLESS OF HOW THE MATTER IS STATED MAY BE ACTED UPON BY THE CITY COMMISSION.

NOTICE: The City of Texas City will furnish free transportation to handicapped individuals via a 4-door sedan for anyone wishing to attend the City Commission meetings. Call 948-3111, City Secretary's Office before noon on Monday preceding the meeting to make arrangements.

I, THE UNDERSIGNED AUTHORITY, DO HEREBY CERTIFY THAT THIS NOTICE OF MEETING WAS POSTED ON THE BULLETIN BOARDS AT CITY HALL, 1801 9TH AVENUE NORTH, TEXAS CITY, TEXAS, AT A PLACE CONVENIENT AND READILY ACCESSIBLE TO THE GENERAL PUBLIC AND ON THE CITY'S WEBSITE ON MAY 31, 2019, PRIOR TO 5:00 P.M. AND REMAINED SO POSTED CONTINUOUSLY FOR AT LEAST 72 HOURS PRECEDING THE SCHEDULED TIME OF SAID MEETING.

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NICHOLAS J. FINAN  
CITY SECRETARY

**CITY COMMISSION REGULAR MTG**

**(5) (a)**

**Meeting Date:** 06/05/2019

Rezoning Public Hearing for Brad Hoepfner

**Submitted For:** Jean Vincent, Transportation and Planning

**Submitted By:** Jean Vincent, Transportation and Planning

**Department:** Transportation and Planning

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**Information**

**ACTION REQUEST (Brief Summary)**

Brad Hoepfner requests to rezone from "O" (Open Space) to "E-4" (Commercial Warehouse) to construct a boat and RV storage facility. Being 10.808 acres of land out of Lot 13, C.C. Pettit's S/d. Located in the 13000 block of FM 3436.

**BACKGROUND**

This request came before the Zoning Commission during a Public Hearing held on May 7, 2019. There was no opposition to the rezoning request and the proposed use follows the Land Use Plan for the City. After hearing all pertinent information the Zoning Commission unanimously approved the request to rezone.

**ANALYSIS**

**ALTERNATIVES CONSIDERED**

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**Fiscal Impact**

**Attachments**

Zoning Minutes

Aerial and Exhibits

Staff Report

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## ZONING COMMISSION MINUTES

May 7, 2019

The Zoning Commission of the City of Texas City met in a regularly scheduled meeting and Public Hearing on Tuesday, May 7, 2019 at 5:15 p.m. Commission members present were: Chairman Perry O'Brien, Gary Potter, Aric Owens, Thelma Bowie and Commissioner Bruce Clawson. Staff members present were: George Schonert and Doug Kneupper. Citizens present were: Robert Harness and Brad Hoepfner.

Chairman O'Brien addressed those present and explained the procedures for the Public Hearing. He indicated a quorum was present and called the meeting to order.

**APPROVAL OF MINUTES:** The minutes from April 16, 2019 were approved on a motion by Gary Potter/Thelma Bowie. All members present voted aye.

**ITEM NO. 1 Brad Hoepfner requests to rezone from "O" (Open Space) to "E-4" (Commercial Warehouse) to construct a boat and RV storage facility. Being approximately 10.8 acres of land out of Lot 13, C.C. Pettit's S/d. Located in the 3000 block of FM 3436.** Mr. Doug Kneupper addressed the members and provided the background information for this request. He stated the applicant intends to construct an indoor boat and RV storage facility. He indicated all the property surrounding this property are zoned Open Space which is the assigned zoning designated for this area when the City annexed the area in 2005. Mr. Kneupper also indicated there has been some development in the vicinity such as Talon Air/Galveston Bay Beer Company, the DISD school, Bethel Christian Church and a seafood warehouse. The Land Use Plan supports the intended zoning and use of the proposal. There is no city water or sewer available to this site and this will require an on-site water well along with a water storage tank for fire protection. There is good vehicle circulation and access from FM 3436, FM 646 and FM 517. This property is located within a floodplain and will require the finished floor to be elevated. Driveway access and drainage will need to be coordinated with TxDOT. After review, the City staff has no objection to the rezoning request. Mr. Kneupper indicated the applicant was present to answer any questions and 6 property owners were notified of the rezoning intent and to date no letters or calls of opposition have been received. Chairman O'Brien asked if there were any questions from the members. There were no questions and **a motion to open the Public Hearing was made by Gary Potter/Thelma Bowie. All members present voted aye.** Chairman O'Brien asked if there were any questions for the applicant and there were none. **A motion was then made by Thelma Bowie/Gary Potter to close the Public Hearing. All members present voted aye.** Chairman O'Brien asked if there was any further discussion and since there was none, **a motion was made by Thelma Bowie/Gary Potter to approve the request to rezone to "E-4" (Commercial Warehouse). All members present voted aye.**

There was no further business to discuss at this time and **a motion was made by Thelma Bowie/Gary Potter to adjourn. All members present voted aye.**

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Perry O'Brien, Chairman



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Zoning Commission Secretary

**CURRENT ZONING MAP**



# Land - Use Plan



**JAMES W. GARTRELL, JR., PE, RPLS**

GULF COAST ENGINEERING  
AND SURVEYING (F-4534)

CONSULTING ENGINEER - SURVEYOR  
P.O. BOX 382 LA MARQUE, TEXAS 77568

409 / 935-2462 TEXAS CITY 281 / 488-6969 HOUSTON



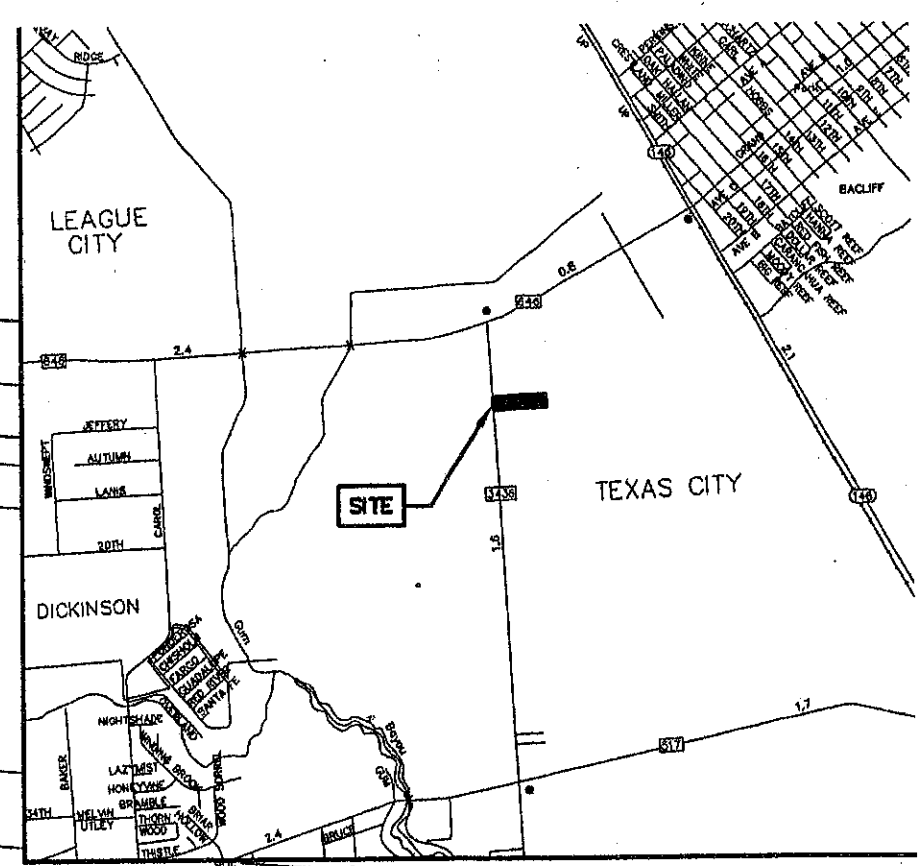
**OWNER**

**BRAD HOEPFNER**

**819 GROVE**

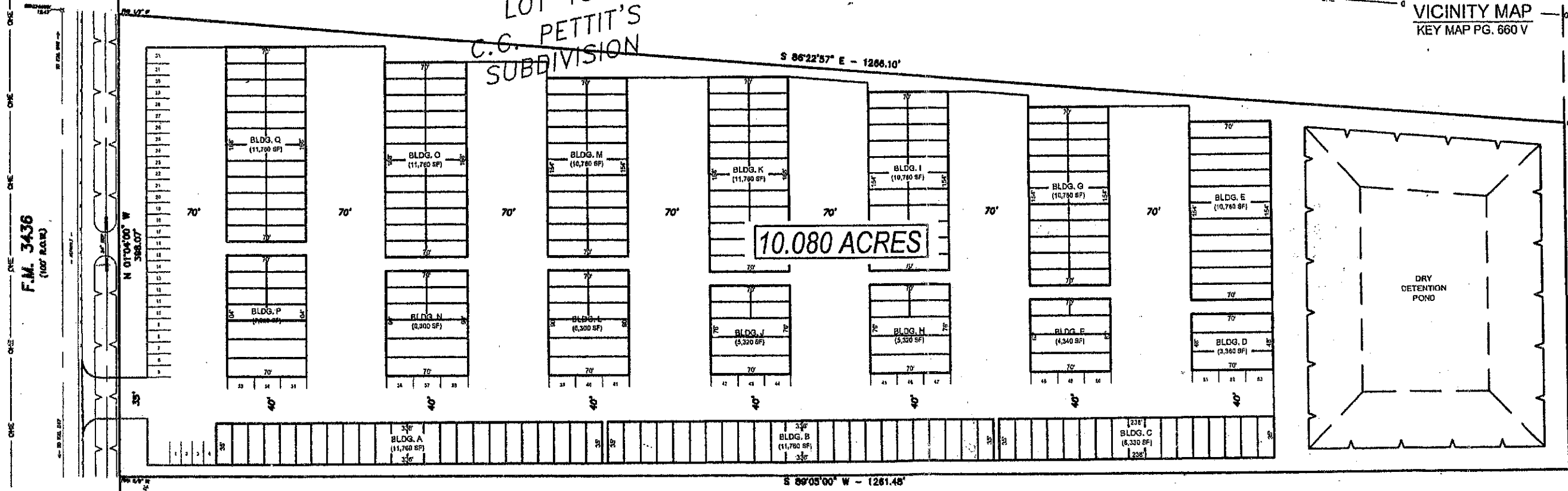
**CLEAR LAKE SHORES, TX 77565**

**(281) 628-0942**



VICINITY MAP  
KEY MAP PG. 660 V

LOT 13  
C.C. PETTIT'S  
SUBDIVISION



10.080 ACRES

B.B.B.&C.  
R.R. Co.  
SURVEY,  
ABST. 629

AGG/REDDY FAMILY LIMITED  
PARTNERSHIP, LP  
R231986  
106.229 ACRES

LOT 12  
C.C. PETTIT'S  
SUBDIVISION

KIGHT PROPERTIES, LLC  
R322317  
10.710 ACRES

**ZONING EXHIBIT**

PROPOSED BRAD'S BOAT STORAGE  
TEXAS CITY, GALVESTON COUNTY, TEXAS

CURRENT ZONE "O" - OPEN SPACE (VACANT)  
PROPOSED ZONE "E" - GENERAL BUSINESS

# Memo

To: Zoning Commission  
From: Doug Kneupper, City Engineer  
CC:  
Date: May 2, 2019  
Re: Commercial Warehouse Zoning, Boat & RV Storage, 13100 FM 3436

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**Background:** The applicant owns 10 acres of undeveloped property on FM3436 just south of the overhead power line corridor, approximately 3/10 mile from the intersection of FM 646, and north of the new DISD Intermediate school. The applicant intends to construct an indoor boat and RV storage facility. To be able to utilize the property in this manner, a zone change is needed from the current Open Space (O) to Commercial Warehouse (E-4). (an identical request was approved by the City in January 2015, however, the project did not move forward and the zoning approval reverted back to "O")

As indicated on the attached zoning map, all of the surrounding properties are zoned Open Space; this was the zoning assigned when the area was annexed by Texas City in 2005. However, there has been development in the vicinity such as Talon Air / Galveston Bay Beer Company, the DISD school, Bethel Christian Church, and a seafood warehouse. As shown on the aerial image, this area has limited development.

The Land Use Plan supports the intended zoning and use. There are Activity Corridor areas shown along FM3436, FM 646, and FM 517. Within this category, higher intensity commercial, outdoor display and warehousing land uses are supported.

**Analysis / Recommendation:** If approved, the Commercial Warehouse zoning would accommodate limited warehousing and storage of goods and materials, and all warehousing is to be completely within an enclosed building. City water was extended to the school site, but is not available for this site, so an on-site water well will be required along with a water storage tank for fire protection. Access from FM3436 and the proximity to SH 146 provide good vehicle circulation for this location. FEMA Flood Insurance Rate Maps indicate this property is within a floodplain, so the finished floor of the storage units will need to be elevated. The driveway access and drainage to FM 3436 will need to be coordinated with TxDOT.

Based on the surrounding land uses, development and zoning, access from adjacent thoroughfares, the ability to provide adequate water for fire protection, city staff has no objection to the rezoning request.

**CITY COMMISSION REGULAR MTG**

**(6) (a)**

**Meeting Date:** 06/05/2019

Rezoning Property for Brad Hoepfner

**Submitted For:** Jean Vincent, Transportation and Planning

**Submitted By:** Jean Vincent, Transportation and Planning

**Department:** Transportation and Planning

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**Information**

**ACTION REQUEST (Brief Summary)**

Approve or deny request for Brad Hoepfner to rezone from "O" (Open Space) to "E-4" (Commercial Warehouse). Being 10.808 acres of land out of Lot 13, C.C. Pettit's S/d. Located in the 13000 block of FM 3436.

**BACKGROUND**

This request was approved by the Zoning Commission during a Public Hearing held on May 7, 2019. There was no opposition to the rezoning request and the proposed use is consistent with the Land Use Plan for this area.

**ANALYSIS**

**ALTERNATIVES CONSIDERED**

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**Fiscal Impact**

**CITY COMMISSION REGULAR MTG**

**(7) (a)**

**Meeting Date:** 06/05/2019

**Submitted By:** Rhomari Jackson-Glover, City Secretary

**Department:** City Secretary

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**Information**

**ACTION REQUEST (Brief Summary)**

Approve City Commission Minutes for May 15, 2019 meeting. (City Secretary)

**BACKGROUND**

**ANALYSIS**

**ALTERNATIVES CONSIDERED**

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**Fiscal Impact**

**Attachments**

Minutes

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REGULAR CALLED CITY COMMISSION MEETING

MINUTES

WEDNESDAY, MAY 15, 2019 – 5:00 P.M.  
KENNETH T. NUNN COUNCIL ROOM – CITY HALL

A Regular Called Meeting of the City Commission was held on Wednesday, MAY 15, 2019, at 5:00 P.M. in the Kenneth T. Nunn Council Room in City Hall, Texas City, Texas. A quorum having been met, the meeting was called to order at 5:03 p.m. by Mayor Matthew T. Doyle.

1. ROLL CALL

Present: Matthew T. Doyle, Mayor  
Phil Roberts, Mayor Pro Tem, Commissioner At-Large  
Bruce Clawson, Commissioner At-Large  
Earl Alexander, Commissioner District 1  
Abel Garza, Jr., Commissioner District 2  
Dorthea Jones, Commissioner District 3  
Jami Clark, Commissioner District 4

2. INVOCATION

Led by James Hartshorn, Deputy Director of Management Service.

3. PLEDGE OF ALLEGIANCE

Led by Commissioner A-Large Bruce Clawson.

4. PROCLAMATIONS AND PRESENTATIONS

a. Certificate of Recognition to the Texas City ISD Robotics Program.

Mayor Doyle recognized students from the Robotics Club's at Texas City High School, Roosevelt Wilson Elementary and Blocker Middle School for the awards they received at the VEX World Championship in Louisville, Kentucky.

b. Service Awards

|                 |                 |            |          |
|-----------------|-----------------|------------|----------|
| Brittany Coburn | Sanitation      | 05/29/2009 | 10 years |
| Thomas Robison  | Police          | 05/24/2009 | 10 years |
| Beau Seelen     | Public Works    | 05/19/2009 | 10 years |
| Erdkin Hill     | Public Works    | 05/19/2009 | 10 years |
| Justin Riedel   | Fire            | 05/18/2009 | 10 years |
| William Behan   | Fire            | 05/18/2009 | 10 years |
| Michael Rusnak  | Fire            | 05/18/2009 | 10 years |
| Catalino Soto   | Fire            | 05/18/2009 | 10 years |
| Hector Batista  | Fire            | 05/18/2009 | 10 years |
| Francis Cook    | Municipal Court | 05/14/2009 | 10 years |

|                  |            |            |          |
|------------------|------------|------------|----------|
| Ricardo Ramos    | Bayou Golf | 05/05/2009 | 10 years |
| Bernice Hibbitts | Water      | 05/03/2004 | 15 years |
| Terry Stenson    | Fire       | 05/03/2004 | 15 years |
| Jess Colwell     | Police     | 05/15/1989 | 30 years |

c. Medal of Valor Presentation (Police Department)

Police Chief Joseph Stanton presented Lieutenant Manuel Johnson, Sergeant Randall Johnston, Officer Robert Judson, Officer Chris Ham, Officer Matthew Macik, and Officer Geoffrey Milillo with the Medal of Valor for their bravery during last year's Santa Fe tragedy.

5. REPORTS

a. Annual Library Report (Library)

Luke Alvey gave a PowerPoint presentation showcasing the different programs and activities the Moore Memorial Library will be hosting this summer.

b. Athletic Division (Recreation and Tourism)

Michael Richardson gave a PowerPoint presentation over the increased youth activities being offered year-round, throughout the city.

6. CONSENT AGENDA

Motioned by Commissioner At-Large Bruce Clawson, seconded by Commissioner District 2 Abel Garza, Jr. to approve Consent Agenda items a, b, c, and e.

a. Approve City Commission Minutes for May 1, 2019 meeting. (City Secretary)

**Vote: 7 - 0 CARRIED**

b. Consider and take action on Resolution No. 19-039, approving a contract for Bid No. 2019-366 Shared Use Path. (Public Works)

**Vote: 7 - 0 CARRIED**

c. Consider and take action on Resolution No. 19-040, appointing Nicholas Finan as the City Secretary. (Management Services)

**Vote: 7 - 0 CARRIED**

d. Consider and take action on Resolution No. 19-041, authorizing the Mayor to enter into an agreement with Gamma Construction Company, Inc. for the Construction Manager at Risk for the Texas City Training Center. (Public Works)

Item pulled by Mayor Doyle.

David Zacherl, Fire Cheif, stated bids for this project were opened and scored on April 9th and Gamma Construction Company had the highest score.

- e. Consider and take action on Resolution No. 19-042, approving a contract for Bid No. 2019-368 Lift Station SCADA Improvements - Phase 1. (Public Works)

**Vote: 7 - 0 CARRIED**

7. REGULAR ITEMS

- a. Consider and take action on Ordinance No. 19-10, amending the City's fiscal year 2018-2019 budget to appropriate funds for Bay Street Shared Use Path. (Finance)

Laura Boyd, Finance Director, stated that the Bay Street Use Path is a federal fund and local match project totaling approximately \$512,692.00

Motion by Commissioner At-Large Bruce Clawson, Seconded by Commissioner District 3 Dorthea Jones

**Vote: 7 - 0 CARRIED**

8. STAFF COMMENTS

Jennifer Price, Human Resource Director, stated that the Health and Safty Fair will be held on May 17, 2019.

Luke Alvey, Library Director, introduced the new Assistant Library Director, Cheryl Loewen.

Nicholas Finan, Executive Director of Management Services, congratulated James Hartshorn.

David Zacherl, Fire Chief, stated that the Firefighter Games will be held on May 18th and 19th.

James Hartshorn, City Secretary, thanked everyone for their well-wishes.

George Schonert, Chief Building Official, stated that the Lago Mar Crystal Lagoon has received their approved permits for above ground amenities.

9. MAYOR'S COMMENTS

Mayor Doyle wished James Hartshorn a successful career in Pflugerville.

10. COMMISSIONERS' COMMENTS

Bruce Clawson congratulated James Hartshorn and wished the Texas City Police Department a happy Police Appreciation Week.

Phil Roberts thanked Jess Colwell for his 30 years of service as a Police Officer.

Dorthea Jones congratulated Michael Skiba on the success of the United Way Golf Tournament.

11. ADJOURNMENT

Having no further business, Commissioner At-Large Phil Roberts made a MOTION to ADJOURN at 5:46 p.m.; the motion was SECONDED by Commissioner District 3 Dorthea Jones. All present voted AYE. MOTION CARRIED.

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MATTHEW T. DOYLE, MAYOR

ATTEST:

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Nicholas J. Finan, City Secretary

**CITY COMMISSION REGULAR MTG**

(7) (b)

**Meeting Date:** 06/05/2019

**Submitted By:** Rhomari Jackson-Glover, City Secretary

**Department:** City Secretary

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**Information**

**ACTION REQUEST (Brief Summary)**

Consider and take action on Resolution No. 19-043, appointing members to the Galveston County United Board of Health. (City Secretary)

**BACKGROUND**

The attached members are offered by the County Judge and recommended by the Mayor Doyle. Barry Terrell and Dr. Chad Clause are new appointments and would be municipal representatives. Their background is attached.

**ANALYSIS**

**ALTERNATIVES CONSIDERED**

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**Fiscal Impact**

**Attachments**

Resolution

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**RESOLUTION NO. 19-043**

**A RESOLUTION ENDORSING THE APPOINTMENTS OF MUNICIPALITY REPRESENTATIVES TO COMPLETE THE TERM ON THE GALVESTON COUNTY UNITED BOARD OF HEALTH; AND PROVIDING THAT THIS RESOLUTION SHALL BECOME EFFECTIVE FROM AND AFTER ITS PASSAGE AND ADOPTION.**

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**WHEREAS**, members of the Galveston County United Board of Health are nominated by the Galveston County Commissioners Court and confirmed by the Member Governments of the Health District; and

**WHEREAS**, the appointment of members is under consideration; and

**WHEREAS**, the Galveston County Commissioners' Court has made its nominations.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF TEXAS CITY, TEXAS:**

**SECTION 1:** That the City Commission of the City of Texas City, Texas, hereby endorses the following re-appointments and appointments to the Galveston County United Board of Health.

*Term will be May 1, 2019 – April 30, 2020*

| <b><u>Name</u></b> | <b><u>Represents</u></b>       |
|--------------------|--------------------------------|
| Barry Terrell      | Municipality (new appointment) |

*Term will be May 1, 2019 – April 30, 2021*

| <b><u>Name</u></b> | <b><u>Represents</u></b>       |
|--------------------|--------------------------------|
| Dr. Chad Clause    | Municipality (new appointment) |

**SECTION 2:** That this Resolution shall be in full force and effect from and after its passage and adoption.

**PASSED AND ADOPTED this 5th day of June 2019.**

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Matthew T. Doyle, Mayor  
City of Texas City, Texas

ATTEST:

APPROVED AS TO FORM:

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James M. Hartshorn  
City Secretary

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Russell F. Plackemeier  
City Attorney

**CITY COMMISSION REGULAR MTG**

**(7) (c)**

**Meeting Date:** 06/05/2019

Consider and take action on Resolution No. XX-XXX, approving revisions to the City of Texas City's Personnel Policy. (Human Resources)

**Submitted For:** Jennifer Price, Human Resources

**Submitted By:** Jennifer Price, Human Resources

**Department:** Human Resources

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**Information**

**ACTION REQUEST (Brief Summary)**

Consider and take action on Resolution No. 19-044, approving revisions to the personnel policy. (Human Resources)

**BACKGROUND**

This resolution is to approve a revision to 2.04 Nepotism in the Personnel Policy.

**Current Policy**

**2.04 NEPOTISM**

Husband and wives, of formal marriage and/or common-law marriage, may not hold full-time positions with the City at the same time. In the event of a relationship prohibited by this policy, one or both of the affected employees will be required to resign from employment.

No employee may directly or indirectly supervise or be supervised by a member of their immediate family or by anyone within the third degree of consanguinity. An immediate family member includes a spouse, child, parent, sibling, grandparents, grandchild, spouse of any of the foregoing, or anyone otherwise cohabitating with the employee. In the event of a promotion, reorganization, or any other situation giving rise to a relationship prohibited by this policy, one or both of the affected employees must immediately seek a transfer to another available position within the City for which he or she is qualified and that meets the requirements of this policy. If a suitable transfer cannot be made, within 30 calendar days of the event giving rise to a relationship prohibited by this policy, one or both of the affected employees will be required to resign from employment.

The City will recognize the "Civil Law Method" to determine nepotism.

**PLEASE REFER TO**

**EXHIBIT A ATTACHED**

**Consanguinity & Affinity Relationship**

**Proposed**

**2.04 NEPOTISM**

In order to promote a work atmosphere conducive to accomplishing City goals, to maintain effective management controls and to minimize the possibility of conflicts involving personal relationships that may hinder the effectiveness of the organization, the City of Texas City will not employ, in the same department, those individuals who are married (including common law). For the purpose of this policy, departments are defined as:

- Administration (including legal, purchasing and data processing)
- Emergency Management
- Fire
- Library
- Municipal Court
- Parks and Recreation (including golf)
- Planning (including inspections and community development)
- Police (including animal control)
- Public Works (including sanitation, rainwater pump station and utilities)

No employee may directly or indirectly supervise or be supervised by a member of their immediate family or by anyone within the third degree of consanguinity and second degree of affinity. An immediate family member includes a spouse, child, parent, sibling, grandparent, grandchild, spouse of any of the foregoing, or anyone otherwise cohabitating with the employee.

In the event of a marriage, promotion, reorganization, or any other situation giving rise to a relationship prohibited by this policy, one of the affected employees must immediately seek a transfer to another available position within the City for which the employee is qualified and that meets the requirements of this policy. If a suitable transfer cannot be made within thirty (30) days of the event giving rise to a relationship prohibited by this policy, one of the affected employees will be required to resign from employment. If no choice is made by the employees, the City will be authorized to make the decision as to which one shall leave City employment.

It shall be the responsibility of the department head to determine if any current or prospective employee is affected by these regulations and, if so, take appropriate action consistent with this policy.

**ANALYSIS**

**ALTERNATIVES CONSIDERED**

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**Fiscal Impact**

**Attachments**

- Resolution
  - Nepotism Policy
  - Nepotism Chart
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## RESOLUTION NO. 18-042

### **A RESOLUTION APPROVING REVISIONS TO THE CITY OF TEXAS CITY'S PERSONNEL POLICY; AND PROVIDING THAT THIS RESOLUTION SHALL BECOME EFFECTIVE FROM AND AFTER ITS PASSAGE AND ADOPTION.**

**WHEREAS**, the last reprint of the City's Personnel Policy was effective May 16, 2018; and

**WHEREAS**, the Human Resource Department would like to revise 2.04 Nepotism in the Personnel Policy as such:

#### **Current Policy**

##### **2.04 NEPOTISM**

Husband and wives, of formal marriage and/or common-law marriage, may not hold full-time positions with the City at the same time. In the event of a relationship prohibited by this policy, one or both of the affected employees will be required to resign from employment.

No employee may directly or indirectly supervise or be supervised by a member of their immediate family or by anyone within the third degree of consanguinity. An immediate family member includes a spouse, child, parent, sibling, grandparents, grandchild, spouse of any of the foregoing, or anyone otherwise cohabitating with the employee. In the event of a promotion, reorganization, or any other situation giving rise to a relationship prohibited by this policy, one or both of the affected employees must immediately seek a transfer to another available position within the City for which he or she is qualified and that meets the requirements of this policy. If a suitable transfer cannot be made, within 30 calendar days of the event giving rise to a relationship prohibited by this policy, one or both of the affected employees will be required to resign from employment.

The City will recognize the "Civil Law Method" to determine nepotism.

#### **PLEASE REFER TO EXHIBIT A ATTACHED Consanguinity & Affinity Relationship**

#### **Proposed**

##### **2.04 NEPOTISM**

In order to promote a work atmosphere conducive to accomplishing City goals, to maintain effective management controls and to minimize the possibility of conflicts involving personal relationships that may hinder the effectiveness of the organization, the City of Texas City will not employ, in the same department, those individuals who are married (including common law). For the purpose of this policy, departments are defined as:

- Administration (including legal, purchasing and data processing)
- Emergency Management

- Fire
- Library
- Municipal Court
- Parks and Recreation (including golf)
- Planning (including inspections and community development)
- Police (including animal control)
- Public Works (including sanitation, rainwater pump station and utilities)

No employee may directly or indirectly supervise or be supervised by a member of their immediate family or by anyone within the third degree of consanguinity and second degree of affinity. An immediate family member includes a spouse, child, parent, sibling, grandparent, grandchild, spouse of any of the foregoing, or anyone otherwise cohabitating with the employee.

In the event of a marriage, promotion, reorganization, or any other situation giving rise to a relationship prohibited by this policy, one of the affected employees must immediately seek a transfer to another available position within the City for which the employee is qualified and that meets the requirements of this policy. If a suitable transfer cannot be made within thirty (30) days of the event giving rise to a relationship prohibited by this policy, one of the affected employees will be required to resign from employment. If no choice is made by the employees, the City will be authorized to make the decision as to which one shall leave City employment.

It shall be the responsibility of the department head to determine if any current or prospective employee is affected by these regulations and, if so, take appropriate action consistent with this policy.

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF TEXAS CITY, TEXAS:**

**SECTION 1:** That the City Commission hereby approves the amendments to the City of Texas City Personnel Policy, as set out on **Exhibit “A”** attached hereto and made a part hereoffor all intents and purposes.

**SECTION 2:** That this Resolution shall be in full force and effect from and after its passage and adoption.

**PASSED AND ADOPTED this 5th day of June 2019.**

\_\_\_\_\_  
Matthew T. Doyle, Mayor  
City of Texas City, Texas

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Nicholas J. Finan  
City Secretary

\_\_\_\_\_  
Russell F. Plackemeier  
City Attorney

## **Current**

Husband and wives, of formal marriage and/or common-law marriage, may not hold full-time positions with the City at the same time. In the event of a relationship prohibited by this policy, one or both of the affected employees will be required to resign from employment.

