

City Council Agenda

SAGINAW CITY COUNCIL NOTICE OF MEETING

Meeting and/or Executive Session Agenda

6:00 PM - Tuesday, March 5, 2019

Saginaw City Hall Council Chambers

333 West McLeroy Blvd.

In accordance with Section 551.042 of the Texas Government Code, this agenda has been posted at Saginaw City Hall, and distributed to the appropriate news media within the required time frame. All meetings of the Saginaw City Council are open to the public. Public participation and written comments are invited on all open session business items.

The Mayor and City Council request that all cell phones and pagers be turned off or set to vibrate. Members of the audience are requested to step outside to respond to a page or to conduct a phone conversation.

The City Hall is wheelchair accessible and special parking is available on the east side of the building. If special accommodations are required please contact the City Secretary a minimum of 72 hours in advance at 817-232-4640.

(1) Call to Order--Todd Flippo, Mayor

Pledge of Allegiance to the United States

Pledge of Allegiance to the State of Texas

"Honor the Texas Flag; I pledge allegiance to thee, Texas, one State under God, one and indivisible"

(2) Invocation--Reverend Valendy, Saginaw United Methodist Church

(3) Audience Participation--On the Video Screen

(4) Consent Agenda

- (a)** Action regarding Minutes, February 19, 2019--Janice England, City Secretary
- (b)** Action on approval of funding to have diseased trees removed from Business 287--Keith Rinehart, Director of Community Services
- (c)** Action regarding approval of a Field Usage Agreement with Eagle Mountain Soccer Association (EMSA)--Keith Rinehart, Director of Community Services
- (d)** Action regarding Approval of a Settlement Agreement with S.J. Louis

Construction of Texas Ltd. for Replacement of Trees along Old Decatur Road--Rick Trice, P.E., Director of Public Works

- (e) Action regarding Purchase of Four 2019 Chevy Tahoe Police Package Vehicles--Lee Howell, Police Chief
 - (f) Action regarding Authorization of an Individual Project Order (IPO) with Kimley-Horn & Associates, Inc. for the Saginaw Boulevard 16" Water Line, Phase 2 Project--Rick Trice, P.E., Director of Public Works
 - (g) Action regarding Disposal of City Surplus Items and Agreement with Tommy Lutes Auctioneers for Auction of City Surplus Items--Rick Trice, P.E., Director of Public Works
- (5) Consideration and Action regarding Appointment to 1st Alternate Position on the Animal Shelter Advisory Committee--Janice England, City Secretary
 - (6) Consideration and Action regarding Ordinance No. 2019-04, amending Ordinance No. 2019-02, which called for a special election for the purposes of submitting to the voters propositions to amend the Saginaw Home Rule Charter to be held on May 4, 2019, by revising certain non-substantive errors contained in the wording of certain charter provisions--Bryn Meredith, City Attorney
 - (7) Action regarding Approval of Waiver of Potential Conflicts of Interest regarding Saginaw/Blue Mound Agreement for Animal Services--Bryn Meredith, City Attorney

(8) Executive Session

551.071. Texas Government Code.

Consultation with Attorney. The City Council may convene in executive session to conduct a private consultation with its attorney on any legally posted agenda item, when the City Council seeks the advice of its attorney about pending or contemplated litigation, a settlement offer, or on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the provisions of Chapter 551, including the following items:

(a) Any Posted Item

551.087 Texas Government Code.

Deliberation regarding Economic Development Negotiations. The City Council may convene in executive session to discuss or deliberate regarding commercial or financial information that the City has received from a business prospect that the City seeks to have locate, stay, or expand in or near the City and with which the City is conducting economic development negotiations; or to deliberate the offer of a

financial or other incentive to a business prospect described above, including:

- (a) Possible property development located at the northwest corner of McLeroy Blvd. and FM156

(9) Adjournment--Todd Flippo, Mayor



City of Saginaw

Meeting Date: 3/5/2019

Staff Contact: Janice England, City Secretary

Agenda Items: (4)(a)

E-mail: jengland@saginawtx.org

Phone: 817-230-0327

SUBJECT:

Action regarding Minutes, February 19, 2019

BACKGROUND/DISCUSSION:

The minutes of the February 19th City Council Meeting are being presented for approval.

FINANCIAL IMPACT:

N/A

RECOMMENDATION:

Staff recommends approval as presented.

ATTACHMENTS:

Description

Minutes 2-19-2019

**CITY OF SAGINAW
MINUTES OF CITY COUNCIL MEETING
AND WORKSHOP
HELD AT THE SAGINAW CITY HALL
333 WEST MCLEROY BLVD.
FEBRUARY 19, 2019**

Present at the meeting:

Mayor	Todd Flippo
Mayor Pro-Tem	David Flory
Councilmember	Patrick Farr
Councilmember	Valerie Tankersley
Councilmember	Charles Tucker
Councilmember	Cindy Bighorse
Councilmember	Mary Copeland
City Attorney	Bryn Meredith
City Engineer	Andrew Simonsen, P.E.
City Manager	Gabe Reaume
Asst. City Manager	Dolph Johnson
Finance Director	Kim Quin
City Secretary	Janice England
Police Chief	Lee Howell
Asst. Police Chief	Russell Ragsdale
Fire Chief	Doug Spears
Director of Public Works	Rick Trice, P.E.
Director of Community Svcs.	Keith Rinehart
Library Director	Ellen Ritchie
Director of Human Resources	Melanie McManus
Director of Economic Dev.	Alora Wachholz
Economic Dev. Intern	Stephanie Wilson
Police Officer	Levi Gray
Police Officer	David Gonzalez

Absent from the meeting:

None

Visitors at the meeting:

Kim Rattan	Clair McIver
Chuck McIver	Lisa M. Rucker
John Boyd	Russell Rice
Thomas Weaver	Pamela Lakey
Lawrence Lakey	Brian Orth
Brian Orth Jr.	Garrett Tarin
Davonne Tarin	Sebastian Flores
Jennette Gordeo	Duane Mann

Ryker Venh
Zoe Kiser
John D. Peet
Norm Bulaich
Jacob Morrison
Mary Ragle
Matt Patterson

Korie Kiser
Rachel Arellano
Marty Grant
Jim Barber
Peter Dawson
Angela Harland

(1) Call to Order

Mayor Flippo called the meeting to order at 6:00 p.m. with a quorum present.

Pledge of Allegiance to the United States

Pledge of Allegiance to the State of Texas

(2) Invocation

In the absence of Pastor Michael Orr, Mayor Pro-Tem Flory gave the invocation.

(3) Audience Participation

This item was covered on the video screen.

(4) Consent Agenda

a. Action regarding Minutes, February 5, 2019

b. Action regarding Authorization of an Individual Project Order (IPO) with Kimley-Horn & Associates, Inc. for the ADA Transition Plan Phase 2B

Summary: The 2018-2019 Budget includes funds for the ADA Transition Plan Phase 2B. The recommended IPO includes an assessment of eleven City facilities (Community Center, Animal Shelter, Public Works, Fire Station #1 and #2, Recreation Center, Aquatic Center, City Hall, Police Complex, Library, and Senior Center). The assessment will evaluate the facilities for compliance with the Americans with Disabilities Act (ADA). The assessment will include buildings and associated parking lots. Areas of non-compliance will be prioritized and recommended solutions will be provided with conceptual budgets. The total lump sum fee for this IPO is \$32,000. Funds in the amount of \$32,000 are budgeted in the Public Services Department, Account 01-7000-06, Capital Outlay/Special Request.

c. Action regarding Adoption of Resolution No. 2019-03 Authorizing the execution of Advance Funding Agreement Amendment #1 and Advance Funding Agreement for Non-Traditionally Transportation On-System with the Texas Department of Transportation (TxDOT)

Summary: On April 21, 2015 the City Council passed Resolution No. 205-04 authorizing the approval of the Advance Funding Agreement for a Non-Traditionally Transportation Project (On-System) for the Bailey Boswell Road and Bridge Project at US 287. The agreement outlined the responsibilities of the City and TxDOT in completing the bridge project including costs to be borne by each entity. At the request of TxDOT Administration, the City received a request to terminate the original agreement in its entirety with Amendment #1 and to execute a new agreement in its place. The new agreement is substantially the same as the previous one except that it clarifies that the City and State will be responsible for their respective cost overruns. Additionally, the City's cost participation to the State was estimated at \$57,950 under the previous agreement with \$27,950 due upon execution of the agreement and the remaining \$50,000 due before construction starts. The \$27,950 was paid on April 30, 2015. The new agreement does not require payment of the \$50,000 balance.

d. Action regarding Authorization of an Individual Project Order (IPO) with Kimley-Horn & Associates, Inc. for the I&I Study, Phase 2 (West Cement Creek)

Summary: The 2018-2019 Budget includes funds for the Inflow and Infiltration (I&I) Study Phase 2. The recommended IPO includes condition inspection of sanitary sewer pipes and manholes in the West Cement Creek Sanitary Sewer Basin. The study will identify areas of the sanitary sewer system that may require higher levels of maintenance, repair or replacement. The goal of the I&I Study is to ultimately reduce or eliminate surface water inflow and groundwater infiltration into the sanitary sewer system. The total lump sum fee is \$95,000. Funds in the amount of \$95,000 are budgeted in the Enterprise Fund Water Wastewater Department, Account 05-7021-55, EF Capital Projects.

e. Action regarding Adoption of Resolution No. 2019-04 and Execution of Advance Funding Agreement for Green Ribbon Program On-System

Summary: The City of Saginaw submitted an application to the Texas Department of Transportation (TxDOT) for Green Ribbon Funding for landscape improvements on Business 287/Saginaw Boulevard on April 26, 2018. The City was notified on August 12, 2018 that the application was accepted. TxDOT transmitted an Advance Funding Agreement (AFA) for Green Ribbon Program On-System for the City to execute. The AFA stipulates the responsibilities of the Federal, State and Local governments for the project. The City's responsibility is \$51,500 for engineering and environmental. On November 6, 2018 the City Council approved an IPO with Kimley-Horn & Associates, Inc. for \$51,500 satisfying the City's share of the project.

f. Action regarding purchase of one 2019 Chevrolet 2500 Single Cab Pickup Truck for the Public Services Department

Summary: The 2018-2019 budget includes funds in the amount of \$35,000 for the purchase of a new service truck. Bids were received from the following dealerships: James Wood Chevrolet-\$29,110 and Sam Pack's Five Star Ford-\$31,280.53. Bids were also solicited from four vendors on the BuyBoard Cooperative Purchasing program with no response. The total financial impact will be \$29,110. Funds in the amount of \$35,000 are budgeted in the Public Services Department, Account 01-7000-06, Capital Outlay/Special Request.

Mayor Flippo stated that the removal of Item 4c from the Consent Agenda has been requested.

Motion was made by Councilmember Farr with a second by Councilmember Tankersley to approve the consent agenda with the exception of Item 4c as presented. Motion carried unanimously. 7-0-0-0

For: Mayor Flippo, Mayor Pro-Tem Flory, Councilmembers Farr, Tankersley, Tucker, Bighorse, and Copeland

Against: None

Abstain: None

Absent: None

The Council then considered Item 4c: Action regarding Adoption of Resolution No. 2019-03 Authorizing the execution of Advance Funding Agreement Amendment #1 and Advance Funding Agreement for Non-Traditionally Transportation On-System with the Texas Department of Transportation (TxDOT).

Director of Public Works Trice explained that this item is in regards to the Bailey Boswell Overpass Project. He stated that Resolution No. 2019-03 terminates the original agreement between the City and TxDOT and replaces it with Amendment #1 and executes a new agreement which is substantially the same as the previous agreement except that it clarifies that the City and State will be responsible for their own cost overruns. Councilmember Copeland explained that she asked for this item to be pulled from the Consent Agenda because she is not in favor of the overpass. There was a brief discussion regarding this item.

Motion was made by Councilmember Copeland with a second from Councilmember Farr to table Item 4c until the next City Council Meeting. Motion carried unanimously. 7-0-0-0

For: Mayor Flippo, Mayor Pro-Tem Flory, Councilmembers Farr, Tankersley, Tucker, Bighorse, and Copeland

Against: None

Abstain: None

Absent: None

(5) Mayors' Monarch Pledge

Councilmember Bighorse briefly explained the purpose of the Mayors' Monarch Pledge and Program. It brings attention to the monarch butterfly population. It also promotes activities that will help save the monarch butterfly, provide habitats for the monarch, and educate citizens. Mayor Flippo read the Mayors' Monarch Pledge.

(6) Presentation by The NuRock Companies regarding proposed Heritage at Saginaw Development; and Consideration and Action regarding a Resolution related to the same matter

City Attorney Meredith explained that there may be some misunderstanding and confusion regarding this item. He stated that the request is not seeking zoning approval. He explained that the property is already zoned multi-family. He stated that the request being considered tonight is for a resolution of support of The NuRock Companies' application to the Texas Department of Housing and Community Affairs (TDHCA) in the 2019 competitive 9% application round and HOME Funds for Housing Tax Credits for the proposed Heritage at Saginaw Project. He added that the application process is very competitive and a resolution of support would help The NuRock Companies in this process.

Mr. John Boyd, Senior Vice President of The NuRock Companies, addressed the Council. He gave a power point presentation of the proposed Heritage at Saginaw Project. The proposed project includes 120 senior/elderly 55+ age restricted units. The location of the proposed 7.34 acre project is in the 900 block of West McLeroy Blvd. Mr. Boyd pointed out that the property is currently zoned Multi-Family which would allow up to 176 units. He added that there is a demand for high quality units for active senior adults.

Mr. Boyd stated the project would be a mixed income community with approximately 15% unrestricted market rate units. He explained the Tax Credit Program and the approval process. He added that it is unlike Section 8 and Public Housing programs, and there will be no property tax exemptions. He introduced Ms. Kim Rattan, Manager of one of The NuRock Companies' properties. She briefly explained the amenities and activities offered for residents. Two current residents, Chuck and Clare McIver, were present and stated that they enjoy living at the property.

Mayor Flippo asked for any questions from the Council. There were none.

Mr. Peter Dawson of 644 Fossil Wood Drive addressed the Council and expressed his opposition to the development.

Mr. John Peet of 644 Fox Run Trail addressed the Council and expressed his opposition to the development.

Ms. Angela Harland of 657 Creek Point Drive addressed the Council and expressed her opposition to the development.

Mr. Lawrence Lakey of 432 Nottingham Ct. addressed the Council and questioned the proposed development being across a property line. Mr. Boyd explained that the property on both sides of the proposed development are under the same ownership.

Mr. Russell Rice, a Fort Worth Real Estate Broker, addressed the Council and expressed his support of the development.

City Attorney Meredith explained that the Council's decision may not be based on:

1. Any objections to multi-family
2. Race or Demographics
3. Age of potential tenants
4. Any consideration related to family statistics
5. Opposition to the Federal Tax Credit Law
6. Socioeconomic perception
7. Suggested Effect on Property Values
8. Fears of Criminal Activity

Mr. Thomas Weaver of 516 Roberts addressed the Council and expressed his concerns about the proposed development.

Motion was made by Councilmember Farr to not offer a resolution of support.
Motion died for lack of a second.

Mayor Flipppo called for any other motions. There were none. No action was taken on this item.

(7) Consideration and Action regarding Appointments to Advisory Recreation and Parks Board

City Secretary England stated that Chris Haworth resigned from Place No. 7 of the Advisory Recreation and Parks Board. She explained that in the past the Council has moved the alternate members up in the event of a resignation. She stated that the staff's recommendation is to accept the resignation of Mr. Haworth; move Gregory Gerami from 1st Alternate to Place No. 7; move Charity DeVille from 2nd Alternate to 1st Alternate; and leave the 2nd Alternate position vacant for the time being. She also explained that an advertisement for residents interested in serving on the City's boards and committees will be posted soon. She stated that the annual reappointments and appointments to the boards and committees will come before the Council for action in June.

Motion was made by Mayor Pro-Tem Flory with a second by Councilmember Farr to accept the resignation of Mr. Haworth; move Gregory Gerami from 1st Alternate to Place No. 7; move Charity DeVille from 2nd Alternate to 1st Alternate; and leave the 2nd Alternate position vacant. Motion carried unanimously. 7-0-0-0

For: Mayor Flipppo, Mayor Pro-Tem Flory, Councilmembers Farr,
Tankersley, Tucker, Bighorse, and Copeland

Against: None

Abstain: None

Absent: None

(8) Consideration and Action regarding Appointments to Animal Shelter Advisory Committee

City Secretary England explained that due to recent changes in staff, it is necessary to replace some members of the Animal Shelter Advisory Committee. She stated that the staff's recommendation is to remove Kayla Wells from Place No. 3 (Involved in Animal Welfare Organization) and appoint Ryan Jacobs to the position. Ms. Wells has been

unable to attend meetings since being appointed. Mr. Jacobs works with Code Enforcement and Animal Control for the City of Fort Worth. Per the City Attorney this meets the requirements for being involved in an animal welfare organization. Staff also recommends that Destinee Dozier be removed from Place No. 5 (Involved in Shelter Operations) and appoint Christina Pratt to the position. Ms. Dozier is no longer employed by the City. Ms. Pratt is one of the City's Animal Control Officers. Staff recommends that Jarid Smith be removed from Alternate No. 1. Mr. Smith has transferred to the Inspection Department. It is recommended to leave the Alternate No. 1 position vacant for the time being.

Motion was made by Mayor Pro-Tem Flory with a second by Councilmember Tankersley to remove Kayla Wells from Place No. 3 and appoint Ryan Jacobs to the position; remove Destinee Dozier from Place No. 5 and appoint Christina Pratt to the position; and remove Jarid Smith from Alternate No. 1 and leave that position vacant. Motion carried unanimously. 7-0-0-0

For: Mayor Flippo, Mayor Pro-Tem Flory, Councilmembers Farr, Tankersley, Tucker, Bighorse, and Copeland

Against: None

Abstain: None

Absent: None

(9) Consideration and Action regarding any matter related to the role, duties or discontinuation of the Saginaw Finance/Audit Committee

City Manager Reaume stated that in late 2018 the Council created a subcommittee, Finance/Audit Committee. He explained that the purpose of the committee was to review the City's financial policies and audit. He stated the Committee has completed their work and the only item remaining is a financial management policy. He explained that the proposed policy is being reviewed by Lewis McLain and upon his completion, the policy will be presented to the entire Council. He recommended that the committee be dissolved.

Councilmember Farr expressed his disagreement with the recommendation. He added that he still has nineteen questions that have not been answered. Committee Member and Mayor Pro-Tem Flory stated that he will address each of the nineteen questions. He added that the questions are detailed and require research and time to address.

Motion was made by Councilmember Bighorse with a second by Councilmember Tankersley to dissolve the Finance/Audit Committee. Motion carried. 6-1-0-0

For: Mayor Flippo, Mayor Pro-Tem Flory, Councilmembers Tankersley, Tucker, Bighorse, and Copeland

Against: Councilmember Farr

Abstain: None

Absent: None

- (10) Consideration and Action regarding any matter related to the role, duties or discontinuation of the Saginaw Economic Development Committee

City Manager Reaume explained that this item is similar to the previous item in that it involves the Economic Development Committee. He stated that since the Council decided not to pursue a sales tax election to form an Economic Development Corporation there is no reason to continue this committee at this time. He recommended that the Economic Development Committee be dissolved. Councilmember Farr expressed his disagreement with the recommendation.

Motion was made by Councilmember Tankersley with a second by Councilmember Tucker to dissolve the Economic Development Committee. Motion carried. 6-1-0-0

For: Mayor Flipppo, Mayor Pro-Tem Flory, Councilmembers Tankersley, Tucker, Bighorse, and Copeland

Against: Councilmember Farr

Abstain: None

Absent: None

- (11) Consideration and Action to delegate to the City Manager authority to approve and execute any confidentiality/nondisclosure agreements on behalf of the City to facilitate business relocation and/or economic development matters

City Manager Reaume explained that when prospective new businesses consider opening or relocating, it is standard practice to sign a confidentiality/nondisclosure agreement. The agreement protects private financial information and requires that it be withheld and not shared publicly. City Attorney Meredith added that this type of agreement allows proprietary information to be evaluated by staff and it binds all City officials and employees to confidentiality. He explained that the only exception is a request under the Public Information Act. In the case of a request, a letter would be submitted to the Attorney General for a determination on the release of any requested information.

Councilmember Farr expressed his concern about granting the authority to execute a confidentiality/nondisclosure agreement on behalf of the City to a non-elected official. There was a discussion regarding who should be given the authority. There was a discussion of the roles of the Mayor and City Manager. Councilmember Farr, referring to Section 6.02 the City Charter, explained that it states that the Mayor will sign all contracts. City Attorney Meredith explained that this is not a typical provision found in City Charters, however, it does provide that the Mayor signs all contracts.

Motion was made by Mayor Pro-Tem Flory with a second by Councilmember Tankersley to delegate to the Mayor the authority to approve and execute any confidentiality/nondisclosure agreements on behalf of the City to facilitate business relocation and/or economic development matters. Motion carried unanimously. 7-0-0-0

For: Mayor Flipppo, Mayor Pro-Tem Flory, Councilmembers Farr, Tankersley, Tucker, Bighorse, and Copeland

Against: None

Abstain: None

Absent: None

(12) Recess into Workshop

Mayor Flippo declared the meeting recessed into Workshop at 7:52 p.m.

(13) Discussion regarding Strategic Plan

City Manager Reaume explained that the draft Strategic Plan is the result of meetings held by Lyle Sumek with the Mayor and Council, City Staff, and those in attendance at the Citizen Summit. He stated that the final draft of the plan will be finished soon and will be presented for adoption at a future Council Meeting.

(14) Discussion regarding Solid Waste and Recycling Program

Mr. Marty Grant and Mr. Norm Bulaich of Waste Connections addressed the Council regarding the current solid waste and recycling program. They presented options and costs for changing to automated service. The options presented were as follows.

Option #1 \$11.96 per month per resident
No Change to Current Service
Trash: 2 times per week
Bags/Containers furnished by Resident
Recycling: 1 time per week
Recycle Bin provided by Waste Connections
Rear Load Truck for Trash and Recycling
Bulk and Brush Service: Twice Yearly

Option # 2 \$13.96 per month per resident
Trash: 2 times per week
Bags/Containers furnished by Resident
Recycling: 1 time per week
Recycle Cart (65 gallon) provided by Waste Connections
Rear Load Truck for Trash; Automated Truck for Recycling
Bulk and Brush Service: Twice Yearly

Option #3 \$11.61 per month per resident
Trash: 1 time per week
Trash Cart (95 gallon) provided by Waste Connections
Recycling: 1 time per week
Recycle Cart (65 gallon) provided by Waste Connections
Automated Truck for Trash and Recycling
Bulk and Brush Service: Monthly

There was discussion regarding the options presented. The Mayor and Councilmembers with the exception of Councilmember Copeland expressed their support for Option #3. Councilmember Copeland commented that she preferred Option #2.

(15) Reconvene Back into Regular Session

Mayor Flippo declared the meeting back in Regular Session at 8:35 p.m.

(16) Executive Session

1 § 551.071. Texas Government Code. Consultation with Attorney. The City Council may convene in executive session to conduct a private consultation with its attorney on any legally posted agenda item, when the City Council seeks the advice of its attorney about pending or contemplated litigation, a settlement offer, or on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the provisions of Chapter 551, including the following items:

a. Any Posted Item

1 § 551.074. Texas Government Code. Personnel Matters. The City Council may convene in executive Session to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee; or to hear a complaint or charge against an officer or employee, including deliberation regarding the following officers or employees:

a. City Manager

Mayor Flippo declared the meeting recessed into Executive Session at 8:36 p.m.

Mayor Flippo declared the meeting back in Regular Session at 8:55 p.m.

Motion was made by Councilmember Tankersley with a second by Councilmember Tucker to approve the compensation package as discussed in Executive Session. Motion carried unanimously. 7-0-0-0

For: Mayor Flippo, Mayor Pro-Tem Flory, Councilmembers Farr,
Tankersley, Tucker, Bighorse, and Copeland

Against: None

Abstain: None

Absent: None

(17) Adjournment

Motion was made by Councilmember Tankersley with a second by Councilmember Tucker to adjourn the meeting. Motion carried unanimously. 7-0-0-0

For: Mayor Flippo, Mayor Pro-Tem Flory, Councilmembers Farr,
Tankersley, Tucker, Bighorse, and Copeland

Against: None

Abstain: None

Absent: None

Mayor Flippo declared the City Council Meeting of February 19, 2019 adjourned at 8:55 p.m.

ATTEST:

APPROVED:

City Secretary Janice England

Mayor Todd Flippo



City of Saginaw

Meeting Date: 3/5/2019

Staff Contact: Keith C. Rinehart
Director of Community Services

Agenda Items: (4)(b)

E-mail: krinehart@saginawtx.org

Phone: 817-230-0351

SUBJECT:

Action on approval of funding to have diseased trees removed from Business 287

BACKGROUND/DISCUSSION:

The pine trees along the Boulevard were originally planted by the Saginaw Beautification Committee almost 25 years ago. Over time, they flourished and provided beauty, greenery and somewhat of a sound barrier. However, during the past year, a number of the trees have contracted an unknown disease and are dying. At the January 28, 2019 Keep Saginaw Beautiful Committee meeting, the Committee was presented with paying for the removal of the trees along Business 287. The Committee agreed to pay up to \$18,000 to remove the dead/diseased trees.

FINANCIAL IMPACT:

\$17,228 from the Beautification Donation Fund

RECOMMENDATION:

City staff and the Keep Saginaw Beautiful Committee are recommending that the City Council approve the funding to remove the diseased trees along Saginaw Blvd/Business 287. The City is having the deceased trees removed and will replace them at some point in the future.