No employee may directly or indirectly supervise or be supervised by a member of their immediate family or by anyone within the third degree of consanguinity. An immediate family member includes a spouse, child, parent, sibling, grandparents, grandchild, spouse of any of the foregoing, or anyone otherwise cohabitating with the employee. In the event of a promotion, reorganization, or any other situation giving rise to a relationship prohibited by this policy, one or both of the affected employees must immediately seek a transfer to another available position within the City for which he or she is qualified and that meets the requirements of this policy. If a suitable transfer cannot be made, within 30 calendar days of the event giving rise to a relationship prohibited by this policy, one or both of the affected employees will be required to resign from employment.

## **Proposed**

In order to promote a work atmosphere conducive to accomplishing City goals, to maintain effective management controls and to minimize the possibility of conflicts involving personal relationships that may hinder the effectiveness of the organization, the City of Texas City will not employ, in the same department, those individuals who are married (including common law). For the purpose of this policy, departments are defined as:

- Administration (including legal, purchasing and data processing)
- Emergency Management
- Fire
- Library
- Municipal Court
- Parks and Recreation (including golf)
- Planning (including inspections and community development)
- Police (including animal control)
- Public Works (including sanitation, rainwater pump station and utilities)

No employee may directly or indirectly supervise or be supervised by a member of their immediate family or by anyone within the third degree of consanguinity and second degree of affinity. An immediate family member includes a spouse, child, parent, sibling, grandparent, grandchild, spouse of any of the foregoing, or anyone otherwise cohabitating with the employee.

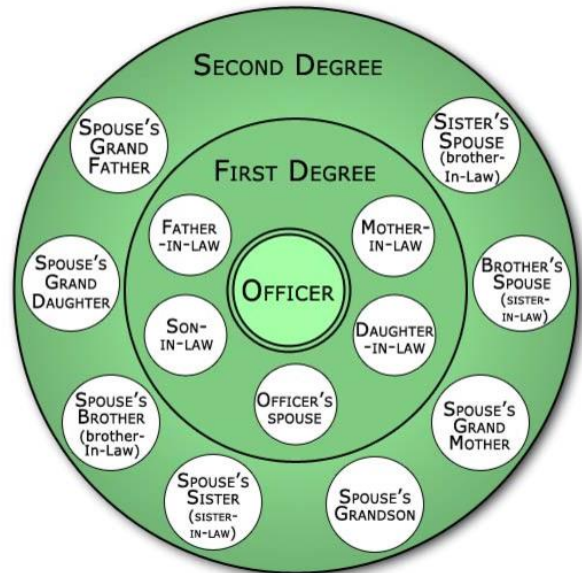
In the event of a marriage, promotion, reorganization, or any other situation giving rise to a relationship prohibited by this policy, one of the affected employees must immediately seek a transfer to another available position within the City for which the employee is qualified and that meets the requirements of this policy. If a suitable transfer cannot be made within thirty (30) days of the event giving rise to a relationship prohibited by this policy, one of the affected employees will be required to resign from employment. If no choice is made by the employees, the City will be authorized to make the decision as to which one shall leave City employment.

It shall be the responsibility of the department head to determine if any current or prospective employee is affected by these regulations and, if so, take appropriate action consistent with this policy.

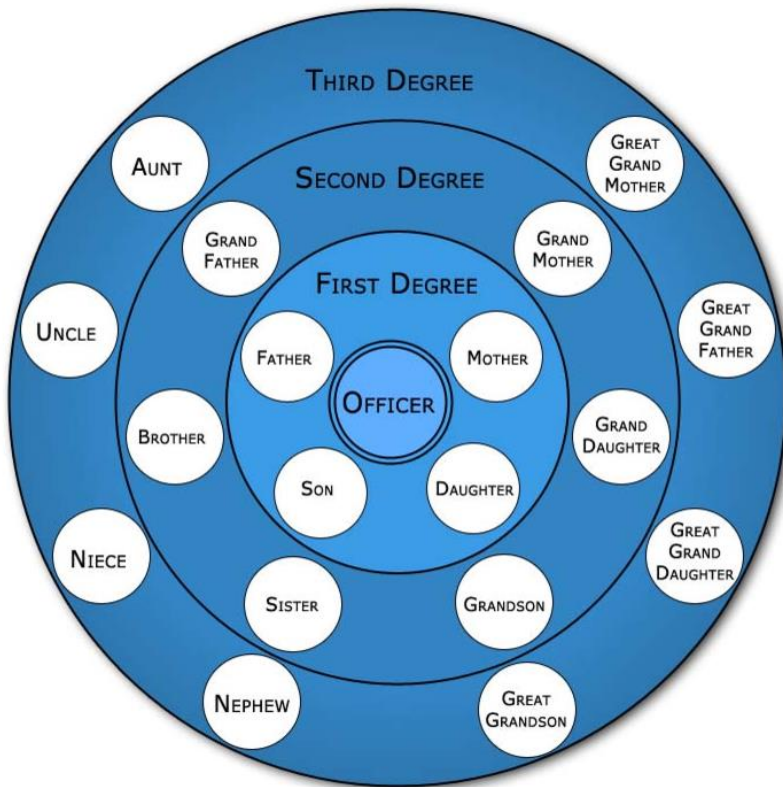
## NEPOTISM CHART

The chart below shows

- **Affinity Kinship** (relationship by marriage)
- **Consanguinity Kinship** (relationship by blood) for purposes of interpreting



**AFFINITY KINSHIP**  
Relationship by Marriage



**CONSANGUINITY KINSHIP**  
Relationship by Blood

**CITY COMMISSION REGULAR MTG**

(7) (d)

**Meeting Date:** 06/05/2019

2019-069 EMERGENCY PHARMACEUTICALS, MEDICAL SUPPLIES AND EQUIPMENT ANNUAL CONTRACT

**Submitted For:** Debbie Gurka, Administration

**Submitted By:** Debbie Gurka, Administration

**Department:** Purchasing

---

**Information**

**ACTION REQUEST (Brief Summary)**

Consider and take action on Resolution No. 19-045, approving and awarding Bid No. 2019-069 Emergency Pharmaceuticals, Medical Supplies and Equipment Annual Contract. (Purchasing)

**BACKGROUND**

On April 26, 2019 bid packets were mailed to vendors. A Bid Tabulation and Letter of Recommendation are attached for your review.

**ANALYSIS**

The low responsible bid (s) are as follows, for the unit price bid:

Section 1: Life Assist, Inc.

Section 2: Bound Tree Medical, LLC

It is the recommendation of Captain Wendell Wiley, EMS Administrator, to award Bid # 2019-069 Emergency Pharmaceuticals, Medical Supplies and Equipment Annual Contract as shown above; for the unit prices bid and that the Mayor is authorized to execute a contract (s) on behalf of the City Commission.

**ALTERNATIVES CONSIDERED**

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**Fiscal Impact**

**Attachments**

Resolution

Bid Tabulation

Letter of Recommendation

---

**RESOLUTION NO. 19-045**

**A RESOLUTION APPROVING AND AWARING BID NO. 2019-069 FOR EMERGENCY PHARMACEUTICALS, MEDICAL SUPPLIES AND EQUIPMENT AND AUTHORIZING THE MAYOR TO ENTER INTO AN ANNUAL CONTRACT; AND PROVIDING THAT THIS RESOLUTION SHALL BECOME EFFECTIVE FROM AND AFTER ITS PASSAGE AND ADOPTION.**

---

**WHEREAS**, on April 26, 2019, bids were mailed to area vendors for an annual contract for Bid No. 2019-069 Emergency Pharmaceuticals, Medical Supplies and Equipment; and

**WHEREAS**, the lowest bids meeting specifications were submitted by Life Assist, Inc., Rancho Cordova, CA for Section 1, and Bound Tree Medical, LLC., Dublin, Ohio, for Section 2.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF TEXAS CITY, TEXAS:**

**SECTION 1:** That the successful bidder for the annual contract for Bid No. 2019-069 Emergency Pharmaceuticals, Medical Supplies and Equipment is as follows:

|                          |           |
|--------------------------|-----------|
| Life Assist, Inc.        | Section 1 |
| Bound Tree Medical, LLC. | Section 2 |

**SECTION 2:** That the Mayor is hereby authorized to enter into an agreement with Life Assist, Inc. and Bound Tree Medical, LLC., for emergency pharmaceuticals, medical supplies and equipment for the unit prices bid as set out in **Exhibit "A"** attached hereto and made a part hereof for all intents and purposes.

**SECTION 3:** That this Resolution shall be in full force and effect from and after its passage and adoption.

**PASSED AND ADOPTED this 5th day of June 2019.**

---

Matthew T. Doyle, Mayor  
City of Texas City, Texas

ATTEST:

APPROVED AS TO FORM:

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Nicholas J. Finan

---

Russell F. Plackemeier

City Secretary

City Attorney

# BID TABULATION

Bid # 2019-069

## EMERGENCY PHARMACEUTICALS, MEDICAL SUPPLIES AND EQUIPMENT ANNUAL CONTRACT

Bid Opening: Tuesday, May 14, 2019 at 2:00 p.m.

| <b>Company</b>   | QUADMED         | PHYSIO<br>CONTROL<br>STRIKER | LIFE ASSIT      | HENRY<br>SCHEIN EMS | BOUND TREE<br>MEDICAL | CONCORDANCE     | NAO GLOBAL<br>HEALTH |
|--|-----------------|------------------------------|-----------------|---------------------|-----------------------|-----------------|----------------------|
| <b>Section 1</b><br>EMS Medical<br>Supplies and<br>Pharmaceuticals | NO BID          | 936.00                       | 5,152.09        | 9,303.21            | 5,247.33              | 4,413.14        | 7,495.23             |
| <b>Section 2</b><br>Semi-Automatic<br>Defibrillator                | 2,470.85        | 2979.75<br>S&H 125.00        | NO BID          | 1842.50             | 1,725.53              | NO BID          | 5,698.46             |
| <b>Total Bid</b>   | <b>2,470.85</b> | <b>4,040.75</b>              | <b>5,152.09</b> | <b>11,145.71</b>    | <b>6,972.86</b>       | <b>4,413.14</b> | <b>13,193.69</b>     |

Texas City Fire Department  
Memorandum

To: Debbie Gurka, Purchasing Director  
From: Wendell Wiley, EMS Administrator  
Date: May 24, 2019  
Re: Bid #2019-069 Emergency Pharmaceuticals, Medical Supplies and Equipment

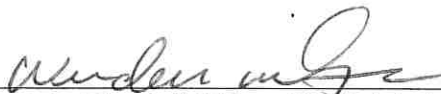
After reviewing the bids opened on May 14, 2019 at 2:00 p.m. it is my recommendation that we award the bids as follows:

Section 1: EMS Medical Supplies and Pharmaceuticals to Life Assist as the lowest, responsible total bid, meeting all of the specifications in accordance with Instructions to Bidders: Item 1.8. Basis of Award.

Section 2: Semi-Automatic Defibrillator to Bound Tree Medical as the lowest, responsible total bid, meeting all of the specifications in accordance with Instructions to Bidders: Item 1.8. Basis of Award.

If you have any questions or desire additional information, please contact me at your earliest convenience.

Thanks!

  
\_\_\_\_\_  
Captain Wendell Wiley, EMS Administrator

Authorized for Distribution:

  
\_\_\_\_\_  
David Zacherl, Fire Chief

*“Working Together to Enhance the Community”*

**CITY COMMISSION REGULAR MTG**

**(7) (e)**

**Meeting Date:** 06/05/2019

Consider and take action on Resolution No. 19-XXX, approving revisions to the Drug & Alcohol Abuse Policy. (Human Resources)

**Submitted For:** Jennifer Price, Human Resources

**Submitted By:** Jennifer Price, Human Resources

**Department:** Human Resources

---

**Information**

**ACTION REQUEST (Brief Summary)**

Consider and take action on Resolution No. 19-046, approving revisions to the Drug & Alcohol Policy. (Human Resources)

**BACKGROUND**

This resolution is to approve a revision to the Drug & Alcohol Abuse Policy, Section II. Applicability. CURRENT: A. This policy applies to every employee, designated contract employee, and applicant for employment with the City with the exception of those who must hold a Commercial Drivers License to fulfill the essential functions of their jobs. CDL employees and applicants are covered by specific Department of Transportation provisions regarding drugs and alcohol. PROPOSED: A. This policy applies to every department, every employee, designated contract employee, and applicant for employment with the City except that sworn employees of the police and fire departments may be governed by more restrictive policies which may be required by departmental rules and regulations. Employees who must hold a Commercial Drivers License (CDL) to fulfill the essential functions of their jobs and applicants for those positions are covered by specific Department of Transportation provisions regarding drugs and alcohol.

**ANALYSIS**

**ALTERNATIVES CONSIDERED**

---

**Fiscal Impact**

**Attachments**

Resolution

---

**RESOLUTION NO. 18-042**

**A RESOLUTION APPROVING REVISIONS TO THE CITY OF TEXAS CITY'S DRUG AND ALCOHOL POLICY; AND PROVIDING THAT THIS RESOLUTION SHALL BECOME EFFECTIVE FROM AND AFTER ITS PASSAGE AND ADOPTION.**

---

**WHEREAS**, the last reprint of the City's Drug and Alcohol Policy was effective October, 2004; and

**WHEREAS**, the Human Resource Department would like to revise Section II. Applicability in the Drug and Alcohol Policy as such:

**Current Policy**

A. This policy applies to every employee, designated contract employee, and applicant for employment with the City with the exception of those who must hold a Commercial Driver's License to fulfill the essential functions of their jobs. CDL employees and applicants are covered by specific Department of Transportation provisions regarding drugs and alcohol.

**Proposed**

A. This policy applies to every department, every employee, designated contract employee, and applicant for employment with the City except that sworn employees of the police and fire departments may be governed by more restrictive policies which may be required by departmental rules and regulations. Employees who must hold a Commercial Driver's License (CDL) to fulfill the essential functions of their jobs and applicants for those positions are covered by specific Department of Transportation provisions regarding drugs and alcohol.

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF TEXAS CITY, TEXAS:**

**SECTION 1:** That the City Commission hereby approves the amendments to the City of Texas City's Drug and Alcohol Policy, as set out on **Exhibit "A"** attached hereto and made a part hereof for all intents and purposes.

**SECTION 2:** That this Resolution shall be in full force and effect from and after its passage and adoption.

**PASSED AND ADOPTED this 5th day of June 2019.**

---

Matthew T. Doyle, Mayor  
City of Texas City, Texas

ATTEST:

---

Nicholas J. Finan  
City Secretary

APPROVED AS TO FORM:

---

Russell F. Plackemeier  
City Attorney

**CITY COMMISSION REGULAR MTG**

**(7) (f)**

**Meeting Date:** 06/05/2019

**Submitted By:** Rhomari Jackson-Glover, City Secretary

**Department:** City Secretary

---

**Information**

**ACTION REQUEST (Brief Summary)**

Consider and take action on Resolution No. 19-047, removing and appointing Board Members to the Texas City Housing Corporation. (City Secretary)

**BACKGROUND**

When we made appointments in September, it was our intent not to appoint anyone to three corporations that we were going to dissolve because they were no longer needed and had not be utilized in over 10 years other than to have an annual meeting. No bonds were issued, budgets devised, or actions were taken by the boards (Texas City Housing Authority, Texas City Harbour Authority, Danforth Health Facilities) with respect to any projects or programs over that period. We notified the State that we no longer were sending the tri-annual reports since we were dissolving the corporations. The Attorney General Office stated that we had to officially have each board take action to dissolve itself. Several of these boards had vacancies, terms had expired and some members have not appeared in the last couple of years. So, for simplicity, the city commission is requested to officially take action to remove all the previous members and appoint Mayor Matthew T. Doyle, Mayor Pro Tem Phil Roberts, staff members George Fuller, Jennifer Price, and Irene Fattig (City Officials and staff members can serve on the boards). The new members will officially meet to approve a resolution of dissolvency so that we can send to the State and have the corporations officially dissolved. It does seem odd and like a lot of work, but it will meet the State's requirements.

**ANALYSIS**

**ALTERNATIVES CONSIDERED**

---

**Fiscal Impact**

**Attachments**

Resolution

---

**RESOLUTION NO. 19-047**

**A RESOLUTION REMOVING AND APPOINTING MEMBERS TO THE TEXAS CITY HOUSING CORPORATION BOARD OF DIRECTORS; AND PROVIDING THAT THIS RESOLUTION SHALL BECOME EFFECTIVE FROM AND AFTER ITS PASSAGE AND ADOPTION.**

**WHEREAS**, the Texas City Housing Corporation has not had an annual meeting since September, 2017, and has several vacancies, expired terms and members that are not interested in serving; and

**WHEREAS**, members of Texas City Housing Corporation are appointed by the City Commission; and

**WHEREAS**, these appointments are to perform the dissolution of the corporation; and

**WHEREAS**, it is the recommendation of the City Secretary to remove all current and previous Board Members and appoint the following new Board Members:

**Name**

Mayor Matthew T. Doyle  
Mayor Pro Tem Phil Roberts  
George Fuller  
Jennifer Price  
Irene Fattig

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF TEXAS CITY, TEXAS:**

**SECTION 1:** That the City Commission of the City of Texas City, Texas, hereby appoints the following appointments to the Texas City Housing Corporation.

**Name**

Mayor Matthew T. Doyle  
Mayor Pro Tem Phil Roberts  
George Fuller  
Jennifer Price  
Irene Fattig

**SECTION 2:** That this Resolution shall be in full force and effect from and after its passage and adoption.

**PASSED AND ADOPTED this 5th day of June 2019.**

---

Matthew T. Doyle, Mayor  
City of Texas City, Texas



ATTEST:

APPROVED AS TO FORM:

---

Nicholas J. Finan  
City Secretary

---

Russell F. Plackemeier  
City Attorney

**CITY COMMISSION REGULAR MTG**

(7) (g)

**Meeting Date:** 06/05/2019

**Submitted By:** Rhomari Jackson-Glover, City Secretary

**Department:** City Secretary

---

**Information**

**ACTION REQUEST (Brief Summary)**

Consider and take action on Resolution No. 19-048, removing and appointing Board Members to the Texas City Harbour Authority. (City Secretary)

**BACKGROUND**

When we made appointments in September, it was our intent not to appoint anyone to three corporations that we were going to dissolve because they were no longer needed and had not be utilized in over 10 years other than to have an annual meeting. No bonds were issued, budgets devised, or actions were taken by the boards (Texas City Housing Authority, Texas City Harbour Authority, Danforth Health Facilities) with respect to any projects or programs over that period. We notified the State that we no longer were sending the tri-annual reports since we were dissolving the corporations. The Attorney General Office stated that we had to officially have each board take action to dissolve itself. Several of these boards had vacancies, terms had expired and some members have not appeared in the last couple of years. So, for simplicity, the city commission is requested to officially take action to remove all the previous members and appoint Mayor Matthew T. Doyle, Mayor Pro Tem Phil Roberts, staff members George Fuller, Jennifer Price, and Irene Fattig (City Officials and staff members can serve on the boards). The new members will officially meet to approve a resolution of dissolvency so that we can send to the State and have the corporations officially dissolved. It does seem odd and like a lot of work, but it will meet the State's requirements.

**ANALYSIS**

**ALTERNATIVES CONSIDERED**

---

**Fiscal Impact**

**Attachments**

Resolution

---

**RESOLUTION NO. 19-048**

**A RESOLUTION REMOVING AND APPOINTING MEMBERS TO THE TEXAS CITY HARBOUR AUTHORITY BOARD OF DIRECTORS; AND PROVIDING THAT THIS RESOLUTION SHALL BECOME EFFECTIVE FROM AND AFTER ITS PASSAGE AND ADOPTION.**

**WHEREAS**, the Texas City Harbour Authority has not had an annual meeting since September, 2017, and has several vacancies, expired terms and members that are not interested in serving; and

**WHEREAS**, members of Texas City Harbour Authority are appointed by the City Commission; and

**WHEREAS**, these appointments are to perform the dissolution of the corporation; and

**WHEREAS**, it is the recommendation of the City Secretary to remove all current and previous Board Members and appoint the following new Board Members:

**Name**

Mayor Matthew T. Doyle  
Mayor Pro Tem Phil Roberts  
George Fuller  
Jennifer Price  
Irene Fattig

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF TEXAS CITY, TEXAS:**

**SECTION 1:** That the City Commission of the City of Texas City, Texas, hereby appoints the following appointments to the Texas City Harbour Authority.

**Name**

Mayor Matthew T. Doyle  
Mayor Pro Tem Phil Roberts  
George Fuller  
Jennifer Price  
Irene Fattig

**SECTION 2:** That this Resolution shall be in full force and effect from and after its passage and adoption.

**PASSED AND ADOPTED this 5th day of June 2019.**

---

Matthew T. Doyle, Mayor  
City of Texas City, Texas



ATTEST:

APPROVED AS TO FORM:

---

Nicholas J. Finan  
City Secretary

---

Russell F. Plackemeier  
City Attorney

**CITY COMMISSION REGULAR MTG**

(7) (h)

**Meeting Date:** 06/05/2019

**Submitted By:** Rhomari Jackson-Glover, City Secretary

**Department:** City Secretary

---

**Information**

**ACTION REQUEST (Brief Summary)**

Consider and take action on Resolution No. 19-049, removing and appointing Board Members to the Danforth Health Facilities Corporation. (City Secretary)

**BACKGROUND**

When we made appointments in September, it was our intent not to appoint anyone to three corporations that we were going to dissolve because they were no longer needed and had not be utilized in over 10 years other than to have an annual meeting. No bonds were issued, budgets devised, or actions were taken by the boards (Texas City Housing Authority, Texas City Harbour Authority, Danforth Health Facilities) with respect to any projects or programs over that period. We notified the State that we no longer were sending the tri-annual reports since we were dissolving the corporations. The Attorney General Office stated that we had to officially have each board take action to dissolve itself. Several of these boards had vacancies, terms had expired and some members have not appeared in the last couple of years. So, for simplicity, the city commission is requested to officially take action to remove all the previous members and appoint Mayor Matthew T. Doyle, Mayor Pro Tem Phil Roberts, staff members George Fuller, Jennifer Price, and Irene Fattig (City Officials and staff members can serve on the boards). The new members will officially meet to approve a resolution of dissolvency so that we can send to the State and have the corporations officially dissolved. It does seem odd and like a lot of work, but it will meet the State's requirements.

**ANALYSIS**

**ALTERNATIVES CONSIDERED**

---

**Fiscal Impact**

**Attachments**

Resolution

---

**RESOLUTION NO. 19-049**

**A RESOLUTION REMOVING AND APPOINTING MEMBERS TO THE DANFORTH HEALTH FACILITIES CORPORATION BOARD OF DIRECTORS; AND PROVIDING THAT THIS RESOLUTION SHALL BECOME EFFECTIVE FROM AND AFTER ITS PASSAGE AND ADOPTION.**

**WHEREAS**, the Danforth Health Facilities Corporation has not had an annual meeting since September, 2017, and has several vacancies, expired terms and members that are not interested in serving and

**WHEREAS**, members of the Danforth Health Facilities Corporation are appointed by the City Commission; and

**WHEREAS**, these appointments are to perform the dissolution of the corporation; and

**WHEREAS**, it is the recommendation of the City Secretary to remove all current and previous Board Members and appoint the following new Board Members:

**Name**

Mayor Matthew T. Doyle  
Mayor Pro Tem Phil Roberts  
George Fuller  
Jennifer Price  
Irene Fattig

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF TEXAS CITY, TEXAS:**

**SECTION 1:** That the City Commission of the City of Texas City, Texas, hereby appoints the following appointments to the Danforth Health Facilities Corporation.

**Name**

Mayor Matthew T. Doyle  
Mayor Pro Tem Phil Roberts  
George Fuller  
Jennifer Price  
Irene Fattig

**SECTION 2:** That this Resolution shall be in full force and effect from and after its passage and adoption.

**PASSED AND ADOPTED this 5th day of June 2019.**

---

Matthew T. Doyle, Mayor  
City of Texas City, Texas

ATTEST:

---

Nicholas J. Finan  
City Secretary

APPROVED AS TO FORM:

---

Russell F. Plackemeier  
City Attorney

**CITY COMMISSION REGULAR MTG**

**(7) (i)**

**Meeting Date:** 06/05/2019

**Submitted By:** Rhomari Jackson-Glover, City Secretary

**Department:** City Secretary

---

**Information**

**ACTION REQUEST (Brief Summary)**

Consider and take action on Resolution No. 19-050, authorizing the dissolution of the Danforth Health Facilities Corporation and the execution of a Certificate of Dissolution. (City Secretary)

**BACKGROUND**

In conjunction with the previous items on the agenda dealing with the dissolution of the three corporation boards, under the State's health code, a health corporation must have the sponsoring public entities governing body approve the dissolution and provide a certificate verifying that action. This is the only corporation of the three that has this special requirement. It merely state's that the governing board has no objection and concurs with the dissolution of the Danforth Health Facilities Corporation.

**ANALYSIS**

**ALTERNATIVES CONSIDERED**

---

**Fiscal Impact**

**Attachments**

Resolution

Attachment

---

**RESOLUTION NO. 19-050**

**A RESOLUTION AUTHORIZING THE DISSOLUTION OF THE DANFORTH HEALTH FACILITY CORPORATION AND THE EXECUTION OF A CERTIFICATE OF DISSOLUTION TO BE FILED WITH THE OFFICE OF THE SECRETARY OF STATE; AND PROVIDING THAT THIS RESOLUTION SHALL BECOME EFFECTIVE FROM AND AFTER ITS PASSAGE AND ADOPTION.**

---

**WHEREAS**, the purposes for which the Danforth Health Facility Corporation was formed have been substantially met; and

**WHEREAS**, it is the desire of the Board of Directors of the Danforth Health Facility Corporation to dissolve the corporation; and

**WHEREAS**, the City Commission is the governing body of the City of Texas City; and

**WHEREAS**, the City of Texas City is the sponsoring organization; and

**WHEREAS**, in order to dissolve the corporation, the City Commission must authorize the dissolution of the corporation and file a Certificate of Dissolution with the Office of the Secretary of State.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE TEXAS CITY HARBOUR AUTHORITY THAT:**

**SECTION 1:** That the City Commission of the City of Texas City hereby authorizes the dissolution of the Danforth Health Facility Corporation.

**SECTION 2:** That the Danforth Health Facility Corporation Chairperson, Vice Chairperson, Board Secretary, Mayor and City Secretary are authorized to execute any and all documents necessary for the dissolution of the corporation.

**SECTION 3:** That the City Secretary shall file the Certificate of Dissolution with the Office of the Secretary of State.

**SECTION 3:** That this Resolution shall be in full force and effect from and after its passage and adoption.

**PASSED AND ADOPTED this 5th day of June, 2019.**

---

Matthew T. Doyle, Mayor  
City of Texas City, Texas

ATTEST:

APPROVED AS TO FORM:

---

Nicholas J. Finan  
City Secretary

---

Russel F. Plackemeier  
City Attorney

**CERTIFICATE OF DISSOLUTION**

**DANFORTH HEALTH FACILITY CORPORATION**

The Board of Directors of the Danforth Health Facility Corporation, sponsored by the City of Texas City located at 1801 9<sup>th</sup> Avenue North, Texas City, TX, desires to dissolve the corporation. During a meeting held on June 5, 2019, dissolution of the corporation was authorized by the City Commission of the City of Texas City, which is the governing body of the sponsoring organization, by Resolution No. 19-050. We hereby certify that all of the corporation's bonds and obligations have been paid and discharged or that adequate provision has been made for their payment and discharge, and that no suit is pending in a court against the corporation or that adequate provision has been made for the satisfaction of any judgment, order, or decree that may be entered against the corporation in each pending suit.

Executed this \_\_\_\_\_ day of June, 2019.

\_\_\_\_\_  
CHAIRPERSON/VICE CHAIRPERSON  
Danforth Health Facility Corporation

\_\_\_\_\_  
BOARD SECRETARY  
Danforth Health Facility Corporation

\_\_\_\_\_  
Matthew T. Doyle  
Mayor, City of Texas City

\_\_\_\_\_  
Nicholas J. Finan  
City Secretary, City of Texas City

**CITY COMMISSION REGULAR MTG**

(7) (j)

**Meeting Date:** 06/05/2019

**Submitted By:** Rhomari Jackson-Glover, City Secretary

**Department:** City Secretary

---

**Information**

**ACTION REQUEST (Brief Summary)**

Consider and take action on Resolution No. 19-051, acknowledging the receipt of the 2018 Annual Report from the Tax Increment Reinvestment Zone One (TIRZ #1) board. (City Secretary)

**BACKGROUND**

Every year the City receives the annual report on the Lago Mar TIRZ. The report is attached. There is no action required other than to accept the report. If you have any questions, you may contact Marsh Darcy. This is really just a procedure to show the document has been delivered to the City Commisison.

**ANALYSIS**

**ALTERNATIVES CONSIDERED**

---

**Fiscal Impact**

**Attachments**

Resolution

Attachment

---

**RESOLUTION NO. 19-051**

**A RESOLUTION ACKNOWLEDGING THE RECEIPT OF THE 2018 ANNUAL REPORT FOR THE TAX INCREMENT REINVESTMENT ZONE NUMBER ONE (TIRZ 1) BOARD; AND PROVIDING THAT THIS RESOLUTION SHALL BECOME EFFECTIVE FROM AND AFTER ITS PASSAGE AND ADOPTION.**

---

**WHEREAS**, the 2018 Annual Report for Tax Increment Reinvestment Zone Number One (TIRZ 1) was reviewed and approved by the Board; and

**WHEREAS**, the City Commission must acknowledge receipt of the TIRZ 1 report so that it can be forwarded to the Texas Comptroller and Office of the Attorney General, as required under Tax Code §311.016; and

**WHEREAS**, after acknowledging the receipt of the report, it must also be forwarded to College of the Mainland and Galveston County for their records.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF TEXAS CITY, TEXAS:**

**SECTION 1:** That the City Commission of the City of Texas City, Texas, hereby acknowledges the receipt of the 2018 Annual Report for Tax Increment Reinvestment Zone Number One (TIRZ 1), as set out on **Exhibit “A”**, attached hereto and incorporated herein for all intents and purposes.