ATTACHMENTS:

Description

Tree Removal



City of Saginaw

Community Services Department
333 W. McLeroy Blvd., Saginaw, Texas 76179

Council Agenda Background

To: Gabe Reaume, City Manager

From: Keith C. Rinehart, Director of Community Services

Date: City Council Meeting – March 5, 2019

PRESENTER:

Keith C. Rinehart, Director of Community Services

ITEM:

Consideration and approval of funding to have diseased trees removed from Business 287

DISCUSSION:

The pine trees along the Boulevard were originally planted by the Saginaw Beautification Committee almost 25 years ago. Over time, they flourished and provided beauty, greenery and somewhat of a sound barrier. However, during the past year, a number of the trees have contracted an unknown disease and are dying. At the January 28, 2019 Keep Saginaw Beautiful Committee meeting, the Committee was presented with paying for the removal of the trees along Business 287. The Committee agreed to pay up to \$18,000 to remove the dead/diseased trees.

RECOMMENDATION

City staff and the Keep Saginaw Beautiful Committee are recommending that the City Council approve the funding to remove the diseased trees along Saginaw Blvd/Business 287. The City is having the deceased trees removed and will replace them at some point in the future.

ATTACHMENTS:

- Invoice from Smith Lawn and Tree (dated February 14, 2019)
 - Minutes from January 28, 2019 Keep Saginaw Beautiful Meeting
-

If you have any questions, please feel free to contact me at 817-230-0351.

Thank you,

Keith C. Rinehart

Keith C. Rinehart
Director of Community Services
City of Saginaw



Invoice: 398474

Date 2/14/2019
Terms Net 30
PO Number
Account #

Bill To

City of Saginaw
205 Brenda Lane
Saginaw, TX 76179

Property Address

City of Saginaw
205 Brenda Lane
Saginaw, TX 76179

Date/Time	Description	Quantity	Price	Total
2/14/2019	Tree Removals at Main Street Per Proposal Dated 1-14-2019	1.00	17228.00	17228.00

Subtotal:	17228.00
Sales Tax	\$0.00
Invoice Total:	\$17,228.00
Account Balance:	\$17,228.00

20-4750-63-00

PAYMENT COUPON

Smith Lawn and Tree
3200 Handley Ederville Road
Richland Hills, TX 76118
817-921-2222

City of Saginaw
205 Brenda Lane
Saginaw, TX 76179

Terms Net 30
Account #
PO Number

Invoice # 398474
Invoice Date 2/14/2019
Invoice Balance \$17,228.00
Account Balance \$17,228.00
Amount Enclosed

KEEP SAGINAW BEAUTIFUL
MINUTES – JANUARY 28, 2019

The meeting was called to order at 6 pm by President Cindy Sulsar. Members Jennifer Smith, Karen Cromwell, Melody Leak & Pat Friar were present as well as city liaison Keith Rinehart.

Minutes from the October 15, 2018, meeting were approved as submitted.

Treasurer's report was approved as given.

CURRENT PROJECTS -

Christmas Lights – grain elevators were advised of December 7 tree lighting and all stated their intentions to add more lights this year. No information is available regarding the reason none were decorated this year.

Christmas Decorating Contest – 28 participants were looked at and winners selected by Jennifer and Melody.

Adopt-a-Spot program has signed up a 'Mom and kids' group called Stroller Warriors; they are cleaning up Willow Creek Park.

South grain elevator mural art work will use \$28,000 beautification funds. There was no discussion or decision regarding what will be painted there.

Public Art Workshop – Director of Economic Development is proposing a public art policy. We discussed possible projects and locations. Saginaw Boulevard will be upgraded northward starting at Southern through a state overlay grant of \$500,000.

Dead trees along Saginaw Boulevard will be removed. Bid was \$10,000 to remove 21 trees or \$17,000 to remove all dead trees. Arborist will save trees where possible. We voted \$18,000 to assure removal of all unsightly trees.

FUTURE/POTENTIAL PROJECT RECOMMENDATIONS –

It was suggested that Keep Saginaw Beautiful committee administer a bakeoff/salsa contest on October 26 as part of the Train and Grain Festival. Entry forms will be made available at the Saginaw library and on the Train & Grain and Facebook websites. Entry fee will be \$5. Committee will collect entries, advise city of needs such as number of tables, and be responsible for prizes (probably ribbons).

Next Meeting will be Monday, April 15, 2019, at 6 pm.

Meeting adjourned at 6:53 pm.

Respectfully Submitted,
Pat Friar, Secretary



City of Saginaw

Meeting Date: 3/5/2019

Staff Contact: Keith C. Rinehart, Director of
Community Services

Agenda Items: (4)(c)

E-mail: krinehart@saginawt.org

Phone: 817-230-0351

SUBJECT:

Action regarding approval of a Field Usage Agreement with Eagle Mountain Soccer Association (EMSA))

BACKGROUND/DISCUSSION:

The current field usage agreement has expired and is time to consider renewal. This field usage agreement has no new changes from last year. Some continued highlights are noted below:

EMSA shall be responsible for payment of the utility water bill generated by the use of the City owned park irrigation systems and the water utility deposit to set up the initial account. EMSA shall have access to the irrigation control system and the scheduling of watering turf areas

Have all of its coaches and assistant coaches certified for coaching youth by national or state accredited coaching certification program that is recognized and approved by the CITY. All coaches must have background checks and certified as child safe during the 2019 season and for each additional season if contract is renewed.

EMSA shall not make any permanent improvements without approval of the City of Saginaw. Permanent improvements will be subject to City inspection and must meet the designated City Codes. EMSA again wishes to use the fields at William Houston Memorial Park. This agreement has also been discussed with the EMSA and received their approval of the field usage agreement.

FINANCIAL IMPACT:

NA

RECOMMENDATION:

City staff is recommending that the City Council approve the Field Usage Agreement that would allow the Eagle Mountain Soccer Association to utilize the soccer fields at William Houston Memorial Park as game fields only.

ATTACHMENTS:

Description

EMSA Agreement

FIELD USAGE AGREEMENT – SOCCER

THE STATE OF TEXAS §

KNOW BY ALL THESE PRESENTS:

COUNTY OF TARRANT §

This non-exclusive Soccer Field Usage Agreement ("**Contract**") is entered into by and between the City of Saginaw, ("**City**"), and Eagle Mountain Soccer Association ("**EMSA**");

WHEREAS; City owns William Houston Park known as the "Contract Premises"; and

WHEREAS; EMSA wishes to utilize a portion of said Contract Premises for the purpose of operating a youth soccer league therein during the term of this Contract;

NOW THEREFORE; City and EMSA in consideration of the mutual covenants herein agree as follows:

1. **Term:** The term of this Contract shall begin upon mutual execution hereof and shall terminate on December 31, 2019, subject to the provisions concerning termination as stated herein. This Contract shall be for a term of one year. However, this Contract can be terminated with or without cause by either party by giving 30 days written notice to either party.
2. **Option to Renew:** This Contract may be automatically renewed at the option, but not the obligation, of the parties conditioned upon the following:

If not in violation of any obligation hereunder, EMSA shall be given the option to renew this Contract for a like term upon conditions set forth by the City. If EMSA should desire to renew this Contract, it shall do so by giving written notice by December 1 or the end of the contract year for which the extension is requested. The Contract may be renewed for no more than two (2) additional terms of one (1) year each, under the same terms and conditions of this Contract.

3. **Location:** City grants authorization to EMSA to use the location at William Houston Park (700 Park Center, Saginaw, Texas 76179).

4. **Use of Facilities:**

- City retains joint use of the Contract Premises during the term of this Contract, subject to EMSA's right to exclusive control of the Contract Premises during its use for youth sport soccer purposes. EMSA must not deny access to and use of the Premises to the general public for unorganized activities when the Contract Premises are not being used for youth sport soccer purposes by EMSA.

- City retains the right to use or cross the Contract Premises with utility lines and/or easements. City may exercise this right without compensation to EMSA for damages to the Premises and any improvements to the Contract Premises, from installing, maintaining, repairing, or removing the utility lines and/or easements. City must use reasonable judgment in locating the utility lines and/or easements to minimize damage to the Contract Premises and any improvements.
- At any time the soccer facilities are not being used by EMSA, City may assign such facilities to other associations or parties.
- EMSA understands and agrees that at times weather and/or field conditions, as well as maintenance issues, and safety concerns may result in City denying the use of certain fields on dates for which approval has been granted. When this occurs, the City shall make reasonable efforts to designate other City-owned fields and dates to facilitate EMSA's soccer program.
- City shall at all times have the right to inspect its facilities being used by EMSA and all EMSA sponsored activities related to the use of such facilities.

5. **Obligation of the City:**

CITY agrees to:

- Provide the following maintenance and repairs in a manner generally equal to normal CITY maintenance and repair of similar City recreational facilities:
 - Maintain all turf areas on the fields to include mowing, weed control, fertilizing and herbicide spraying.
- Provide sand, soil, etc. to be used in leveling or backfilling low areas when deemed necessary.
- Haul off trash that has been deposited in trash receptacles as warranted.
- Maintain structural integrity of restrooms, including repair or replacement of damaged roofs, doors, and windows.
- Maintenance of any field irrigation system and watering schedules of turf areas.
- Maintenance of any adjacent City-owned park irrigation systems and the scheduling of watering turf areas.

- Maintain restroom facilities.
- Maintain, repair or replace parking areas.
- List EMSA's soccer program on the City's web site; provide a meeting place (Recreation Center lobby) for registration; and take calls for information and refer interested parties to EMSA when necessary.
- Reserve the right to utilize the Soccer Facilities when EMSA league games are not scheduled. If the Contract Premises is no longer owned by the City, the Contract shall be considered terminated.

6. **Obligations of EMSA:**

EMSA shall:

- At no cost or expense to the CITY, provide the following maintenance repair:
 - Maintain soccer nets, cables, and net clips.
- Be responsible for daily game day policing of all litter on their field(s) to include playing areas, fences, backstops, bleachers, and adjacent grounds.
- Be responsible for payment of the utility water bill generated by the use of the City-owned park irrigation systems and the water utility deposit to set up the initial account. EMSA shall have access to the irrigation control system and the scheduling of watering turf areas.
- Maintain a one hundred dollar (\$100) deposit per season to ensure daily game policing of litter. CITY will draw upon that deposit based on the actual cost of cleaning. If the deposit shall be drawn upon, EMSA shall promptly make up any deficiency.
- Maintain and provide the supplies for and the actual lining and chalking of fields for all games.
- Submit to CITY for approval for permanent improvements/construction on the fields or adjacent grounds.
- Provide Certified Officials and the expense of the same at no cost to the CITY.
- Not place or permit to be placed any sign or advertisement upon premises without prior consent of the City of Saginaw. EMSA shall not remove any sign placed by the CITY from

the game fields. EMSA Sponsor Banners may be displayed during the game and removed immediately after the game ends.

- Furnish to the Recreation and Parks Departments a listing of a complete Game Schedule for the season. The complete game schedule and times shall be submitted at least 14 days prior to the first regular season game. The schedule may be adjusted as the season progresses and will serve as a guide for maintenance of the Facilities. Game schedules must be approved by the City before being distributed to teams.
- Allow one non-voting City Official to attend EMSA meetings.
- Schedule and meet with a Recreation and Parks representatives to approve schedule, fields, and guidelines prior to the season.
- Notify the City about EMSA meetings and times.
- Permit the City to perform an audit of any revenues generated by EMSA, upon demand.
- Make determinations on soccer field closures due to weather and communicate these closures to players and coaches.
- Not discriminate against any person or persons because of race, color, religion, sex, disability, or national origin.
- Have all of its coaches and assistant coaches certified for coaching youth by national or state accredited coaching certification program that is recognized and approved by the CITY. All coaches must have background checks and certified as child safe during the 2019 season and for each additional season if contract is renewed.
- Ensure CITY that all coaches, assistant coaches, board members, and any other official for EMSA have had a Statewide Criminal history background check completed before being assigned to coach a team.
- Not engage in any business on the premises or do anything that shall be in violation of any existing state or federal laws or City Ordinances, or use the same in a manner as to constitute a nuisance. The City reserves the right to exclude any individual or group from its facilities based on conduct, which it determines in its discretion to be objectionable or contrary to City interests.
- Agree that all facilities are for scheduled and approved events only and not for practice without permission from the City.