**SECTION 2** That this Resolution shall be in full force and effect from and after its passage and adoption.

**PASSED AND ADOPTED this 5th day of June 2019.**

---

Matthew T. Doyle, Mayor  
City of Texas City, Texas

ATTEST:

APPROVED AS TO FORM:

---

Nicholas J. Finan  
City Secretary

---

Russell F. Plackemeier  
City Attorney

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# 2018 ANNUAL REPORT

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**TAX INCREMENT REINVESTMENT ZONE  
NUMBER ONE  
TEXAS CITY, TEXAS**



**Tax Year Ending December, 2018**

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## COMPLIANCE

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|                             |    |
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| Texas Tax Code 311.016 (a): |    |
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# CITY OF TEXAS CITY, TEXAS

## 2018 CITY COMMISSION

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**Mayor**

Hon. Matthew T. Doyle

**Commission  
Members**

Hon. Phil Roberts (as of May 2018)  
Commissioner At-Large  
Mayor Pro-Tem

Hon. Bruce Clawson (as of May 2018)  
Commissioner At-Large  
Dee Ann Haney (until May 2018)

Hon. Earl Alexander (as of May 2018)  
Position 1  
Thelma Bowie (until May 2018)

Hon. Abel Garza (as of May 2018)  
Position 2  
Phil Roberts (until May 2018)

Hon. Dorthea Jones  
Position 3

Hon. Jami Clark  
Position 4

**TAX INCREMENT REINVESTMENT ZONE  
NUMBER ONE, CITY OF TEXAS CITY, TEXAS  
2018 BOARD OF DIRECTORS**

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|                   |  |
|-------------------|--|
| <b>Position 1</b> | Chris Doyle, Chair (as of July 2018)<br>Texas City Designee    |
| <b>Position 2</b> | Kyle Dickson<br>College of the Mainland Designee               |
| <b>Position 3</b> | James Torres<br>Texas City Designee                            |
| <b>Position 4</b> | Carlos Garza<br>Texas City Designee                            |
| <b>Position 5</b> | Rick Wilkenfeld (as of July 2018)<br>Galveston County Designee |
| <b>Position 6</b> | Genie Jennings<br>Texas City Designee                          |
| <b>Position 7</b> | Hon. Stephen Holmes<br>Galveston County Designee               |

# DESCRIPTION OF ZONE

In accordance with the Tax Increment Financing Act (Chapter 311, Tax Code), Ordinance 06-45 of the City of Texas City, Texas (the “City”) established Reinvestment Zone Number One, City of Texas City, Texas (the “Zone”) on December 20, 2006. The Zone, also known as “The Lago Mar TIRZ”, consists of approximately 3,350 acres located in Galveston County, Texas (the “County”). The Project Plan (the “Plan”) was adopted by City Commission on January 2, 2008 by Ordinance 08-01. In addition to City participation in the Zone, the County and College of the Mainland (the “College”) agreed to participate in the Zone.

To aid and assist in the implementation of the Plan, the City created the Lago Mar Development Authority (the “Authority”), a Local Government Corporation incorporated on July 18, 2007. To further facilitate development within the Zone, the City, the Authority, the TIRZ and Galveston County Municipal Utility District No. 54 (“MUD 54”) entered into an agreement (the “Quad Party Agreement”), effective December 19, 2007, detailing the respective roles and responsibilities of the parties in implementing the Plan. The private sector developer for Lago Mar is Land Tejas Texas City Limited, a Texas Limited Partnership, whose General Partner is Land Tejas Corporation (the “Master Developer”). The Authority and the Master Developer entered into a Master Developer Reimbursement Agreement effective January 3, 2008.

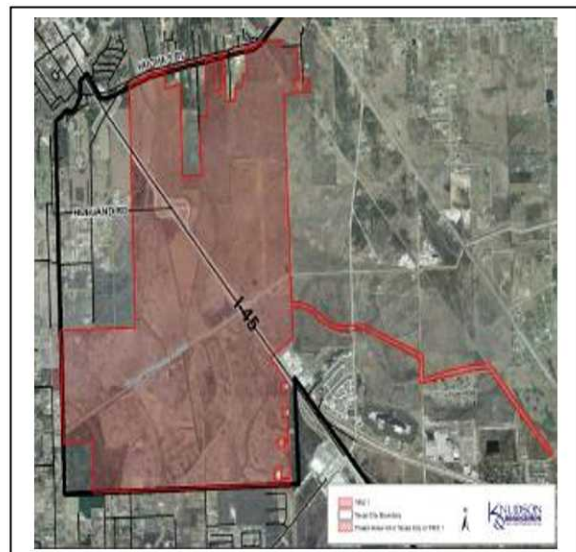
On July 20, 2011, a new agreement was executed between the City, Zone, Authority, MUD 54, Master Developer, and Galveston Premium Outlets LLC (the “Omnibus Agreement”). The Omnibus Agreement modified and amended the terms of the Quad Party Agreement as it relates to the development of the Tanger Outlets Mall projects.

The Zone is situated near the western boundary of Texas City, is bisected by Interstate 45, and at creation was vacant. A map illustrating the location of the Zone within the City follows as Figure 1. Figure 2 depicts the Zone boundary

**Figure 1: TIRZ 1 Location Map**



**Figure 2: TIRZ 1 Boundary Map**



## **PURPOSE OF ZONE**

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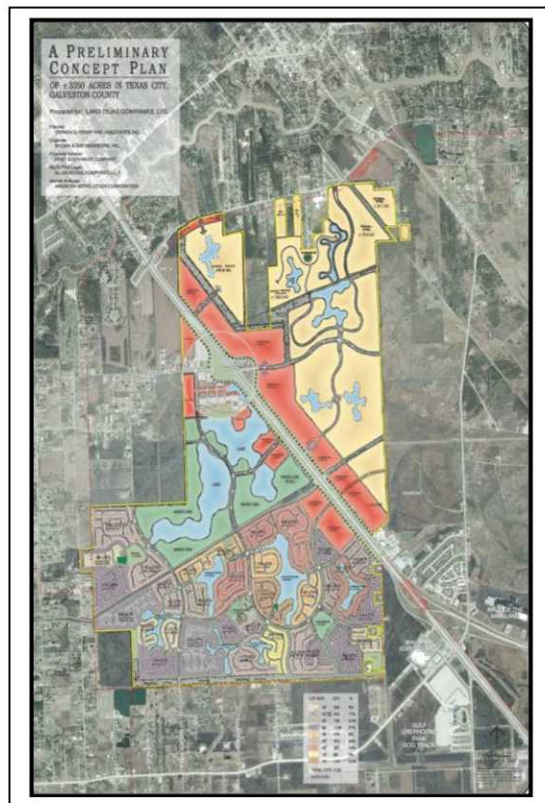
The purpose of the Zone is to facilitate the development of a quality master-planned community, including a large mixed-use component, with amenities and sustainability that will contribute to the growth of the tax base for the City, the County and the College.

The City Commission, in adopting the ordinance creating the Zone, found that the projects described in the Plan provided a focused planning and financing mechanism to promote and monitor this significant development effort to the benefit of all the citizens of the City, individual and corporate, as well as all participating jurisdictions. But for the creation of the Zone and the participating jurisdictions, this area would not likely experience the magnitude of private investment necessary for this property to develop in the proposed manner or to the standards and quality planned in the foreseeable future.

The City Commission further found that improvements in the Zone will enhance the value of all taxable real property within the Zone and will be of general benefit to the City. The methods of financing and the sources of funding available to the Zone, including the participation levels of the entities, are described in the Project Plan and Reinvestment Zone Financing Plan.

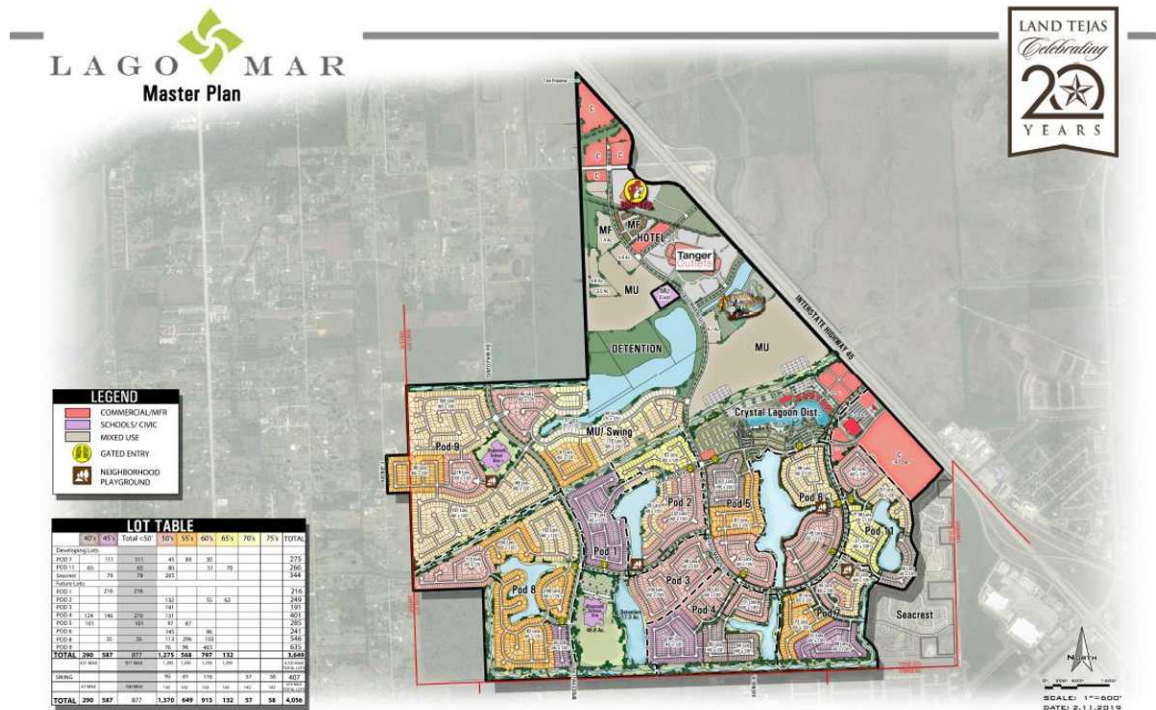
The Preliminary Concept Plan for Lago Mar Master Planned Community is shown below as Figure 3.

**Figure 3: Lago Mar Preliminary Concept Plan**



As part of the master planning effort, the City and the Master Developer agreed that a mixed-use component to the development would greatly enhance the economic diversification and tax base growth the City is seeking to promote. To that end the Master Developer has put forth a mixed-use concept plan for approximately 898 acres, planned to include large amenity lakes with detention function, trails connecting the mixed-use area to the broader community and a diversity of commercial uses. The mixed-use concept plan follows as Figure 4.

**FIGURE 4: Lago Mar Conceptual Master Plan-February 2019**



On October 19, 2012, Tanger Factory Outlet Centers held the ribbon cutting and grand opening of the Tanger Outlets Mall, Texas City. The new mall opened with more than 80 brand name and outlet tenants in approximately 350,000 square feet and has become a major tourist attraction. As of December 31, 2019, there are 504 completed homes within the Zone.

# STATE OF THE ZONE AND PLAN IMPLEMENTATION IN 2018

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## Revenue

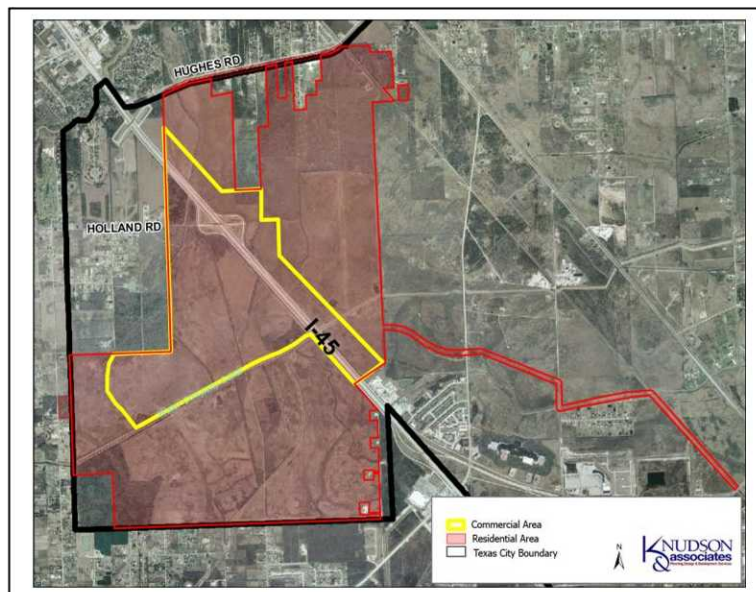
*1. The information provided in the section is in accordance with § 311.016 (a) (1) of the Texas Tax Code, which requires inclusion of the amount and source of revenue in the tax increment fund established for the Zone.*

In addition to the City's tax increment revenue, interlocal agreements with the County and the College provide for each taxing unit's participation in the Zone. The Plan sets forth a two-tiered participation schedule as follows:

*Lago Mar is proposed to be a large master planned community with strong residential and commercial components. The commercial areas of the TIRZ are the very gateway of Texas City and the City seeks to promote the development of these critical areas with a distinctive urban design that establishes a sense of place unique in Galveston County. The City understands that the commercial areas will need time to reach the highest and best uses based on market conditions and to that end the City has proposed and secured a two-tiered participation structure: 100 % participation by the City for 31 years and by the County and the College for 30 years in the commercial area; and 60% for 10 years followed by 40% for 10 years by all entities in the residential areas.*

The boundaries of the residential and commercial areas within the TIRZ are shown below as Figure 5.

**Figure 5: Commercial and Residential TIRZ Areas**



Further within the Residential Area the Plan sets forth a performance-based, enhanced level of participation by the City as follows:

*In recognizing the reality of market forces, while wishing to foster the highest quality of single family residential possible, the City has established a base participation level and a second performance-based participation level when certain average value per dwelling unit levels are exceeded in the aggregate. The base participation is shown below and will be enacted when the average value of the single family residential is less than \$180,000. The performance-based participation will be enacted when the average value of the single family residential is greater than \$180,000.*

Schedules outlining the varying levels and lengths of participation for both the Commercial Area and the Residential Area follow as Table A and Table B respectively.

**Table A: Participation Schedule Commercial Area**

| Jurisdiction            | 2018 Tax Rate | 2017 Tax Rate | 2016 Tax Rate | Years     | Participation % |
|-------------------------|---------------|---------------|---------------|-----------|-----------------|
| Texas City              | \$.5500       | \$.577179     | \$.497183     | 2007-2037 | 100%            |
| Galveston County        | \$.531898     | \$.5519       | \$.552        | 2008-2037 | 100%            |
| College of the Mainland | \$.212755     | \$.216791     | \$.208376     | 2008-2037 | 100%            |

*Tax Rate Source: Galveston County Central Appraisal District*

**Table B: Participation Schedule Residential Area**

| Jurisdiction            | 2018 Tax Rate | 2017 Tax Rate | 2016 Tax Rate | Years     | Base Participation % | Performance Based % |
|-------------------------|---------------|---------------|---------------|-----------|----------------------|---------------------|
| Texas City              | \$.5500       | \$.577179     | \$.497183     | 2007-2016 | 60%                  | 75%                 |
|                         |               |               |               | 2017-2026 | 40%                  | 50%                 |
|                         |               |               |               | 2027-2037 | -0-                  | 0%                  |
| Galveston County        | \$.531898     | \$.5519       | \$.5520       | 2008-2017 | 60%                  |                     |
|                         |               |               |               | 2018-2027 | 40%                  | n/a                 |
|                         |               |               |               | 2028-2037 | -0-                  |                     |
| College of the Mainland | \$.212755     | \$.216791     | \$.208376     | 2008-2017 | 60%                  |                     |
|                         |               |               |               | 2018-2027 | 40%                  | n/a                 |
|                         |               |               |               | 2028-2037 | -0-                  |                     |

The obligations of the participating taxing jurisdictions, as defined in their respective interlocal agreements, include the timely deposit of tax increment revenue into the City's tax increment revenue fund. Table C below illustrates the growth in appraised value from the base year 2006 compared to the previous 3 years including 2018 for each participating jurisdiction.

**Table C: Base Year Market Value by Jurisdiction**

| <b>COMMERCIAL</b>              | <b>TAX YEAR</b>                  |                             |                             |                             |   |
|--------------------------------|----------------------------------|-----------------------------|-----------------------------|-----------------------------|---|
| <b>Taxing Entity</b>           | <b>2006 Base Value (Taxable)</b> | <b>2016 Value (Taxable)</b> | <b>2017 Value (Taxable)</b> | <b>2018 Value (Taxable)</b> | <b>Captured Appraised Value (Increment)</b> |
| <b>Texas City</b>              | \$82,650                         | \$135,695,414               | \$129,617,990               | \$131,972,482               | \$131,889,832                               |
| <b>Galveston County</b>        | \$82,650                         | \$135,695,414               | \$129,617,990               | \$131,972,482               | \$131,889,832                               |
| <b>College of the Mainland</b> | \$82,650                         | \$135,695,414               | \$129,617,990               | \$131,972,482               | \$131,889,832                               |

| <b>RESIDENTIAL</b>             | <b>TAX YEAR</b>                  |                             |                             |                             |   |
|--------------------------------|----------------------------------|-----------------------------|-----------------------------|-----------------------------|---|
| <b>Taxing Entity</b>           | <b>2006 Base Value (Taxable)</b> | <b>2016 Value (Taxable)</b> | <b>2017 Value (Taxable)</b> | <b>2018 Value (Taxable)</b> | <b>Captured Appraised Value (Increment)</b> |
| <b>Texas City</b>              | \$321,530                        | \$28,195,320                | \$38,026,662                | \$88,132,532                | \$87,811,002                                |
| <b>Galveston County</b>        | \$321,530                        | \$28,195,320                | \$38,026,662                | \$88,132,532                | \$87,811,002                                |
| <b>College of the Mainland</b> | \$321,530                        | \$28,195,320                | \$38,026,662                | \$88,132,532                | \$87,811,002                                |

Table D illustrates the amount of each jurisdiction's incremental revenue to the tax increment fund for the Residential and Commercial Areas for the previous 5 tax years, including 2018.

**Table D: Tax Increment Revenue by Year**

| <b>COMMERCIAL</b>              | <b>TAX YEAR</b>    |                    |                    |                    |                    |
|--------------------------------|--------------------|--------------------|--------------------|--------------------|--------------------|
| <b>Taxing Entity</b>           | <b>2014</b>        | <b>2015</b>        | <b>2016</b>        | <b>2017</b>        | <b>2018</b>        |
| <b>Texas City</b>              | \$426,402          | \$491,191          | \$637,094          | \$747,248          | \$723,574          |
| <b>Galveston County</b>        | \$563,517          | \$613,698          | \$699,965          | \$707,072          | \$697,040          |
| <b>County Road &amp; Flood</b> | \$ 5,798           | \$ 6,291           | \$7,372            | \$7,448            | \$2,719            |
| <b>College of the Mainland</b> | \$199,654          | \$221,213          | \$267,015          | \$280,670          | \$279,898          |
| <b>Commercial Total</b>        | <b>\$1,195,371</b> | <b>\$1,332,393</b> | <b>\$1,611,446</b> | <b>\$1,742,438</b> | <b>\$1,703,231</b> |

| <b>RESIDENTIAL</b>             | <b>TAX YEAR</b> |                 |                  |                  |                  |
|--------------------------------|-----------------|-----------------|------------------|------------------|------------------|
| <b>Taxing Entity</b>           | <b>2014</b>     | <b>2015</b>     | <b>2016</b>      | <b>2017</b>      | <b>2018</b>      |
| <b>Texas City</b>              | \$12,952        | \$12,779        | \$83,058         | \$123,704        | \$192,942        |
| <b>Galveston County</b>        | \$17,117        | \$15,966        | \$91,255         | \$117,001        | \$183,886        |
| <b>County Road &amp; Flood</b> | \$ 176          | \$ 164          | \$961            | \$1,232          | \$715            |
| <b>College of the Mainland</b> | \$ 6,064        | \$ 5,755        | \$34,811         | \$46,459         | \$74,664         |
| <b>Residential Total</b>       | <b>\$36,309</b> | <b>\$34,664</b> | <b>\$210,085</b> | <b>\$288,396</b> | <b>\$452,207</b> |

|  |                    |
|--|--------------------|
| <b>Total TIRZ Increment Revenue 2018</b> | <b>\$2,155,438</b> |
|--|--------------------|

## Expenditures

**2. The information provided in this section is in accordance with § 311.016 (a) (2) of the Texas Tax Code, which requires inclusion of the amount and purpose of expenditures from the fund.**

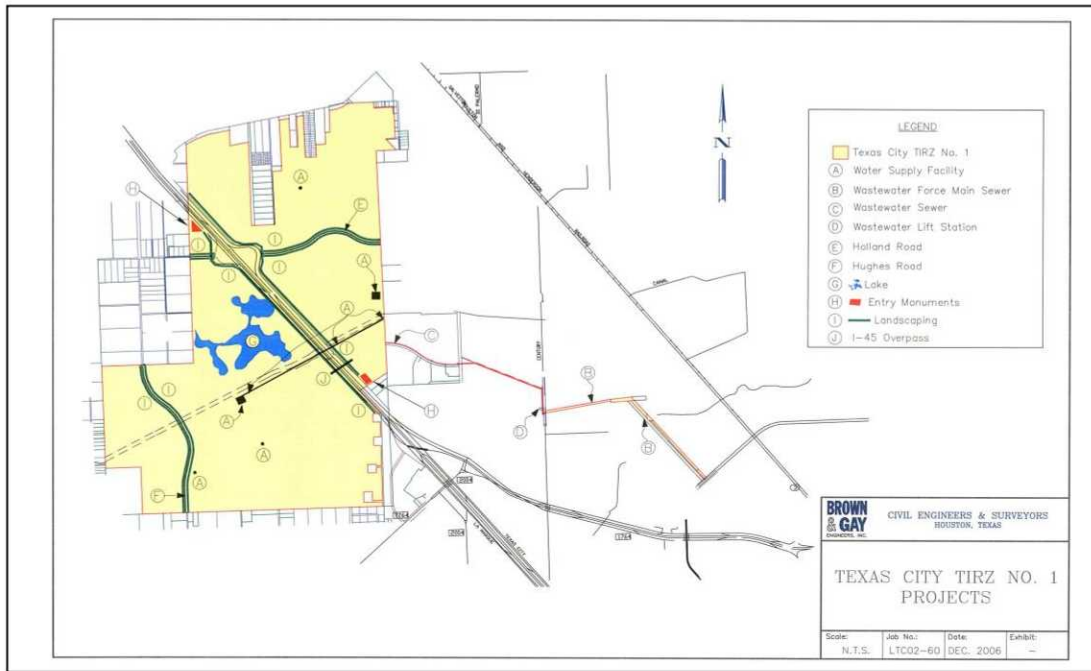
In accordance with the Quad Party Agreement and the Omnibus Agreement, the Authority may from time to time contract TIRZ revenue to one or more of the Municipal Utility Districts within the TIRZ boundary to facilitate the financing of TIRZ improvements. Additionally, the Authority may reimburse the Master Developer for improvements and may construct improvements directly from increment revenue or bond issuance.

In 2018, the Authority paid \$81,525 for legal, accounting/bookkeeping, administrative, and insurance expenses. Additionally, \$1,564,936 was transferred to MUD 54 in accordance with the requirements of the Omnibus Agreement.

**Table E: Estimated Project Plan Costs**

| <b>Estimate of Project Costs</b>  |                               |
|---|-------------------------------|
| <b>Project</b>  | <b>Estimated Project Cost</b> |
| <b>Water</b>  |                               |
| Water Supply Plant  | 3,469,594                     |
| Remote Water Well and Collection Line(s)  | 1,682,835                     |
| Elevated Water Storage Tank(s), Transmission Line(s), and Related Water Plant Items   | 7,701,308                     |
| Water Well(s), Lines, and Related Water Plant Items   | 7,638,733                     |
| Sub-total   | 20,492,471                    |
| <b>Sanitary Sewer</b>   |                               |
| Wastewater Plant and Related Force Main(s)  | 1,571,608                     |
| Sanitary Sewer Transmission Line(s)   | 2,468,238                     |
| Other Wastewater Projects and Lift Station(s)   | 2,355,092                     |
| Other Force Main(s)   | 2,519,492                     |
| Sub-total   | 8,914,429                     |
| <b>Roadway and Mobility Improvements</b>  |                               |
| Holland Road Construction and Landscaping   | 7,447,717                     |
| Hughes Road Construction and Landscaping  | 6,471,177                     |
| I-45 / Overpass   | 5,000,000                     |
| I-45 Landscaping  | 3,901,309                     |
| Sub-total   | 22,820,203                    |
| <b>Detention / Retention / Place Making Amenities</b>   |                               |
| 125 ± Acre Lake   | 28,973,505                    |
| Lake Landscaping  | 2,259,922                     |
| Monumentation   | 2,323,052                     |
| Sub-total   | 33,556,479                    |
| <b>Zone Administration</b>  |                               |
| Legal, Auditing, Planning, Architectural, Engineering, Administration, etc.   | 2,850,000                     |
| <b>Total Estimated Project Costs</b>  | <b>88,633,582</b>             |
| <i>Note: It is understood that land costs for major CIP dedications (water plants, water wells, etc.) and professional fees (engineering, planning, architectural, geotechnical, surveying, etc.) are necessary expenses that will be incurred on behalf of the Zone. These fees have been estimated and included in the line-item projections.</i> |                               |

**Figure 6: Location of Proposed TIRZ Improvements**



**TIRZ Authorized Projects in 2018:**

In 2018, the Board authorized conceptual landscape architecture services for the I-45 Enhancement Project not to exceed \$50,000 (February 1, 2018) and preliminary design for the I-45 branding/identity and landscape elements not to exceed \$117,000 (October 24, 2018).

**Interest Due on Outstanding Bonds**

*3. The information provided in this section is in accordance with § 311.016 (a) (3) of the Texas Tax Code, which requires inclusion of the amount of principal and interest due on outstanding bonded indebtedness.*

The Omnibus Agreement calls for TIRZ Increment Revenue attributable to land and improvements within MUD 54 to be paid by the Authority annually to cover the debt service on bonds issued by the MUD for TIRZ-eligible improvements until the bonds fully paid. Table F below shows the principal and interest due on all such bonds issued by MUD 54.

**Table F: GCMUD 54 Debt Service Schedule for TIRZ-Eligible Bonds**

| Year  | Principal     | Interest        | Total            |
|-------|---------------|-----------------|------------------|
| 2019  | \$ 520,000    | \$ 618,011.25   | \$ 1,138,011.25  |
| 2020  | 560,000       | 604,773.75      | 1,164,773.75     |
| 2021  | 585,000       | 589,648.75      | 1,174,648.75     |
| 2022  | 605,000       | 572,986.25      | 1,177,986.25     |
| 2023  | 630,000       | 554,548.75      | 1,184,548.75     |
| 2024  | 655,000       | 535,178.75      | 1,190,178.75     |
| 2025  | 680,000       | 513,773.75      | 1,193,773.75     |
| 2026  | 710,000       | 490,208.75      | 1,200,208.75     |
| 2027  | 740,000       | 463,943.75      | 1,203,943.75     |
| 2028  | 770,000       | 435,063.75      | 1,205,063.75     |
| 2029  | 805,000       | 404,753.75      | 1,209,753.75     |
| 2030  | 840,000       | 372,553.75      | 1,212,553.75     |
| 2031  | 880,000       | 338,953.75      | 1,218,953.75     |
| 2032  | 915,000       | 302,972.50      | 1,217,972.50     |
| 2033  | 960,000       | 264,467.50      | 1,224,467.50     |
| 2034  | 1,000,000     | 224,057.50      | 1,224,057.50     |
| 2035  | 1,050,000     | 181,557.50      | 1,231,557.50     |
| 2036  | 1,100,000     | 134,970.00      | 1,234,970.00     |
| 2037  | 1,150,000     | 86,145.00       | 1,236,145.00     |
| 2038  | 800,000       | 34,800.00       | 834,800.00       |
| Total | \$ 15,955,000 | \$ 7,723,368.75 | \$ 23,678,368.75 |

Source: Masterson Advisors

## Base Value & Captured Appraised Value

**4. The information provided in this section is in accordance with § 311.016 (a) (4) of the Texas Tax Code, which requires inclusion of the tax increment base and current captured appraised value retained by the Zone.**

The captured appraised value of the Zone is the total appraised value of all real property located within the Zone, less the tax increment base value. In each year subsequent to the base year, the Zone will receive tax increment revenue based on ad valorem property taxes levied and collected by each participating taxing unit on the captured appraised value of the Zone.

### Base Year:

As of January 1, 2006, the base year for the Zone, the total appraised value of the TIRZ was \$404,180, comprised of \$321,530 for the residential area and \$82,650 for the commercial area.

**2018 Total Taxable Value:**

On January 1, 2018, the Zone had a total assessed value of \$220,105,014, comprised of \$88,132,532 for the residential area and \$131,972,482 for the commercial area. (See Table C)

**2018 Captured Appraised Value:**

The total captured appraised value (total taxable value - base year value) as of January 1, 2018 was \$219,700,831, comprised of \$87,811,002 for the residential area and \$131,889,832 for the commercial area. (See Table C.)

**Increment Received by Taxing Entities**

*5. The information provided in this section is in accordance with § 311.016 (a) (5) of the Texas Tax Code, which requires inclusion of the captured appraised value shared by the City and other taxing units, the total amount of tax increments received, and any additional information necessary to demonstrate compliance with the Plan.*

For Tax Year 2018 the total increment paid into the increment fund was \$2,155,438. (See Table D.)

**TAX INCREMENT REINVESTMENT ZONE NUMBER ONE  
TEXAS CITY, TEXAS  
2017 ANNUAL REPORT  
Tax Year Ending December 31, 2018**

Prepared by Marsh Darcy Partners, Inc.

**CITY COMMISSION REGULAR MTG**

**(8) (a)**

**Meeting Date:** 06/05/2019

**Submitted By:** Justin Herter, City Attorney Office

**Department:** City Attorney Office

---

**Information**

**ACTION REQUEST (Brief Summary)**

Consider and take action on Ordinance No. 19-11, establishing monthly and annual time limits regarding time spent by personnel on public information requests. (Legal)

**BACKGROUND**

The Texas legislature has granted cities the opportunity to charge personnel costs even for smaller items if an individual has made requests that within one month exceed 15 hours or if within one year exceed 36 hours. This should assist the city with companies or individuals who continually make requests of the city for public information with regards to compensating for the actual time involved in producing those documents.

**ANALYSIS**

**ALTERNATIVES CONSIDERED**

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**Fiscal Impact**

**Attachments**

Ord 19-11

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## ORDINANCE NO. 19-11

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF TEXAS CITY, CHAPTER 37 "RECORDS AND INFORMATION MANAGEMENT", BY ADDING SECTION 37.15 "TIME LIMITS FOR RESPONDING TO CERTAIN REQUESTS" ESTABLISHING MONTHLY AND ANNUAL TIME LIMITS ON TIME SPENT BY CITY PERSONNEL ON RESPONDING TO A REQUESTOR OF PUBLIC INFORMATION; DIRECTING THE CHIEF EXECUTIVE OFFICER TO FILE OR CAUSE TO BE FILED A COPY OF THE AMENDED BUDGET IN THE OFFICE OF THE GALVESTON COUNTY CLERK; DISPENSING WITH THE REQUIREMENT FOR READING THIS ORDINANCE ON THREE (3) SEPARATE DAYS; AND PROVIDING THAT THIS ORDINANCE SHALL BECOME EFFECTIVE FROM AND AFTER ITS PASSAGE AND ADOPTION.**

---

**WHEREAS**, during the 85th Regular Session of the Texas Legislature, the Texas Legislature passed H.B. 3107, amending the Public Information Act (Chapter 552 of the Texas Government Code) to allow government entities to establish reasonable monthly and yearly limits on the amount of time that personnel of the governmental entity is required to spend producing public information for inspection or duplication by a requestor, or providing copies of public information to a requestor, without recovering its costs attributable to that personnel time; and

**WHEREAS**, harassing, repetitive, and/or redundant public information requests asking for a large amount of information (known as "vexatious requests") can impose great financial and time burdens on the City, as vexatious requests typically require City personnel to divert their time spent on normal tasks to locate, compile, and reproduce the requested information; and

**WHEREAS**, the City Commission of the City of Texas City, Texas, finds it to be in the public interest to amend Chapter 37 "Records and Information Management" of the Code of Ordinances by adding Section 37.15 "Time Limits for Responding to Requests that Require Large Amounts of Personnel Time" to establish reasonable monthly and yearly limits on the amount of time that City personnel is required to spend producing public information for inspection or duplication by a Requestor, or providing copies of public information to a requestor, without recovering the City's costs attributable to that personnel time.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF TEXAS CITY, TEXAS:

**SECTION 1:** That Chapter 37 - "Records and Information Management" of the Code of Ordinances of the City of Texas City, Texas, is hereby amended by adding Section

37.15 "Time Limits for Responding to Certain Requests" to read as follows:

- (a) Annual Time Limit. Pursuant to Texas Government Code sec. 552.275(a) and (b), thirty-six (36) hours is the reasonable limit on the amount of time that personnel of the City are required to spend producing public information for inspection or duplication by a requestor or provided copies of public information to a requestor in any given twelve-month period commencing on October 1 of each year commencing on October 1 of each year, without recovering the City's

costs attributable to that personnel time.

- (b) Monthly Time Limit. - Pursuant to Texas Government Code sec. 552.275(a) and (b), fifteen (15) hours is the reasonable limit on the amount of time that personnel of the City are required to spend producing public information for inspection or duplication by a requestor or provided copies of public information to a requestor in any given monthly period without recovering the City's costs attributable to that personnel time.
- (c) Records of Time Spent Fulfilling Requests - The City Secretary and/or designee shall be responsible for maintaining records of the cumulative amount of personnel time complying with requests for public information from each individual requestor.
- (d) Charges for Personnel Time Spent in Excess of Time Limits- Notwithstanding any provision of this section to the contrary, any requester of public information will be charged personnel costs in accordance with Texas Government Code sec. 552.275 for all time in excess of thirty-six (36) hours in any given twelve-month period commencing on October 1 of each year or fifteen (15) hours in a given monthly period commencing on the 1st date of each month, spent by personnel of the City in producing public information for inspection or duplication by a requester, or providing copies of public information to a requester. The City Secretary or designee shall be responsible for providing all notices to the requester as required by law, including written statements of accrued time required by Texas Government Code sec. 552.275(d) and written estimates of charges required by Texas Government Code sec. 552.275(e).
- (e) "Requestor" defined – For purposes of this section, "Requestor" shall have the meaning set forth in Texas Government Code sec. 552.003(6)

**SECTION 2:** That the chief executive officer shall file or cause to be filed a copy of this ordinance in the office of the Galveston County Clerk.

**SECTION 3:** That the Charter requirement for reading this Ordinance on three (3) separate days has been dispensed by a majority vote of all members of the City Commission.

**SECTION 4:** That this Ordinance shall be finally passed and adopted on the date of its introduction and shall become effective from and after its passage and adoption.

**PASSED AND ADOPTED this 5th day of June 2019.**

---

Matthew T. Doyle, Mayor  
City of Texas City, Texas

ATTEST:

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Nicholas J. Finan  
City Secretary

APPROVED AS TO FORM:

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Russell F. Plackemeier  
City Attorney

**CITY COMMISSION REGULAR MTG**

**(8) (b)**

**Meeting Date:** 06/05/2019

**Submitted By:** Rhomari Jackson-Glover, City Secretary

**Department:** City Secretary

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**Information**

**ACTION REQUEST (Brief Summary)**

Consider and take action on Ordinance No. 19-12, amending the Code of Ordinance Chapter 52: Telecommunications by adding a new section, 52.111 "Network Nodes Fee Schedule" for the purpose of updating the City's Right-of-Way management. (City Secretary)

**BACKGROUND**

In 2017 the Texas legislature took away the city's right to regulate small cell nodes (wifi electronic transponder devices) within the right of way that would be attached to utility poles or be able to add their own poles. There is an exception outside franchises that allows the city to regulate under certain guidelines including if within certain architectural type districts. The City of Texas City has the gateway corridors that have architectural guidelines and therefore may regulate within those areas as well as some other locales within the city. While the city cannot collect a franchise fee, it can collect a \$250 fee for each node and regulate its appearance and to some degree collocate on existing utility poles and wifi service poles. The City Engineers offices will oversee the ordinance.

**ANALYSIS**

**ALTERNATIVES CONSIDERED**

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**Fiscal Impact**

**Attachments**

Ordinance

Exhibits

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**ORDINANCE NO. 19-**

**AN ORDINANCE OF THE CITY OF TEXAS CITY, TEXAS, AMENDING CHAPTER 52: TELECOMMUNICATIONS, OF THE CODE OF ORDINANCES BY ADDING A NEW SECTION 52.111 “NETWORK NODES FEE SCHEDULE” FOR THE PURPOSE OF UPDATING THE CITY’S RIGHT-OF-WAY MANAGEMENT ORDINANCE; DESIGNATING THE GATEWAY OVERLAY DISTRICT AS A DESIGN DISTRICT AND ADOPTING A DESIGN MANUAL TO COMPLY WITH CHAPTER 284 OF THE TEXAS LOCAL GOVERNMENT CODE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING AN EFFECTIVE DATE; AND SETTING FORTH OTHER PROVISIONS RELATED THERETO.**

**WHEREAS**, the City of Texas City, Texas (“City”) recognizes that the State of Texas has delegated to the City the fiduciary duty, as a trustee, to manage the public right-of-way for the health, safety, and welfare of the public to Texas municipalities; and

**WHEREAS**, during the 2017 legislative session, the Texas Legislature adopted Senate Bill 1004; and

**WHEREAS**, Senate Bill 1004 added Chapter 284 to the Local Government Code to regulate the deployment of network nodes for wireless services in public right-of-way; and

**WHEREAS**, Chapter 284 of the Texas Local Government Code (“the Code”) allows certain wireless network providers to install in the public rights-of-way their wireless facilities, described and defined in Section 284.002 of the Code as “Micro Network Nodes,” “Network Nodes,” and “Node Support Poles;” and

**WHEREAS**, as expressly allowed by Section 284.108 of the Code and pursuant to its police power authority reserved in Sec. 284.301 of the Code, the City desires to enact a *City of Texas City, Texas, Wireless Services (Small Cells) Design Manual* (“the Design Manual”) in order to meet its fiduciary duty to the citizens of the City, and to give assistance and guidance to wireless telecommunications network providers to assist such companies in the timely, efficient, safe and aesthetically pleasing installation of technologically competitive equipment; and

**WHEREAS**, the City Council desires to approve a *Pole Attachment Agreement* by which wireless telecommunication network providers may attach and collocate their network nodes on

city service and utility poles subject to the Code, the Design Manual, and the City Right-of-Way Management Ordinance. **NOW THEREFORE,**

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

**Section 1.** The foregoing recitals are adopted and incorporated into this ordinance as findings of fact.

**Section 2.** The City Council hereby further finds and determines that the rules, regulations, terms, conditions, provisions and requirements of this ordinance are reasonable and necessary to protect the public's safety and welfare.

**Section 3.** The City Council hereby approves the *City of Texas City, Texas, Wireless Services (Small Cells) Design Manual* ("the Design Manual"), which is attached here as Exhibit "A."

**Section 4.** The City Council hereby approves the *Pole Attachment Agreement*, which is attached here as Exhibit "B."

**Section 5.** That the Code of Ordinances, City of Texas City, Texas, Chapter 52: Telecommunications is hereby amended by adding a new section to read as follows:

...

#### **52.111 NETWORK NODES FEE SCHEDULE**

Network Providers shall pay the City annually \$250 per Network Node site in accordance with Ch. 284., Sec. 284.053 (a) the Network Node Public Right-of-Way Rate for each location for which Network Providers have obtained Permit(s) regardless of whether or not a Network Provider installs Network Nodes in the Public Right-of-Way.

#### **Sec. 20-43. Adoption of the Design Manual for the Installation of Network Nodes and Node Support Poles.**

The City of Texas City's Design Manual for the Installation of Network Nodes and Node Support Poles pursuant to Texas Local Government Code, Chapter 284, is adopted to ensure that the City meets its fiduciary duty to the citizens of Texas City, and to give assistance and guidance to wireless telecommunications providers to assist such companies in the timely, efficient, safe and aesthetically pleasing installation of technologically competitive equipment."

...

**Section 6. Items not covered by this ordinance.** Any item not covered by this ordinance and required by law shall be governed by the Texas Local Government Code and any other applicable state statute.

**Section 7. Fees.** The city council may create a schedule of fees for obtaining or renewing a wireless network permit pursuant to Chapter 284 of the Texas Local Government Code. These fees will be in amounts sufficient to cover the city's costs in issuing and renewing the permits, including, but not limited to, staff time and other overhead costs. These fees shall be adopted and placed in Chapter 52 of the Code of Ordinances.

**Section 8. Enforcement.** The city shall have the power to administer and enforce the provisions of this chapter as may be required by governing law including those remedies found in Chapter 284 of the Texas Local Government Code.

**Section 9. Governing Law.** This Ordinance shall be construed in accordance with Chapter 284 of the Texas Local Government Code ("the Code") to the extent not in conflict with the Constitution and laws of the United States or of the State of Texas.

**Section 10.** All other ordinances or parts of ordinances inconsistent or in conflict herewith, or to the extent of such inconsistency or conflict are hereby repealed.

**Section 11. Severability.** Should any section or part of this ordinance be held unconstitutional, illegal, invalid, or the application to any person or circumstance for any reasons thereof ineffective or inapplicable, such unconstitutionality, illegality, invalidity, or ineffectiveness of such section or part shall in no way affect, impair or invalidate the remaining portion or portions thereof; but as to such remaining portion or portions, the same shall be and remain in full force and effect and to this end the provisions of this ordinance are declared to be severable.

**Section 12. Savings Clause.** All rights and remedies of the City are expressly saved as to any and all violations of the provisions of any ordinances affecting alcohol regulations within the City which have accrued at the time of the effective date of this ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

**Section 13. Publication.** The City Clerk of the City of Texas City is hereby directed to publish this ordinance, or its caption and penalty clause, in one issue of the official City newspaper as required by the Charter of the City of Texas City, Texas.

**Section 14.** It is hereby officially found and determined that the meeting at which this Ordinance was considered was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

**Section 15. Effective Date.** This Ordinance shall become effective on September 1, 2017.

**PASSED AND ADOPTED this 5th day of June 2019.**

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Matthew T. Doyle, Mayor  
City of Texas City, Texas

ATTEST:

APPROVED AS TO FORM:

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Nicholas J. Finan  
City Secretary

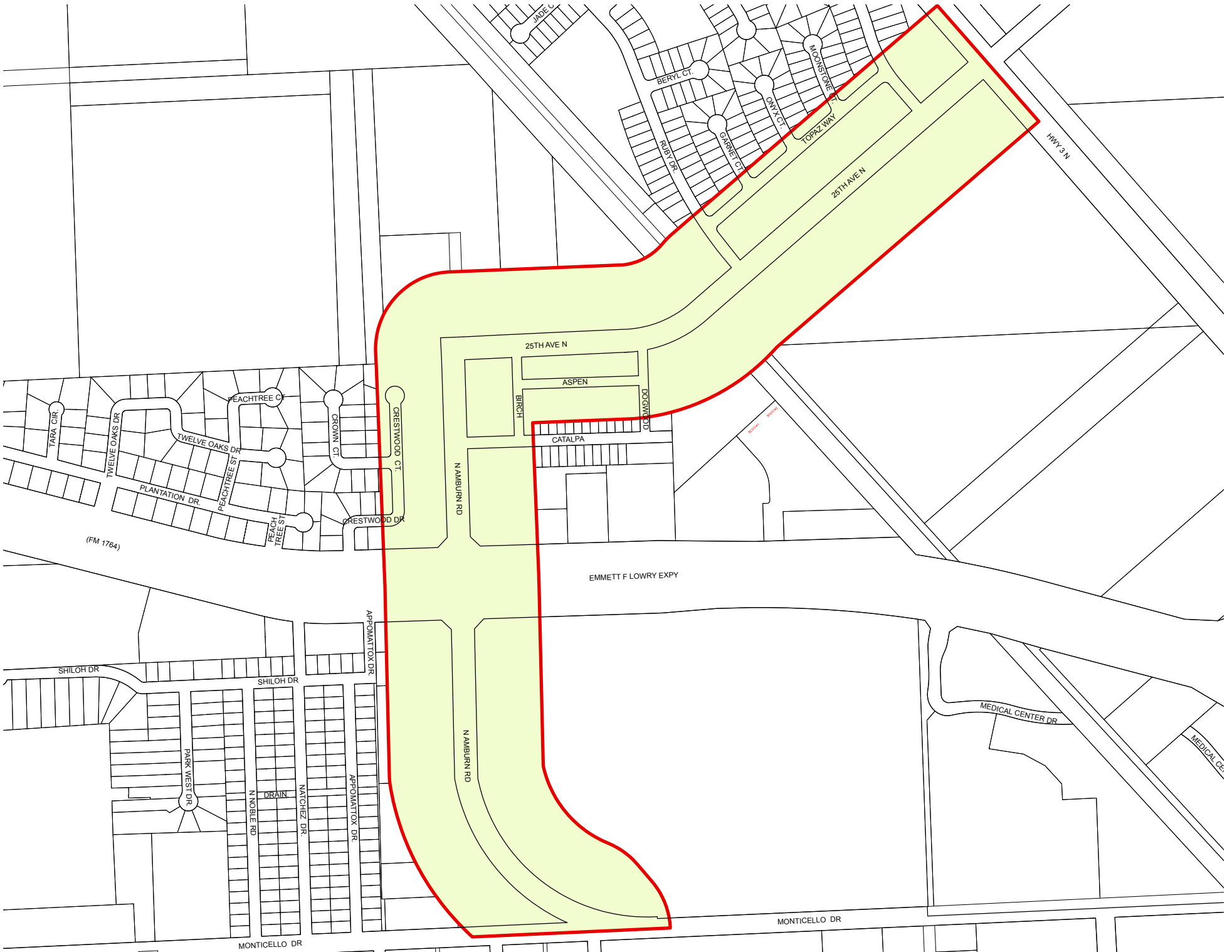
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Russell F. Plackemeier  
City Attorney

**EXHIBIT A**



NOTE: These drawings are for City planning purposes only. The City of Texas City makes no representation as to the accuracy or reliability of the information.



**EXHIBIT B**

# **Design Manual**

*for the*

*Installation of Network Nodes and Node Support Poles  
pursuant to Tex. Loc. Gov. Code, Chapter 284.*

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## **SECTION 1. PURPOSE AND APPLICABILITY.**

The City of Texas City (“City”) recognizes that the State of Texas has delegated to the City the fiduciary duty, as a trustee, to manage the public right-of-way for the health, safety, and welfare of the public to Texas municipalities.

*Purpose:* Loc. Gov. Code, Chapter 284 allows certain wireless Network Providers to install in the public rights-of-way their wireless facilities, described and defined in Tex. Loc. Gov. Code, Chapter 284, Sec. 284.002 as “Micro Network Nodes”, “Network Nodes”, and “Node Support Poles”.

As expressly allowed by Tex. Loc. Gov. Code, Chapter 284, Section 284.108, and pursuant to its police power authority reserved in Sec. 284.301<sup>1</sup>, the City enacts these Design Guidelines in order to meet its fiduciary duty to the citizens of the City, and to give assistance and guidance to wireless telecommunications providers to assist such companies in the timely, efficient, safe and aesthetically pleasing installation of technologically competitive equipment.

*Applicability:* This Design Manual is for siting and criteria for the installation Wireless Facilities, including Micro Network Nodes, Network Nodes, Node Support Poles and related ground equipment being installed pursuant to Loc. Gov. Code, Chapter 284

This Design Manual shall apply to any sitings, installations, collocations in, on, over or under the public rights-of-way of Network nodes, Node support poles, Micro network nodes, Distributed Antenna Systems, microwave communications or other Wireless Facilities, by whatever nomenclature, whether they are installed pursuant to Chapter 284, or installed pursuant to an agreement as agreed to and consented to by the City in its discretion, or installed as may otherwise be allowed by state law.

*City Rights-of-Way Management Ordinance:* A Network Provider shall comply with the City’s Rights-of-Way Management Ordinance except where in conflict with this Design Manual or Chapter 284, Subchapter C.

## **SECTION 2. DEFINITIONS.**

The definitions as used in Tx. Loc. Gov. Code, Chapter 284, Sec. 284.002 shall be used in this Design Manual, unless otherwise noted in this Section 2, below.<sup>2</sup>

*Abandon* and its derivatives means the facilities installed in the right-of-way (including by way of example but not limited to: poles, wires, conduit, manholes, handholes, cuts, network nodes and node support poles, or portion thereof) that have been left by Provider in an unused or non-functioning condition for more than 120 consecutive calendar days unless, after notice to Provider, Provider has established to the reasonable satisfaction of the City that the applicable facilities, or portion thereof, is still in active use.

*Antenna* means communications equipment that transmits or receives electromagnetic radio frequency signals used in the provision of wireless services.

*Applicable codes* means:

- (A) uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization; and
- (B) local amendments to those codes to the extent not inconsistent with Chapter 284.

*City* means the City of Texas City, Texas or its lawful successor.

*Chapter 284* means Tex. Loc. Gov. Code, Chapter 284.

*Collocate* and *collocation* mean the installation, mounting, maintenance, modification, operation, or replacement of network nodes in a public right-of-way on or adjacent to a pole.

*Concealment or Camouflaged* means any Wireless Facility or Pole that is covered, blended, painted, disguised, camouflaged or otherwise concealed such that the Wireless Facility blends into the surrounding environment and is visually unobtrusive as allowed as a condition for City advance approval under Chapter 284, Sec. 284.105 in Historic or Design Districts. A Concealed or Camouflaged Wireless Facility or Pole also includes any Wireless Facility or Pole conforming to the surrounding area in which the Wireless Facility or Pole is located and may include, but is not limited to hidden beneath a façade, blended with surrounding area design, painted to match the supporting area, or disguised with artificial tree branches.

*Decorative pole* means a streetlight pole specially designed and placed for aesthetic purposes and on which no appurtenances or attachments, other than specially designed informational or directional signage or temporary holiday or special event attachments, have been placed or are permitted to be placed according to nondiscriminatory municipal codes.

*Design District* means an area that is zoned, or otherwise designated by municipal code, and for which the city maintains and enforces unique design and aesthetic standards on a uniform and nondiscriminatory basis.

*Disaster emergency or disaster or emergency* means an imminent, impending, or actual natural or humanly induced situation wherein the health, safety, or welfare of the residents of the city is threatened, and includes, but is not limited to any declaration of emergency by city state or federal governmental authorities.

*Distributed Antenna System or DAS* shall be included as a type of “Network Node.”

*Easement* means and shall include any public easement or other compatible use created by dedication, or by other means, to the city for public utility purposes or any other purpose whatsoever. "Easement" shall include a private easement used for the provision of utilities.

*Federal Communications Commission or FCC* means the Federal Administrative Agency, or lawful successor, authorized to oversee cable television and other multi-channel regulation on a national level.

*Highway right-of-way* means right-of-way adjacent to a state or federal highway.

*Historic district* means an area that is zoned or otherwise designated as a historic district under municipal, state, or federal law.

*Law* means common law or a federal, state, or local law, statute, code, rule, regulation, order, or ordinance.

*Local* means within the geographical boundaries of the City.

*Location* means the City approved and lawfully permitted location for the Network Node.

*Macro tower* means a guyed or self-supported pole or monopole greater than the height parameters prescribed by Chapter 284, Section 284.103 and that supports or is capable of supporting antennas.

*Mayor* means the Mayor for the City or his designee.

*Micro network node* means a network node that is not larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height, and that has an exterior antenna, if any, not longer than 11 inches.

*Municipal park* means an area that is zoned or otherwise designated by municipal code as a public park for the purpose of recreational activity.

*Municipally owned utility pole* means a utility pole owned or operated by a municipally owned utility, as defined by Section 11.003, Utilities Code, and located in a public right-of-way.

*MUTCD* means Manual of Uniform Traffic Control Devices.

*Network node* means equipment at a fixed location that enables wireless communications between user equipment and a communications network. The term:

(A) includes:

- (i) equipment associated with wireless communications;
- (ii) a radio transceiver, an antenna, a battery-only backup power supply, and comparable equipment, regardless of technological configuration; and
- (iii) coaxial or fiber-optic cable that is immediately adjacent to and directly associated with a particular collocation; and

(B) does not include:

- (i) an electric generator;
- (ii) a pole; or
- (iii) a macro tower.

*Network provider* means:

- (A) a wireless service provider; or
- (B) a person that does not provide wireless services and that is not an electric utility but builds or installs on behalf of a wireless service provider:
  - (i) network nodes; or
  - (ii) node support poles or any other structure that supports or is capable of supporting a network node.

*Node support pole* means a pole installed by a network provider for the primary purpose of supporting a network node.

*Permit* means a written authorization for the use of the public right-of-way or collocation on a service pole required from a municipality before a network provider may perform an action or initiate, continue, or complete a project over which the municipality has police power authority.

*Pole* means a service pole, municipally owned utility pole, node support pole, or utility pole.

*Private easement* means an easement or other real property right that is only for the benefit of the grantor and grantee and their successors and assigns.

*Provider* has the same meaning as “Network Provider.”

*Public right-of-way* means the area on, below, or above a public roadway, highway, street, public sidewalk, alley, waterway, or utility easement in which the municipality has an interest. The term does not include:

- (A) a private easement; or
- (B) the airwaves above a public right-of-way with regard to wireless telecommunications.

*Public right-of-way management ordinance* means an ordinance that complies with Chapter 284, Subchapter C.

*Service pole* means a pole, other than a municipally owned utility pole, owned or operated by a municipality and located in a public right-of-way, including:

- (A) a pole that supports traffic control functions;
- (B) a structure for signage;
- (C) a pole that supports lighting, other than a decorative pole; and
- (D) a pole or similar structure owned or operated by a municipality and supporting only network nodes.

*Small cell* shall be included as a type of “Network Node.”

*Street* means only the paved portion of the right-of-way used for vehicular travel, being the area between the inside of the curb to the inside of the opposite curb, or the area between the two parallel edges of the paved roadway for vehicular travel where there is no curb. A “Street” is generally part of, but smaller in width than the width of the entire right-of-way, while a right-of-

way may include sidewalks and utility easements, a “Street” does not. A “street” does not include the curb or the sidewalk, if either are present at the time of a permit application or if added later.

*SWPPP* shall mean Storm Water Pollution Prevention Plan.

*TAS* means Texas Accessibility Standards.

*Traffic Signal* means any device, whether manually, electrically, or mechanically operated by which traffic is alternately directed to stop and to proceed.

*Transport facility* means each transmission path physically within a public right-of-way, extending with a physical line from a network node directly to the network, for the purpose of providing backhaul for network nodes.

*Underground Requirement Area* shall mean means an area where poles, overhead wires, and associated overhead or above ground structures have been removed and buried or have been approved for burial underground pursuant to municipal ordinances, zoning regulations, state law, private deed restrictions, and other public or private restrictions, that prohibit installing aboveground structures in a public right-of-way.

*User* means a person or organization which conducts a business over facilities occupying the whole or a part of a public street or right-of-way, depending on the context.

*Utility pole* means a pole that provides:

- (A) electric distribution with a voltage rating of not more than 34.5 kilovolts; or
- (B) services of a telecommunications provider, as defined by Chapter 284, Section 51.002, Utilities Code.

*Wireless service* means any service, using licensed or unlicensed wireless spectrum, including the use of Wi-Fi, whether at a fixed location or mobile, provided to the public using a network node.

*Wireless service provider* means a person that provides wireless service to the public.

*Wireless facilities* mean “Micro Network Nodes,” “Network Nodes,” and “Node Support Poles” as defined in Texas Local Government Code Chapter 284.

### **SECTION 3. PROHIBITED AND PREFERRED LOCATIONS OF MICRO NETWORK NODE, NETWORK NODE, NODE SUPPORT POLE AND RELATED GROUND EQUIPMENT.**

#### **A. Prohibited or Restricted Areas for Certain Wireless facilities, except with Separate City Agreement or Subject to Concealment Conditions.**

1. *Municipal Parks and Residential Areas*. In accordance with Chapter 284, Sec. 284.104 (a), a Network Provider may not install a Node Support Pole in a public right-of-way

without the City's discretionary, nondiscriminatory, and written consent if the public right-of-way is in a Municipal park or is adjacent to a street or thoroughfare that is:

(1) not more than 50 feet wide of paved street surface, being the area measured as the shortest distance between the inside of the curb to the inside of the opposite curb, or the area measured as the shortest distance between the two parallel edges of the paved roadway for vehicular travel where there is no curb; and

(2) adjacent to single-family residential lots or other multifamily residences or undeveloped land that is designated for residential use by zoning or deed restrictions.

1.1. In accordance with Chapter 284, Sec. 284.104 (b), a Network Provider installing a Network Node or Node Support Pole in a public right-of-way described above shall comply with private deed restrictions and other private restrictions in the area that apply to those facilities.

Each permit application shall disclose if it is within a Municipal Park and Residential Areas as described above.

**2. *Historic District and Design Districts.*** In accordance with Chapter 284, Sec. 284.105, a Network Provider must obtain advance written approval from the City before collocating Network Nodes or installing Node Support Poles in a Design District with Decorative Poles or in an area of the City zoned or otherwise designated as a Design District or Historic District.

2.1. As a condition for approval of Network Nodes or Node Support Poles in Design Districts with Decorative Poles or in a Historic District, the City shall require reasonable design or Concealment measures for the Network Nodes or Node Support Poles. Therefore, any request for installations in a Design District with Decorative Poles or in a Historic District, must be accompanied with proposed Concealment measures in the permit applications.

2.2. The City request that a Network Provider explore the feasibility of using Camouflage measures to improve the aesthetics of the Network Nodes, Node Support Poles, or related ground equipment, or any portion of the nodes, poles, or equipment, to minimize the impact to the aesthetics in Design Districts or in an Historic District.

2.3. Network Provider shall comply with and observe all applicable City, State, and federal historic preservation laws and requirements.

2.4. Each permit application shall disclose if it is within a Design District with Decorative Poles or in an area of the City zoned or otherwise designated as a Design District or Historic District.

**3. *Historic Landmarks.*** A Network Provider is discouraged from installing a Network Node or Node Support Pole within 300 feet of a historic site or structure or Historic Landmark recognized by the City, state or federal government (*see, for example, and not limited to* §442.001(3) of the Texas Government Code, and 16 U.S.C. §470), as of the date of the submission of the permit. It is recommended that each permit application disclose if it is with 300 feet of such a structure.

**4. Compliance with Undergrounding Requirements.** In accordance with Chapter 284, Sec. 284.107, a Network Provider shall comply with nondiscriminatory undergrounding requirements, including municipal ordinances, zoning regulations, state law, private deed restrictions, and other public or private restrictions, that prohibit installing aboveground structures in a public right-of-way without first obtaining zoning or land use approval.

4.1 Areas may be designated from time to time by the City as Underground Requirement Areas in accordance with filed plats, and or conversions of overhead to underground areas, as may be allowed by law.

4.2 Each permit application shall disclose if it is within an area that has undergrounding requirements.

**B. Least preferable locations.**

**1. Residential Areas and Parks.** A Network Provider is discouraged from installing a Network Node on an existing pole in a public right-of-way without written consent from the City Commission if the public right-of-way is located in or adjacent to a street or thoroughfare that is adjacent to a municipal park or single-family residential lots or other multifamily residences or undeveloped land that is designated for residential use by zoning or deed restrictions.