- Agree to provide sufficient notice of all scheduled make-up game times (preferably one week notice).
 - Follow rules that have been established by the City concerning conduct at city fields.
 - Request in writing any/all non-game activities which are soccer related such as camps, clinics, and registration. This written request must be presented at least thirty (30) days in advance in writing to the City Staff for approval.
 - Not make any permanent improvements without approval of the City of Saginaw. Permanent improvements will be subject to City inspection and must meet the designated City Codes.
 - Prior to the season, provide a copy of the Rules and Regulations, Charters, Constitution, By-Laws, Financial Statements, Directory of Officers, and provide public notification of any meetings or elections concerning the EMSA organization.
7. **Assignment:** No assignment of Contract or any right or interest therein by either party is effective without the prior written consent of a duly authorized representative of the other party.
8. **Force Majeure:** The parties will exercise every reasonable effort to meet their respective obligations but are not liable for delays resulting from force majeure or other causes beyond their reasonable control for reasons including, without limitation, the following: acts of God, or delays of suppliers, subcontractors, utility companies or other carriers.
9. **INDEMNITY:** EMSA COVENANTS TO FULLY INDEMNIFY, SAVE, AND HOLD HARMLESS THE CITY OF SAGINAW, ITS OFFICERS, EMPLOYEES, OR AGENTS (“INDEMNITEES”) FROM, AND AGAINST ALL CLAIMS, DEMANDS, ACTIONS, DAMAGES, LOSSES, COSTS, LIABILITIES, EXPENSES, AND JUDGEMENTS RECOVERED FROM OR ASSERTED AGAINST CITY ON ACCOUNT OF INJURY OR DAMAGE TO PERSON (INCLUDING, WITHOUT LIMITATION ON THE FOREGOING WORKER'S COMPENSATION AND DEATH CLAIMS), OR PROPERTY LOSS OR DAMAGE OF ANY KIND WHATSOEVER, TO THE EXTENT ANY DAMAGE OR INJURY MAY BE INCIDENT TO, ARISE OUT OF, BE CAUSED BY, OR BE IN ANY WAY CONNECTED WITH, EITHER PROXIMATELY OR REMOTELY, ANY ACTIVITY ASSOCIATED WITH EMSA'S BUSINESS INCLUDING BUT NOT LIMITED TO: THE OPERATION AND MANAGEMENT OF A COMPETITIVE AND RECREATIONAL SOCCER LEAGUE; THE EXERCISE OF RIGHTS UNDER THIS CONTRACT; AN ACT OR OMISSION, NEGLIGENCE, OR MISCONDUCT ON THE PART OF EMSA OR ANY OF ITS AGENTS, SERVANTS, EMPLOYEES, PATRONS, GUESTS, LICENSEES, INVITEES, OR OTHER PERSONS HAVING INVOLVEMENT IN, PARTICIPATION WITH, OR BUSINESS WITH EMSA, WHETHER AUTHORIZED WITH THE EXPRESS OR IMPLIED INVITATION OR PERMISSION OF EMSA (COLLECTIVELY “EMSA'S INVITEES”); INCLUDING ANY INJURY OR DAMAGE RESULTING, PROXIMATELY OR REMOTELY, FROM THE VIOLATION BY EMSA, OR EMSA'S INVITEES OF ANY LAW, ORDINANCE,

OR GOVERNMENT ORDER OF ANY KIND; INCLUDING ANY INJURY OR DAMAGE IN ANY OTHER WAY ARISING FROM OR OUT OF EMSA'S EXERCISE OF RIGHTS UNDER THE CONTRACT; **AND INCLUDING INJURY, LOSS, OR DAMAGE CAUSED BY THE SOLE OR CONTRIBUTORY NEGLIGENCE OF THE INDEMNITEES.**

EMSA COVENANTS AND AGREES THAT IF CITY IS MADE A PARTY TO ANY LITIGATION AGAINST EMSA OR IN ANY LITIGATION COMMENCED BY ANY PARTY, OTHER THAN EMSA RELATING TO THIS CONTRACT, EMSA SHALL, AT ITS OWN EXPENSE, UPON RECEIPT OF REASONABLE NOTICE REGARDING COMMENCEMENT OF LITIGATION, INVESTIGATE ALL CLAIMS AND DEMANDS, ATTEND TO THEIR SETTLEMENT OR OTHER DISPOSITION, DEFEND CITY IN ALL ACTIONS, AND PAY ALL CHARGES OF ATTORNEYS AND ALL OTHER COSTS AND EXPENSES OF ANY KIND ARISING FROM ANY LIABILITY, DAMAGE, LOSS, CLAIMS, DEMANDS, AND ACTIONS.

10. **Insurance:** EMSA must secure and maintain at EMSA's expense during the term of Contract, a Commercial General Liability insurance policy with the limits and requirements shown on the attached and incorporated Exhibit "A". The Certificate of Insurance must be sent to the Director and must provide 30 days written notice of cancellation, intent to not renew or material change of any coverage required herein. EMSA will provide copies of all insurance policies to the City Attorney upon the City Manager's written request.

The amount of all required insurance policies is not deemed to be a limitation on EMSA's agreement to indemnify and hold harmless indemnitees, and in the event EMSA or indemnitees become liable in an amount in excess of the amount or amounts of the policies, then EMSA must save indemnitees harmless from the whole liability.

11. **No Debts:** EMSA shall not incur any debt or obligations on the credit of the CITY.

12. **Notices:** All notices, demands, requests or replies provided for or Contracted by EMSA must be in writing and may be delivered by any one of the following methods: (1) by personal delivery; (2) by deposit with the United States Postal Service; (3) by prepaid telegram; or (4) by deposit with an overnight express delivery service. Notice deposited with the United States Postal Service in the manner described above will be deemed effective two (2) business days after deposit with the United States Postal Service. Notice by telegram or overnight express delivery service will be deemed effective one (1) business day after transmission to the telegraph company or overnight express carrier. All such communications must only be made to the following:

If to City:
City of Saginaw
Attn: Director of Community Services
633 West McLeroy Blvd.
Saginaw, TX 76179
817-230-0351

If to EMSA:
Eagle Mountain Soccer Association
Attn: President / Chairperson
P.O. Box 79669
Saginaw, TX 76179
682-730-6089

It is imperative that any change of address must be made by sending notice as set out above.

13. **Waiver.** No waiver of any breach of any term or condition of Contract waives any subsequent breach of the same.

14. **Severability.** If any clause or provision of Contract is illegal, invalid or unenforceable under present or future law effective during the term of Contract, then the remainder of Contract is not affected thereby, and in lieu of each such clause or provision, a clause or provision (as similar in terms to such illegal, invalid, or unenforceable clause or provision as may be possible and be legal, valid and enforceable) will be added to Contract automatically.

15. **Entirety Clause.** Contract contains all terms and conditions agreed to by City and Concessionaire. Upon mutual execution, Contract displaces any and all prior agreements, Contracts, leases or contracts whether written or verbal, whether express or implied.

SIGNED IN DUPLICATE THIS _____ DAY OF _____, 2019.

CITY OF SAGINAW

Todd Flipppo, Mayor of Saginaw, Texas

Legal form approved _____, 2019

By: _____
Bryn Meredith, City Attorney

EMSA

President, Eagle Mountain Soccer Association

Address

City

State

Zip Code



City of Saginaw

Meeting Date: 3/5/2019

Staff Contact: Rick Trice, P.E., Director Public Works

Agenda Items: (4)(d)

E-mail: rtrice@saginawtx.org

Phone: (817) 230-0449

SUBJECT:

Action Regarding Approval of a Settlement Agreement with S.J. Louis Construction of Texas Ltd. for Replacement of Trees along Old Decatur Road

BACKGROUND/DISCUSSION:

S.J. Louis Construction of Texas Ltd. (S.J. Louis) constructed a 48" water line for the City of Fort Worth in the northbound lanes of Old Decatur from McLeroy Boulevard to Bailey Boswell Road. During final completion phases city staff identified several trees that had not been replaced in the median. Staff requested that; in lieu of planting new trees, S.J. Louis would make payment to the city equal to the value of the trees so that planting could be made by the city during a more suitable planting season.

The agreement provides for a payment of \$5,870 to the city. In return the city and S.J. Louis will mutually release all claims related to the tree loss and replacement.

FINANCIAL IMPACT:

The Financial Impact of this action will be \$5,870 credited to the Fund Balance and budgeted for tree replacement along Old Decatur Road.

RECOMMENDATION:

Staff recommends approval of the Settlement Agreement with S.J. Louis in the amount of \$5,870.

ATTACHMENTS:

Description

Settlement Agreement

**SETTLEMENT AGREEMENT
WITH FULL AND FINAL RELEASE
OF SPECIFIED CLAIMS AND
WAIVER OF LIEN FOR
REPLACEMENT OF TREES**

THIS SETTLEMENT AGREEMENT WITH FULL AND FINAL RELEASE OF SPECIFIED CLAIMS AND WAIVER OF LIEN FOR REPLACEMENT OF TREES ("Agreement") is made by, and entered into and between the City of Saginaw, 205 Brenda Lane, Saginaw, Texas 76179 ("SAGINAW") and S.J. Louis Construction of Texas Ltd. ("SJL"), 520 S. 6th Ave., P.O. Box 834, Mansfield, Texas 76063, (collectively referred to as "the Parties" where appropriate). For all purposes in this Agreement, the Parties shall be construed to encompass all operating entities, employing entities, together with any parent, subsidiary, related, and affiliated companies of either party, its shareholders, members, officers, directors, managers, employees, its attorneys, its insurers, reinsurers, agents, and any successors-in-interests.

Background. On or about February 5, 2019 and prior, SAGINAW being the legal property owners of the real property located at the medians of Old Decatur Road, City of Saginaw, Texas ("Property") alleged certain damages to Property resulting from SJL's partial work to replace trees in such median during SJL's construction work on or adjoining the Property for the City of Fort Worth construction project, Northside II 48-Inch Water Transmission Main, Phase 2 – Part 2, City Project No. 02304 ("Project"), and in lieu of making any other remediation for such partial work, the Parties desire to fully closeout all the responsibilities and claims of the Parties to each other for such partial work to replace such trees.

The parties to this Agreement desire to compromise and settle all matters between the Parties, to fully and finally resolve such matters, and to generally release one another, but only with respect to the partial work of SJL to replace trees.

Agreement. In consideration of the promises and agreements described and contained in this Agreement, the receipt and sufficiency of which is hereby acknowledged and confessed by the Parties, SAGINAW and SJL enter into the following agreements and make the following release of Claims with prejudice and represent:

1. **Definition.** The term "Claim(s)" shall mean any and all past or present claims, demands, actions, causes of action, debts, contracts, agreements, sums of money, liens, cross-claims, counterclaims, third-party actions, direct actions, omissions, subrogation claims, controversies, lawsuits, judgments, executions, obligations, rights, damages, delays, compensation, injuries, losses, malpractice, penalties, interests, fees, costs, or expenses of any kind or nature whatsoever in Law or in equity, fixed or contingent, liquidated or unliquidated, whether based on Federal law and/or State Law, or tort, contract, common law or statutory law, regulation, statute and/or ordinance or other theory of recovery, whether seeking monetary, equitable, administrative, or any other relief, whether for compensatory or punitive damages, and whether known or unknown, which the Parties had, now have, hereafter can, or that were or could have been asserted, on account of, or incident, events and/or transactions herein, or in any way arising or growing out of, SAGINAW's claims for partial work of SJL to replace trees in the median for tree replacement on the City median, or may claim for such partial work to replace trees on such median against the Parties or their sureties, Project, or City of Fort Worth, Texas.

2. **Resolution and Mutual Release of Claims.** By this Agreement, the Parties, on behalf of themselves and their past, present, and future officers, directors, shareholders, attorneys, servants, representatives, executors, predecessors in interest, subsidiaries, partners, their heirs, successors, estates, assigns, sureties, insurers, affiliates, agents, administrators, employees, officers, owners, members, and

any others claiming by, under or through the Parties hereby irrevocably, knowingly, and voluntarily SETTLES, REMISES, RESOLVES, ACQUITS, WAIVES, SATISFIES AND FOREVER RELEASE AND DISCHARGES each other, along with their past, present, and future officers, directors, shareholders, attorneys, servants, representatives, executors, predecessors in interest, subsidiaries, partners, their heirs, successors, assigns, sureties, insurers, reinsurers, indemnitors, excess carriers, umbrella carriers, affiliates, agents, employees, officers, owners, and members, from any and all Claims arising out of SJL's partial work to replace trees in the City median but not otherwise, and covenants not to claim or lien or sue for such partial work. This Agreement shall be binding upon and inure to the benefit of the Parties and each of their officers, directors, shareholders, attorneys, servants, representatives, executors, predecessors in interest, subsidiaries, partners, their heirs, successors, assigns, sureties, insurers, affiliates, agents, employees, officers, owners, and members. Despite the generality of the foregoing release, this release does not apply to any continuing obligations of warranties and indemnities contained in this Agreement.

3. **Payment.** For and as good and valuable consideration, SJL shall make payment to City of Saginaw in the amount of \$5,870.00 (Five thousand eight hundred seventy dollars and no cents). Such payment shall be made in one lump sum within 15 days from the date of full execution of this Agreement by the Parties.

4. **Confidentiality.** The Parties agree and acknowledge that this Agreement is expressly public under any Public Information Act(s) and may be made public in accordance with such Public Information Act(s) or by court order or legislative request. Otherwise, in the event either party is asked about the occurrence or the Claim, each party and/or its attorney shall indicate to such inquiring parties only that Parties' claims have been "resolved" without any detail of the amounts paid or promises made.

5. **Representation by Counsel.** The Parties represent and warrant that prior to executing this Agreement, they have consulted with their attorney(s), have read the Agreement, and fully understand its contents along with the meaning and effect thereof.