1.1 In accordance with Chapter 284, Sec. 284.104 (b) a Network Provider installing a Network Node or a Node Support Pole in a public right-of-way shall comply with private deed restrictions and other private restrictions in the area that apply to those facilities.

**2. Historic Districts and Design Districts.** A Network Provider is discouraged from installing a Network Node or a Node Support Pole in the public right-of-way in any area designated by the City as a Design Districts or in an area of the City zoned or otherwise designated as a Historic District unless such a Network Node or a new Node Support Pole is camouflaged.

**C. Most preferable locations**

1. *Industrial areas* if not adjacent to a Municipal Park, Residential area, Historic District or Design District.

2. *Highway Rights-of-Way* areas if not adjacent to a Municipal Park, Residential area, Historic District or Design District.

3. *Retail and Commercial areas* if not adjacent to a Municipal Park, Residential area, Historic District or Design District.

**D. Designated Areas.**

1. The City Commission may designate an area as a Historic District or a Design District under Chapter 284.105 at any time.

2. Currently designated *Historic Districts* are:

(a) Historic District Number 1 is the area referred to as The 1867 Settlement Historic District located at 117 S Bell Street, Texas City.

(b) Historic District Number 2 is the area referred to as Heritage Square Park located at 109 3<sup>rd</sup> Ave N, Texas City.

3. Currently designated *Design District* areas are as shown in Exhibit A.

4. The failure to designate an area in this Chapter shall not mean that such an area is not within a defined district, if so designated by the City Commission. Future areas may be designated as one of these Districts at any time. Such a designation does not require a zoning case.

5. While not required under Chapter 284 to designate Underground Compliance Areas to prohibit above ground Wireless facilities, the City may also, from time to time, also designate Underground Compliance Areas.

Currently designated *Underground Compliance Areas*, also known as the *Gateway Overlay District Areas*, are specified in Ordinance 160.069 of the Texas City Code of Ordinances.

#### **E. Exceptions**

The City by its discretionary consent and agreement may grant exception to the above prohibited locations and sizes, but only in a non-exclusive, and non-discriminatory manner, as allowed or required by Chapter 284, Sec. 284.109 and Sec. 284.110.

#### **F. Order of Preference regarding Network Node attachment to existing facilities and New Node Support Poles.**

1. *Existing telephone or electrical lines between existing utility poles.* Micro Network Nodes shall only be lashed on existing telephone or electrical lines between existing utility poles (electric poles or telephones poles), with notice to the pole owner as required by the Federal Pole Attachment Act, and not placed on Utility Poles, Node Support Poles or Service Poles.

2. *Existing Utility Poles* (electric poles or telephones poles), shall be the preferred support facility for Network Nodes and related ground equipment.

3. *Municipal Service Poles:*

a. *Non-decorative street lights* with a height of more than 20 feet.

b. *Traffic signal structures* when such installation will not interfere with the integrity of the facility and will not interfere with the safety of public and in accordance

with an agreement as allowed by Chapter 284, Sec. 285.056 and Sec. 284.101 (a) (3), and (b).

c. *Street signage* shall be a low priority use for attachment of a Network Node.

d. *Other municipal Service pole* use is discouraged.

4. *New node support poles* shall be the least preferred type of allowed facility for attachment of Network Nodes.

4. *Ground Equipment.* Ground equipment should be minimal and the least intrusive.

#### **SECTION 4. GUIDELINES ON PLACEMENT.**

##### **A. Generally.**

In accordance with Chapter 284.102, a Network Provider shall construct and maintain Network Nodes and Node Support Poles in a manner that does not:

1. obstruct, impede, or hinder the usual travel or public safety on a public right-of-way;
2. obstruct the legal use of a public right-of-way by other utility providers;
3. violate nondiscriminatory applicable codes;
4. violate or conflict with the municipality's publicly disclosed public right-of-way management ordinance or this Design Manual.
5. violate the federal Americans with Disabilities Act of 1990 (42 U.S.C. Section 12101 et seq.).

##### **B. General Requirements and Information:**

1. *Size Limits.* Network Providers shall provide detailed drawings, with calculations to show strict conformity to the size limitations as set forth in Chapter 284, in accordance with, but not limited to Chapter 284, Sec. 284.002, size of a Micro Network Node, Sec. 284.003, Size of Network Nodes, and Sec. 284.103, Max. pole height, with each application and with each request for a permit for each location.<sup>3</sup>

2. *State and Federal Rights-of-way permit.* If the project lies within a Highway Right-of-Way, the applicant must provide evidence of a permit from the State or Federal Government.

3. *Confirmation of non-interference with City Safety Communication Networks.*

a. The Network Provider needs to provide analysis that the proposed network node shall not cause any interference with City public safety radio system, traffic signal light system, or other city safety communications components in accordance with Chapter 284, Sec. 284.304.

b. It shall be the responsibility of the Network Provider to evaluate, prior to making application for permit, the compatibility between the existing City infrastructure and Provider's proposed Network Node. A Network Node shall not

be installed in a location that causes any interference. Network Nodes shall not be allowed on City's public safety radio infrastructure.

*4. Improperly Located Network Node facilities, Node Support Poles and related ground equipment:*

a. Improperly Located Network Node facilities, Node Support Poles and related ground equipment shall not impede pedestrian or vehicular traffic in the Right-of-Way. If any Network Node facilities, Node Support Poles or ground equipment is installed in a location that is not in accordance with the plans approved by the Mayor and impedes pedestrian or vehicular traffic or does not comply or otherwise renders the Right-of-Way non-compliant with applicable Laws, including the American Disabilities Act, then Network Provider shall promptly remove the Network Node facilities, Node Support Poles or ground equipment.

b. Notice to Remove unauthorized facilities and relocate and penalty: After 30 days' notice to remove of Network Node facilities, Node Support Poles or ground equipment that is located in the incorrect permitted location, if not relocated the Network Provider shall be subject to a penalty of \$XXXX per day penalty until the Network Node facilities, Node Support Poles or ground equipment is relocated to the correct area within the permitted Location, regardless of whether or not the Network Provider's contractor, subcontractor, or vendor installed the Network Node facilities, Node Support Poles or ground equipment in strict conformity with the City Rights-of-way management ord., and other applicable ordinances concerning improperly located facilities in the rights-of-way.

**B. Underground Requirement Areas.**

1. In accordance with Chapter 284.107, a Network Provider shall, in relation to installation for which the City approved a permit application, comply with nondiscriminatory undergrounding requirements, including municipal ordinances, zoning regulations, state law, private deed restrictions, and other public or private restrictions, that prohibit installing aboveground structures in a public right-of-way without first obtaining zoning or land use approval.

2. If a location is designated by the City to transits to be an Underground Requirement Area, then a Network Provider's permit for the location of the Micro Network Node, Network Node, Node Support Pole, and related ground equipment at such location will be revoked 90 days after the designation, with removal of said the Micro Network Node, Network Node, Node Support Pole, and related ground equipment at such location within 90 days of such designation, or as otherwise reasonably allowed by the City for the transition of other overhead facilities.

**C. Network Node facilities placement:**

1. *Right-of-Way:* Network Node facilities, Node Support Poles and related ground equipment shall be placed, as much as possible, within two feet of the outer edge of the Right-of-Way line to minimize any obstruction, impediment, or hindrance to the usual travel or public safety on a public right-of-way.

2. *Height above ground.* Network Node attachments to a pole shall be installed at least eight (8) feet above the ground in accordance with Chapter 284, Sec. 284.108, and if a Network Node attachment is projecting toward the street, for the safety and protection of the public and vehicular traffic, the attachment shall be installed no less than sixteen (16) feet above the ground.

3. *Protrusions.* In accordance with Chapter 284, Sec. 284.003 (a) (1) (C), Sec. 284.003 (a) (2) (C) and Sec. 284.003 (a) (3) (B) no protrusion from the outer circumference of the existing structure or pole shall be more than two (2) feet.

4. *Limit on number of Network Nodes per Site.* There shall be no more than one Network Node on any one Pole.

#### **D. New Node Support Poles.**

1. *New Node Support Poles Spacing.* New node support poles shall be spaced apart from existing utility poles or Node Support poles at the same as the spacing between utility poles in the immediate proximity, but no less than at a minimum 300 feet from a utility pole or another Node Support Pole to minimize the hazard of poles adjacent to road ways and to minimize effect on property values and aesthetics on the area.

2. *Height of Node Support Poles or modified Utility Pole.* In accordance with Chapter 284, Sec. 284.103 a Node support pole or modified Utility Pole may not exceed the lesser of:

- (1) 10 feet in height above the tallest existing utility pole located within 500 linear feet of the new pole in the same public right-of-way; or
- (2) 55 feet above ground level.

#### **E. Ground Equipment.**

1. *Ground Equipment near street corners and intersections:* Ground equipment should be minimal and the least intrusive. In accordance with Chapter 284.102 (1), to minimize any obstruction, impediment, or hindrance to the usual travel or public safety on a public right-of-way the maximum line of sight required to add to safe travel of vehicular and pedestrian traffic and in order to maximize that line of sight at street corners and intersections and to minimize hazards at those locations, ground equipment may not be installed within 250 feet of a street corner or a street intersection.

2. *Ground Equipment near Municipal Parks.* For the safety of Municipal park patrons, particularly small children, and to allow full line of sights near Municipal park property, the Network Provider shall not install Ground Equipment in a Right-of-Way that is within a Park or within 250 feet of the boundary line of a Park, unless approved by the Mayor and Parks Director in writing.

3. *Minimize Ground equipment density:*

In accordance with Chapter 284, Sec. 284.102 (1) to enhance the safety requirements of line of sight of pedestrians, particularly small children, the City's designee may deny a request for a proposed Location if the Network Provider installs Network Node ground equipment where existing ground equipment within 300 feet already occupies a footprint of xxx [25?] sq. ft. or more.

## **F. Municipal Service Poles:**

1. *In accordance with Agreement:* Installations on all Service Poles shall be in accordance with an agreement as allowed by Chapter 284, Sec. 285.056 and Sec. 284.101 (a) (3), and (b).

2. *Required industry standard pole load analysis:* Installations on all Service Poles shall have an industry standard pole load analysis completed and submitted to the municipality with each permit application indicating that the Service Pole to which the Network Node is to be attached will safely support the load, in accordance with Chapter 284.108.

3. *Height of attachments:* All attachments on all Service Poles shall be at least 8 feet above grade, in accordance with Chapter 284, Sec. 285.108 (a) (1) - (2) and if a Network Node attachment is projecting toward the street, for the safety and protection of the public and vehicular traffic, the attachment shall be installed no less than sixteen (16) feet above the ground.

3. *Installations on Traffic Signals:* Installations on all Traffic signal structures must not interfere with the integrity of the facility in any way that may compromise the safety of the public and must be in accordance with an agreement as allowed by Chapter 284, Sec. 285.056 and Sec. 284.101 (a) (3), and (b). Installation of Network Node facilities on any traffic signal structures shall:

- i. Be encased in a separate conduit than the traffic light electronics;
- ii. Have a separate electric power connection than the traffic signal structure; and
- iii. Have a separate access point than the traffic signal structure; and

4. *Installations on Street signage:* Installations on all street signage structures must not interfere with the integrity of the facility in any way that may compromise the safety of the public. Installation of Network Node facilities on any street signage structures that has electrics shall:

- i. Be encased in a separate conduit than any City signage electronics;
- ii. Have a separate electric power connection than the signage structure;
- iii. Have a separate access point than the signage structure; and

## **SECTION 5. GENERAL AESTHETIC REQUIREMENTS**

### **A. Concealment.**

1. Concealment of Network Nodes and Node support poles shall be required by the City in Design Districts with Decorative Poles and in Historic Districts pursuant to Chapter 284.105.

2. It is also the City's preference that all new node support poles be camouflaged, except those located in an area zoned or predominantly industrial area. Companies shall submit their proposal for camouflage with the permit application.

3. The Network Node facilities shall be concealed or enclosed as much as reasonably possible in an equipment box, cabinet, or other unit that may include ventilation openings. External cables and wires hanging off a pole shall be sheathed or enclosed in a conduit, so that wires are protected and not visible or visually minimized to the extent possible in strict accordance with the City's rights-of-way management ordinance, and other applicable ordinances, except to the extent not consistent with Chapter 284.

The Network Node facilities shall be concealed or enclosed as much as possible in an equipment box, cabinet, or other unit that may include ventilation openings. External cables and wires hanging off a pole shall be sheathed or enclosed in a conduit, so that wires are protected and not visible or visually minimized to the extent possible, except to the extent not consistent with Chapter 284.

**B. New Node Support Pole Spacing.**

New node support poles shall be at a minimum 300 feet from a utility pole or another Node Support Pole to minimize the hazard of poles adjacent to road ways and to minimize effect on property values and aesthetics on the area.

**C. Minimize Ground Equipment Concentration.**

In order to minimize negative visual impact to the surrounding area, and in accordance with Chapter 284, Sec. 284.102 (1) to enhance the safety requirements of line of sight of pedestrians, particularly small children, the City's designee may deny a request for a proposed Location if the Network Provider installs Network Node ground equipment where existing ground equipment within 300 feet already occupies a footprint of 25 sq. ft. or more to minimize effect on property values and aesthetics on the area.

**C. Allowed Colors.**

Colors in Historic Districts and Design Districts must be in strict accordance with the City's rights-of-way management ordinance, and other applicable ordinances, except to the extent not consistent with Chapter 284

Colors in Historic Districts and Design Districts must be approved by the Mayor from a palette of approved colors. Unless otherwise provided, all colors shall be earth tones or shall match the background of any structure the facilities are located upon and all efforts shall be made for the colors to be inconspicuous. Colors in areas other than in Historic Districts and Design Districts shall conform to colors of other installations of telecommunication providers in the immediately adjacent areas.

**SECTION 6. ELECTRICAL SUPPLY**

A. Network Provider shall be responsible for obtaining any required electrical power service to the Micro Network Node, Network Node facilities, Node Support Poles and ground equipment. The City shall not be liable to the Network Provider for any stoppages or shortages of electrical power furnished to the Micro Network Node, Network Node facilities, Node Support Poles or ground equipment, including without limitation, stoppages or shortages caused by any act, omission, or requirement of the public utility serving the structure or the act or omission of any other tenant or Network Provider of the structure, or for any other cause beyond the control of the City.

B. Network Provider shall not allow or install generators or back-up generators in the Right-of-Way in accordance with Chapter 284, Sec. 284.002 (12) (B) (1).

**SECTION 7. INSURANCE, INDEMNITY, BONDING AND SECURITY DEPOSITS.**

1. Insurance, bonding and security deposits shall be in strict accordance with the City's rights-of-way management ordinance, and other applicable ordinances, except to the extent not consistent with Chapter 284.

2. Indemnity shall be in accordance with Chapter 284, Sec. 284.302, as provided for in Chapter 283, Sec. 283.057 (a) and (b) of the Texas Loc. Gov't Code.

**SECTION 8. REQUIREMENTS IN REGARD TO REMOVAL, REPLACEMENT, REPLACEMENT, MAINTENANCE AND REPAIR**

**A. REMOVAL OR RELOCATION BY NETWORK PROVIDER.**

1. Removal and relocation by the Network provider of its Micro Network Node, Network Node facilities, Node Support Pole or related ground equipment at its own discretion, shall be in strict accordance with the City's rights-of-way management ordinance, and other applicable ordinances, except to the extent not consistent with Chapter 284

1. If the Network Provider removes or relocates a Micro Network Node, Network Node facilities, Node Support Pole or related ground equipment at its own discretion, it shall notify the Mayor in writing not less than 10 business days prior to removal or relocation. Network Provider shall obtain all Permits required for relocation or removal of its Micro Network Node, Network Node facilities, Node Support Poles and related ground equipment prior to relocation or removal.

2. The City shall not issue any refunds for any amounts paid by Network Provider for Micro Network Node, Network Node facilities, Node Support Poles or related ground equipment that have been removed.

**B. REMOVAL OR RELOCATION REQUIRED FOR CITY PROJECT.**

1. Removal and Relocation of Network Provider's Micro Network Node, Network Node, Node Support Pole or related ground equipment, or portion thereof required for a City project shall be in strict accordance with the City's rights-of-way management ordinance, and other applicable ordinances, except to the extent not consistent with Chapter 284, Sec. 284.107, except as provided in existing state and federal law.

1. In accordance with Chapter 284, Sec. 284.107, except as provided in existing state and federal law, a Network Provider shall relocate or adjust Micro Network Node, Network Node, Node Support Pole and related ground equipment in a public right-of-way in a timely manner and without cost to the municipality managing the public right-of-way

2. Network Provider understands and acknowledges that the City may require Network Provider to remove or relocate its Micro Network Node, Network Node, Node Support Pole and related ground equipment, or any portion thereof from the Right-of-Way for City construction projects as allowed by state and feral law, including the common-law.

3. Network Provider shall, at the Mayor's direction, remove or relocate the same at Network Provider's sole cost and expense, except as otherwise provided in existing state and

federal law, whenever the Mayor reasonably determines that the relocation or removal is needed for any of the following purposes: Required for the construction, completion, repair, widening, relocation, or maintenance of, or use in connection with, any City construction or maintenance project of a street or public rights-of-way to enhance the traveling public's use for travel and transportation.

3. If Network Provider fails to remove or relocate the Micro Network Node, Network Node, Node Support Pole or related ground equipment, or portion thereof as requested by the Mayor within 90 days of Network Provider's receipt of the request, then the City shall be entitled to remove the Micro Network Node, Network Node, Node Support Pole or related ground equipment, or portion thereof at Network Provider's sole cost and expense, without further notice to Network Provider.

4. Network Provider shall, within 30 days following issuance of invoice for the same, reimburse the City for its reasonable expenses incurred in the removal (including, without limitation, overhead and storage expenses) of the Micro Network Node, Network Node, Node Support Pole or related ground equipment, or portion thereof.

### **C. REMOVAL REQUIRED BY CITY FOR SAFETY AND IMMINENT DANGER REASONS.**

1. Network Provider shall, at its sole cost and expense, promptly disconnect, remove, or relocate the applicable Micro Network Node, Network Node, Node Support Pole and related ground equipment within the time frame and in the manner required by the Mayor if the Mayor reasonably determines that the disconnection, removal, or relocation of any part of a Micro Network Node, Network Node, Node Support Pole and related ground equipment (a) is necessary to protect the public health, safety, welfare, or City property, (b) the Micro Network Node, Network Node, Node Support Pole and related ground equipment, or portion thereof, is adversely affecting proper operation of streetlights or City property, or (c) Network Provider fails to obtain all applicable licenses, Permits, and certifications required by Law for its Micro Network Node, Network Node, Node Support Pole and related ground equipment, or use of any Location under applicable law in strict accordance with the City's rights-of-way management ordinance, and other applicable ordinances, except to the extent not consistent with Chapter 284.

2. If the Mayor reasonably determines that there is imminent danger to the public, then the City may immediately disconnect, remove, or relocate the applicable Micro Network Node, Network Node, Node Support Pole and related ground equipment at the Network Provider's sole cost and expense in strict accordance with the City's rights-of-way management ordinance, and other applicable ordinances, except to the extent not consistent with Chapter 284.

1. Network Provider shall, at its sole cost and expense, promptly disconnect, remove, or relocate the applicable Micro Network Node, Network Node, Node Support Pole and related ground equipment within the time frame and in the manner required by the Mayor if the Mayor reasonably determines that the disconnection, removal, or relocation of any part of a Micro Network Node, Network Node, Node Support Pole and related ground equipment (a) is necessary to protect the public health, safety, welfare, or City property, (b) the Micro Network Node, Network Node, Node Support Pole and related ground equipment, or portion thereof, is adversely affecting proper operation of streetlights or City property, or (c) Network Provider fails to obtain all applicable licenses, Permits, and certifications required by Law for its Micro Network Node, Network Node, Node Support Pole and related ground equipment, or use of any

Location under applicable law. If the Mayor reasonably determines that there is imminent danger to the public, then the City may immediately disconnect, remove, or relocate the applicable Micro Network Node, Network Node, Node Support Pole and related ground equipment at the Network Provider's sole cost and expense.

2. The Mayor shall provide 90 days written notice to the Network Provider before removing a Micro Network Node, Network Node, Node Support Pole and related ground equipment under this Section, unless there is imminent danger to the public health, safety, and welfare.

3. Network Provider shall reimburse City for the City's actual cost of removal of Micro Network Node, Network Node, Node Support Pole and related ground equipment within 30 days of receiving the invoice from the City.

## **SECTION 9. INSTALLATION AND INSPECTIONS**

### **A. INSTALLATION.**

Network Provider shall, at its own cost and expense, install the Micro Network Node, Network Node facilities, Node Support Poles and related ground equipment in a good and workmanlike manner in strict accordance with the City's rights-of-way management ordinance, and other applicable ordinances, except to the extent not consistent with Chapter 284

Network Provider shall, at its own cost and expense, install the Micro Network Node, Network Node facilities, Node Support Poles and related ground equipment in a good and workmanlike manner and in accordance with the requirements promulgated by the Mayor, as such may be amended from time to time. Network Provider's work shall be subject to the regulation, control and direction of the Mayor. All work done in connection with the installation, operation, maintenance, repair, modification, and/or replacement of the Micro Network Node, Network Node facilities, Node Support Poles and related ground equipment shall be in compliance with all applicable laws, ordinances, codes, rules and regulations of the City, applicable county, the state, and the United States ("Laws").

### **B. INSPECTIONS.**

The Mayor, or designee, may perform visual inspections of any Micro Network Node, Network Node, Node Support Pole or related ground equipment located in the Right-of-Way shall be allowed in strict accordance with the City's rights-of-way management ordinance, and other applicable ordinances, except to the extent not consistent with Chapter 284

The Mayor, or designee, may perform visual inspections of any Micro Network Node, Network Node, Node Support Pole or related ground equipment located in the Right-of-Way as the Mayor deems appropriate without notice. If the inspection requires physical contact with the Micro Network Node, Network Node, Node Support Poles or related ground equipment, the Mayor shall provide written notice to the Network Provider within five business days of the planned inspection. Network Provider may have a representative present during such inspection.

## **SECTION 10. REQUIREMENTS UPON ABANDONMENT OF OBSOLETE MICRO NETWORK NODE, NETWORK NODE, NODE SUPPORT POLE AND RELATED GROUND EQUIPMENT.**

Abandoned or obsolete Micro Network Node, Network Node, Node Support Pole and related ground equipment shall be removed in strict accordance with the City's rights-of-way management ordinance, and other applicable ordinances, except to the extent not consistent with Chapter 284.

Network Provider shall remove Micro Network Node, Network Node, Node Support Pole and related ground equipment when such facilities are Abandoned regardless of whether or not it receives notice from the City. Unless the City sends notice that removal must be completed immediately to ensure public health, safety, and welfare, the removal must be completed within the earlier of 90 days of the Micro Network Node, Network Node, Node Support Pole and related ground equipment being Abandoned or within 90 days of receipt of written notice from the City. When Network Provider removes, or Abandons permanent structures in the Right-of-Way, the Network Provider shall notify the Mayor and Mayor in writing of such removal or Abandonment and shall file with the Mayor and Mayor the location and description of each Micro Network Node, Network Node, Node Support Pole and related ground equipment removed or Abandoned. The Mayor may require the Network Provider to complete additional remedial measures necessary for public safety and the integrity of the Right-of-Way.

## **SECTION 11. GENERAL PROVISIONS.**

**1. As Built Maps and Records.** Network Provider's as built maps and records shall be in strict accordance with the City's rights-of-way management ordinance, and other applicable ordinances, except to the extent not consistent with Chapter 284.

Network Provider shall maintain accurate maps and other appropriate records of its Network Node facilities, Node Support Poles and related ground equipment as they are actually constructed in the Rights-of-Way, including, upon request, the use of Auto CAD/GIS digital format. Network Provider will provide additional maps to the City upon request.

**2. Courtesy and Proper Performance.** Courtesy and Proper Performance of Network provider's personnel, and contractors shall be in strict accordance with the City's rights-of-way management ordinance, and other applicable ordinances, except to the extent not consistent with Chapter 284.

Network Provider shall make citizen satisfaction a priority in using the Right-of-Way. Network Provider shall train its employees to be customer service-oriented and to positively and politely interact with citizens when dealing with issues pertaining to its Micro Network Node, Network Node, Node Support Pole and related ground equipment in the Right-of-Way. Network Provider's employees shall be clean, courteous, efficient, and neat in appearance and committed to offering the highest quality of interaction with the public. If, in the opinion of the Mayor or designee, Network Provider is not interacting in a positive and polite manner with citizens, he or she shall request Network Provider to take all remedial steps to conform to these standards.

**3. DRUG POLICY.** Drug policy of Network provider's personnel, and contractors in the rights-of-way shall be in strict accordance with the City's rights-of-way management ordinance, and other applicable ordinances, except to the extent not consistent with Chapter 284.

It is the policy of the City to achieve a drug-free workforce and workplace. The manufacture, distribution, dispensation, possession, sale, or use of illegal drugs or alcohol by Network Provider's employees, contractors, subcontractors, sub-Network Provider's, or vendors while on City rights-of-way is prohibited.

**4. ALLOCATION OF FUNDS FOR REMOVAL AND STORAGE.** The City has appropriated \$0 to pay for the cost of any removal or storage of Micro Network Node, Network Node, Node Support Pole and related ground equipment, as authorized under this Article, and no other funds are allocated.

**5. OWNERSHIP.** Ownership of Network Node and related equipment shall be in strict accordance with the City's rights-of-way management ordinance, and other applicable ordinances, except to the extent not consistent with Chapter 284.

No part of a Micro Network Node, Network Node, Node Support Pole and related ground equipment erected or placed on the Right-of-Way by Network Provider will become, or be considered by the City as being affixed to or a part of, the Right-of-Way. All portions of the Micro Network Node, Network Node, Node Support Pole and related ground equipment constructed, modified, erected, or placed by Network Provider on the Right-of-Way will be and remain the property of Network Provider and may be removed by Network Provider at any time, provided the Network Provider shall notify the Mayor prior to any work in the Right-of-Way.

**6. Tree Maintenance.** Tree maintenance shall be in strict accordance with the City's rights-of-way management ordinance, and other applicable ordinances, except to the extent not consistent with Chapter 284.

Network Provider, its contractors, and agents shall obtain written permission from the Mayor before trimming trees hanging over its Micro Network Node, Network Node, or Node Support Pole, to prevent branches of such trees from contacting attached Micro Network Node, Network Node, or Node Support Pole. When directed by the Mayor, Network Provider shall trim under the supervision and direction of the Parks Director. The City shall not be liable for any damages, injuries, or claims arising from Network Provider's actions under this section.

**7. Signage.** Signage shall be in strict accordance with the City's rights-of-way management ordinance, and other applicable ordinances, except to the extent not consistent with Chapter 284.

Network Provider shall post its name, location identifying information, and emergency telephone number in an area on the cabinet of the Network Node facility that is visible to the public. Signage required under this section shall not exceed 4" x 6", unless otherwise required by law (e.g. RF ground notification signs) or the Mayor.

Except as required by Laws or by the Utility Pole owner, Network Provider shall not post any other signage or advertising on the Micro Network Node, Network Node, Node Support Pole, Service pole or Utility Pole.

**8. Graffiti Abatement.** Graffiti abatement shall be in strict accordance with the City's rights-of-way management ordinance, and other applicable ordinances, except to the extent not consistent with Chapter 284.

As soon as practical, but not later than fourteen (14) calendar days from the date Network Provider receives notice thereof, Network Provider shall remove all graffiti on any of its Micro

Network Node, Network Node, Node Support Pole, and related ground equipment located in the Right of Way. The foregoing shall not relieve the Network Provider from complying with any City graffiti or visual blight ordinance or regulation.

#### **9. Restoration.**

Network Provider shall restore and repair of the rights-of-way from any damage to the Right-of-Way, or any facilities located within the Right-of-Way, and the property of any third party resulting from Network Provider's removal or relocation activities (or any other of Network Provider's activities hereunder) in strict accordance with the City's rights-of-way management ordinance, and other applicable ordinances, except to the extent not consistent with Chapter 284.

Network Provider shall repair any damage to the Right-of-Way, or any facilities located within the Right-of-Way, and the property of any third party resulting from Network Provider's removal or relocation activities (or any other of Network Provider's activities hereunder) within 10 calendar days following the date of such removal or relocation, at Network Provider's sole cost and expense, including restoration of the Right-of-Way and such property to substantially the same condition as it was immediately before the date Network Provider was granted a Permit for the applicable Location or did the work at such Location (even if Network Provider did not first obtain a Permit), including restoration or replacement of any damaged trees, shrubs or other vegetation. Such repair, restoration and replacement shall be subject to the sole, reasonable approval of the Mayor.

#### **10. Network provider's responsibility.**

Network Provider shall be responsible and liable for the acts and omissions of Network Provider's employees, temporary employees, officers, directors, consultants, agents, Affiliates, subsidiaries, sub-Network Provider's and subcontractors in connection with the installations of any Micro Network Node, Network Node, Node Support Pole and related ground equipment, as if such acts or omissions were Network Provider's acts or omissions in strict accordance with the City's rights-of-way management ordinance, and other applicable ordinances, except to the extent not consistent with Chapter 284.

Network Provider shall be responsible and liable for the acts and omissions of Network Provider's employees, temporary employees, officers, directors, consultants, agents, Affiliates, subsidiaries, sub-Network Provider's and subcontractors in connection with the installations of any Micro Network Node, Network Node, Node Support Pole and related ground equipment, as if such acts or omissions were Network Provider's acts or omissions.

### **SECTION 12. ADMINISTRATIVE HEARING – REQUEST FOR EXEMPTION**

Should the Network Provider desire to deviate from any of the standards set forth in the Design Manual, the Network Provider may request an Administrative Hearing before a Board of Appeals. The Zoning Board of Adjustment shall act as the Board of Appeals for a Request for Exemption.

The process for an application, hearing and vote shall follow the process set out for a variance.

## SECTION 13-19 RESERVED

### SECTION 20. DESIGN MANUAL - UPDATES

Placement or Modification of Micro Network Node, Network Node, Node Support Pole and related ground equipment shall comply with the City's Design Manual at the time the Permit for installation or Modification is approved and as amended from time to time.

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<sup>1</sup> Sec. 284.301. LOCAL POLICE-POWER-BASED REGULATIONS. (a) Subject to this chapter and applicable federal and state law, a municipality may continue to exercise zoning, land use, planning, and permitting authority in the municipality's boundaries, including with respect to utility poles.

(b) A municipality may exercise that authority to impose police-power-based regulations for the management of the public right-of-way that apply to all persons subject to the municipality.

(c) A municipality may impose police-power-based regulations in the management of the activities of network providers in the public right-of-way only to the extent that the regulations are reasonably necessary to protect the health, safety, and welfare of the public.

<sup>2</sup> The definitions as used in Tx. Loc. Gov. Code, Chapter 284, Sec. 284.002 shall be used in this Design Manual.

Tex. Loc. Gov. Code, Chapter 284, Sec. 284.002. DEFINITIONS. In this chapter:

(1) "Antenna" means communications equipment that transmits or receives electromagnetic radio frequency signals used in the provision of wireless services.

(2) "Applicable codes" means:

(A) uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization; and

(B) local amendments to those codes to the extent not inconsistent with this chapter.

(3) "Collocate" and "collocation" mean the installation, mounting, maintenance, modification, operation, or replacement of network nodes in a public right-of-way on or adjacent to a pole.

(4) "Decorative pole" means a streetlight pole specially designed and placed for aesthetic purposes and on which no appurtenances or attachments, other than specially designed informational or directional signage or temporary holiday or special event attachments, have been placed or are permitted to be placed according to nondiscriminatory municipal codes.

(5) "Design district" means an area that is zoned, or otherwise designated by municipal code, and for which the city maintains and enforces unique design and aesthetic standards on a uniform and nondiscriminatory basis.

(6) "Historic district" means an area that is zoned or otherwise designated as a historic district under municipal, state, or federal law.

(7) "Law" means common law or a federal, state, or local law, statute, code, rule, regulation, order, or ordinance.

(8) "Macro tower" means a guyed or self-supported pole or monopole greater than the height parameters prescribed by Section 284.103 and that supports or is capable of supporting antennas.

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(9) "Micro network node" means a network node that is not larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height, and that has an exterior antenna, if any, not longer than 11 inches.

(10) "Municipally owned utility pole" means a utility pole owned or operated by a municipally owned utility, as defined by Section 11.003, Utilities Code, and located in a public right-of-way.

(11) "Municipal park" means an area that is zoned or otherwise designated by municipal code as a public park for the purpose of recreational activity.

(12) "Network node" means equipment at a fixed location that enables wireless communications between user equipment and a communications network. The term:

(A) includes:

- (i) equipment associated with wireless communications;
- (ii) a radio transceiver, an antenna, a battery-only backup power supply, and comparable equipment, regardless of technological configuration; and
- (iii) coaxial or fiber-optic cable that is immediately adjacent to and directly associated with a particular collocation; and

(B) does not include:

- (i) an electric generator;
- (ii) a pole; or
- (iii) a macro tower.

(13) "Network provider" means:

(A) a wireless service provider; or

(B) a person that does not provide wireless services and that is not an electric utility but builds or installs on behalf of a wireless service provider:

- (i) network nodes; or
- (ii) node support poles or any other structure that supports or is capable of supporting a network node.

(14) "Node support pole" means a pole installed by a network provider for the primary purpose of supporting a network node.

(15) "Permit" means a written authorization for the use of the public right-of-way or collocation on a service pole required from a municipality before a network provider may perform an action or initiate, continue, or complete a project over which the municipality has police power authority.

(16) "Pole" means a service pole, municipally owned utility pole, node support pole, or utility pole.

(17) "Private easement" means an easement or other real property right that is only for the benefit of the grantor and grantee and their successors and assigns.

(18) "Public right-of-way" means the area on, below, or above a public roadway, highway, street, public sidewalk, alley, waterway, or utility easement in which the municipality has an interest. The term does not include:

(A) a private easement; or

(B) the airwaves above a public right-of-way with regard to wireless telecommunications.

(19) "Public right-of-way management ordinance" means an ordinance that complies with Subchapter C.

(20) "Public right-of-way rate" means an annual rental charge paid by a network

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provider to a municipality related to the construction, maintenance, or operation of network nodes within a public right-of-way in the municipality.

(21) "Service pole" means a pole, other than a municipally owned utility pole, owned or operated by a municipality and located in a public right-of-way, including:

- (A) a pole that supports traffic control functions;
- (B) a structure for signage;
- (C) a pole that supports lighting, other than a decorative pole; and
- (D) a pole or similar structure owned or operated by a municipality and

supporting only network nodes.

(22) "Transport facility" means each transmission path physically within a public right-of-way, extending with a physical line from a network node directly to the network, for the purpose of providing backhaul for network nodes.

(23) "Utility pole" means a pole that provides:

- (A) electric distribution with a voltage rating of not more than 34.5 kilovolts; or
- (B) services of a telecommunications provider, as defined by Section 51.002,

Utilities Code.

(24) "Wireless service" means any service, using licensed or unlicensed wireless spectrum, including the use of Wi-Fi, whether at a fixed location or mobile, provided to the public using a network node.

(25) "Wireless service provider" means a person that provides wireless service to the public.

<sup>3</sup> Sec. 284.002. DEFINITIONS (8) "Micro network node" means a network node that is not larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height, and that has an exterior antenna, if any, not longer than 11 inches.

Sec. 284.003. LIMITATION ON SIZE OF NETWORK NODES. (a) Except as provided by Section 284.109, a network node to which this chapter applies must conform to the following conditions:

(1) each antenna that does not have exposed elements and is attached to an existing structure or pole:

- (A) must be located inside an enclosure of not more than six cubic feet in volume;
- (B) may not exceed a height of three feet above the existing structure or pole; and
- (C) may not protrude from the outer circumference of the existing structure or pole by more than two feet;

(2) if an antenna has exposed elements and is attached to an existing structure or pole, the antenna and all of the antenna's exposed elements:

- (A) must fit within an imaginary enclosure of not more than six cubic feet;
- (B) may not exceed a height of three feet above the existing structure or pole; and
- (C) may not protrude from the outer circumference of the existing structure or pole by more than two feet;

(3) the cumulative size of other wireless equipment associated with the network node attached to an existing structure or pole may not:

- (A) be more than 28 cubic feet in volume; or

- 
- (B) protrude from the outer circumference of the existing structure or a node support pole by more than two feet;
  - (4) ground-based enclosures, separate from the pole, may not be higher than three feet six inches from grade, wider than three feet six inches, or deeper than three feet six inches; and
  - (5) pole-mounted enclosures may not be taller than five feet.
- (b) The following types of associated ancillary equipment are not included in the calculation of equipment volume under Subsection (a):
- (1) electric meters;
  - (2) concealment elements;
  - (3) telecommunications demarcation boxes;
  - (4) grounding equipment;
  - (5) power transfer switches;
  - (6) cut-off switches; and
  - (7) vertical cable runs for the connection of power and other services.
- (c) Equipment attached to node support poles may not protrude from the outer edge of the node support pole by more than two feet.
- (d) Equipment attached to a utility pole must be installed in accordance with the National Electrical Safety Code, subject to applicable codes, and the utility pole owner's construction standards.

**EXHIBIT C**

**CITY OF TEXAS CITY, TEXAS**

**CHAPTER 284 SERVICE POLE COLLOCATION ATTACHMENT  
LICENSE AGREEMENT**

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**List of Exhibits:**

**Exhibit A:** Small Cell Node Permit Application

**CITY OF TEXAS CITY, TEXAS  
CHAPTER 284 SERVICE POLE COLLOCATION ATTACHMENT LICENSE  
AGREEMENT**

**THE STATE OF TEXAS**

§

§

**COUNTY OF GALVESTON**

§

This **Service Pole Collocation Attachment License Agreement** (“Agreement”) is made by and between the City of Texas City, Texas, (“City”), a home-rule municipal corporation of the State of Texas, and \_\_\_\_\_, (“Network Provider” or “Licensee”), a \_\_\_\_\_ with its principal offices at \_\_\_\_\_. Pursuant to Tex. Loc. Gov. Code, Chapter 284 (“Chapter 284”), Section 284.056 and Section 284.101 (a) (3), the City enters into this Agreement to further detail the terms and conditions of Collocation of attachments of wireless Network Nodes to and on City Service Poles.

**RECITALS**

**WHEREAS**, Licensee, a Network Provider, as that term is defined in Chapter 284, is requesting to Collocate, which includes attachments, as that term is defined in Chapter 284, its Network Nodes, as defined in Chapter 284, to and on the City’s Service Poles, as that term is defined in Chapter 284, that are in the Public Right-of-Way to the extent permitted by Chapter 284; and

**WHEREAS**, Chapter 284 states “to the extent this state has delegated its fiduciary responsibility to municipalities as managers of a valuable public asset, the public right-of-way, this state is acting in its role as a landowner in balancing the needs of the public and the needs of the network providers by allowing access to the public right-of-way to place network nodes in the public right-of-way strictly within the terms of this chapter”; and

**WHEREAS**, Chapter 284 states “[i]t is the policy of this state, subject to state law and strictly within the requirements and limitations prescribed by this chapter, that municipalities: (1) retain the authority to manage the public right-of-way to ensure the health, safety, and welfare of the public; and (2) receive from network providers fair and reasonable compensation for use of the public right-of-way and for collocation on poles”; and

**WHEREAS**, Section 253 of the Federal Communications Act of 1934, as amended, including 47 U.S.C. § 253, acknowledges that the City has the authority to manage and control access to and use of the Public Right-of-Way within the City limits; and

**WHEREAS**, the City has been authorized by the State to act as fiduciary and trustee for the public, in exercising proprietary rights in its discretion to grant use of the Public Right-of-Way within the City limits and condition that use in accordance with Chapter 284; and

**WHEREAS**, Chapter 284, Section 284.101 (a)-(b), et al, set forth the conditions to access and Collocation on the City’s Service Poles that are in the Public Right-of-Way of the Network Nodes to include compliance with the Applicable Codes, and Public Right-of-Way Management Ordinances, and the Chapter 284 limits to the height, width, safety and aesthetic requirements of Network Nodes; and

**WHEREAS**, the Licensee shall compensate the City pursuant to applicable state law, including Chapter 284, for the collocation of the Network Nodes on Service Poles in the City's Public Right-of-Way; and

**WHEREAS**, the Licensee's non-exclusive use at locations in its Public Right-of-Way, are subject to the terms and conditions set forth herein, and pursuant to Permits issued by the City Engineer; and

**WHEREAS**, the City and Licensee desire by this Agreement to set forth their understanding of such matters.

**NOW THEREFORE**, in consideration of the mutual covenants and agreements contained herein below, City and Licensee agree as follows:

## **ARTICLE 1. PARTIES**

### **1.1. ADDRESSES**

The initial address of the parties, which either party may change at any time by giving written notice to the other party pursuant to the terms of this Agreement, are as follows:

#### **City of Texas City**

City Engineer  
928 5th Avenue North  
Texas City, TX 77590

#### **Network Provider and Licensee**

---

Attn: \_\_\_\_\_  
Street \_\_\_\_\_  
Texas, \_\_\_\_\_  
Email: \_\_\_\_\_

## **ARTICLE 2. DEFINITIONS**

2.1. As used in this Agreement, the definitions as used in Tex. Loc. Gov. Code, Chapter 284, Sec. 284.002 shall be used, unless otherwise noted in Section 2.1, below:<sup>1</sup>

2.1.1. *Abandon* and its derivatives means the facilities installed in the right-of-way (including by way of example but not limited to: poles, wires, conduit, manholes, handholes, cuts, network nodes and node support poles, or portion thereof) that

have been left by Provider in an unused or non-functioning condition for more than 120 consecutive calendar days unless, after notice to Provider, Provider has established to the reasonable satisfaction of the City that the applicable facilities, or portion thereof, is still in active use.

- 2.1.2. *Affiliate* means (a) any entity who (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with the Licensee; (b) any entity acquiring substantially all of the assets of Licensee in the market defined by the Federal Communications Commission in which the Locations are located; or (c) any successor entity in a merger, acquisition, or other business reorganization involving Licensee. For purposes of this definition, “own” means to own an equity or other financial interest (or the equivalent thereof) of more than 10 percent or any management interest.
- 2.1.3. *Agreement* means this contract between the Parties, including any exhibits and any written amendments as authorized by this Agreement.
- 2.1.4. *Antenna* means communications equipment that transmits or receives electromagnetic radio frequency signals used in the provision of wireless services.
- 2.1.5. *Applicable code or codes* means uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization; and local amendments to those codes to the extent not inconsistent with Chapter 284.
- 2.1.6. *City* is defined in the preamble of this Agreement and includes its successors and assigns.
- 2.1.7. *City Attorney* means the currently appointed or acting City Attorney or his/her designee.
- 2.1.8. *City Engineer* means the city engineer for the City from City’s Public Works Department, or its successor department, or a person he or she designates.
- 2.1.9. *Collocate* and *collocation* mean the installation, mounting, maintenance, modification, operation, or replacement of network nodes in a public right-of-way on or adjacent to a pole.
- 2.1.10. *Concealment or Camouflaged* means any Wireless Facility or Pole that is covered, blended, painted, disguised, camouflaged or otherwise concealed such that the Wireless Facility blends into the surrounding environment and is visually unobtrusive as allowed as a condition for City advance approval under Chapter 284, Sec. 284.105 in Historic or Design Districts. A Concealed or Camouflaged Wireless Facility or Pole also includes any Wireless Facility or Pole conforming to the surrounding area in which the Wireless Facility or Pole is located and may include, but is not limited to hidden beneath a façade, blended with surrounding area design, painted to match the supporting area, or disguised with artificial tree branches.

- 2.1.11. *Decorative pole* means a streetlight pole specially designed and placed for aesthetic purposes and on which no appurtenances or attachments, other than specially designed informational or directional signage or temporary holiday or special event attachments, have been placed or are permitted to be placed according to nondiscriminatory municipal codes.
- 2.1.12. *Design District* means an area that is zoned, or otherwise designated by municipal code, and for which the city maintains and enforces unique design and aesthetic standards on a uniform and nondiscriminatory basis.
- 2.1.13. *Design Manual* means the City Design Manual for the Installation of Network Nodes and Node Support Poles pursuant to Tex. Loc. Gov. Code, Chapter 284 enacted and adopted by the City in accordance with Chapter 284, Sec. 284.108.
- 2.1.14. *Director* means the Director of Engineering Department, or its successor department, or a person he or she designates.
- 2.1.15. *Disaster emergency* or *disaster* or *emergency* means an imminent, impending, or actual natural or humanly induced situation wherein the health, safety, or welfare of the residents of the city is threatened, and includes, but is not limited to any declaration of emergency by city state or federal governmental authorities.
- 2.1.16. *Distributed Antenna System or DAS* shall be included as a type of “Network Node.”
- 2.1.17. *Effective Date* means that date signed by the Mayor on the signature page of this Agreement for each respective Licensee.
- 2.1.18. *Ground Equipment* means a Wireless Facility that is located on the surface of the Public Right-of-Way in an approved permit that is immediately adjacent to the Pole on which the Network Node is located.
- 2.1.19. *Historic District* recognized by the City, state or federal government under the City Code of Ordinances, State Law, including, but not limited to, Sec. 442.001(3) of the Texas Government Code, a federal law, including, but not limited to, 16 U.S.C. § 470.
- 2.1.20. *Historic Landmark* recognized by the City, state or federal government under the City Code of Ordinances, State Law, including, but not limited to, Sec. 442.001(3) of the Texas Government Code, a federal law, including, but not limited to, 16 U.S.C. § 470.
- 2.1.21. *Law* means common law or a federal, state, or local law, statute, code, rule, regulation, order, or ordinance
- 2.1.22. *Licensee* and *Network Provider* mean \_\_\_\_\_ [Add-name of entity] and includes its successors and assigns.

- 2.1.23. *Location* means the location of a Service Pole in the Public Right-of-Way in which Licensee is authorized to place its Network Node, provided that it has obtained all Permits.
- 2.1.24. *Macro tower* means a guyed or self-supported pole or monopole greater than the height parameters prescribed by Chapter 284, Section 284.103 and that supports or is capable of supporting antennas.
- 2.1.25. *Mayor* means the current and successor Mayor of the City or his designee.
- 2.1.26. *Micro network node* means a network node that is not larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height, and that has an exterior antenna, if any, not longer than 11 inches.
- 2.1.27. *Modification* means any work in the Public Right-of-Way, or alteration of a Wireless Facility that is not substantially similar in size or is a change in the Wireless Facility's location in the Public Right-of-Way or its physical position on the Pole except those alterations or changes that are excepted from requiring a permit under Chapter 284, Sec. 284.157 (a) and (b) do not constitute Modifications.
- 2.1.28. *Municipal park* means an area that is zoned or otherwise designated by municipal code as a public park for the purpose of recreational activity.
- 2.1.29. *Municipally owned utility pole* means a utility pole owned or operated by a municipally owned utility, as defined by Section 11.003, Utilities Code, and located in a public right-of-way.
- 2.1.30. *MUTCD* means Manual of Uniform Traffic Control Devices.
- 2.1.31. *Network node* means equipment at a fixed location that enables wireless communications between user equipment and a communications network. The term: (A) includes: (i) equipment associated with wireless communications; (ii) a radio transceiver, an antenna, a battery-only backup power supply, and comparable equipment, regardless of technological configuration; and (iii) coaxial or fiber-optic cable that is immediately adjacent to and directly associated with a particular collocation; and (B) does not include: (i) an electric generator; (ii) a pole; or (iii) a macro tower.
- 2.1.32. *Network provider* means: (A) a wireless service provider; or (B) a person that does not provide wireless services and that is not an electric utility but builds or installs on behalf of a wireless service provider: (i) network nodes; or (ii) node support poles or any other structure that supports or is capable of supporting a network node.
- 2.1.33. *Party* or *Parties* mean the Licensee and City, individually or collectively as indicated in the context in which it appears.

- 2.1.34. *Other Party* or *Other Parties* means a Chapter 284 Wireless Service provider who is not a Party to this Agreement.
- 2.1.35. *Node support pole* means a pole installed by a network provider for the primary purpose of supporting a network node.
- 2.1.36. *Permit* means a written authorization for the use of the public right-of-way or collocation on a service pole required from a municipality before a network provider may perform an action or initiate, continue, or complete a project over which the municipality has police power authority.
- 2.1.37. *Pole* means a service pole, municipally owned utility pole, node support pole, or utility pole
- 2.1.38. *Provider* has the same meaning as “Network Provider.”
- 2.1.39. *Public right-of-way* means the area on, below, or above a public roadway, highway, street, public sidewalk, alley, waterway, or utility easement in which the municipality has an interest. The term does not include: (A) a private easement; or (B) the airwaves above a public right-of-way with regard to wireless telecommunications.
- 2.1.40. *Public right-of-way management ordinance* means an ordinance of the City that complies with Chapter 284, Subchapter C.
- 2.1.41. *Public right-of-way rate* means an annual rental charge paid by a network provider to a municipality related to the construction, maintenance, or operation of network nodes within a public right-of-way in the municipality pursuant to Chapter 284, Sec. 284.053.
- 2.1.42. *Rental Fees* means as described in Article 5 herein.
- 2.1.43. *School* means an educational institution that offers a course of instruction for students in one or more grades from kindergarten through grade 12
- 2.1.44. *Service pole* means a pole, other than a municipally owned utility pole, owned or operated by a municipality and located in a public right-of-way, including: (A) a pole that supports traffic control functions; (B) a structure for signage; (C) a pole that supports lighting, other than a decorative pole; and (D) a pole or similar structure owned or operated by a municipality and supporting only network nodes.
- 2.1.45. *Small cell* shall be included as a type of “Network Node.”
- 2.1.46. *Street* means only the paved portion of the Public Right-of-Way used for vehicular travel, being the area between the inside of the curb to the inside of the opposite curb, or the area between the two parallel edges of the paved roadway for vehicular travel where there is no curb. A “Street” is generally part of, but smaller in width than the width of the entire right-of-way, while a Public Right-of-Way may include sidewalks and utility easements, a “Street” does not. A

“street” does not include the curb or the sidewalk, if either are present at the time of a permit application or if added later.

- 2.1.47. *TAS* means Texas Accessibility Standards.
- 2.1.48. *Traffic Signal* means any device, whether manually, electrically, or mechanically operated by which traffic is alternately directed to stop and to proceed.
- 2.1.49. *Transport facility* means each transmission path physically within a public right-of-way, extending with a physical line from a network node directly to the network, for the purpose of providing backhaul for network nodes
- 2.1.50. *Underground Requirement Area* shall mean means an area where poles, overhead wires, and associated overhead or above ground structures have been removed and buried or have been approved for burial underground pursuant to municipal ordinances, zoning regulations, state law, private deed restrictions, and other public or private restrictions, that prohibit installing aboveground structures in a public right-of-way.
- 2.1.51. *Utility pole* means a pole that provides: (A) electric distribution with a voltage rating of not more than 34.5 kilovolts; or (B) services of a telecommunications provider, as defined by Chapter 284, Section 51.002, Utilities Code.
- 2.1.52. *Wireless service* means any service, using licensed or unlicensed wireless spectrum, including the use of Wi-Fi, whether at a fixed location or mobile, provided to the public using a network node.
- 2.1.53. *Wireless service provider* means a person that provides wireless service to the public.
- 2.1.54. *Wireless facilities* mean “Micro Network Nodes,” “Network Nodes,” and “Node Support Poles” as defined in Texas Local Government Code Chapter 284
- 2.2. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words in the singular include the plural.
- 2.3. The word “shall” is always mandatory and not merely permissive.
- 2.4. “Include” and “including,” and words of similar import, shall be deemed to be followed by the words “without limitation.”

### **ARTICLE 3. CHAPTER 284 GRANT AND SCOPE OF AUTHORIZATION TO COLLOCATE NETWORK NODES ON SERVICE POLES.**

#### **3.1. CITY GRANT OF PERMISSION IN ACCORDANCE WITH CHAPTER 284.**

- 3.1.1. Only to the extent required by Chapter 284, Sec. 284.056 and Sec. 284.101 (a) (3) does the City grant Licensee the right to enter the Public Right-of-Way and to

Collocate Network Node facilities on Service Poles in the Public Right-of-Way, subject to the terms of this Agreement and Chapter 284.

- 3.1.2. This Agreement does not confer any other rights not described herein nor does it permit Licensee or third parties to use the Public Right-of-Way or Service Poles for purposes not specified in this Agreement, except to the extent otherwise expressly allowed by law.
- 3.1.3. This Agreement does not authorize the Licensee to install equipment and facilities associated with or for Macro Towers in the Public Right-of-Way.
- 3.1.4. Network Provider must have an existing Agreement with the City to apply for and be granted a Permit to use or to in anyway Collocate Network Node facilities on Service Poles.

### 3.2. SCOPE OF AGREEMENT

- 3.2.1. This Agreement is not exclusive and the City reserves the right to grant permission to enter the Public Right-of-Way and to use Service Poles in the Public Right-of-Way to Collocate Network Node facilities to other eligible and qualified Other Parties under Chapter 284.
- 3.2.2. Except as expressly provided herein, this Agreement does not grant Licensee the authority to grant any rights under this Agreement to any Other Party without the written consent of the City in a separate agreement in accordance with Chapter 284.
- 3.2.3. This Agreement only authorizes Collocation of Network Node on Service Poles in the Public Right-of-Way and does not confer any rights or permission to install or otherwise collocate Network Node on any other Poles or to place such Network Node in the Public Right-of-Way.
- 3.2.4. This Agreement does not grant to the Licensee an interest in any property.

### 3.3. UNAUTHORIZED NETWORK NODE ON SERVICE POLES.

- 3.3.1. The Mayor shall deem as unauthorized any type of Network Node attached or Collocated to a Service Pole if there is no Agreement, even if it was inadvertently and incorrectly permitted. The Mayor at his or her sole discretion may, upon 30 days' written notice, remove or require the Licensee to remove unauthorized Network Node at Licensee's expense without any liability to the City. The City will invoice and Licensee shall reimburse the City within 30 days of receipt of the invoice for the City's cost of removal of unauthorized Network Node.
- 3.3.2. Any Modification to a Network Node must be approved by the City Engineer except for those modifications, repairs, routine maintenance or related work that do not require a permit under Chapter 284, Sec. 284.157 (a) and (b), however even for those modifications, repairs, routine maintenance or related work that do not require a permit under Chapter 284, Sec. 284.157 (a) and (b), advance notice shall be given via written letter (which may be delivered by hand or other method)

or an acknowledged email transmission by the Network Provider to the City contact listed in Article I shall be provided to the City as allowed by Chapter 284, Sec. 284.157 (d) (1)- (3).

#### **ARTICLE 4. APPLICATION FOR A PERMIT TO COLLOCATE ON A SERVICE POLE.**

##### **4.1. APPLICATION FOR A PERMIT TO COLLOCATION A NETWORK NODE ON A SERVICE POLE.**

4.1.1. *Application for Collocation on Service Pole Permit.* Prior to Collocation of a Network Node on a Service Pole or installation of the related ground equipment adjacent to a Service Pole, Licensee shall complete and submit to the City Engineer the Application for Collocation of a Network Node on a Service Pole Location, attached as Exhibit A as a representative sample, and the following:

4.1.1.1. *Fee for Application for Collocation on Service Pole Permit Due with Application.*

(a) City will charge an application and permit fee for the Application for Collocation of a Network Node on a Service Pole Location in accordance with Chapter 284, Sec. 284.156.

(b) Licensee shall pay the City the Ch. 284, Sec. 284.156 application and permit fees at the time of the submittal of the application for the permits. Except as provided for in this Agreement, application and permit fees are non-refundable.

4.1.1.2. Documents necessary for the review of the Application for Collocation of a Network Node on a Service Pole Location and as reasonably requested by the City Engineer as may be requested by Chapter 284, include but are not limited to:

4.1.1.2.1. Map showing exact intended location of the Network Node and its distance from a designated Historic Landmark, Park, or School, Utility Pole, Node Support Pole, and other Network Nodes on a Service Pole, if any, and depicting the sidewalks, and ramps onto sidewalks required by Applicable Codes, TAS, or other law, including the Americans with Disabilities Act, and paved street surface and utility easements;

4.1.1.2.2. Representative drawings or pictures of the intended Network Node as intended to be Collocated on the Service pole; and

4.1.1.2.3. Engineering and construction plans and drawings related to the Collocation of the Network Node on the Service Pole, including where the proposed Transport Facilities will be connected to the Network Node as electrical power connections.

4.1.1.3. *Required industry standard pole load analysis:* Installations on all Service Poles shall have an industry standard pole load analysis completed and submitted to the municipality with each permit application indicating that the Service Pole to which the Network Node is to be attached will safely support the load, in accordance with Chapter 284.108. An application will not be accepted as complete or will be deemed to have not been accepted without the appropriate engineering analysis.

4.1.1.4. *Height of attachments:* All attachments on all Service Poles shall be at least 8 feet above grade, in accordance with Chapter 284, Sec. 285.108 (a) (1) - (2) and if a Network Node attachment is projecting toward the street, for the safety and protection of the public and vehicular traffic, the attachment shall be installed no less than sixteen (16) feet above the ground.

4.1.1.5. *Installations on Traffic Signals:* Installations on all Traffic signal structures must not interfere with the integrity of the facility in any way that may compromise the safety of the public and must be in accordance with an agreement as allowed by Chapter 284, Sec. 285.056 and Sec. 284.101 (a) (3), and (b). Installation of Network Node facilities on any traffic signal structures shall:

- i. Be encased in a separate conduit than the traffic light electronics;
- ii. Have a separate electric power connection than the traffic signal structure; and
- iii. Have a separate access point than the traffic signal structure.
- iv. Shall not alter, puncture or drill into the City structure.

4.1.1.6. *Installations on Street signage:* Installations on all street signage structures must not interfere with the integrity of the facility in any way that may compromise the safety of the public. Installation of Network Node facilities on any street signage structures that has electronics shall:

- i. Be encased in a separate conduit than any City signage electronics;
- ii. Have a separate electric power connection than the signage structure;
- iii. Have a separate access point than the signage structure;
- iv. Will not alter, puncture or drill into the City structure.

4.1.2. Network Provider shall comply with any additional requirements of the City's Public Right-of-Way Management Ordinance and Design Manual or directions of the Mayor concerning collocating its Network Nodes on any Service Pole. Compliance is to be with the City's Public Right-of-Way Management Ordinance and Design Manual in effect at the time of the Application for Collocation of a Network Node on a Service Pole Location.

4.1.3. If the applicant is not the same as the Licensee listed on the Application for Collocation of a Network Node on a Service Pole or installation of the related ground equipment, the Licensee shall sign the application or provide a letter of agency satisfactory to the City Attorney and is presumed to be the owner of the Network Node, and Ground Equipment and shall be fully responsible for them and the Rental Fees as set forth as the Licensee and Network Provider in this Agreement.

4.2. REVIEW PROCESS FOR AN APPLICATION FOR COLLOCATION OF A NETWORK NODE ON A SERVICE POLE PERMIT. (CH. 284, SEC. 284.154)

4.2.1. The City Engineer shall review an Application for Collocation of a Network Node on a Service Pole or installation of the related ground equipment on a Service Pole for completeness and act in the time allowed, with notifications to the Licensee, as prescribed in Chapter 284, Sec. 284.154.

4.2.2. The City Engineer shall review the Application for Collocation of a Network Node on a Service Pole to determine:

4.2.2.1. If the requested site has already been approved as a Location for Other Parties, in which instance that Location shall no longer be available and application shall be denied;

4.2.2.2. If all the required documentation has been provided;

4.2.2.3. Compliance with the requirements of the City's Public Right-of-Way Management Ordinance and Design Manual and this Agreement;

4.2.2.4. That written permission has been obtained by applicable parties as required by this Agreement; and

4.2.2.5. Compliance with applicable construction, engineering, design specifications, Applicable Codes and laws, and other applicable requirements, including the Americans with Disabilities Act.