6. **Final Agreement.** The Parties acknowledge and agree that this document, contains the complete, exclusive, fully integrated and final agreement between the Parties on this matter. As such, it is the sole repository of their agreement and they are not bound by any other agreements of whatsoever kind or nature, including, without limitation, any trade usage or course of dealing which the Parties hereby intend to be negated. This Agreement supersedes and replaces all prior agreements, arrangements, representations, promises, inducements, negotiations and proposed agreements or understandings, or other communications, whether written or oral, between the Parties and that there are no others. For any conflict between the terms of this Agreement and any other documents/instruments, terms of this Agreement shall supersede and replace any such conflicting terms. The Parties, each, declare and represent that no oral understandings, statements, promises, or inducements in addition to, consistent with, or contrary to the terms of this Agreement exist. The Parties' entire settlement is contained in this Agreement and the terms of this Agreement are contractual and not a mere recital. Each of the Parties acknowledge that no other party, nor any agent or attorney of any party, has made any promise, representation or warranty whatsoever, express or implied, not contained herein concerning the subject matter of this Agreement to induce it to execute this instrument, and acknowledges that it has not executed this instrument in reliance on any such promise, representations, or warranty not contained herein. The Parties agree that any changes or modifications to this Agreement must be made in writing, signed by the party to be charged, and that the provisions in this sentence of this Agreement shall not be waived orally or by conduct.

7. **Duty to Cooperate.** The Parties acknowledge and agree that each will execute any other documents reasonably necessary to effectuate the intent of this Agreement.

8. **Procurement of Consideration.** To procure the consideration referred to in section 4. Payment, above, SAGINAW acknowledges the following:

- a. Its representative signing this Agreement is more than 18 years of age;
- b. No other person or entity, other than its counsel whose claims have been satisfied herein, has or has had any interest in the claims, demands, obligations, or causes of action referred to in this Agreement;
- c. It has the sole right and exclusive authority to execute this Agreement and receive and accept the consideration specified in this Agreement;
- d. Other than its counsel whose claims have been satisfied herein, it has not sold, assigned, transferred, conveyed, or otherwise disposed of any of the claims, demands, obligations, or causes of action referred to in this Agreement;
- e. It is not relying on the advice of anyone associated with SJL as to the legal and tax or other consequences of any kind arising out of this Agreement;
- f. No representation regarding the nature and extent of legal liability or financial responsibility of any of the parties hereby released has induced SAGINAW to make this settlement;
- g. This settlement is fully declared by it to be a fair and reasonable settlement and compromise of the aforementioned Claims; and
- h. In determining the consideration exchanged, there has been considered not only the ascertained damages and expenses, but also the possibility that consequences not now anticipated may result from the incident, events, and/or transactions made the basis of this Claim.

9. **Warranty of Capacity to Execute.** Each of the signatories to this Agreement represents and warrants that he or she is duly authorized to execute this Agreement on behalf of the party he or she represents. The Parties represent and covenant that they are authorized under the laws, or By Laws, Articles of Incorporation, or Corporate Resolution to enter into this Agreement. The Parties represent that this Agreement will not result in a breach or termination of any agreement or contract to which any party may be a party.

10. **Costs and Fees.** The parties agree that each party to this Settlement Agreement shall pay their own costs, expenses and fees, including attorneys' fees, incurred by that party. In the future, if any party incurs costs or fees in connection with the enforcement of this Agreement, that party shall be entitled to recovery of its fees, costs and disbursements, including reasonable attorneys' fees, from the party causing such expenses to be incurred and/or upon which enforcement was sought.

11. **Non-Disparagement.** The parties further agree that it will not, either orally or in writing, make disparaging statements related to the occurrence or Claims concerning the other party(s), their business or their work product to any person, entity, social media site, corporation, association, governmental entity or agency, media outlet, the press, including but not limited to, any current, prospective, or future employee, affiliate, supplier, vendor, customer, or client of either party. This provision is a material, essential, and indispensable condition of this Agreement, and any breach of the non-disparagement provision of this Agreement by either party will entitle the other party to exercise their full legal remedies.

12. **Savings Clause.** The section headings contained in this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation of this Agreement. The language of this Agreement shall be construed as whole, according to its fair meaning, and any uncertainty or ambiguity shall not be interpreted, construed or applied against any one party on the ground that such party or its counsel prepared it. Each party to this Agreement acknowledges that in executing this Agreement,

it is relying wholly upon its own judgment, belief and knowledge, and upon the advice of counsel, and that it has not been influenced in any manner in making this settlement and in giving this release by any representations or statements made by any other party, or anyone representing them or any of them. Neither this instrument nor the transaction and compromise which is the subject hereof, nor any portion thereof, shall be invalidated or vacated as a result of any error of fact or law; the parties specifically waive any defense with respect to this instrument based on error of fact or law. If any provision of this Agreement or any document executed in connection with this Agreement is held to be illegal, invalid, or unenforceable under present or future laws, such provision shall be fully severable and shall in no way affect the validity or enforceability of this Agreement or any other provision herein.

13. **Governing Law.** This Agreement shall govern the rights of the Parties as to any matter related in any way. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas. Venue for any dispute arising under this Agreement shall be in Tarrant County, Texas. SAGINAW knowingly and affirmatively waives any and all rights to contest selection of forum for venue, including, but not limited to, any rights based upon forum non conveniens. SAGINAW expressly consents, at the sole discretion and election of SJL to the joinder and consolidation of any dispute or claim arising out of or relating to this Agreement with any claims or proceedings, including those involving third parties.

14. **Execution and Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, and together which constitute one and the same instrument. A facsimile or similar copy of an original signature of this Agreement shall be deemed an original signature for purposes of enforcing this Agreement and for obtaining entry of judgment based upon this Agreement.

15. **Effectiveness.** The Parties acknowledge and agree that this Agreement is to be signed by all of the Parties and that it will take effect immediately and be binding upon execution by both the signing parties on the dates(s) set forth below.

Dated: _____, 2019

CITY OF SAGINAW

By: _____

Printed Name & Title: _____

SWORN TO AND SUBSCRIBED BEFORE ME, on this the __ day of _____, 20__, to certify which witness my hand and seal of office.

NOTARY PUBLIC in and for the State of Texas

My commission expires: _____

Typed Name: _____

Dated: _____, 2019

S.J. LOUIS CONSTRUCTION OF TEXAS LTD.

By: _____

Printed Name & Title: Les V. Whitman, General Manager

SWORN TO AND SUBSCRIBED BEFORE ME, on this the _____ day of _____, 20 __, to certify which witness my hand and seal of office.

NOTARY PUBLIC in and for the State of Texas

My commission expires: _____

Typed Name: _____



City of Saginaw

Meeting Date: 3/5/2019

Staff Contact: Lee Howell, Chief of Police

Agenda Items: (4)(e)

E-mail: lhowell@saginawpolice.org

Phone: 817-230-0374

SUBJECT:

Action regarding Purchase of Four 2019 Chevy Tahoe Police Package Vehicles

BACKGROUND/DISCUSSION:

As part of the fiscal year 2019 budgeting process, funds were set aside for the purchase of four new police vehicles. As we have done in past years, we are taking part in the Tarrant County Purchasing Cooperative (Bid #2007-190/2010) for the purchase of these police vehicles, which eliminates the need to publish specifications or obtain bids.

FINANCIAL IMPACT:

The vehicles are identified as 2019 Chevy Tahoe- Police packages. The current price of these vehicles with available options is \$32,392.94 each, for a combined total cost of \$129,571.76. The vendor will remain the same as in previous years, Reliable Chevrolet in Richardson Texas

RECOMMENDATION:

Staff recommends that the City Council authorize the Finance Director to enter into a contract with Reliable Chevrolet for the purchase of four 2019 Chevy Tahoe- Police packages at the purchase price of \$129,571.76.



City of Saginaw

Meeting Date: 3/5/2019

Staff Contact: Rick Trice, P.E., Director Public Works

Agenda Items: (4)(f)

E-mail: rtrice@saginawtx.org

Phone: (817) 230-0449

SUBJECT:

Action Regarding Authorization of an Individual Project Order (IPO) with Kimley-Horn & Associates, Inc. for the Saginaw Boulevard 16" Water Line, Phase 2

BACKGROUND/DISCUSSION:

The 2018-2019 Water CIP identifies funding for the design of the Saginaw Boulevard 16" Water Line, Phase 2. The project includes the installation of approximately 3,230 linear feet of 16-inch water line from Palomino Drive at Saginaw Boulevard eastward to an existing 12-inch water line north of East Industrial. The project will complete a looped water system from the Longhorn Pump Station increasing system redundancy and reliability.

The design phase will include the coordination for the acquisition of Union Pacific Railroad, Burlington Northern Santa Fe Railroad and Texas Department of Transportation permits required for crossing of their facilities.

Construction of the project is scheduled for fiscal year 2019-2020.

The design fee requested is \$155,000, including \$20,000 for Construction Contract Administration services that will be performed on a reimbursement basis..

FINANCIAL IMPACT:

The total financial impact will be \$155,000. Funds in the amount of \$155,000 are budgeted for the design of Saginaw Boulevard 16" Water Line, Phase 2 (Water & Wastewater Enterprise Fund, Account 05-7022-55--00).

RECOMMENDATION:

It is recommended that the IPO with Kimley-Horn be approved in an amount not to exceed \$155,000 for the Saginaw Boulevard 16" Water Line, Phase 2.

ATTACHMENTS:

Description

Saginaw Blvd. 16" Water Line IPO

Budget Information



November 16, 2018

Mr. Rick Trice
City of Saginaw
205 Brenda Lane
Saginaw, Texas 76179

RE: *Saginaw Blvd. 16" Water Line Phase 2*

Dear Rick:

Please find attached the Individual Project Order (IPO) No. Saginaw Blvd. 16" Water Line Phase 2 (reference the master agreement dated April 17, 2012).

Please contact me at (817) 339-2248 or andrew.simonsen@kimley-horn.com should you have any questions.

Sincerely,

KIMLEY-HORN AND ASSOCIATES, INC.

TBPE No. F-928

A handwritten signature in blue ink that reads "Andrew Simonsen". The signature is fluid and cursive, with the first name "Andrew" and last name "Simonsen" clearly legible.

Andrew Simonsen, P.E.
Project Manager

INDIVIDUAL PROJECT ORDER NUMBER – Saginaw Blvd. 16" Water Line Phase 2

Describing a specific agreement between Kimley-Horn and Associates, Inc. (the Consultant), and The City of Saginaw, Texas (the Client) in accordance with the terms of the Master Agreement for Continuing Professional Services dated April 17, 2012, which is incorporated herein by reference.

Identification of Project: Saginaw Blvd. 16" Water Line Phase 2

Project Understanding:

This project is identified in the 2018-2019 Water CIP. The Client desires to install approximately 3,230 LF of 16-inch water line from Palomino Dr. east to an existing 12" water line north of East Industrial Ave. The project is anticipated to be installed primarily by open cut. If required, easement acquisition will be performed by the City. A TxDOT utility permit is anticipated to be necessary for construction of the water line across Saginaw Blvd. A BNSF Railroad utility permit is anticipated to be necessary for construction of the water line across existing BNSF Railroad tracks. A Union Pacific Railroad utility permit is anticipated to be necessary for construction of the water line across existing Union Pacific Railroad tracks.

Specific Scope of Basic Services:***Task 1 – Alignment Study***

The Consultant will provide the following professional services under this task related to design of the proposed water line.

1. Kick-Off Meeting - The Consultant will facilitate a kick-off meeting with City Staff to develop criteria for alignment selection and design parameters.
2. Alignment Evaluation – The Consultant will evaluate up to three (3) routes for installation of the proposed water line. The Consultant will collect data on existing utilities, property owners, and infrastructure along the proposed routes. The Consultant will provide information on permitting requirements. Permitting will be provided as part of the Preliminary Design services. The Consultant will provide recommendations for temporary and permanent easements to be acquired, if any.
3. Alignment Exhibits – The Consultant will prepare 11"x17" alignment plan and profile exhibits summarizing the evaluation of the proposed alignments for the water line. The exhibits will include an aerial photograph showing the approximate alignment, property information obtained from the Appraisal District, and known infrastructure along the alignment. The exhibits will include recommended temporary construction and permanent easements.
4. Opinion of Probable Construction Cost (OPCC) – The Consultant will prepare preliminary opinions of probable construction cost for each alignment. The Consultant has no control over the cost of labor, materials, equipment, or over the Contractor's methods of determining prices or over competitive bidding or market conditions. Opinions of probable costs provided herein are based on the information known to Consultant at this time and represent only the Consultant's judgment as a design professional familiar with the construction industry. The Consultant cannot and does not guarantee that proposals, bids, or actual construction costs will not vary from its opinions of probable costs.

Meetings:

- a. One (1) kick-off meeting with City Staff.

Deliverables:

- a. Six (6) copies of Alignment exhibits.
- b. Six (6) copies of the concept level OPCC.

Services/Deliverables provided by the Client:

- a. Attend Kick-off meeting.
- b. Select an alignment.