4.2.3. The City Engineer shall deny a requested Application for Collocation of a Network Node on a Service Pole if the Licensee's application is not in compliance with the City's Public Right-of-Way Management Ordinance and Design Manual and this Agreement.

4.2.4. Licensee shall not install a Network Node without the requisite Permit(s).

4.2.5. The City Engineer shall forward to the Mayor each approved GIS or Street Address and related information in the Application for Collocation of a Network Node on a Service Pole when a Permit is approved.

**ARTICLE 5. CHAPTER 284 RENTAL FEES AND OTHER PAYMENTS**

5.1. NETWORK NODE SITE ANNUAL RENTAL RATE. (CH. 284, SEC. 284.053)

5.1.1 *Annual Network Node Rate.* Licensee shall pay the City annually \$250 per Network Node site in accordance with Ch. 284., Sec. 284.053 (a) the Network Node Public Right-of-Way Rate for each Location for which Licensee has obtained Permit(s) regardless of

whether or not a Licensee installs Network Nodes in the Public Right-of-Way. Except as provided for in this Agreement, the annual Network Node Public Right-of-Way Rate is non-refundable.

5.1.2. *Initial Annual Network Node Rate Pro Rated.* The annual Network Node Public Right-of-Way Rate payment for the first year at any Location (“Initial Annual Network Node Payment”) begins accruing when the permit is issued and is due 30 days after Licensee obtains a Permit to install or collocate a Network Node at the Location. The Initial Annual Network Node Payment shall be pro-rated for the months remaining in the calendar year after the permit issuance date.

5.1.3. *Subsequent Years Annual Network Node Rate Due Date.* The annual Network Node Public Right-of-Way Rate for every year after the Initial Annual Network Node Payment shall be paid in advance on or before December 31 of each calendar year for each Network Node in the Public Right-of-Way for the next calendar year period.

5.1.4 *Annual Network Node Rate Adjustment.* Pursuant to Ch. 284, Sec. 284.054 on or about each October of each year after October 2017 the City intends to adjust the annual Network Node Public Right-of-Way Rate by an amount equal to one-half the annual change, cumulative since Sept. 1, 2017, if any, in the Consumer Price Index for All Urban Consumers for Texas, as published by the federal Bureau of Labor Statistics. The City shall provide written notice to each Network Provider of the new rate, and the rate shall apply to the first payment due to the municipality on or after the 60th day following that notice. It is the City’s intent that the new adjusted Network Node Public Right-of-Way Rate be effective each year by December 31 in order to apply and begin accruing January 1 of the year following the Notice of the adjustment in the Network Node Site Public Right-of-Way Rate.

5.2. COLLOCATION ATTACHMENT ON SERVICE POLE FEE. (CH. 284, SEC. 284.056)

5.2.1 *Annual Collocation on Service Pole Attachment fee.* Licensee shall pay the City annually \$20 for each Network Node Permitted to be Collocated on Service Pole in accordance with Ch. 284., Sec. 284.056 for each Location for which Licensee has obtained Permit(s) to collocate a Network Node on a Service Pole regardless of whether or not a Licensee collocates a Network Node on a Service Pole. Except as provided for in this Agreement, this fee is non-refundable.

5.2.2. *Initial Annual Collocation on Service Pole Attachment Fee Pro Rated.* The annual collocation on Service Pole attachment fee payment for the first year at any Location (“Initial Annual Collocation on Service Pole Attachment Fee Payment”) begins accruing when the permit is issued and is due 30 days after Licensee obtains a Permit to install or collocate a Network Node at the Location. The Initial Annual Collocation on Service Pole Attachment Fee Payment shall be pro-rated for the months remaining in the calendar year after the permit issuance date.

5.2.3. *Subsequent Years Annual Collocation on Service Pole Attachment Fee Due Date.* The annual Collocation on Service Pole attachment fee for every year after the Initial Payment shall be paid in advance on or before December 31 of each calendar year for each Network Node in the Public Right-of-Way for the next calendar year period.

5.3. MONTHLY TRANSPORT FACILITY FEE. (CH. 284, SEC. 284.055)

5.3.1 *Monthly Transport Facility Fee.* To the extent Network Provider has Transport Facilities Permitted from the Network Nodes in the Public Right-of-Way it shall pay the City in accordance with the Ch. 284, Sec. 284.055 (b) a monthly Transport Facilities fee on a quarterly basis as set out below in Sec. 5.3.3, which begins accruing when the permit is issued and is on the same quarterly access line schedule for quarterly calendar period covered and quarterly payment schedule as in Chapter 283 of the Local Gov. Code. Except as provided for in this Agreement, the Monthly Transport Facility Fee is non-refundable

5.3.2 Licensee may either:

(a) In accordance with Ch. 284., Sec. 284.055 (a) (1), install its own Transport Facilities, subject to Transport Facility fee payments as set out in Subsection 5.3.3, below; or

(b) In accordance with Ch. 284., Sec. 284.055 (a) (2) obtain transport service from a person that is paying the City fees to occupy the Public Right-of-Way that are the equivalent of not less than \$28 per Network node site per month, for which the City shall require independent reasonable verification that the provider of Transport Facility service to the Network Provider has paid the City in the corresponding calendar quarterly time period a payment in an amount that is equivalent to or greater than the Transport Facility fee due for that quarterly payment for the same and corresponding calendar quarter period that the Network Provider would have been due to pay the city for the calendar quarter as set out in Subsection 5.3.4., below.

5.3.3. *Monthly Transport Facility Fee payment.* In accordance with Ch. 284., Sec. 284.055 (b), the Network Provider shall pay to the City an amount equal to \$28 multiplied by the number of the Network Provider's Network Nodes located in the Public Right-of-Way for which the installed Transport Facilities provide backhaul unless or until the time the Network Provider's payment of municipal rights-of-way fees for use of the Public Right-of-Ways to the City from that same and corresponding calendar quarter period that exceeds its monthly aggregate per-node compensation to the City due for that calendar quarter, subject to the verification as set out in Subsection 5.3.4., below.

5.3.3.1. *Quarterly Due dates of Transport Facility Fee payments.* The Monthly Transport Facility Fee begins accruing when the permit is issued and is on the same quarterly access line schedule for quarterly calendar period covered and quarterly payment schedule as in Chapter 283 of the Local Gov. Code. The Network Provider shall pay the City the Monthly Transport Facility Fee payment on a quarterly calendar year basis for each calendar quarter, 45 days after the end of the preceding calendar quarter the monthly Public Right-of-Way rate for Transport Facilities.

5.3.4 *Alternative Quarterly True-up Verification Report.* If Network Provider utilizes the Ch. 284., Sec. 284.055 (a) (2) option to obtain transport service from a person that is paying municipal fees to occupy the Public Right-of-Way or utilizes the Ch. 284, Sec. 284.055 (a) (1), option and install its own Transport Facilities and asserts that it has paid the City in an amount that is equivalent to or greater than the Transport Facility fee due for that quarterly

period for the same and corresponding calendar quarter period that would have been due from the Network Provider to the City for the calendar quarter then:

(a) 45 days after the end of each calendar quarter the Network Provider shall provide to the City a Quarterly True-up Verification Report documenting those equivalent or greater payments to the City.

(b) This verification report is to allow the City to verify that the corresponding immediately preceding past quarterly payments due the City for Transfer Facilities for each Network Node Transfer Facility that the City has received from the Network Provider or from the Network Provider's provider of Transport Facilities a payment to the City for that corresponding prior calendar quarterly period's is equal to or exceeds the monthly aggregate per-node Transfer Facility compensation due to the City under this Agreement and Ch. 284., Sec. 284.055 (b) (2) for that same calendar quarter period.

(c) The Quarterly True-up Verification Report shall be provided 45 days after the end of each calendar quarter that an actual and full payment is not made from the Network Provider to the City for the Transfer Facilities Monthly Transport Facility Fee payment.

(d) In the event the payment to the City that is asserted to be equal to or exceeding the monthly aggregate per-node Transfer Facility compensation due to the City under this Agreement and Ch. 284., Sec. 284.055 was by a different named entity than the Network Provider, the Network Provider bears the burden to establish that the entity paying the City and the Network Provider is an Affiliate and that they are one and the same for purposes of a Chapter 284 Transfer Facility fee true-up credit against the Monthly Transport Facility Fee.

5.3.5. This Transport Facility fee is in addition to any annual Network Node Public Right-of-Way Rate payment required by Ch. 284, Section 284.053

#### 5.4. APPLICATION FEES. (CH. 284, SEC. 284.156)

5.4.1 *Application and Permit Fees.* Licensee shall pay the City the Ch. 284, Sec. 284.156 application and permit fees contemporaneously with the submittal of the application for the permits. Except as provided for in this Agreement, application and permit fees are non-refundable.

#### 5.5. OTHER PAYMENTS

The Network Node Public Right-of-Way Rate, the collocation on Service Pole attachment fee, the Transport Facility fee, (collectively sometimes referred to as "Rental fees") and the application and permit fees payable under Ch. 284, shall be exclusive of, and in addition to all ad valorem taxes, special assessments for municipal improvements, and other lawful obligations of the Licensee to the City.

5.6. NON-FUNCTIONING NETWORK NODES

Licensee shall continue to pay Rental Fees for Network Nodes attached to Service Poles that are no longer in service or operational if the Network Nodes attached to Service Poles occupy the Public Right-of-Way.

5.7. PAYMENT

5.7.1. Rental Fees shall be as due as set out in Section 5.1-5.4 above.

5.7.2. Rental Fee and other payments shall be payable by ACH direct deposit or check payable to the City of Texas City and sent to the following address:

ATTN: City Engineer  
City of Texas City  
928 5th Avenue North  
Texas City, TX 77590

5.8. REIMBURSEMENT

When under the terms of this Agreement, the City at its own expense has removed or remediated Licensee's Network Nodes attached to Service Poles or Licensee is required to reimburse the City, the Licensee shall remit payment to the City to the address listed in Article 5.7 within 30 days of the date of the invoice for removal, remediation, or requirement.

5.9. PAYMENT LIMITS

Following removal of any Network Nodes attached to Service Poles consistent with the terms of this Agreement, and payment for any damages due to the installation, maintenance or removal of the Network Node, or any other amounts due the City under this Agreement there will be no compensation due, including any Rental Fees, to the City by Licensee for such Network Nodes attached to Service Poles except that the City shall not issue any refunds for any amounts already paid by Licensee for Network Nodes attached to Service Poles that have been removed.

Notwithstanding the foregoing, if Licensee is required by the City to remove a Network Node(s) attached to Service Pole(s) and such removal is not the result of Licensee's failure to comply with this Agreement, City may reimburse Licensee the Rental Fee for such Network Nodes attached to Service Poles pro-rated monthly for the remainder of the calendar year.

5.10. COMPLIANCE REVIEW

The City may, at its discretion, upon no less than 30 days prior written notice, require that the Licensee produce its records related to this Agreement for review by the Mayor to ascertain the correctness of the information provided under Article 5 of this Agreement. If the Mayor identifies, as a result of a review of the information provided pursuant to Article 5 of this Agreement amounts owed by the Licensee from prior periods, the Licensee shall pay the amount identified within 30 days of the date of the invoice. If the review determines that payment of the Rental Fee was not made in accordance with the terms of this Agreement and that such payment represents an overpayment of any amount, City will credit such overpayment against Licensee's future obligations to City under this Agreement.

5.11. PERMITS CONDITIONED ON PAYMENTS BEING CURRENT.

Permits are expressly conditioned on Rental payments being current or the permit is void after 30 days' notice of delinquency and remain void until payment in full, except for those amounts disputed in good faith, for which reasonable and detailed documentation has been submitted to the City supporting such disputed amounts and is still pending City review.

**ARTICLE 6. DESIGN MANUAL, PUBLIC RIGHT-OF-WAY MANAGEMENT ORD.  
COMPLIANCE AND RELATED REQUIREMENTS**

6.1. AESTHETIC REQUIREMENTS

6.1.1. Network Provider shall comply with the requirements of the City's Public Right-of-Way Management Ordinance and Design Manual concerning Collocating its Network Nodes on any Service Pole, as the City's Public Right-of-Way Management Ordinance and Design Manual are published and amended from time to time. Compliance is to be with the City's Public Right-of-Way Management Ordinance and Design Manual in effect at the time of the Application for Collocation of a Network Node on a Service Pole Location.

6.1.2. To the extent not in conflict with the City's Public Right-of-Way Management Ordinance, Design Manual or Chapter 284 the Network Node on the Service Pole shall be concealed or enclosed as much as possible in an equipment box, cabinet or other unit that may include ventilation openings; external cables and wires hanging off a pole shall be sheathed or enclosed in a conduit, so that wires are protected and not visible or are visually minimized to the extent possible.

6.2. INSTALLATION

To the extent not in conflict with the City's Public Right-of-Way Management Ordinance or Design Manual or Chapter 284 the Network Node on the Service Pole Licensee shall, at its own cost and expense, install the Network Nodes attached to Service Poles in a good and workmanlike manner and in accordance with the requirements promulgated by the City Engineer, as such may be amended from time to time. Licensee's work shall be subject to the regulation, control and direction of the City Engineer. All work done in connection with the installation, operation, maintenance, repair, and/or replacement of the Network Nodes attached to Service Poles shall be in compliance with all Applicable Codes and Laws.

6.3. INSPECTIONS

6.3.1. The City Engineer may perform visual inspections of any Network Nodes attached to Service Poles located in the Public Right-of-Way as the City Engineer deems appropriate without notice. If the inspection requires physical contact with the Network Node, the City Engineer shall provide written notice to the Licensee within five business days of the planned inspection. Licensee may have a representative present during such inspection.

6.3.2. In the event of an emergency situation, the City may, but is not required to, notify Licensee of an inspection. The City may take action necessary to remediate the emergency situation and the City Engineer shall notify Licensee as soon as practically possible after remediation is complete.

#### 6.4. PLACEMENT

Network Provider shall comply with the requirements of the City's Public Right-of-Way Management Ordinance and Design Manual concerning Collocating its Network Nodes on any Service Pole, as the City's Public Right-of-Way Management Ordinance and Design Manual are published and amended from time to time. Compliance is to be with the City's Public Right-of-Way Management Ordinance and Design Manual in effect at the time of the Application for Collocation of a Network Node on a Service Pole Location.

#### 6.5. ELECTRICAL SUPPLY

Network Provider shall comply with the City's Public Right-of-Way Management Ordinance and Design Manual concerning electrical connections to its Network Nodes on any Service Pole as published and amended from time to time, but as in effect at the time of the application for a permit. Licensee shall be responsible for obtaining any required electrical power service to the Network Nodes. The City shall not be liable to the Licensee for any stoppages or shortages of electrical power furnished to the Network Nodes, including without limitation, stoppages or shortages caused by any act, omission, or requirement of the public utility serving the structure or the act or omission of any other tenant or Licensee of the structure, or for any other cause beyond the control of the City. Licensee shall not be entitled to any abatement of the Rental Fee for any such stoppage or shortage of electrical power.

#### 6.6. TRANSPORT FACILITY FIBER CONNECTION

Licensee shall be responsible for obtaining and properly permitting Transport Facilities for the Network Nodes access and connection to fiber optic lines or other backhaul solutions that may be required for its Network Nodes.

#### 6.7. GENERATORS

Licensee shall not allow or install generators or back-up generators in the Public Right-of-Way.

#### 6.8. EQUIPMENT DIMENSIONS

Licensee's Network Nodes shall strictly conform to the size limits in Chapter 284 for its Network Nodes and ground equipment and shall be no greater than those sizes, but may be less than the sizes set out in Chapter 284.

#### 6.9. TREE MAINTENANCE

Network Provider shall comply with the City's Public Right-of-Way Management Ordinance and Design Manual concerning tree maintenance.

#### 6.10. SIGNAGE

Network Provider shall comply with the City's Public Right-of-Way Management Ordinance and Design Manual concerning signage on the Network Node and any ground equipment.

## 6.11. REPAIR

To the extent not in conflict with the City's Public Right-of-Way Management Ordinance or Design Manual whenever the installation, placement, Collocation, attachment, repair, removal, operation, use, or relocation of the Network Node, or ground equipment, or any portion thereof is required or permitted under this Agreement, and such installation, placement, Collocation, attachment, repair, removal, operation, use, or relocation causes any property of the City or any third party to be damaged or to have been altered in such a manner as to make it unusable, unsafe, or in violation of any Law, Applicable Code, rule, or regulation, Licensee, at its sole cost and expense, shall promptly repair and return such property to its original condition. If Licensee does not repair such property or perform such work as described in this paragraph, then the City shall have the option, upon 15 days' prior written notice to Licensee or immediately if there is an imminent danger to the public, to perform or cause to be performed such reasonable and necessary work on behalf of Licensee and to charge Licensee for the reasonable and actual costs incurred by the City. Licensee shall reimburse the City for the costs in accordance with Article 5.8 of this Agreement.

## 6.12. GRAFFITI ABATEMENT

Network Provider shall comply with the City's Public Right-of-Way Management Ordinance and Design Manual concerning graffiti on any of its Network Node or ground equipment.

## **ARTICLE 7. RADIO INTERFERENCE BY NETWORK NODE PROHIBITED. (ch. 284, Sec. 284.304)**

### 7.1. NO LIABILITY

- 7.1.1. The City shall not be liable to Licensee for any damage caused by other Licensees with Network Node in close proximity of the Service Pole.
- 7.1.2. The City shall not be liable to Licensee by reason of inconvenience, annoyance or injury to the Network Node, or ground equipment, or activities conducted by Licensee therefrom, arising from the necessity of repairing any portion of the Public Right-of-Way, or from the making of any necessary alteration or improvements, in, or to, any portion of the Public Right-of-Way, or in, or to, its fixtures, appurtenances or equipment. The City will use reasonable efforts not to cause material interference to Licensee's operation of its Network Node.

### 7.2. NO INTERFERENCE

- 7.2.1. Licensee's Network Node shall strictly comply with Chapter 284, Sec. 284.304 and not cause any harmful radio frequency interference to a Federal Communications Commission-authorized mobile telecommunications operation of any municipality operating at the time the Network Node was initially installed or constructed. On written notice, the Network Provider shall take all steps reasonably necessary to remedy any harmful interference.

7.2.2. To the extent not inconsistent with Chap. 284., Sec. 284.304:

The Newark Provider's Network Node collocated on Service Poles shall not cause harmful interference to the City's public service radio frequency, wireless

network, or communications operations (“City Operations”) and Other Parties’ Network Nodes or similar third-party equipment in the Public Right-of-Way or adjacent City property (“Protected Equipment”). If Licensee’s Network Node interferes with the City’s Operations, then Licensee shall immediately cease operation of the Network Node causing said interference upon receiving notice from the City and refrain from operating until Licensee has eliminated the interference. If after notice Licensee continues to operate Network Node that cause interference with City Operations, such Network Node may be deemed unauthorized and subject to the provisions of this Agreement. If Licensee’s Network Node interferes with Protected Equipment, then Licensee shall take the steps necessary to correct and eliminate such interference within 24 hours of receipt of notice from the City. If the Licensee is unable to resolve the interference issue within this timeframe, it will voluntarily power down the Network Node causing the interference, except for intermittent testing until such time as the interference is remedied

- 7.2.2. Following installation or Modification of a Network Node, the City Engineer may require Licensee to test the Network Node’s radio frequency and other functions to confirm that it does not interfere with the City’s Operations or Protected Equipment.

## **ARTICLE 8. ABANDONMENT, RELOCATION AND REMOVAL**

### **8.1. ABANDONMENT OF OBSOLETE NETWORK NODE**

Network Provider shall comply with the requirements of the City’s Public Right-of-Way Management Ordinance and Design Manual concerning collocating its Network Nodes on any Service Pole, as the City’s Public Right-of-Way Management Ordinance and Design Manual are that are published and amended from time to time. Compliance is to be with the City’s Public Right-of-Way Management Ordinance and Design Manual in effect at the time of the Application for Collocation of a Network Node on a Service Pole Location.

To the extent not in conflict with the City’s Public Right-of-Way Management Ordinance or Design Manual Licensee shall remove Network Nodes and ground equipment when such facilities are Abandoned regardless of whether it receives notice from the City. Unless the City sends notice that removal must be completed immediately to ensure public health, safety, and welfare, the removal must be completed within the earlier of 90 days of it being Abandoned or within 90 days of receipt of written notice from the City. When Licensee removes or abandons permanent structures in the Public Right-of-Way, the Licensee shall notify the City Engineer and Mayor in writing of such removal or abandonment and shall file with the City Engineer and Mayor the location and description of Network Nodes and ground equipment removed or abandoned. The City Engineer may require the Licensee to complete additional remedial measures necessary for public safety and the integrity of the Public Right-of-Way.

### **8.2. REMOVAL REQUIRED BY CITY**

- 8.2.1. To the extent not in conflict with the City’s Public Right-of-Way Management Ordinance, Design Manual or Chapter 284, Sec. 284.303, Licensee shall, at its sole cost and expense, promptly disconnect, remove, or relocate the applicable

Network Nodes and ground equipment within the time frame and in the manner required by the City Engineer if the City Engineer reasonably determines that the disconnection, removal, or relocation of any part of Network Nodes and ground equipment (a) is necessary to protect the public health, safety, welfare, or City property, (b) Network Nodes and ground equipment or portion thereof, is adversely affecting proper operation of streetlights, or City property, or (c) Licensee loses or fails to obtain all applicable licenses, Permits, and certifications required by Law for its Network Nodes and ground equipment, or use of any Location under this Agreement. If the City Engineer reasonably determines that there is imminent danger to the public, then the City may immediately disconnect, remove, or relocate the applicable Network Nodes and ground equipment at the Licensee's sole cost and expense.

- 8.2.2. The City Engineer shall provide 90 days written notice to the Licensee before removing a Network Nodes and ground equipment under this Section 8.2, unless there is imminent danger to the public health, safety, and welfare.
- 8.2.3. Licensee shall reimburse City for the City's actual cost of removal and any storage or associated costs of its Network Nodes and ground equipment in accordance with this Agreement within 30 days of receiving the invoice from the City.

### 8.3. REMOVAL OR RELOCATION BY LICENSEE

- 8.3.1. If the Licensee removes or relocates a Network Nodes and ground equipment at its own discretion, it shall notify the City Engineer and Mayor in writing not less than 10 business days prior to removal or relocation. Licensee shall obtain all permits required for relocation or removal of its Network Nodes and ground equipment prior to relocation or removal.
- 8.3.2. Except as otherwise provided in this Agreement, the City shall not issue any refunds for any amounts paid by Licensee for Network Nodes and ground equipment that have been removed.

### 8.4. REMOVAL OR RELOCATION REQUIRED FOR CITY PROJECT

- 8.4.1. To the extent not in conflict with the City's Public Right-of-Way Management Ordinance or Design Manual and Chapter 284, Sec. 284.303, Licensee understands and acknowledges that the City may require Licensee to remove or relocate its Network Nodes and ground equipment, or any portion thereof from the Public Right-of-Way, and Licensee shall at the City Engineer's direction remove or relocate the same at Licensee's sole cost and expense, whenever the City Engineer reasonably determines that the relocation or removal is needed for any of the following purposes: Required for the construction, completion, repair, widening, relocation, or maintenance of, or use in connection with, any City construction or maintenance project that enhances the Public Right-of-Way for use of the traveling public.
- 8.4.2. If Licensee fails to remove or relocate the Network Nodes and ground equipment, or portion thereof as requested by the City Engineer within 90 days of Licensee's receipt of the request, then the City shall be entitled to remove the Network Nodes

and ground equipment or portion thereof at Licensee's sole cost and expense, without further notice to Licensee, and Licensee shall, within 30 days following issuance of invoice for the same, reimburse the City for its reasonable expenses incurred in the removal (including, without limitation, storage expenses) of the Network Nodes and ground equipment, or portion thereof.

#### 8.5. REMOVAL REQUIRED AFTER TERMINATION OR EXPIRATION OF LICENSE

Within 30 calendar days after termination or expiration of this Agreement, Licensee shall commence removal of all of Licensee's Network Nodes and ground equipment from all Service Pole(s) in the Public Right-of-Way and peaceably surrender the Public Right-of-Way to City in the same condition the Public Right-of-Way was in on the Effective Date. Removal of all the Licensee's Network Nodes and ground equipment under this section must be completed within 90 days. If Licensee fails to begin removal of the Network Nodes and ground equipment on or before the 30th day after the Agreement expires or terminates or fails to complete removal within 90 days, the City may remove, store, or dispose of any remaining portion of the Network Nodes and ground equipment in any manner the City Engineer deems appropriate. Licensee shall, within 30 days after receipt of the City's written request and invoice, reimburse the City for all costs incurred by the City in connection therewith (including any reasonable overhead and storage fees).

#### 8.6. REMOVAL REQUIRED AFTER REVOCATION

Within 30 days after the date of the notice of revocation of a Permit for a Location, Licensee shall commence removal of the Network Nodes and ground equipment from the Public Right-of-Way and peaceably surrender the Public Right-of-Way to City in the same condition the Public Right-of-Way was in on the Effective Date. If Licensee fails to complete removal within 90 days, the City may remove, store, or dispose of any remaining portion of the Network Nodes and ground equipment in any manner the City Engineer deems appropriate. Licensee shall, within 30 days after receipt of the City's written request and invoice, reimburse the City for all costs incurred by the City in connection therewith (including any reasonable overhead and storage fees).

#### 8.7. OWNERSHIP

No part of a Network Node constructed, erected or placed on the Public Right-of-Way by Licensee will become, or be considered by the City as being affixed to or a part of, a Service Pole or of the Public Right-of-Way. All portions of the Network Node constructed, modified, erected or placed by Licensee on the Public Right-of-Way will be and remains the property of Licensee and may be removed by Licensee at any time during or after the Term.

#### 8.8. RESTORATION

Licensee shall repair any damage to the Public Right-of-Way, and the property of any third party resulting from Licensee's removal activities (or any other of Licensee's activities hereunder) within 10 days following the date of such removal or relocation, at Licensee's sole cost and expense, to include restoration of the Public Right-of-Way and property to substantially the same condition as it was immediately before the Effective Date, including restoration or replacement of any damaged trees, shrubs or other vegetation. Such repair, restoration and replacement shall be subject to the sole, reasonable approval of the Mayor.

8.9. LICENSEE RESPONSIBLE

Licensee shall be responsible and liable for the acts and omissions of Licensee’s employees, temporary employees, officers, directors, consultants, agents, Affiliates, subsidiaries, sublicensees, sublessees, and subcontractors in connection with the performance of this Agreement, as if such acts or omissions were Licensee’s acts or omissions.

8.10. ALLOCATION OF FUNDS FOR REMOVAL AND STORAGE

The City has appropriated \$0 under this Agreement to pay for the cost of any removal or storage of Network Node, as authorized under this Article, and no other funds are allocated in connection with the performance of this Agreement.

**ARTICLE 9. ENVIRONMENTAL LAW REQUIREMENTS**

Network Provider shall comply with the City’s Public Right-of-Way Management Ordinance concerning environmental law requirements on any of its Network Node or ground equipment.

**ARTICLE 10. SECURITY**

Network Provider shall comply with the City’s Public Right-of-Way Management Ordinance concerning security requirements on any of its Network Node or ground equipment.

**ARTICLE 11. INDEMNIFICATION, INSURANCE AND LIABILITY**

11.1 *Indemnity*. Network Provider shall comply with the City’s Public Right-of-Way Management Ordinance and Chapter 284, Sec. 284.302 concerning on indemnification requirements on any of its Network Node or ground equipment.

11.2 *Insurance*. Network Provider shall comply with the City’s Public Right-of-Way Management Ordinance concerning insurance requirements on any of its Network Node or ground equipment.

11.3 *Liability*. Network Provider shall be responsible for any damages to any party that occur due to the installation, maintenance or failure to maintain, the removal or failure to remove Network Nodes for which it would be liable under Law.

**ARTICLE 12. TERM AND TERMINATION**

12.1. TERM

12.1.1. This Agreement is effective on the Effective Date and unless sooner terminated under other provisions of this Agreement, will remain in effect until December 31, 2025 (“Initial Term”).

12.2. RENEWALS

Upon expiration of the Initial Term, this Agreement will automatically renew for up to two (2) successive five (5) year terms (each a “Renewal Term”) on the same terms and conditions, unless either the City or Licensee chooses not to renew. If either the City or Licensee chooses

not to renew this Agreement, the Mayor shall notify the Licensee or the Licensee shall notify the Mayor of non-renewal at least 90 days before the expiration of the then-current term.

### 12.3. TERMINATION FOR CAUSE BY CITY

12.3.1. If Licensee defaults under this Agreement, the City may terminate this Agreement subject to Licensee's ability to cure such defaults below. The City's right to terminate this Agreement for Licensee's default is cumulative of all its rights and remedies which exist now or in the future. Default by Licensee includes, but is not limited to:

12.3.1.1. Failure of the Licensee to comply with any material term of this Agreement;

12.3.1.2. Licensee becomes insolvent.

12.3.1.3. The Licensee's failure to obtain all licenses, permits, and certification required by the City under this Agreement and pay all fees associated therewith after the City has notified the Licensee that licenses, permits, and certifications must be obtained to work in the Public Right-of-Way;

12.3.1.4. All or a substantial part of Licensee's assets are assigned for the benefit of its creditors;

12.3.1.5. A receiver or trustee is appointed for Licensee; or

12.4.1.6. Licensee fails to apply for permits to Collocate on Service Poles in the Public Right-of-Way within 1 year of the Effective Date of this Agreement.

12.3.2. If a default occurs, the Mayor shall deliver a written notice to Licensee describing the default and the termination date. If the Mayor sends a default notice, the Licensee shall have 60 days from the receipt of such notice to cure the default (unless the nature of the event takes longer to cure and the Licensee commences a cure within such 60-day period and thereafter diligently pursues it but will not exceed 180 days unless agreed to by the Mayor which agreement will not be unreasonably withheld). If Licensee cures the default before the proposed termination date, the proposed termination is ineffective.