Task 2 – Preliminary Design

Once the proposed alignment has been approved by the client, the Consultant will proceed with the preliminary design and preliminary plans and specifications. Professional services under this task include:

- Utility and ROW Holder Coordination – Consultant will coordinate with the entities below throughout the design of the project. Coordination is understood to include obtaining design standards, gathering information on existing utilities, submitting utility plans and permits, and organizing and leading meetings.
 - o City Staff
 - o Franchise utilities (gas, phone, electric)
 - o TxDOT
 - o BNSF Railroad
 - o Union Pacific Railroad
- Design Survey – Consultant will perform a design level survey. The survey will include the following:
 - o Width of easement or alignment survey corridor not to exceed 100 feet. Extents of survey will be determined after Task 1 is complete.
 - o Locate visible topographic features such as marked existing utilities and their appurtenances, 6-inch diameter trees and larger, iron pins (if found), edge of pavement, fences.
 - o Establish control points along the route.
 - o It is understood that a vacuum truck will be provided by the City if potholing of existing utilities is necessary.
- Geotechnical Analysis – Consultant will perform a geotechnical analysis of the proposed water line alignment utilizing a qualified geotechnical laboratory to determine subsurface conditions and make recommendations regarding embedment, backfill and excavation parameters. The geotechnical analysis will include the following:
 - o Subsurface exploration including up to six (6) sample bores at various locations and depths along the proposed route.
 - o Laboratory tests for classification purposes and strength characteristics.
 - o Engineering services that address soil and groundwater conditions for proposed

horizontal boring, if necessary.

- o Prepare a geotechnical report that presents the results of the field and laboratory data as well as analysis and recommendations. The data contained in the geotechnical report will be made available to contractors during the bidding process for information purposes.
- Preparation of 30% Preliminary Plans – Consultant will prepare preliminary plans for the water line design. Plans will consist of plan and profile view with stationing and limited noting. These plans will be prepared on 11"x17" sheets at a scale of 1" = 20'. Ten (10) plan and profile sheets are anticipated to be prepared for the water line design.
- TxDOT Utility Crossing Permit – Consultant will prepare and submit an application for a utility crossing across Saginaw Blvd. for approval by TxDOT.
- BNSF Utility Crossing Permit – Consultant will prepare and submit an application for a utility crossing across various BNSF Railroad tracks for approval by BNSF Railroad.
- Union Pacific Utility Crossing Permit – Consultant will prepare and submit an application for a utility crossing across various Union Pacific Railroad tracks for approval by Union Pacific Railroad.
- Opinion of Probable Construction Cost – Consultant will update the concept level OPCC to reflect changes from the alignment study. The Consultant has no control over the cost of labor, materials, equipment, or over the Contractor's methods of determining prices or over competitive bidding or market conditions. Opinions of probable costs provided herein are based on the information known to Consultant at this time and represent only the Consultant's judgment as a design professional familiar with the construction industry. The Consultant cannot and does not guarantee that proposals, bids, or actual construction costs will not vary from its opinions of probable costs.
- Separate Instrument Easement Exhibits – Consultant will prepare up to four (4) easement exhibits and metes & bound descriptions for separate instrument easements, as required.
- Review Meeting – Consultant will facilitate a review meeting with City Staff to present the water line design.

Meetings:

- a. One (1) review meeting with City Staff.

Deliverables:

- a. Six (6) copies of preliminary plans.
- b. Six (6) copies of the preliminary OPCC.
- c. Six (6) copies of the geotechnical report.
- d. Six (6) copies of separate instrument easement exhibits.

Services/Deliverables provided by the Client:

- a. Attend review meeting.
- b. Review and comment on preliminary plans and specifications.
- c. Provide a vacuum truck for potholing of existing utilities, if necessary.

Task 3 – Final Design

Once the preliminary design has been approved by City Staff, Consultant will proceed with the 90% and 100% Final Design. Consultant will provide the following professional services under this task:

- Civil Plans – Prepare engineering plans, specifications, and construction contract documents for project bidding and regulatory approval. Plans will consist of 22"x34" plan and profile sheets. The Consultant anticipates preparing approximately sixteen (16) plan sheets. The Consultant will provide the following information on the plan sheets:
 - Civil Sheets
 - Plan view
 - Profile View
 - Dimensional Control
 - Details
 - General Notes
- Contract Documents - Specifications will include technical specifications for materials and installation of the proposed facilities. The Contract Documents will be based upon the NCTCOG *Standard Specifications for Public Works Construction* and the Client's requirements for Public Works Construction will govern all other specifications.
- Opinion of Probable Construction Cost – Consultant will prepare final opinions of probable construction cost. Consultant has no control over the cost of labor, materials, equipment, or over the Contractor's methods of determining prices or over competitive bidding or market conditions. Opinions of probable costs provided herein are based on the information known to Consultant at this time and represent only Consultant's judgment as a design professional familiar with the construction industry. Consultant cannot and does not guarantee that proposals, bids, or actual construction costs will not vary from its opinions of probable costs.

Meetings:

- a. One (1) meeting with City Staff to review 90% Design.
- b. One (1) meeting with City Staff to review 100% Design.

Deliverables:

- a. Six (6) copies of 90% plans, specifications, Contract Documents and OPCC for review and comment.
- b. Six (6) copies of 100% final plans, specifications, Contract Documents and final OPCC.

Services/Deliverables provided by the Client:

- a. Attend review meetings.
- b. Review and comment on the 90% submittal.
- c. Approve 100% submittal.

Task 4 – Bidding

Consultant will provide the following professional services under this task:

1. Final Contract Documents – Consultant will prepare and issue the project for advertisement utilizing the CivCast website. Consultant will print and issue sets of plans and specifications as requested by contractors or plan houses. A non-refundable deposit will be required of contractors or plan houses for plans and specifications.
2. Notice to Bidders – Consultant will prepare a notice to bidders. The Client will be responsible for submitting the Notice to newspapers for advertisement. Advertising will be billed directly to the Client by the newspaper.
3. Addenda – Consultant will answer contractor questions during the bid process. Consultant will issue addenda as required.
4. Bid Opening – Consultant will attend the bid opening, prepare a tabulation of bids, and prepare a letter summarizing the bids to the Client for award of contract.
5. Execution – Consultant will prepare five (5) sets of the Contract Documents for execution by the contractor, receive and review such documents for completeness, and forward to the Client for review and execution.

Meetings:

- a. Bid Opening – as described above.

Deliverables:

- a. Final Contract Documents – as described above.
- b. Notice to Bidders – as described above.
- c. Addenda – as described above.
- d. Tabulation of Bids – as described above.
- e. Letter Summarizing Bids – as described above.
- f. Contract Documents for Execution – as described above.

Services/Deliverables provided by the Client:

- a. Award of Contract to Contractor.
- b. Review and Execute Contract Documents.

Task 5 – Construction Contract Administration

Consultant will provide professional construction phase services to the Client during construction of this project. The estimated construction period of the project is six (6) months for the basis of establishing the Consultant's Fee. The construction phase services are as follows:

- Pre-Construction Conference – The Consultant will conduct a pre-construction conference prior to commencement of work at the site.
- Visits to Site and Construction Observation – The Consultant will provide on-site construction observation services during the construction phase. Consultant will make visits at intervals as directed by Client in order to observe the progress of the Work. Such visits and observations

by Consultant are not intended to be exhaustive or to extend to every aspect of Contractor's work in progress. Observations are to be limited to spot checking, selective measurement, and similar methods of general observation of the Work based on Consultant's exercise of professional judgment. Based on information obtained during such visits and such observations, Consultant will evaluate whether Contractor's work is generally proceeding in accordance with the Contract Documents, and Consultant will keep Client informed of the general progress of the Work.

- The purpose of Consultant's site visits will be to enable Consultant to better carry out the duties and responsibilities specifically assigned in this Agreement to Consultant, and to provide Client a greater degree of confidence that the completed Work will conform in general to the Contract Documents. Consultant shall not, during such visits or as a result of such observations of Contractor's work in progress, supervise, direct, or have control over Contractor's work, nor shall Consultant have authority over or responsibility for the means, methods, techniques, equipment choice and usage, sequences, schedules, or procedures of construction selected by Contractor, for safety precautions and programs incident to Contractor's work, nor for any failure of Contractor to comply with laws and regulations applicable to Contractor's furnishing and performing the Work. Accordingly, Consultant neither guarantees the performance of any Contractor nor assumes responsibility for any Contractor's failure to furnish and perform its work in accordance with the Contract Documents.
- Recommendations with Respect to Defective Work – The Consultant will recommend to Client that Contractor's work be disapproved and rejected while it is in progress if, on the basis of such observations, Consultant believes that such work will not produce a completed Project that conforms generally to Contract Documents.
- Clarifications and Interpretations – The Consultant will respond to reasonable and appropriate Contractor requests for information and issue necessary clarifications and interpretations of the Contract Documents to Client as appropriate to the orderly completion of Contractor's work. Any orders authorizing variations from the Contract Documents will be made by Client.
- Change Orders – The Consultant may recommend Change Orders to Client, and will review and make recommendations related to Change Orders submitted or proposed by the Contractor.
- Shop Drawings and Samples – The Consultant will review and approve or take other appropriate action in respect to Shop Drawings and Samples and other data which Contractor is required to submit, but only for conformance with the information given in the Contract Documents. Such review and approvals or other action will not extend to means, methods, techniques, equipment choice and usage, sequences, schedules, or procedures of construction or to related safety precautions and programs.
- Substitutes and "or-equal" – The Consultant will evaluate and determine the acceptability of substitute or "or-equal" materials and equipment proposed by Contractor in accordance with the Contract Documents, but subject to the provisions of applicable standards of state or local government entities.
- Inspections and Tests – The Consultant may require special inspections or tests of Contractor's work as Consultant deems appropriate, and may receive and review certificates of inspections within Consultant's area of responsibility or of tests and approvals required by laws and regulations or the Contract Documents. Consultant's review of such certificates will be for the purpose of determining that the results certified indicate compliance with the Contract Documents and will not constitute an independent evaluation that the content or procedures of

such inspections, tests, or approvals comply with the requirements of the Contract Documents. Consultant shall be entitled to rely on the results of such tests and the facts being certified.

- Disagreements between Client and Contractor – The Consultant will, if requested by Client, render written decision on all claims of Client and Contractor relating to the acceptability of Contractor's work or the interpretation of the requirements of the Contract Documents pertaining to the progress of Contractor's work. In rendering such decisions, Consultant shall be fair and not show partiality to Client or Contractor and shall not be liable in connection with any decision rendered in good faith in such capacity.
- Applications for Payment – Based on its observations and on review of applications for payment and accompanying supporting documentation, Consultant will determine the amounts that Consultant recommends Contractor be paid. Such recommendations of payment will be in writing and will constitute Consultant's representation to Client, based on such observations and review, that, to the best of Consultant's knowledge, information and belief, Contractor's work has progressed to the point indicated and that such work-in-progress is generally in accordance with the Contract Documents subject to any qualifications stated in the recommendation. In the case of unit price work, Consultant's recommendations of payment will include determinations of quantities and classifications of Contractor's work, based on observations and measurements of quantities provided with pay requests.
- By recommending any payment, Consultant shall not thereby be deemed to have represented that its observations to check Contractor's work have been exhaustive, extended to every aspect of Contractor's work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Consultant in this Agreement. It will also not impose responsibility on Consultant to make any examination to ascertain how or for what purposes Contractor has used the moneys paid on account of the Contract Price, nor to determine that title to any portion of the work in progress, materials, or equipment has passed to Client free and clear of any liens, claims, security interests, or encumbrances, nor that there may not be other matters at issue between Client and Contractor that might affect the amount that should be paid.
- Substantial Completion – The Consultant will, promptly after notice from Contractor that it considers the entire Work ready for its intended use, in company with Client and Contractor, conduct a site visit to determine if the Work is substantially complete. Work will be considered substantially complete following satisfactory completion of all items with the exception of those identified on a final punch list. If after considering any objections of Client, Consultant considers the Work substantially complete, Consultant will notify Client and Contractor.
- Final Notice of Acceptability of the Work – The Consultant will conduct a final site visit to determine if the completed Work of Contractor is generally in accordance with the Contract Documents and the final punch list so that Consultant may recommend, in writing, final payment to Contractor. Accompanying the recommendation for final payment, Consultant shall also provide a notice that the Work is generally in accordance with the Contract Documents to the best of Consultant's knowledge, information, and belief based on the extent of its services and based upon information provided to Consultant upon which it is entitled to rely.
- Limitation of Responsibilities – The Consultant shall not be responsible for the acts or omissions of any Contractor, or of any of their subcontractors, suppliers, or of any other individual or entity performing or furnishing the Work. Consultant shall not have the authority or responsibility to stop the work of any Contractor.
- Record Drawings – Prepare project "Record Drawings" based on information provided by the Contractor and/or Client as to the actual field placement of the work including any changes or

deletions. Consultant is not responsible for the accuracy of the information provided by the Contractor and/or the Client. Consultant will provide the following deliverables:

- o One (1) set of reproducible (22" x 34") Record Drawings.
- o One (1) set of .pdf file Record Drawings (each sheet will be a separate .pdf file)

Deliverables:

- Shop Drawing Reviews – as described above
- Contractor's Estimates – as described above
- Record Drawings – as described above

Services/Deliverables provided by the Client:

- Resident project representative and inspection.
- Provide input on progress of work.
- Payment of the Contractor.

ADDITIONAL SERVICES

Any services not specifically provided for in the above scope, as well as any changes in the scope requested by the Client, will be considered additional services. Additional services include, but are not limited to, the following:

- Professional Services Related to Easement Acquisition
- Separate Instrument Easement Exhibits beyond those specifically included in the Scope of Services referenced above.
- Franchise Utility Coordination and/or Design beyond those specifically included in the Scope of Services referenced above.
- Subsurface Utility Engineering (SUE)
- Preparation of Title Policies and Assisting in Condemnation Services during property acquisition.
- Attendance at Public Meetings beyond those specifically included in the Scope of Services referenced above.
- Preparation of platting documents and/or real property survey for site acquisition.
- Additional sets of bidding documents.
- Professional services associated with re-bidding the project.
- Construction Staking.
- Making significant modifications to the plans and specifications after the preliminary submittals have been approved by the Client.
- Any additional changes to the Contract Documents necessary to break the project into phases.
- Providing resident project representation services (RPR), on-site inspection, during the construction phase of the project.
- Additional construction contract administration responsibilities beyond those specifically included in the Scope of Services referenced above.
- Establish new survey monuments for any of the proposed sites.
- Sampling, testing, or analysis beyond that specifically included in the Scope of Services referenced herein above.
- Providing professional services associated with the discovery of any hazardous waste or materials in the project route.
- Assisting Client or Contractor in the defense or prosecution of litigation in connection with or in addition to those services contemplated by this Agreement. Such services, if any, will be furnished by Consultant on a fee basis negotiated by the respective parties outside of and in addition to this Agreement.
- Accompanying the Client's personnel when meeting with the Texas Commission on Environmental Quality, U.S. Environmental Protection Agency or other regulatory agencies during the course of the Project. Consultant will assist the Client's personnel on an as-needed basis in preparing compliance schedules, progress reports, and providing general technical support for the Client's compliance efforts.
- Preparing applications and supporting documents for government grants, loans, or planning advances, and providing data for detailed applications.
- Appearing before regulatory agencies or courts as an expert witness in any litigation with third parties or condemnation proceedings arising from the development or construction of the Project, including the preparation of engineering data and reports for assistance to the Client.
- Any services not listed in the Scope of Services.

Schedule

Consultant will begin services upon receipt of Notice to Proceed.

Fee and Expenses

Task Name	Budget Amount	Fee Type
Task 1 – Alignment Study	\$ 25,000	(Lump Sum)
Task 2 – Preliminary Design	\$ 60,000	(Lump Sum)
Task 3 – Final Design	\$ 42,500	(Lump Sum)
Task 4 – Bidding	\$ 7,500	(Lump Sum)
Task 5 – Construction Contract Administration	\$ 20,000	(Reimbursable)
Subtotal	\$155,000	(Estimated)

Consultant will perform the services in Tasks 1 through 4 for the total lump sum fee of \$135,000. All permitting, application, and similar project fees will be paid directly by the Client. Lump sum fees will be invoiced monthly based upon the overall percentage of services performed.

Consultant will perform the Services in Task 5 and additional services on a labor fee plus expense basis. Consultant recommends the Client budget \$20,000 for this task based on the estimated construction period.

Payment will be due within 25 days of your receipt of the invoice.

ACCEPTED:

CITY OF SAGINAW, TEXAS

KIMLEY-HORN AND ASSOCIATES, INC.

BY: _____
Gabe Reaume
City Manager

BY:  _____
Jeff James
Senior Vice President

DATE: _____

DATE: 11/16/18 _____

CITY OF SAGINAW BUDGET SUPPLEMENT 2018-2019

WATER & WASTEWATER

05-6826-50-00 WATER TESTING \$ 32,500

This account includes all lab fees and any other costs incurred for water samples such as monthly bacteriological sampling and annual water testing required by TCEQ. We are now required to do nitrate and nitrite water sampling and record the results. In addition beginning in March 2018 the next phase of non-regulated contaminant sampling called UCMR 4 will begin. We contract with an EPA certified lab to do this sampling. The results are sent to the EPA and are required to be posted in our CCR.

05-6850-50-00 TELEPHONE EXPENSES \$ -

W/WW share of telephone expense. This account includes cell phones and dept share of city wide phone system.

05-7000-50-00 CAPITAL OUTLAY/SPECIAL REQUEST \$ 151,075

F250 Service Truck	\$ 40,000
Flat File Cabinets	\$ 5,000
50% funding for APWA accreditation	\$ 6,850
UB telephone payment system	\$ 9,500
50% electronic time keeper	\$ 5,000
50% CivicPlis mobile app	\$ 3,725
Vermeer Vac Trailer	\$ 56,000
Portable Office Building	\$ 25,000
	\$ 151,075

05-XXXX-55-00 EF CAPITAL PROJECTS \$ 2,024,000

(impact fees \$) design for Sag Blvd 16" PH2	\$ 155,000
Fairmont 12" sewer rehab PH1	\$ 650,000
I&I Study Phase 2	\$ 95,000
I&I projects	\$ 250,000
FM 156 Utility Relocation	\$ 874,000
fund balance	\$ 1,691,875
developer cont.	\$ -
current revenues	\$ 177,125
impact fees	\$ 155,000
	\$ 2,024,000

\$ 10,681,970



City of Saginaw

Meeting Date: 3/5/2019

Staff Contact: Rick Trice, P.E., Director of Public Works

Agenda Items: (4)(g)

E-mail: rtrice@saginawtx.org

Phone: (817) 230-0449

SUBJECT:

Action regarding Disposal of City Surplus Items and Agreement with Tommy Lutes Auctioneers for Auction of City Surplus Items

BACKGROUND/DISCUSSION:

Periodically, the City disposes of surplus items that are either no longer used, are broken or have been deemed past their useful life. The last auction of surplus items was held in 2018.

Staff has provided an attachment briefly describing the items to be put up for auction.

For many years, the City has used the services of Tommy Lutes Auctioneers to dispose of the surplus items. They provide auction services for many local municipalities. Staff is recommending Tommy Lutes Auctioneers to provide this service.

FINANCIAL IMPACT:

There is no financial impact involved in approving the list of surplus property. The costs of the auction will be covered by the proceeds of the items sold. N/A

RECOMMENDATION:

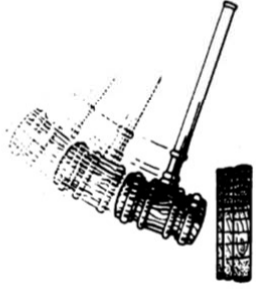
Staff recommends approval of the list of surplus items for auction as presented and that the City enter into an agreement with Tommy Lutes Auctioneers for auction of those items.

ATTACHMENTS:

Description

Tommy Lutes Agreement

2019 Auction Items



Tommy Lutes Auctioneers

(817) 713-6906

Tommy Lutes, Jr.
Professional Auctioneer

AUCTION CONTRACT

This auction agreement is entered into by Tommy Lutes Auctioneers Ft Worth
Auction Company City

Texas State, hereinafter referred to as Auctioneers, and City of Saginaw

Address 333 W McLeroy
City Saginaw State Texas Phone 817-232-4640

Hereinafter referred to as Owner under the following terms and conditions.

Auctioneers agree to conduct a public auction sale or otherwise sell the following described property

belonging to owner. The auction sale to be conducted at 9218 West Fork Trl Ft Worth TX

Auction is to be held on 9th day of March year 2019

PROPERTY TO BE SOLD

See attachments _____ through _____ for additional property to be sold.

THIS CONTRACT SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

- 1 Owner agrees to pay Auctioneers for the service rendered by Auctioneers a commission of 10% Rolling Stock 15% on misc % of the gross receipts of from all sales during the period of this contract whether such sales are made at public auction by private sale or in any other manner. A full commission shall be due and payable to Auctioneers immediately following the completion of each sale whether the sale is made in cash on terms determined by the Owner.
- 2 Auctioneer's agree to prepare all advertising material and publicity necessary to advertise and promote attendance of buyers and shall be paid the sum of \$ none for same.
- 3 Auctioneers agree to remit gross proceeds from sale of the property herein above described, less Auctioneers commission, advertising costs, and "advances, if any, to Owner within a period not exceeding 20 banking days following the date (s) of said auction.
- 4
- 5 Owner hereby agrees to sell the above property to the highest bidder and to deliver to the purchaser Bill of Sale and Titles free of all liens and encumbrance.
- 6 Owner promises and agrees that the above described property will be delivered to sale site prior to sale date, and in the event of a failure of Owner to deliver said property, or if Owner shall breach this contract, said Owner agrees to pay the commission and advertising costs as above provided, said commission to be based on the market value of said property.
- 7 Owner agrees that after the execution of this contract that he will not sell or cause to be sold any of the property described in this agreement, save and except through the Auctioneers, and agrees that he may be restrained from selling such property after the execution of this contract except through the Auctioneers. The Auctioneers have entered into this Agreement relying upon such representations and in consideration thereof, the Owner shall indemnify and save the Auctioneers harmless against any and all claims made by any person, firm or corporation claiming to be a creditor of Owner.
- 8 Auctioneers shall have the right, after receiving their compensation as provided herein, to use the residue of funds to first pay any bonafide liens which are shown in the exhibits attached hereto or which may be brought to their attention and which are not listed in said exhibits.
- 9 Owner warrants that this sale is being held for the purpose of Surplus hereby authorizes and commissions the Auctioneers to so advertise and publicize the above mentioned auction.
- 10 Owner appoints Auctioneers his attorneys in Owner's name and in his behalf, and as fully and to the same extent as Owner could do personally, to execute all necessary deeds, Bill of Sale, conveyances and other instruments of every nature whatsoever necessary or convenient to the carrying out of the power of sale herein granted and the transfer of title to the property herein above described to the purchasers thereof.
- 11 It is specifically understood and agreed that in the event the Owner fails or refuses to carry out the terms of this agreement that the Auctioneers shall then be entitled to the sum of \$ None as liquidated damages as a reimbursement for expense profits which the Auctioneers would have otherwise earned.
- 12 Auctioneers agree to conduct a public auction for Owner, WITHOUT MINIMUM OR RESERVE, at the time and place hereinafter stated. It is further understood that there shall be no "BID INS" or "BUY BACKS" at said auction.

- 13 Auctioneer agrees to provide Transportation to sale site And setup of Auction and all persons for said auction we will collect and remit all state and local sales taxes in accordance with state law

- 14 Owner agrees to provide: nothing day of March year, 2019

Approved and Executed this _____

Tommy Lutes Auctioneers **9612** **City Of Saginaw**
Auction Company Owner or Agent
9218 West Fork Rd **333 W McLeroy**

Ft Worth Address **Saginaw** **76179**
City State Zip
817-713-6906 **817-232-4640**
Phone Phone

Signature Signature

**CITY OF SAGINAW
2019 AUCTION ITEMS**

DEPARTMENT	Quantity	ITEM	BRAND	MODEL #	VIN OR SN	CONDITION/COMMENTS
public works	1	vehicle	Ford	F150	1FTPF12567KD41851	mileage high- 161557
public works	1	vehicle	Ford	F250	1FTNF20548EA50281	mieage high- 152764
water dept	1	vehicle	Ford	F250	1FTBF2A62BEC30909	mileage high- 119350
police dept	5	car radios	Kenwood			out dated
fire dept	6	3 set running boards	Chevrolet	Tahoe		not in use worn
public works	2	code 3 light bars	code 3			out dated broke
police dept	3	light bars	whelen			out dated
fire dept	1	light bar	whelen	LP60		out dated worn
public works	1	concrete saw	Stihl			engine bad
fire dept	1	directional light bar	code 3			old inop
public works	1	truck tool box	steel			worn out
public works	1	truck tool box	aluminum			worn out
rec center	1	vacuum cleaner	upright			broke inop
public works	1	chain saw	craftsman	16 in		engine inop
police dept	3	computer stands car	ram			worn out
rec center	1	file cabinet	4 drawer			worn out
IT	1	computer cabinet lg	?			used
IT	1	computer cabinet sm	?			used
fire dept	1	truck cabinet rear	?			used
police dept	1	whelen commun				used
police dept	1	personel cage	code force			out dated worn
fleet main	1	printer	brothers	HL-2140		broken
police dept	1	Flir camera	thermal			out dated
IT	1	computer board	dell			inop broke
rec center	5	eliptical machines	life fitness	95x		out dated
senior center	26	metal chairs	?			worn
senior center	4	office chairs	?			worn out
animal control	3	office desks	?			worn out
rec center	2	cookers pot	?			used
police dept	14	code readers	Symbol			out of date
police dept	7	ticket writers	motorola/symbol			out of date
police dept	9	batteries	motorola			out of date
police dept	12	batteries	Zebra Tech corp			out of date
police dept	10	mobile printer	Zebra			out of date
police dept	2	battery chargers	Zebra Tech corp			out of date
police dept	3	AC power adapter	motorola			out of date
police dept	4	ticket writer charge port	Symbol			out dated
police dept	3	ticket writer backings	Symbol			out of date
police dept	2	AC power adapter	Hipro			out of date
police dept	9	power cords	?			out of date
police dept	12	chargers	Zebra	L172		out of date



City of Saginaw

Meeting Date: 3/5/2019

Staff Contact: Janice England, City Secretary

Agenda Items: (5)

E-mail: jengland@saginawtx.org

Phone: 817-230-0327

SUBJECT:

Consideration and Action regarding Appointment to 1st Alternate Position on Animal Shelter Advisory Committee

BACKGROUND/DISCUSSION:

There is one vacant position on the Animal Shelter Advisory Board. It is the 1st Alternate Position and must be filled with someone involved in shelter operations. Staff is recommending that Kristina Jenshak be appointed to this position. She is our Animal Services Shelter Technician.