12.3.3. If the default is not cured in the time and manner set out above or by the Mayor, then the Mayor may immediately terminate this Agreement by notifying Licensee in writing of such termination. After receiving the notice, Licensee shall, immediately cease operations and remove Network Node from the Public Right-of-Way in accordance with the Sections 8.5 and 8.6 of this Agreement, and any payment due shall be remitted by Licensee within 30 days of the receipt of the notice to the address in the Section 1.1 of this Agreement.

### 12.4. TERMINATION BY LICENSEE

12.4.1. The Licensee may terminate this Agreement at any time without cause by giving 30 days advance written notice to the Mayor.

12.4.2. If the Licensee does not remove all Network Node from the Public Right-of-Way within the time period required by Section 8.5 of this Agreement, the Network

Node may be removed by the City, subject to reimbursement for its cost from the Network provider as allowed by the Agreement.

#### 12.5. AUTOMATIC TERMINATION.

If Chapter 284 of the Local Government Code, or any part thereof is at any time, in full or in part, revoked, found to be unconstitutional, struck down, preempted or otherwise becomes void or invalid, then this License shall automatically terminate, unless an extension is granted by the City. This section shall constitute Notice that in such case, all Network Nodes are to be removed within ninety (90) days from the event that affect Chapter 284. The Parties agree they will negotiate in good faith to assure an ease of transitions as to those parts of Chapter 284 that have been adjudicated as unenforceable, as well as continued compliance with those parts that may remain enforceable, if any.

### **ARTICLE 13. TRANSFER OF AUTHORITY**

#### 13.1. ASSIGNMENT

- 13.1.1. Licensee may not assign, delegate, transfer, or sell all or any portion of its rights, privileges and obligations under this Agreement without written notice to and the prior written consent of the Mayor, which consent will not be unreasonably withheld. No assignment in law or otherwise shall be effective until the assignee has filed with the Mayor an instrument, duly executed, reciting the fact of such assignment, accepting the terms hereof, and agreeing to comply with all of the provisions hereof. A mortgage or other pledge of assets in a bona fide lending transaction shall not be considered an assignment of this Agreement for the purposes of this Article.
- 13.1.2. This Agreement binds and benefits the Parties and their legal successors and permitted assigns; however, this provision does not alter the restrictions on assignment and disposal of assets set out in this Article. This Agreement does not create any personal liability on the part of any officer or agent of the City.
- 13.1.3. Notwithstanding anything to the contrary contained in this Agreement, Licensee will, whenever in its sole discretion it is required or appropriate for the operation of its business, have the right, without notice to or consent of City, Mayor, or any other party, to assign all or any portion of its rights under this Agreement in whole or in part, to (a) any Affiliates as long as such entity has expertise in the operation of Network Node, or provision of Wireless Services; (b) any entity with which the Licensee or an Affiliate of the Licensee shares joint ownership of the Network Nodes and ground equipment ; or (c) any entity that is a holder of a then-current Agreement. The Licensee shall give written notice to the Mayor within thirty (30) days of such assignment.

#### 13.2. BUSINESS STRUCTURE AND ASSIGNMENTS

Nothing in this clause, however, prevents the creation of a security interest in the Network Node facilities as described in the Texas Business & Commerce Code. In the case of such an enforcement of that security interest by the holder of the security interest, as an assignee, Licensee

shall immediately furnish to the Mayor with proof of the assignment and the name, telephone number, and address of the assignee and a clear contractual obligation that the assignee shall and does assume all the liabilities and responsibilities of Licensee under this Agreement, including responsibilities for any unpaid past due payments, and current and future payments that may be due the City. Such assignment does not release Licensee of its obligations and payments due or to be due the City, unless there is an express written release agreed to by the City.

## **ARTICLE 14. INVENTORY AND INSPECTIONS.**

### **14.1. INVENTORY RECORDS**

14.1.1. Licensee shall maintain a list of its approved Network Node Locations on Service Poles by GIS location during the Term of this Agreement. Licensee shall provide to the Mayor such list within 30 days upon written request, but no more frequent than once a year after the first year of this agreement.

### **14.2. INSPECTIONS**

14.2.1. City representatives shall have the right to perform, or to have performed, (1) inspections of the records described in 14.1.1 and (2) inspections of all places in the Public Right-of-Way where work is undertaken in connection with this Agreement. Licensee shall keep its records described in 14.1.1 available for this purpose for at least four years after this Agreement terminates or expires. The inspection may be performed by City staff or third-party representatives engaged by the City. This provision does not affect the applicable statute of limitations.

14.2.2. In addition to other records or filings required hereunder or by Law, the Licensee shall maintain and provide access to a current map by either paper or electronic means, upon request by the Mayor or City Engineer, showing the approximate locations of Network Nodes on Service Poles in the Right-of- Way.

14.2.3. The Mayor may reasonably require the keeping of additional records or accounts reasonably necessary to determine the Licensee's compliance with the terms of this Agreement.

### **14.3. CONFIDENTIAL INFORMATION**

The Mayor shall not disclose any confidential information reproduced for documentation of audit issues unless required by law. If the City receives a request to review or copy confidential information under the Texas Public Information Act or related law (the "Act"), the City shall comply with the requirements for handling third party information under the Act, including notifying the Licensee that a request to review or copy Confidential Information has been submitted to the City. Confidential information deemed subject to disclosure under the Act by the Attorney General of the State of Texas shall be disclosed.

## **ARTICLE 15. MISCELLANEOUS**

### **15.1. FORCE MAJEURE**

Other than the Licensee's failure to pay amounts due and payable under this Agreement, the Licensee shall not be in default or be subject to sanction under any provision of this Agreement

when its performance is prevented by Force Majeure. Force Majeure means an event caused by epidemic; act of God; fire, flood, hurricanes, tornadoes, or other natural disasters; explosions; terrorist acts against the City or Licensee; act of military or superior governmental authority that Licensee is unable to prevent by exercise of reasonable diligence; war; riots; or civil disorder; provided, however, that such causes are beyond the reasonable control and without the willful act, fault, failure or negligence of the Licensee. The term does not include any changes in general economic conditions such as inflation, interest rates, economic downturn or other factors of general application; or an event that merely makes performance more difficult, expensive or impractical. Performance is not excused under this section following the end of the applicable event of Force Majeure. Licensee is not relieved from performing its obligations under this Agreement due to a strike or work slowdown of its employees. Force Majeure does not entitle Licensee to reimbursement of payments.

This relief is not applicable unless the affected party does the following:

- 15.1.1. uses due diligence to remove the effects of the Force Majeure as quickly as possible and to continue performance notwithstanding the Force Majeure; and
- 15.1.2. provides the other party with prompt written notice of the cause and its anticipated effect.

The Mayor will review claims that a Force Majeure that directly impacts the City or Licensee has occurred and render a written decision within 14 days. The decision of the Mayor is final.

Licensee is not relieved from performing its obligations under this Agreement due to a strike or work slowdown of its employees. Licensee shall employ only fully trained and qualified personnel during a strike.

## 15.2. DISPUTE RESOLUTION

- 15.2.1. In the event of a dispute between the Parties that arises during the Term of this Agreement, the Parties shall attempt to expeditiously and amicably resolve any dispute through good faith discussions in the ordinary course of business at the level at which the dispute originates.
- 15.2.2. If the Parties are not able to resolve the dispute in the ordinary course of business, the Mayor and representatives of other City departments that are involved in the dispute will meet with Licensee's authorized representative in an attempt to resolve the dispute.
- 15.2.4. Except in emergencies, no lawsuit under or related to this Agreement by one party against the other may be filed until at least meeting has occurred between the Mayor and executives of Network Provider with full authority to resolve the claims in the meeting or that are available contemporaneously with the meeting via live telephonic communications where the parties agree to attempt in good faith to resolve or narrow the issues; and if not resolved, and the parties agree that before initiating litigation, either party shall notify the other party of its intent to sue, and provide a copy of the draft pleading, with supporting facts and legal authorities at least fourteen (14) days before suit is filed.
- 15.2.5. This section does not apply to disputes that involve a question of law.

- 15.2.6. Notwithstanding the existence of any dispute between the Parties, insofar as is possible under the terms of this Agreement, each Party shall continue to perform the obligations required of it during the continuation of any such dispute, unless enjoined or prohibited by a court of competent jurisdiction or unless this Agreement terminates or expires under the terms provided herein.

15.3. ACCEPTANCE AND APPROVAL; CONSENT

An approval by the Mayor, the City Engineer, or any other instrumentality of City, of any part of the Licensee's performance shall not be construed to waive compliance with this Agreement or to establish a standard of performance other than required by this Agreement or by law. Where this Agreement contains a provision that either party approve or consent to any action of the other party, such approval or consent shall not be unreasonably withheld or delayed. Except as provided for in this Agreement, the Mayor or City Engineer are not authorized to vary the terms of this Agreement.

15.4. REPRESENTATIONS AND WARRANTIES

In addition to the representations, warranties, and covenants of the Licensee to the City set forth elsewhere herein, the Licensee represents and warrants to the City and covenants and agrees (which representations, warranties, covenants and agreements shall not be affected or waived by any inspection or examination made by or on behalf of the City) that, as of the Effective Date and throughout the term of this Agreement:

- 15.4.1. *Organization, Standing and Power.* The Licensee is a Network Provider duly organized, validly existing and in good standing under the laws of the state of its organization and is duly authorized to do business in the State of Texas and in the City. The Licensee has all requisite power and authority to own or lease its properties and assets, subject to the terms of this Agreement, to conduct its businesses as currently conducted and to execute, deliver and perform this License and all other agreements entered into or delivered in connection with or as contemplated hereby.
- 15.4.2. *Truthful Statements.* The Licensee warrants, to the best of its knowledge and belief, that information provided and statements made in connection with its application for this Agreement were true and correct when made and are true and correct upon execution hereof.
- 15.4.3. *Condition of Public Right-of-Way.* Licensee accepts the Public Right-of-Way where Network Node are authorized to be located “**AS IS,**” without any express or implied warranties of any kind.

15.5. STATEMENT OF ACCEPTANCE

Licensee and City, for themselves, their successors and assigns, hereby accept and agrees to be bound by all terms, conditions and provisions of this Agreement.

15.6. RELATIONSHIP OF THE PARTIES

Licensee shall be responsible and liable for its contractors, subcontractors, and sublicensees. The City has no control or supervisory powers over the manner or method of Licensees' contractors'

and subcontractors' performance under this Agreement. All personnel Licensee uses or provides are its employees, contractors, or subcontractors and not the City's employees, agents, or subcontractors for any purpose whatsoever.

15.7. SEVERABILITY

If any part of this Agreement is for any reason found to be unenforceable, all other parts remain enforceable unless the result materially prejudices either Party.

15.8. ENTIRE AGREEMENT

This Agreement merges the prior negotiations and understandings of the Parties and embodies the entire agreement of the Parties. No other agreements, assurances, conditions, covenants (express or implied), or other terms of any kind, exist between the Parties regarding this Agreement.

15.9. WRITTEN AMENDMENT

Unless otherwise specified elsewhere in this Agreement, this Agreement may be amended only by written instrument executed on behalf of the City (by authority of an ordinance adopted by the City Commission) and Licensee. The Mayor and City Engineer are only authorized to perform the functions specifically delegated to him or her in this Agreement.

15.10. APPLICABLE LAWS AND VENUE

15.10.1. This Agreement is subject to all Applicable Codes and Laws, and all rules and regulations of any regulatory body or officer having jurisdiction, including any lawful court or administrative decisions, judgments or orders that have been fully and finally adjudicated, including any appeals of such decisions judgments, or orders ("Decisions"). This Agreement shall be governed, construed, and enforced according to the laws of the State of Texas, without regard to its choice of law provisions.

If any material provision of this Agreement is superseded or affected by Law, then the Parties shall negotiate in good faith to revise this Agreement.

15.10.2. Subject to the Parties' obligation to submit to the dispute resolution process or mediation as described in this Agreement, Licensee shall submit any and all litigation and legal proceedings between any of the Licensee and the City to the exclusive jurisdiction of the state or federal courts in the State of Texas and waive any objections or right as to forum non conveniens, lack of personal jurisdiction, or similar grounds. Venue for any litigation relating to this Agreement is Galveston County, Texas.

15.11. NOTICES

15.11.1. All notices to either party to the Agreement must be in writing and must be delivered by hand, facsimile, United States registered or certified mail, return receipt requested, United States Express Mail, Federal Express, Airborne Express, UPS or any other national overnight express delivery service. The notice must be addressed to the party to whom the notice is given at its address

set out in Article I, Section 1.1 of this Agreement or other address the receiving party has designated previously by proper notice to the sending party. Postage or delivery charges must be paid by the party giving the notice.

15.11.2. Licensee shall address a copy to the City Engineer at the address set out in Article I, Section 1.1 of all notices pertaining to Article 6 and 8 and other notices to the City Engineer required under this Agreement.

15.11.3. Licensee shall address a copy to the City Attorney at the address set out in Article I, Section 1.1 of all notices pertaining to Article 15 and other notices to the City Attorney required under this Agreement

15.12. CAPTIONS

Captions contained in this Agreement are for reference only, and, therefore, have no effect in construing this Agreement. The captions are not restrictive of the subject matter of any section in this Agreement.

15.13. NON-WAIVER

If either Party fails to require the other to perform a term of this Agreement, that failure does not prevent the Party from later enforcing that term and all other terms. If either Party waives the other's breach of a term, that waiver does not waive a later breach of this Agreement.

15.14. ENFORCEMENT

The City Attorney may enforce all legal rights and obligations under this Agreement without further authorization. Licensee shall provide to the City Attorney all documents and records pertaining to this Agreement that the City Attorney requests to assist in determining Licensee's compliance with this Agreement, with the exception of those documents made confidential by federal or State law or regulation.

15.15. AMBIGUITIES

If any term of this Agreement is ambiguous, it shall not be construed for or against any Party on the basis that the Party did or did not write it.

15.16. SURVIVAL

Licensee and the City shall remain obligated to the other Party under all provisions of this Agreement that expressly or by their nature extend beyond the termination or expiration of this Agreement, including, but not limited to, the provisions regarding warranty, indemnification and confidentiality.

All representations and warranties contained in this Agreement shall survive the term of the Agreement.

15.17. RESERVED

15.18. PARTIES IN INTEREST

This Agreement does not bestow any rights upon any third party, but binds and benefits the City and Licensee only.

15.19. REMEDIES CUMULATIVE

Unless otherwise specified elsewhere in this Agreement, the rights and remedies contained in this Agreement are not exclusive, but are cumulative of all rights and remedies which exist now or in the future. Neither party may terminate its duties under this Agreement except in accordance with its provisions.

15.20. LICENSEE DEBT

IF MAYOR BECOMES AWARE THAT LICENSEE OWES ANY DELINQUENT SUM OF MONEY IN AN AMOUNT GREATER THAN \$100.00 TO THE CITY OR ANY AFFILIATE ENTITY FOR AD VALOREM TAXES ON REAL OR PERSONAL PROPERTY LOCATED WITHIN THE BOUNDARIES OF THE CITY (“DEBT”), IT SHALL NOTIFY LICENSEE IN WRITING. IF LICENSEE DOES NOT PAY THE DEBT WITHIN 30 DAYS OF SUCH NOTIFICATION, THE MAYOR MAY DEDUCT FUNDS IN AN AMOUNT EQUAL TO THE DEBT FROM ANY PAYMENTS OWED TO LICENSEE BY THE CITY UNDER THIS AGREEMENT.

15.21. PARTS INCORPORATED

All of the above-described sections listed in the Table of Contents and the listed exhibits are made a part of and incorporated into this Agreement.

15.22. CONTROLLING PARTS

If a conflict between the sections of the Agreement and any of the exhibits arises, the sections of the Agreement control over the exhibits.

15.23. SIGNATURES

IN WITNESS WHEREOF, the Original Signatories, through their duly authorized officers, have executed this Agreement in multiple counterparts, each of equal force and effect, effective as of the as of the date signed by the Mayor.

**LICENSEE/NETWORK PROVIDER:**

**CITY:**

\_\_\_\_\_

**CITY OF TEXAS CITY, TEXAS**

Signed by:

\_\_\_\_\_  
Name:

Title:

\_\_\_\_\_  
Mayor

Date Signed. \_\_\_\_\_

Tax Identification No.:  
**ATTEST/SEAL:**

**ATTEST/SEAL:**

\_\_\_\_\_  
Name:  
Date Signed. \_\_\_\_\_

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

**Approved as to Form:**

\_\_\_\_\_  
City Attorney,  
City of Texas City

\_\_\_\_\_  
<sup>1</sup> The definitions as used in Tx. Loc. Gov. Code, Chapter 284, Sec. 284.002 shall be used and control over any conflicts with the Agreement.

Tx. Loc. Gov. Code, Chapter 284, Sec. 284.002. DEFINITIONS. In this chapter:

- (1) "*Antenna*" means communications equipment that transmits or receives electromagnetic radio frequency signals used in the provision of wireless services.
- (2) "*Applicable codes*" means:
  - (A) uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization; and
  - (B) local amendments to those codes to the extent not inconsistent with this chapter.
- (3) "*Collocate*" and "*collocation*" mean the installation, mounting, maintenance, modification, operation, or replacement of network nodes in a public right-of-way on or adjacent to a pole.
- (4) "*Decorative pole*" means a streetlight pole specially designed and placed for aesthetic purposes and on which no appurtenances or attachments, other than specially designed informational or directional signage or temporary holiday or special event attachments, have been placed or are permitted to be placed according to nondiscriminatory municipal codes.
- (5) "*Design district*" means an area that is zoned, or otherwise designated by municipal code, and for which the city maintains and enforces unique design and aesthetic standards on a uniform and nondiscriminatory basis.
- (6) "*Historic district*" means an area that is zoned or otherwise designated as a historic district under municipal, state, or federal law.
- (7) "*Law*" means common law or a federal, state, or local law, statute, code, rule, regulation, order, or ordinance.
- (8) "*Macro tower*" means a guyed or self-supported pole or monopole greater than the height parameters prescribed by Section 284.103 and that supports or is capable of supporting antennas.
- (9) "*Micro network node*" means a network node that is not larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height, and that has an exterior antenna, if any, not longer than 11 inches.
- (10) "*Municipally owned utility pole*" means a utility pole owned or operated by a municipally owned

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utility, as defined by Section 11.003, Utilities Code, and located in a public right-of-way.

(11) "*Municipal park*" means an area that is zoned or otherwise designated by municipal code as a public park for the purpose of recreational activity.

(12) "*Network node*" means equipment at a fixed location that enables wireless communications between user equipment and a communications network. The term:

(A) includes:

(i) equipment associated with wireless communications;

(ii) a radio transceiver, an antenna, a battery-only backup power supply, and comparable equipment, regardless of technological configuration; and

(iii) coaxial or fiber-optic cable that is immediately adjacent to and directly associated with a particular collocation; and

(B) does not include:

(i) an electric generator;

(ii) a pole; or

(iii) a macro tower.

(13) "*Network provider*" means:

(A) a wireless service provider; or

(B) a person that does not provide wireless services and that is not an electric utility but builds or installs on behalf of a wireless service provider:

(i) network nodes; or

(ii) node support poles or any other structure that supports or is capable of supporting a network node.

(14) "*Node support pole*" means a pole installed by a network provider for the primary purpose of supporting a network node.

(15) "*Permit*" means a written authorization for the use of the public right-of-way or collocation on a service pole required from a municipality before a network provider may perform an action or initiate, continue, or complete a project over which the municipality has police power authority.

(16) "*Pole*" means a service pole, municipally owned utility pole, node support pole, or utility pole.

(17) "*Private easement*" means an easement or other real property right that is only for the benefit of the grantor and grantee and their successors and assigns.

(18) "*Public right-of-way*" means the area on, below, or above a public roadway, highway, street, public sidewalk, alley, waterway, or utility easement in which the municipality has an interest. The term does not include:

(A) a private easement; or

(B) the airwaves above a public right-of-way with regard to wireless telecommunications.

(19) "*Public right-of-way management ordinance*" means an ordinance that complies with Subchapter C.

(20) "*Public right-of-way rate*" means an annual rental charge paid by a network provider to a municipality related to the construction, maintenance, or operation of network nodes within a public right-of-way in the municipality.

(21) "*Service pole*" means a pole, other than a municipally owned utility pole, owned or operated by a municipality and located in a public right-of-way, including:

(A) a pole that supports traffic control functions;

(B) a structure for signage;

(C) a pole that supports lighting, other than a decorative pole; and

(D) a pole or similar structure owned or operated by a municipality and supporting only network nodes.

(22) "*Transport facility*" means each transmission path physically within a public right-of-way, extending with a physical line from a network node directly to the network, for the purpose of providing backhaul for network nodes.

(23) "*Utility pole*" means a pole that provides:

(A) electric distribution with a voltage rating of not more than 34.5 kilovolts; or

(B) services of a telecommunications provider, as defined by Section 51.002, Utilities Code.

(24) "*Wireless service*" means any service, using licensed or unlicensed wireless spectrum, including the use of Wi-Fi, whether at a fixed location or mobile, provided to the public using a network node.

(25) "*Wireless service provider*" means a person that provides wireless service to the public.

EXHIBIT A: SMALL CELL NODE PERMIT APPLICATION



Permit Number: \_\_\_\_\_

Initial Fee: \$ \_\_\_\_\_

**Select Permit Type**

Network Node Permit (i.e. small cell attachment to existing pole)

Number of nodes \_\_\_\_\_

Node installation type:

Existing city owned pole    Existing/replacing third-party pole    Existing transportation facility

Node Support Pole Permit (i.e. standalone pole for small cell)

Number of poles \_\_\_\_\_

Transport Facility Permit (i.e. fiber/line connection between small cell and cellular network's switching location)

**Required Information**

1. Provide pole ID number, address or intersection, latitude and longitude (accurate up to 6 decimal points).

**Pole ID:** \_\_\_\_\_      **Address/Intersection:** \_\_\_\_\_

**Latitude:** \_\_\_\_\_      **Longitude:** \_\_\_\_\_

2. Provide your city public service provider business registration number. \_\_\_\_\_

**(NOTE: Business registration requires insurance and bond information, it expires when your insurance expires)**

3. Is the proposed small cell infrastructure in State or Federal Right-of-Way?    Yes    No

**Owner/Applicant**

**Contractor**

Name \_\_\_\_\_

Address \_\_\_\_\_

City, State, Zip \_\_\_\_\_

Point of Contact Name \_\_\_\_\_

Point of Contact Phone # \_\_\_\_\_

Point of Contact Email \_\_\_\_\_

**ANNUAL FEE BILLING INFORMATION:**    Check if same as Owner

Company Name: \_\_\_\_\_      Contact Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone Number: \_\_\_\_\_      Email: \_\_\_\_\_

Place a check mark next to each document provided.

| Required Documents<br><br>(If submitting electronically, name your files as shown below)        | Applicant                | Staff |
|---|--------------------------|-------|
| <b>Permits and Pre-approvals</b>  |                          |       |
| ▪ City Small Cell License Agreement   | <input type="checkbox"/> |       |
| ▪ Oncor pre-approval letter, if applicable  | <input type="checkbox"/> |       |
| ▪ Other utilities pre-approval letter, if applicable  | <input type="checkbox"/> |       |
| ▪ State or Federal Right-of-Way permit, if applicable   | <input type="checkbox"/> |       |
| <b>Location Details</b>   |                          |       |
| ▪ Aerial map of project location  | <input type="checkbox"/> |       |
| ▪ Street view image indicating new proposed pole location                                       | <input type="checkbox"/> |       |
| ▪ Land survey of existing surrounding infrastructure  | <input type="checkbox"/> |       |
| <b>Construction Details</b>   |                          |       |
| ▪ Site plan   | <input type="checkbox"/> |       |
| ▪ Pole elevations – meeting height requirement  | <input type="checkbox"/> |       |
| ▪ Equipment details – meeting all size limitations  | <input type="checkbox"/> |       |
| ▪ Electrical conduit plan – prior to construction a separate electrical permit must be obtained | <input type="checkbox"/> |       |
| ▪ Traffic control plan – including pedestrian safety plan                                       | <input type="checkbox"/> |       |
| <b>General</b>  |                          |       |
| ▪ 300-foot distance analysis exhibit – verifying small cell distance separation                 | <input type="checkbox"/> |       |
| ▪ Industry standard pole load analysis – certified by a registered engineer                     | <input type="checkbox"/> |       |
| ▪ Documentation of frequency(ies) for each small cell node                                      | <input type="checkbox"/> |       |
| <b>Property Owner Notification</b>  |                          |       |
| ▪ Map identifying parcels within a 300-foot buffer  | <input type="checkbox"/> |       |
| ▪ Copy of letter mailed to identified property owners   | <input type="checkbox"/> |       |
| ▪ List of mailing addresses of identified property owners                                       | <input type="checkbox"/> |       |

I hereby certify that I have read and examined the application and know the same to be true and correct. All provisions of laws and ordinances governing this type of work will be complied with whether specified herein or not. The granting of a permit does not presume to give authority to violate or cancel the provisions of any other state or local ordinances regulating construction, the performance of construction, or the use of land including ROW or structure.

Signature of Applicant: \_\_\_\_\_

**STAFF USE ONLY**

APPLICATION RECEIVED BY: \_\_\_\_\_

DATE RECEIVED: \_\_\_\_\_

APPLICATION APPROVED: \_\_\_\_\_

DATE APPROVED: \_\_\_\_\_

**CITY COMMISSION REGULAR MTG**

**(8) (c)**

**Meeting Date:** 06/05/2019

Amend fiscal year 2018-2019 budget

**Submitted For:** Laura Boyd, Finance

**Submitted By:** Laura Boyd, Finance

**Department:** Finance

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**Information**

**ACTION REQUEST (Brief Summary)**

Consider and take action on Ordinance No. XX-XX, amending the City's fiscal year 2018-2019 budget to appropriate funds for office renovation at the Criminal Justice Center. (Finance)

**BACKGROUND**

Some of the office space at the Criminal Justice Center is to be reconfigured to make more efficient use of the space. This budget amendment includes the costs for the building contractor, wiring, modular office system and installation, and various other office equipment.

Total cost of \$53,796 will be funded through the City's General Fund. Memo from Texas City Police Department is attached.

**ANALYSIS**

Budget Amendment:

**General Fund (Fund 101):**

Building Improvements \$53,796.00

Unassigned fund balance (\$53,796.00)

**ALTERNATIVES CONSIDERED**

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**Fiscal Impact**

**Attachments**

Ordinance

PD renovation

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**ORDINANCE NO. 19-13**

**AN ORDINANCE AMENDING ORDINANCE NO. 19-26, ADOPTING THE CITY OF TEXAS CITY'S 2018-2019 FISCAL YEAR BUDGET TO APPROPRIATE FUNDS FOR OFFICE RENOVATIONS AT THE CRIMINAL JUSTICE CENTER; DIRECTING THE CHIEF EXECUTIVE OFFICER TO FILE OR CAUSE TO BE FILED A COPY OF THE BUDGET AMENDMENT IN THE OFFICE OF THE GALVESTON COUNTY CLERK; DISPENSING WITH THE REQUIREMENT FOR READING THIS ORDINANCE ON THREE (3) SEPARATE DAYS; AND PROVIDING THAT THIS ORDINANCE SHALL BECOME EFFECTIVE FROM AND AFTER ITS PASSAGE AND ADOPTION.**

**WHEREAS**, by Ordinance No. 18-26, the City Commission of the City of Texas City, Texas, adopted its budget for Fiscal Year 2018-2019; and

**WHEREAS**, the City's Criminal Justice Center has office space that needs to be reconfigured to make more efficient use of the space; and

**WHEREAS**, the budget amendment will include the costs for the building contractor, wiring, modular office system and installation, and various office equipment; and

**WHEREAS**, the total cost of the project is \$53,796.00 as itemized in the Memo from the Texas City Police Department attached as **Exhibit "A"** and made apart hereto and made a part thereof.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF TEXAS CITY, TEXAS:**

**SECTION 1:** That the facts and matters set forth in the preamble of this Ordinance are hereby found to be true and correct.

**SECTION 2:** That the budget for Fiscal Year 2018-2019 of the City of Texas City, Texas, is hereby amended as follows:

**Budget Amendment:**

**General Fund (Fund 101):**

|                         |               |
|-------------------------|---------------|
| Building Improvements   | \$53,796.00   |
| Unassigned Fund Balance | (\$53,796.00) |

**SECTION 3:** That the chief executive officer shall file or cause to be filed a copy of this budget amendment in the office of the Galveston County Clerk.

**SECTION 4:** That the Charter requirement for reading this Ordinance on three (3) separate days has been dispensed by a majority vote of all members of the City Commission.

**SECTION 5:** That this Ordinance shall be finally passed and adopted on the date of its introduction and shall become effective from and after its passage and adoption.

**PASSED AND ADOPTED this 5th day of June 2019.**

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Matthew T. Doyle, Mayor  
City of Texas City, Texas

ATTEST:

APPROVED AS TO FORM:

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Nicholas J. Finan  
City Secretary

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Russell F. Plackemeier  
City Attorney



# TEXAS CITY POLICE DEPARTMENT

JOE A. STANTON

Chief of Police

FBI N.A. Graduate - Session 243



## Renovation Project

|  |              |
|--|--------------|
| Building Contractor                            | \$ 15,000.00 |
| Modular Systems & Installation Services -      | \$ 21,325.00 |
| C.Link Corporation -                           | \$ 7730.00   |
| Amazon 2 Vivid Storm 133" Projector Screens    | \$ 1198.00   |
| Sam's Club 2 Magnavox 65" Smart TV's           | \$ 958.00    |
| Dormakaba L1011 Mech Push Button Lever Lock    | \$ 375.00    |
| Office Depot 13 Jaylen Mesh Mid-Back Chair     | \$ 2209.87   |
| Materials for Public Works part in the project | \$ 5000.00   |
| Total  | \$ 53795.87  |

\*Two projector screens, and two televisions for the conference room, and CID conference area was added along with thirteen office chairs.

*"107 Years of Dedicated Service"*

1004 9<sup>th</sup> Avenue North, Texas City, TX 77590-7407  
www.texas-city-tx.org (409) 948-2525