FINANCIAL IMPACT:

N/A

RECOMMENDATION:

Staff recommends that Kristina Jenshak be appointed to the 1st Alternate Position on the Animal Shelter Advisory Board.

ATTACHMENTS:

Description

ASAC Members

ANIMAL SHELTER ADVISORY COMMITTEE

Dr. Karen Metzler (Licensed Veterinarian)	Place No. 1	Expires June 2019
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Stephanie Mills	Place No. 2	Expires June 2020
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Ryan Jacobs (Involved in Animal Welfare Organization)	Place No. 3	Expires June 2019
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Jose Wheeland (City Official)	Place No. 4	Expires June 2020
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Christina Pratt (Involved in Shelter Operations)	Place No. 5	Expires June 2019
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Vacant (Involved in Shelter Operations)	Alternate No. 1	Expires June 2019
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Norma Adamski	Alternate No. 2	Expires June 2020
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City of Saginaw

Meeting Date: 3/5/2019

Staff Contact: Dolph Johnson, Asst. City Manager

Agenda Items: (6)

E-mail: djohnson@saginawtx.org

Phone: 817-230-0325

SUBJECT:

Consideration and Action regarding Ordinance No. 2019-04, amending Ordinance No. 2019-02, which called for a special election for the purposes of submitting to the voters proposition to amend the Saginaw Home Rule Charter to be held on May 4, 2019, by revising certain non-substantive errors contained in the wording of certain charter propositions

BACKGROUND/DISCUSSION:

On February 5, 2019, the City Council of the City of Saginaw, Texas, timely called a special election for the purposes of submitting to the voters propositions to amend the Saginaw Home Rule Charter, to be held on May 4, 2019. Four non-substantive errors were identified in the ballot propositions. In order to eliminate grammatical and other non-substantive errors, Ordinance No. 2019-04 will correct the errors to Proposition G, to change the word "cities" to "city's"; Proposition I, to delete the word "archaic"; Proposition N, to remove the word "or" from the last line; and Proposition Q, to delete the reference to Section 6.03(5) of the Charter as it is already referenced in Proposition E. Please note that the proposed amendments to the text of Charter will not be revised and will continue in their original form, as proposed by Ordinance No. 2019-02. Also note, this Ordinance does not call the special election again. The special election was timely called on February 5, 2019.

FINANCIAL IMPACT:

None at this time. The purpose of this item is only to correct non-substantive ballot proposition language contained within Ordinance No. 2019-02.

RECOMMENDATION:

Staff recommends approval of Ordinance No. 2019-04 as presented.

ATTACHMENTS:

Description

Ord 2019-04

ORDINANCE NO. 2019-04

AN ORDINANCE OF THE CITY OF SAGINAW, TEXAS AMENDING ORDINANCE NO. 2019-02 CALLING FOR A SPECIAL ELECTION FOR THE PURPOSES OF SUBMITTING TO THE VOTERS PROPOSITIONS TO AMEND THE SAGINAW HOME RULE CHARTER TO BE HELD ON MAY 4, 2019, BY REVISING CERTAIN NON-SUBSTANTIVE ERRORS CONTAINED IN THE WORDING OF CERTAIN CHARTER PROPOSITIONS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Saginaw, Texas is a home rule City acting under its Charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, on February 5, 2019, the City Council of the City of Saginaw, Texas, timely calling a special election for the purposes of submitting to the voters propositions to amend the Saginaw Home Rule Charter to be held on May 4, 2019; and

WHEREAS, four non-substantive errors were identified in the ballot propositions; and

WHEREAS, the proposed amendments to the text of the Charter will not be revised and will continue in their original form, as proposed by Ordinance No. 2019-02; and

WHEREAS, the City Council deems it in the best interest of the public to correct the errors to Proposition G, to change the word “cities” to “city’s;” Proposition I, to delete the word “archaic;” Proposition N, to remove the word “or” from the last line; and Proposition Q, to delete the reference to Section 6.03(5) of the Charter as it is already referenced in Proposition E.

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

SECTION 1.

That Ordinance No. 2019-02 is hereby amended by amending Section 3, Propositions: G, I, N and Q, which shall now read as follows:

“PROPOSITION G – Utilities

Shall the Saginaw Home Rule Charter be revised to clarify and expand the city’s authority to operate city owned utilities and regulate utility franchises to include limiting a franchise term to twenty (20) years, providing procedures to grant franchises, providing terms to be included in a utility franchise, providing for regulation of utilities, and requiring annual reports by adding new Sections 8.01, 8.02, 8.03, 8.04, 8.05, 8.06, 8.07, 8.08 and 8.09 and deleting current Sections 8.01, 8.02, and 9.05, and revising Section 16.09?”

“PROPOSITION I – Acquisition of Property

Shall the Saginaw Home Rule Charter be amended to delete rules for the acquisition of utilities by deleting Sections 10.01(3), 10.01(4), 10.01(5) and 10.01(6), while retaining Sections 10.01(1) and 10.01(2), and updating references to state law?”

“PROPOSITION N – Initiative and Referendum

Shall the Saginaw Home Rule Charter be amended to provide that ordinances levying taxes, authorizing debt, relating to personnel matters, or relating to any matter a court has determined inappropriate for initiative or referendum shall not be subject to initiative or referendum; by revising Section 16.02?”

“PROPOSITION Q – Non-Substantive

Shall the Saginaw Home Rule Charter be revised to make non-substantive changes including deleting redundancy, making grammatical changes, and compliance with state law, by revising Sections 5.02, 5.07, 5.08, 6.05, 6.07, 10.01(B), 13.01, 15.04, 15.07, 17.07, 17.19 and 19.01, deleting Section 13.03, and renumbering throughout?”

The remainder of Ordinance No. 2019-02 shall remain unmodified.

**SECTION 2.
EFFECTIVE DATE.**

This ordinance shall be effective upon its adoption.

PASSED AND APPROVED ON this the _____ day of _____, 2019.

TODD FLIPPO, MAYOR

ATTEST:

JANICE ENGLAND, CITY SECRETARY

APPROVED AS TO FORM AND LEGALITY:

BRYN MEREDITH, CITY ATTORNEY



City of Saginaw

Meeting Date: 3/5/2019

Staff Contact: Keith Rinehart, Director of
Community Services

Agenda Items: (7)

E-mail: krinehart@saginawtx.org

Phone: 817-230-0351

SUBJECT:

Action regarding Approval of Waiver of Potential Conflicts of Interest regarding Saginaw/Blue Mound Agreement for Animal Services

BACKGROUND/DISCUSSION:

The proposed Waiver of Potential Conflicts of Interest regarding Saginaw/Blue Mound Agreement for Animal Services is necessary because TOASE (City Attorney) is also the attorney for the City of Blue Mound. Approval of the agreement will give consent to TOASE for common representation regarding a future proposal regarding animal services. See attachment for more detailed information regarding the waiver.

Currently the City of Blue Mound does not have animal services or an animal shelter. They have approached the City of Saginaw regarding an agreement for Saginaw Animal Services to provide patrol services as well as shelter services. The details of the services to be provided are being worked out and will be put into the form of an interlocal agreement that will be presented to the City Council at a future meeting.

FINANCIAL IMPACT:

This purpose of this item is to only address the waiver. The actual agreement will be brought to the Council for action at a future meeting.

RECOMMENDATION:

Staff recommends approval of the Waiver of Potential Conflicts of Interest regarding the Saginaw/Blue Mound Agreement for Animal Services.

ATTACHMENTS:

Description

Waiver

6000 WESTERN PLACE, SUITE 200
1-30 AT BRYANT IRVIN ROAD
FORT WORTH, TEXAS 76107
EMAIL:TOASE@TOASE.COM



TAYLOR·OLSON·ADKINS·SRALLA·ELAM
LLP
ATTORNEYS & COUNSELORS

TELEPHONE: (817) 332-2580
TOLL FREE: (800) 318-3400
FACSIMILE: (817) 332-4740
WEBSITE: WWW.TOASE.COM

BRADLEY A. ANDERLE
EXT. 237
banderle@toase.com

SUBJECT TO ATTORNEY-CLIENT PRIVILEGE
CONFIDENTIAL COMMUNICATION

February 19, 2019

Via Email

Gabe Reaume
City Manager
City of Saginaw
333 West McLeroy Blvd.
Saginaw, Texas 76179

Re: Interlocal Cooperation Agreement Between Saginaw and Blue Mound; Waiver of
Potential Conflicts of Interest

Dear Mayor and City Council Members:

We have been advised that the cities of Saginaw and Blue Mound are contemplating entering into an interlocal agreement to establish a partnership for the provision of animal services by the Saginaw for Blue Mound.

As you know, our firm is retained as city attorney for both cities and has been asked to draft an agreement and related documents pertaining to this partnership and the provision of animal services, provide advice concerning the agreement, and perhaps even help negotiate the agreement. Before doing so, however, we are seeking written and signed consent from both cities for the common representation on this particular matter. This letter is intended to bring potential issues to your attention in order for you to fully evaluate whether to utilize TOASE for this project.

Although there are rules that prohibit lawyers from representing adverse parties in litigation,¹ giving mutual advice to both clients about the contemplated agreement will not violate these rules. Litigation is neither threatened nor imminent. As between Saginaw and Blue Mound, we are aware of no present legal dispute. The proposed agreement is contemplated to allocate resources in a practical manner.

Although in any agreement, each city's interests are potentially adverse to the other (for example, in the event one party fails to carry out its obligations, the other party would possibly be harmed; or in the event an accident occurs during the performance of the animals services, there could be questions of liability), I do not believe this firm's representation of Saginaw will be

¹ TEX. DISCIPLINARY R. PROF'L CONDUCT 1.06(a), *reprinted in* TEX. GOV'T CODE ANN., tit. 2, subtit. G app. A (Vernon Supp. 2006) (TEX. STATE BAR R. art. X, § 9).

materially affected.² Nor do I believe that any of the matters to be negotiated in the agreement will be realistically subject to challenge.

Also, the rules of professional conduct specifically allow a lawyer to act as an intermediary between clients if:

- (1) the lawyer obtains written consent from each of the clients after consultation about the implications, risks, advantages and waivers of attorney-client privilege;
- (2) the lawyer reasonably believes that the matter can be resolved without contested litigation; and
- (3) the lawyer reasonably believes the common representation can be undertaken impartially and without improper effect on responsibilities to the other clients.³

First, I believe assisting both cities will pose little risk for Saginaw and this representation can be undertaken impartially with respect to Saginaw. With respect to client confidences, we would still be obligated to maintain any confidences given to us by Saginaw. However, attorney-client privilege does not extend to commonly-represented clients. In the event of future litigation, any communications with our firm concerning this matter would not be privileged as to Blue Mound. Concerning the benefits of common representation, they are obvious—the cities will share legal expenses and will be able to utilize attorneys you are familiar and comfortable with. Moreover, I do not view the cities' relationship or discussion thus far over this matter as antagonistic or unfriendly, nor do I foresee the negotiations becoming contentious. It is anticipated that this agreement can likely be negotiated without resorting to litigation.

Please understand that acting as an intermediary prohibits our firm from being partial to either city. While a lawyer normally acts as a partisan and advocate for a single client in a matter, acting as an intermediary requires a lawyer to not favor one client over the other. I believe that the danger of any such partiality here is greatly reduced in this matter given that our firm is retained as general counsel for each city and, as a result, does comparable amount of legal work for both cities. In other words, there is not one client for which we handle infrequent matters and one client for whom we handle a large amount of legal work every month.

Also understand that the rules mandate that a lawyer must withdraw from being an intermediary between clients if the lawyer believes any of the conditions stated above are no longer satisfied **or if any of the clients requests withdrawal**. As a result, if at any time during these negotiations either city requests that this firm withdraw, TOASE will have to stop representing both clients concerning the agreement and each city will have to hire its own legal counsel for the purpose of negotiating and drafting the agreement.

² *Id.* 1.06(b)(1), (c)(1).

³ *Id.* 1.07(a)(1)-(3).

February 19, 2019

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Please do not hesitate to call me if you have any questions or concerns about this matter. If the City of Saginaw consents to the common representation of Saginaw and Blue Mound for negotiating and drafting the agreement and any related documents, please sign below and return this letter to our offices. If signed, please forward a copy to me.

Very truly yours,



Bradley A. Anderle

BAA/kb

CONSENT TO COMMON REPRESENTATION GRANTED:

Gabe Reaume, City Manager
City of Saginaw, Texas

Approved by Saginaw City Council on the _____ day of _____, 2019.